



May 2007

EUROPEAN SOCIAL CHARTER REVISED

4th report on the European Social Charter (revised)

submitted by

the Government of Ireland

for the period covering 1 January 2001 to 31 December
2004

(articles 2, 3, 4, 9, 10, 11, 15, 26, 27, 29)

CYCLE 2007

ARTICLE 2: THE RIGHT TO JUST CONDITIONS OF WORK
ARTICLE 2 PARAS. 1 to 7

Please indicate, for Article 2 as a whole, the rules applying to workers in atypical employment relationships (fixed-term contracts, part-time, replacements, temporaries, etc.)

Note: Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

Answer: The Protection of Employees (Part-Time Work) Act 2001 provides that in general an employer cannot treat a part-time employee less favourably than a comparable full-time employee in relation to conditions of employment including pay and pensions.

Under the 2001 Act an employee is a comparable full time employee in relation to a part-time employee if-

- (a) the full-time employee and the part-time employee are employed by the same or associated employer and one of the conditions referred to in (i),(ii) or (iii) below is met,
- (b) where (a) above does not apply(including a case where the part-time employee is the sole employee of the employer) the full-time employee is specified in a collective agreement, being an agreement that for the time being has effect in relation to the relevant part-time employee, to be a comparable employee in relation to the part-time employee, or
- (c) where neither (a) nor (b) above apply, the employee is employed in the same industry or sector of employment as the part-time employee(and one of the conditions referred to in (i), (ii) and (iii) below is met).

The following are the conditions (i), (ii) and (iii) referred to above-

- (i) both employees perform the same work under the same or similar conditions or each is interchangeable with the other in relation to the work,
- (ii) the work performed by one of the employees concerned is of the same or similar nature to that performed by the other and any differences between the work performed or the conditions under which it is performed by each, either are of small importance in relation to the work as a whole or occur with such irregularity as not to be significant, and
- (iii) the work performed by the relevant part-time employee is equal or greater in value to the work performed by the other employee concerned, having regard to such matters as skill, physical or mental requirements, responsibility and working conditions.

Under the 2001 Act an employer can treat a part-time employee less favourably than a full-time employee if he or she has objective grounds for so doing. Under the Act, a ground would be considered as an objective ground for treatment in a less favourable manner, if it is based on considerations other than the status of the employee as a part-time employee and the less favourable treatment is for the purpose of achieving a legitimate objective of the employer and such treatment is necessary for that purpose.

The Protection of Employees (Fixed-Term Work) Act 2003 provides that in general an employer cannot treat a fixed-term employee less favourably than a permanent employee in relation to conditions of employment including pay and pensions.

Under the 2003 Act an employee is a comparable permanent employee in relation to a fixed-term employee if-

- (d) the permanent employee and the fixed-term employee are employed by the same or associated employer and one of the conditions referred to in (i),(ii) or (iii) below is met,
- (e) where (a) above does not apply(including a case where the fixed-term employee is the sole employee of the employer) the permanent employee is specified in a collective agreement, being an agreement that for the time being has effect in relation to the relevant fixed-term employee, to be a comparable employee in relation to the fixed-term employee, or
- (f) where neither (a) nor (b) above apply, the employee is employed in the same industry or sector of employment as the fixed-term employee(and one of the conditions referred to in (i), (ii) and (iii) below is met).

The following are the conditions (i), (ii) and (iii) referred to above-

- (iv) both employees perform the same work under the same or similar conditions or each is interchangeable with the other in relation to the work,
- (v) the work performed by one of the employees concerned is of the same or similar nature to that performed by the other and any differences between the work performed or the conditions under which it is performed by each, either are of small importance in relation to the work as a whole or occur with such irregularity as not to be significant, and
- (vi) the work performed by the relevant fixed-term employee is equal or greater in value to the work performed by the other employee concerned, having regard to such matters as skill, physical or mental requirements, responsibility and working conditions.

Under the 2003 Act, an employer can treat a fixed-term employee less favourably than a permanent employee if he or she has “objective grounds” for so doing. Under the Act a ground would be considered as an objective for treatment in a less favourable manner (including the renewal of a fixed-term employee’s contract for a further fixed term), if it is based on considerations other than the status of the employee as a part-time employee and the less favourable treatment is for the purpose of achieving a legitimate objective of the employer and such treatment is necessary for that purpose

The 2003 Act also provides a remedy for the abuse of successive fixed-term contracts.

The Act provides that in the case of an employee who commences a fixed-term contract prior to the commencement of the Act on 14 July 2003 that they can be employed for three continuous years on such a contract and that after that period, his or her contract can be renewed again for up to one year. If the contract is renewed again after that it is deemed to be one of “indefinite duration”. However, if the employer has “objective grounds” as described above for renewing the contract on a fixed-term basis after the three continuous years and the renewal for up to one year the employer may renew the contract in such a manner.

The Act also provides in the case of an employee who commences a fixed-term contract after the commencement of the Act on 14 July 2003 that they can be employed on two or more such contracts for a continuous period of 4 years and that if the contract is renewed again after that period, it is deemed to be one of “indefinite duration”. However, if the employer has objective grounds as described above for renewing the contract on a fixed-term basis after the 4 continuous years he or she may do so.

In addition, the 2003 Act provides that a fixed-term employee shall be informed in writing by his or her employer as soon as practicable of the “objective condition” determining the contract i.e. whether it is

- (a) arriving at a specific date,
- (b) completing a specific task, or
- (c) the occurrence of a specific event.

Furthermore, the 2003 Act provides that where an employer proposes to renew a fixed-term contract the employee shall be informed in writing, not later than the date of renewal, of the "objective grounds" as described above justifying the renewal of the fixed-term contract and the failure to offer a contract of indefinite duration.

A copy of the Protection of Employees (Part-Time Work) Act 2001 and an Information Booklet on the Act can be downloaded from the following website links:

<http://www.entemp.ie/publications/employment/2003/protectionofemployees.pdf>

<http://www.entemp.ie/publications/employment/2001/protectionparttimeworkersguide.pdf>

A copy of the Protection of Employees (Fixed-Term Work) Act 2003 and an Information Booklet on the Act can be downloaded from the following website links:

<http://www.entemp.ie/publications/employment/2003/protectionofemployees.pdf>

http://www.entemp.ie/publications/employment/2003/protectionofemployees_booklet.pdf

Text of ARTICLE 2 PARA. 1 of the Revised European Social Charter

ARTICLE 2 PARA. 1

"With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake: to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;"

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please indicate what statutory provisions apply in respect of the number of working hours, daily and weekly and the duration of the daily rest period.

Question B

Please indicate what rules concerning normal working hours and overtime are usual in collective agreements, and what is the scope of these rules.

¹ If your country has accepted Article 15, it is not necessary to describe the rehabilitation services for physically or mentally handicapped persons.

Question C

Please indicate the average working hours in practice for each major professional category.

Question D

Please indicate to what extent working hours have been reduced by legislation, by collective agreements, or in practice during the reference period and, in particular, as a result of increased productivity.

Question E

Please describe, where appropriate, any measures permitting derogations from legislation in your country regarding daily and weekly working hours and the duration of the daily rest period (see also Article 2 paras. 2, 3 and 5).

Please indicate the reference period to which such measures may be applied.

Please indicate whether any such measures are implemented by legislation or by collective agreement and in the latter case, at what level these agreements are concluded and whether only representative trade unions are entitled to conduct negotiations in this respect.

Question F

If some workers are not covered by provisions of this nature, whether contained in legislation, collective agreements or other measures, please state what proportion of all workers is not so covered (see Article 1 of the revised Social Charter).



Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) and Questions for answer by Ireland arising from our 21st Report, submitted in 2003 under the original European Social Charter (1961):

Article 2 – Right to just conditions of work

Paragraph 1 – Reasonable daily and weekly working hours

The report submitted by Ireland states that the Organisation of Working Time Act was passed in 1997 to provide for the implementation of Council Directive 93/104/EC. The Act provides for a maximum average working week for employees of 48 hours averaged over 4 or 6 months (section 15), including overtime. In accordance with sections 15 and 24 of the Act, the 48-hour average week may also be averaged over a period of up to 12 months if that reference period is provided for in a collective agreement approved by the Labour Court. The Committee asks if the 12-month reference period is frequently used in collective agreements or only in exceptional cases.

Answer: To date some 180 collective agreements providing for a 12 month reference period have been approved by the Labour Court. These agreements cover approximately 110,000 workers.

According to Section 11 of the Act, the daily rest period shall be at least 11 hours. The Committee notes that Section 11 shall not apply to shift workers each time they change shift and cannot avail themselves of the rest period and to persons employed in activity consisting of work spread out over the day. Having noted that under Section 6 of the Act exemptions from the daily rest period are possible on condition that an equivalent compensatory rest period is granted, or if this is not

possible for objective reasons, “to otherwise make such arrangements as respects the employee’s conditions of employment”, the Committee asks to receive more details on the circumstances in which exemptions are possible and on the consequences in terms of maximum daily working time for the workers concerned.

Answer: Apart from the exemptions mentioned above, the Organisation of Working Time (General Exemptions) Regulations 1998- S.I. No. 21 of 1998 provide for exemptions from the rest periods and breaks provided for in sections 11, 12 and 13 of the Organisation of Working Time Act 1997 in a number of sectors and activities.

The Organisation of Working Time (Exemption of Civil Protection Services) Regulations 1998- S.I. No. 52 of 1998 also provide for exemptions from the rest periods and breaks provided for in sections 11, 12 and 13 of the 1997 Act in relation to certain activities and also provide for an exemption from section 15 of the 1997 Act providing for maximum average weekly working hours in relation to certain activities.

It should be noted that S.I. No. 21 of 1998 provides for compensatory rest while S.I. No. 52 of 1998 does not so provide. The consequences of S.I. No. 21 of 1998 and S.I. No. 52 of 1998 for maximum daily working hours is that in activities and sectors covered by these S.I.’s days in excess of the statutory maximum working hours of 13 hours can be worked.

The Committee notes that the rest and working time provisions of the Act do not apply to the Defence Forces, *Garda Síochána* (Police Force), junior hospital doctors, transport employees, persons employed in the civil protection services, persons who are engaged in sea fishing or otherwise employed at sea, family employees working on a farm or in a private house and persons who control their own working hours. It asks that the next report contain information on maximum permitted daily and weekly working hours for these groups. It also wishes to receive an estimate of the number of workers concerned and their proportion of the work force.

Answer: The rest periods and breaks and maximum weekly working hours of junior hospital doctors are regulated by the European Communities (Organisation of Working Time)(Activities of Doctors in Training) Regulations 2004- S.I. No.494 of 2004 (electronic copy available on link below).

http://www.dohc.ie/legislation/statutory_instruments/pdf/si20040494.pdf

The rest periods and maximum weekly working hours of those engaged in sea fishing are regulated by the European Communities (Workers on Board Sea-going Fishing Vessels)(Organisation of Working Time) Regulations 2003 - S.I. No. 709 of 2003 (electronic copy available on link below).

<http://www.irishstatutebook.ie/front.html>

The rest periods of seafarers are regulated by the European Communities (Merchant Shipping)(Organisation of Working Time) Regulations 2003- S.I. No. 532 of 2003 (electronic copy available on link below).

<http://www.irishstatutebook.ie/front.html>

By means of the Organisation of Working Time (Inclusion of Offshore Work) Regulations 2004- S.I. No. 819 of 2004 (electronic copy available on link below) the provisions in the Organisation of Working Time Act 1997 in relation to rest breaks and rest periods and maximum weekly working hours were applied to offshore workers i.e. those who perform work mainly on, or from, offshore installations (including drilling rigs) directly or indirectly in connection with the exploration, extraction or exploitation of mineral resources, including hydrocarbons, and diving in connection with such activities, whether performed from an offshore installation or a vessel.

<http://www.entemp.ie/publications/sis/2004/si819.pdf>

By means of the Organisation of Working Time (Inclusion of Transport Activities) Regulations 2004 - S.I. No. 817 of 2004 (electronic copy available on link below) the provisions of the Organisation of Working Time Act 1997 in relation to maximum average weekly working hours were applied to mobile and non mobile transport employees other than (a) workers performing mobile road transport activities as provided for in Directive 2002/15/EC and (b) mobile staff in civil aviation as defined in the Annex to Council Directive 2000/79/EC of 27 November 2000.

<http://www.entemp.ie/publications/sis/2004/si817.pdf>

The European Communities (Organisation of Working Time of Persons Performing Mobile Road Transport Activities) Regulations 2005 - S.I. No. 2 of 2005 (electronic copy available on link below) applied the maximum average working week of 48 hours to mobile road transport workers covered by Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organization of the working time of persons performing mobile road transport activities. The Regulations also prescribe that the working time of such mobile transport workers must not exceed 60 hours in any single week and contain provisions concerning minimum breaks and the amount of night work which can be performed.

<http://www.irishstatutebook.ie/front.html>

Rights Commissioners investigate complaints relating to working time rules and issue decisions. Either party to a Rights Commissioner decision may appeal such a decision to the Labour Court. The Labour Court will then hear the appeal and issue a determination to the parties concerned. If the employer fails to implement a determination of the Labour Court within a further period of six weeks, the employee concerned, a trade union of which the employee is a member or the Minister for Enterprise, Trade and Employment may make application to the Circuit Court for an

order directing the employer to carry out the determination in accordance with its terms. The Circuit Court may, if it considers it appropriate to do so, direct the employer concerned to pay interest on the compensation awarded where the order relates to the payment of compensation.

The Labour Inspectorate carry out investigations under the Act to ensure compliance with the record keeping requirements as provided for under the Act and under the Regulations made in 2001. Investigations take place following on from a complaint by an individual employee or other concerned person or from sectoral or targeted inspections. Targeted inspections take place throughout various employment sectors, including fast food outlets, restaurants, licensed premises, hotels, agriculture/horticulture and healthcare.

The Committee notes that the number of inspections dropped by almost half from 2000 to 2001, while in the same period the number of irregularities/breaches identified increased sharply from 30 in 2000 to 247 in 2001. It asks that the next report explain the reasons for these developments.

Pending receipt of the information requested, the Committee defers its conclusion.

[Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 2, Paragraph 1-](#)

Note: Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

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ARTICLE 2 – THE RIGHT TO JUST CONDITIONS AT WORK;

Article 2 – The Right to Just Conditions at Work – Paragraph 1, **To provide for Reasonable Daily and Weekly Working Hours, the Working Week to be progressively reduced to the Extent that the Increase in Productivity and Other Relevant Factors permit:**

Questions A to E, Form for the Reports refers:

- 2.1.1 The position during the reference period for our Report (1 January 2001 to 31 December 2002) in relation to the statutory provisions, which apply in respect of daily and weekly working hours, under this provision of the European Social Charter, **has remained substantially the same** since we submitted our last report (our 21st Report on the Implementation of the original European Social Charter) in 2003.
- 2.1.2 The Organisation of Working Time Act, (Act No. 20 of 1997) **which may be accessed at website <http://www.irishstatutebook.ie/front.html>** was passed in 1997. The purpose of this Act is to provide for the implementation of Directive 93/104/EC of 23 November 1993 of the Council of the European Communities concerning certain aspects of the organisation of working time, to make provision otherwise in relation to the conditions of employment of employees and the protection of the health and safety of employees, to amend certain enactments relating to employees, to repeal the Conditions of Employment Acts, 1936 and 1944, the Holidays (Employees) Acts, 1973 and 1991 and certain other enactments and to provide for related matters. Copies of current Employment Regulation Orders (ERO's) and Registered Employment Agreements are also appended to this Report. Copies of the Organisation of Working Time Act and the above-mentioned ERO's together with Explanatory Booklets/Leaflets on the various provisions of the Act are on the Department of Enterprise, Trade and Employment website

National Report on the Practical Implementation of Directive 94/33/EC on the Protection of Young People at Work

- 2.1.3 Responsibility for the administration and enforcement of the Protection of Young Persons (Employment) Act, 1996 rests with the Department of Enterprise, Trade and Employment, whose Labour Inspectorate in the Employment Rights and Industrial Relations Division, is involved in the enforcement of the legislation through both sectoral and targeted inspections of employments and investigation of complaints.

Legal Situation

- 2.1.4 The Protection of Young Persons (Employment) Act, 1996 put in place a single composite piece of legislation regulating the protection of young persons in employment generally, including industrial work. **This Act (No.16 of 1996) may be accessed on website <http://www.irishstatutebook.ie/front.html>**
- 2.1.5 The Act repealed the existing legislative provisions on the protection of young persons as contained in the 1977 Protection of Young Persons (Employment) Act (No. 9 of 1977), and Conditions of Employment Act, 1936 (No.2 of 1936), **which may be accessed on website <http://www.irishstatutebook.ie/front.html>**
- 2.1.6 The Act gave effect to the provisions of Directive 94/33/EC by prohibiting the employment of children except in certain limited circumstances and subject to certain conditions (section 3), prohibiting the employment of children at night (section 4) and providing for minimum periods of daily, weekly and annual rest periods for young persons and restricting night work for young persons (section

6), imposing restrictions in respect of double employment (section 10) and providing that time spent on vocational training will count as working time (section 11).

- 2.1.7 The Act also re-enacted a number of provisions that were in the then existing 1977 Act. These included the power of Inspectors (section 22), provisions relating to prosecutions (section 24), an obligation on employers to keep specific records relevant to the employment of young persons and children (sections 5 and 15) and to display a prescribed abstract of the Act which sets out the main provisions of the Act (section 12).
- 2.1.8 The Act went beyond the requirements of the Directive by generally prohibiting the employment of persons who are under 16 years of age or the school leaving age (then 15 years of age) which ever is the higher.

Publicity and Other Measures in relation to the New Legislation

Action to Disseminate Information

- 2.1.9 When the **Protection of Young Persons (Employment) Act, 1996** became law on 2 January 1997, the Employment Rights Section of the Department of Enterprise, Trade and Employment prepared an explanatory booklet on the Act for dissemination to the public. Explanatory information on the Act is also included in the Department's information booklet "Guide to Labour Law" which is also available on the Department's website.
- 2.1.10 Regulations made under the Terms of Employment (Information) Act, 1994 (which Act implemented EC Council Directive No. 91/533/EEC of 14 October, 1991) require employers to give to their employees under 18 years of age, a copy of the official Summary of the Protection of Young Persons (Employment) Act, 1996, (prepared in leaflet form by the Department) together with other details of their terms of employment within one month of taking up a job.
- 2.1.11 When the Act came into operation, details of the legislation were sent to all post-primary schools, the relevant trade unions and employer bodies, the main supermarket chains, petrol stations, hotels, restaurants and vintners associations, fast-food chains and youth organisations. As part of the publicity campaign to increase public awareness of the Act, the Labour Inspectors in the run up to the commencement of the 1996 Act, outlined the Act's new provisions directly in visits to over 1000 employers.
- 2.1.12 Details of the new Act were subsequently sent to third-level institutions as well as education officers in the relevant student unions to ensure that young persons became aware of their rights under the legislation with a view to preventing their exploitation in employment.

Code of Practice Concerning the Employment of Young Persons in Licensed Premises

- 2.1.13 The above Code of Practice came into operation on 24 July 2001. It was facilitated by the Department of Enterprise, Trade and Employment and contains valuable information (including statutory obligations) of assistance to both employers and employees with regard to identifying the obligations, responsibilities and entitlements associated with employing 16 and 17 year olds in licensed premises.
- 2.1.14 The Code concerns 16 and 17 year olds, including all second level students (excluding bar apprentices in the licensed trade) employed at any time in licensed premises be it summer, other holidays or part-time work.
- 2.1.15 The seven parties to the Code of Practice for Young Persons working in Licensed Premises mentioned above are the Irish Congress of Trade Unions, the Irish Hotels' Federation, the Licensed Vintners' Association, Mandate Trade Union, the National Parents Council, the Restaurants Association of Ireland and the Vintners Federation of Ireland. When the Code was launched, as well as being made available in booklet form, it was also placed on the Department's website (www.entemp.ie) along with other employment rights explanatory literature, including the booklet on the Protection of Young Persons (Employment) Act, 1996, to give wider access to such information.

Flanking/Other Measures to Facilitate Practical Implementation

- 2.1.16 The Department has in place an Employment Rights Information Unit where varying queries about employment rights generally, including the Protection of Young Persons (Employment) Act are dealt with on a daily basis. In addition the staff of the Employment Rights Information Unit visit Citizens Information Centres and other business functions to disseminate information on general labour law, including the Protection of Young Persons (Employment) Act, 1996. The Employment Rights Information Unit, in November 2001, commenced a pro-active awareness campaign whereby over a six-month period all secondary schools will be circulated with information on all aspects of employment law, including details of the Protection of Young Persons (Employment) Act, 1996.
- 2.1.17 Labour Inspectors of the Department, in the course of their inspection activity, provide information and guidance as a matter of routine to employers on all aspects of labour law, including the Protection of Young Persons (Employment) Act, 1996.
- 2.1.18 The Irish Business and Employers' Confederation (IBEC) in support of the Directive, engaged in specific information activities with its members to ensure that they are appraised of the details of the Irish legislation. IBEC reiterated its view that the legislation provides important protection for young people at work and its successful implementation underpins their social and educational welfare.

Education (Welfare) Act, 2000

- 2.1.19 Section 12 of the Education (Welfare) Act, 2000 provides that Liaison Officers, appointed under that Act, will liaise with the Department of Enterprise, Trade and Employment to ensure that the activities of the National Educational Welfare

Board and this Department's activities relating to the Protection of Young Persons (Employment) Act, 1996 are co-ordinated.

2.1.20 In this regard, it is envisaged that such liaison will involve the Labour Inspectorate of this Department. The co-operation between the two organisations as provided for in the legislation should complement the ongoing enforcement of the Protection of Young Persons (Employment) Act.

Monitoring of Implementation

Bodies Responsible for Monitoring Implementation of New Legislation

2.1.21 As already stated, responsibility for the administration and enforcement of the Protection of Young Persons (Employment) Act, 1996 rests with the Department of Enterprise, Trade and Employment whose Labour Inspectorate is involved in the enforcement of the legislation.

Protection of Young Persons Monitoring Group

2.1.22 The PYP Monitoring Group is no longer in existence. See sub-paragraph 2.1.23 below.

2.1.23 The recently concluded National Partnership Agreement, "Towards 2016", contains a considerable series of measures focussed on the broad area of employment rights compliance and enforcement. Preparatory work has commenced on the establishment of a new Office of the Director of Employment Rights Compliance. An extensive range of legislative changes will be enacted. A reconfiguration of the Labour Inspectorate is planned, which will see its resources almost treble together with a process of regionalisation being implemented. In tandem with these measures, a major programme of "Education and Awareness" in respect of employment rights entitlements and obligations is to be reached and delivered.

"Towards 2016" anticipates increased liaison between the Labour Inspectorate and other State Bodies, advocate services and concerned organisation, including those who have a role in relation to protection of children in employment.

Night-time inspections commenced in autumn 1999; the authorised number of Labour Inspectors increased from 10 to 17 in 2000 and the level of inspections under the Act also increased. The total number of PYP inspections from 2000- 2005 was 10,586. The assignment of additional Labour Inspectors was completed in November 2005 and brought the complement of serving Inspectors to 31 Officers.

Methods Used for Monitoring

2.1.24 Breaches of the Act come to the attention of the Inspectorate either by way of complaint by an individual employee or other concerned person or by sectoral or targeted inspections. Targeted inspections, by way of out-of-normal-office-hours-

inspection activity, throughout various employment sectors, including fast food outlets, restaurants, licensed premises and hotels are a regular feature of the work of the Inspectorate.

- 2.1.25 Where it appears that an employer has failed to comply with the legislation, the Department's legal advisers are consulted with a view to initiating legal proceedings.

Complaint to Rights Commissioner of the Labour Relations Commission

- 2.1.26 Under the Act, the parent or guardian of a child or a young person may present a complaint to a Rights Commissioner that an employer has contravened section 13 (preservation of existing rates of pay and conditions) or section 17 (refusal to co-operate with the employer in breaching the Act). The complaint to a Rights Commissioner may be made by giving notice of it in writing on the appropriate form.

- 2.1.27 An employer or an employee may appeal to the Employment Appeals Tribunal from a recommendation of a Rights Commissioner.

Problems Encountered in Monitoring Implementation of New Legislation

- 2.1.28 As already stated, the Department's Labour Inspectorate commenced night-time inspection activity during Autumn 1999 (see Table 1)

Assessment of Effectiveness

Data Used To Assess Effectiveness

- 2.1.29 The data used to assess effectiveness includes details of Labour Inspectorate inspection activity (day and night time/outcomes) and overall inspection activity, together with details of Labour Inspectorate resource levels.

Table 1

Protection of Young Persons (Employment) Act, 1996 Day-time V Night-time Inspections V Total Inspections V Overall Inspections for all Legislation

Year	P.Y.P. Act Night-time Inspections and % of Total P.Y.P. Inspections	P.Y.P. Act Day-time Inspections and % of Total P.Y.P. Inspections	P.Y.P. Act Total Inspections and % of Total Inspections	Total Inspections Excluding P.Y.P. Act and % of Total Inspections	Total Inspections Including P.Y.P. Act
2001	768 (1.38%)	294 ((3.61%)	1062 (6.09%)	5412 (1.19%)	6474
2002	865 (1.69%)	599 (2.44%)	1464 (5.68%)	6859 (1.21%)	8323
2003	594 (2.68%)	999 (1.59%)	1593 (4.49%)	5575 (1.28%)	7168
2004	1259 (1.45%)	577 ((3.18%)	1836 (2.81%)	3324 (1.55%)	5160
2005	1443 (1.39%)	564 (3.55%)	2007 (2.84%)	3712 (1.54%)	5719

Note 1 (Inspection activity outside of normal working hours i.e. after 5.30pm Monday to Friday and week-end commenced in Autumn 1999).

Table 2

Protection of Young Persons (Employment) Act, 1996 Overall Activity 1997- 2001

Year	Inspections	Referred For Prosecutions
2001	1062	9
2002	1464	12
2003	1593	19
2004	1836	14
2005	2007	24

Resource Level of the Labour Inspectorate

The assignment of previously announced additional Labour Inspectors was completed in November 2005. That brought the complement of serving Inspectors to 31 Officers. The increase in staffing represents almost a doubling of the number of Labour Inspectors in the last 2 years.

Organisation of Working Time Act 1997

Introduction

2.1.30 Responsibility for the administration of the Organisation of Working Time Act, 1997 (No 20 of 1997) rests with the Department of Enterprise, Trade and Employment, whose Labour Inspectorate and Legal Services Unit in the Employment Rights and Industrial Relations Division, and agencies, the Labour Relations Commission, the Labour Court and the Employment Appeals Tribunal have a function in the enforcement of the legislation. The Act, with the exception of the requirement to maintain certain records, is self-enforcing through complaint to the Rights Commissioner Service of the Labour Relations Commission, appeal to the Labour Court and enforcement in the Circuit Court. However, the Act also provides that a “relevant authority” for the purposes of holidays claims means a Rights Commissioner, the Employment Appeals Tribunal or the Labour Court. The Minister for Enterprise, Trade and Employment may also present a complaint to a Rights Commissioner in particular circumstances. The Labour Court approves collective agreements, for ‘reference periods’ exceeding 4 or 6 months but not exceeding 12 months, in particular circumstances for certain employers.

Legal Situation

2.1.31 The Organisation of Working Time Act, 1997 puts in place a single composite piece of legislation regulating the holidays, hours of work, and rest breaks and rest periods of employee’s in general. The rest and **maximum** working time provisions of the Act do not apply to the Defence Forces, Garda Síochána (Police Force), a junior hospital doctor, a transport employee, a person employed in the civil protection services, a person who is engaged in sea fishing or otherwise employed at sea, a family employee working on a farm or in a private house and a person who controls his/her own working hours. **However, there are separate Regulations (see above) regulating the rest and maximum**

working hours of junior hospital doctors and persons engaged in sea fishing or otherwise employed at sea.

2.1.32 The Act repealed the Conditions of Employment Act, 1936 (No. 2 of 1936), the Night Work (Bakeries) Act, 1936 (No.42 of 1936), the Shops (Conditions of Employment) Act, 1938 (No.4 of 1938), the Shops (Conditions of Employment) (Amendment) Act, 1942 (No.2 of 1942), the Conditions of Employment Act, 1944 (No.12 of 1944), the Holidays (Employees) Act, 1973 (No 25 of 1973), The Night Work (Bakeries) (Amendment) Act, 1981 (No.6 of 1981) and section 4 of the Worker Protection (Regular Part-Time Employees) Act, 1991 (No.5 of 1991). These Acts regulated certain aspects of the conditions of employment of employees including hours of work and annual leave entitlements.

2.1.33 The Organisation of Working Time Act, 1997 gives effect to Directive 93/104/EC of 23rd November 1993, by regulating the daily rest periods of employees (section 11), the rest breaks during the day of employees (section 12) and the weekly rest periods of employees (section 13). The Act also provides for a maximum average working week for employees of 48 hours averaged over 4 or 6 months (section 15) and maximum nightly working hours for employees (section 16(a)).

2.1.34 In accordance with sections 15 and 24 of the Act the 48-hour average week may also be averaged over a period of up to 12 months if that reference period is provided for in a collective agreement approved by the Labour Court. The collective agreement must be negotiated by a trade union who is the holder of a negotiation license under the Trade Union Act, 1941 or by an excepted body, within the meaning of that Act.

2.1.35 The Organisation of Working Time Act, 1997 (Fifth Schedule) also provided for a transitional arrangement in relation to average weekly working hours viz. that in the first year following commencement of the Act (1st March 1998 – 28 February 1999), an employee could work up to an average of 60 hours a week and in the second year (1st March 1999- 29th February 2000) an employee could work up to an average of 55 hours a week. To work these transitional hours an employee had to sign a written agreement with his/her employer. If he/she was a member of a union or his/her work was represented by a union the employee had to sign the agreement through the union. If the employee was not a member of a union or if his/her work was not represented by a union the employee had to sign an individual agreement with his/her employer. Any such

agreement had to be approved by the Labour Court. This transitional arrangement was not provided for in the Directive.

2.1.36 Sections 19 to 23 of the Act govern the holiday entitlements of employees and provide, inter alia, for a maximum annual leave period of 4 working weeks for the leave year 1st April 1999 to the 31st March 2000 and thereafter. The Act provided for a transitional arrangement whereby the maximum annual leave entitlement in the leave year April 1997 - March 1998 was 3 working weeks and one day and in the leave year April 1998 to March 1999 was 3 working weeks and 3 days.

2.1.37 The Act went beyond the requirements of the Directive by providing for a premium for Sunday work (section 14), by providing for the provision of information by an employer to an employee in relation to start and finishing times (section 17) and by providing for compensation for employees who have zero hour working contracts (Section 18).

2.1.38 A total of **thirteen** Statutory Instruments were made under the Act and two other Statutory Instruments under other legislation but relevant to the Organisation of Working Time Act 1997. The titles of these Statutory Instruments and their purpose are as follows:

1. Organisation of Working Time Act, 1997 (Commencement) Order 1997 – S.I. No. 392 of 1997.

This Order appoints the 30th day of September 1997, the 30th day of November 1997 and the 1st day of March 1998 as the days on which the specified provisions of the Organisation of Working Time Act, 1997 came into effect.

2. Organisation of Working Time (Determination of Pay for Holidays) Regulations, 1997 – S.I. No 475 of 1997.

These Regulations set out the methods of calculating for the purposes of holidays and public holidays under the Organisation Of Working Time Act 1997 -

- (a) the normal weekly rate of an employee's pay and
- (b) the appropriate daily rate of an employee's pay.

3. Organisation of Working Time (Exemption of Transport Activities) Regulations, 1998 - S.I. No.20 of 1998.

These Regulations prescribe that persons employed in a transport activity as defined in the Schedule to the Regulations shall be exempt from the application of sections 11, 12, 13, 15 and 16 of the Organisation of Working Time Act, 1997 dealing respectively with daily rest, rest and intervals at work, weekly rest, weekly working hours and nightly working hours.

4. Organisation of Working Time (General Exemptions) Regulation, 1998 – S.I. No.21 of 1998.

These Regulations prescribe that persons employed in the activities specified in the Schedule to these Regulations shall be exempt from the application of sections 11,12 and 13 of the Organisation of Working Time Act, 1997 which deal respectively with daily rest, rest and intervals at work and weekly rest, subject to being granted compensatory rest. Such persons shall also be exempt from the application of section 16 of the Act, which deals with nightly working hours.

5. Organisation of Working Time (Code of Practice on Compensatory Rest and Related Matters) (Declaration Order) 1998, - S.I. No. 44 of 1998.

This Order declares the code of practice set out in the Schedule to the Order to be a code of practice on compensatory rest periods for the purpose of section 6 of the Organisation of Working Time Act, 1997.

6. Terms of Employment (Additional Information) Order, 1998 – S.I. No. 49 of 1998

This Order provides that where, under the Terms of Employment (Information) Act 1994, an employer is required to provide an employee with a written statement of certain particulars of his or her terms of employment, such statement shall, after 1st March 1998, include details of the times and duration of (and any other terms and conditions relating to) the rest periods and breaks referred to in sections 11,12 and 13 of the Organisation of Working Time Act, 1997 that are being allowed to the employee.

7. Organisation of Working Time (Exemption of Civil Protection Services) Regulations, 1998 – S.I. No. 52 of 1998.

These Regulations prescribe that persons employed in the activities in the civil protection services, specified in the Schedule, shall be exempt from the application of sections 11,12,13,15 and 16 of the Organisation of Working Time Act, 1997 dealing respectively with daily rest, rest and intervals at work, weekly rest, weekly working hours and nightly work hours.

8. Organisations of Working Time (Breaks at Work for Shop Employees) Regulations, 1998, - S.I. No. 57 of 1998.

These Regulations provide that shop employees whose hours of work include the period from 11.30 am to 2.30 pm shall, after 6 hours work, be allowed a break of one hour which must commence between those hours (provided such commencement would not result in the break occurring at the end of the working day).

9. Organisation of Working Time (Code of Practice on Sunday Working in the Retail Trade and Related Matters) (Declaration) Order, 1998 – S.I. No. 444 of 1998.

This Order declares the code of practice set out in the Schedule to the Order to be a code of practice on Sunday working in the retail trade for the purposes of section 14 of the Organisation of Working Time Act, 1997 (No. 20 of 1997).

10. Organisation of Working Time (Public Holiday) Regulations, 1999 – S.I. No.10 of 1999.

These Regulations appoint the 31st December 1999 to be a special public holiday in celebration of the Millennium.

11. Safety, Health and Welfare at Work (Night Work and Shift Work) Regulations, 2000 – S.I. No. 11 of 2000.

The purpose of these Regulations is to give effect, in respect of night workers and shift workers, to the safety and health protection provisions of Article 9 of EU Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time. Inter alia they require employers, who employ night workers, to carry out – for the purposes of the maximum hours of night working permitted under sections 16 (2)(a) and 16 (2)(b) of the Organisations of Working Time Act, 1997 (i.e., the Act by which the main provisions of the Directive have been implemented domestically) – an assessment of the health and safety risks attaching to the work of night workers whom they employ with a view to determining whether that work involves special hazards or a heavy physical or mental strain. They also require employers, whose night workers become ill or exhibit symptoms of ill health as a result of performing night work, to re-assign such workers to day work suited to them whenever possible.

These Regulations also revoke and replace the Safety, Health and Welfare at Work (Night Work and Shift Work) Regulations, 1998 (S.I. No. 485 of 1998). Their purpose is to avoid possible confusion as regards the application of the provisions of Regulation 6 of S.I. No. 485 of 1998 to night workers (Regulation 7 of these Regulations refers). The Regulations do not involve new obligations or conditions not intended in the 1998 Regulations.

12. Organisation of Working Time (National Day of Mourning) Regulations, 2001 – S.I. No.419 of 2001.

These Regulations appoint Friday 14th September 2001 to be a National Day of Mourning in sympathy with all those killed and injured in the terrorist attacks in the United States of America on Tuesday 11th of September 2001.

13. Organisation of Working Time (Records) (Prescribed Form and Exemptions) Regulations, 2001 – S.I. No.473 of 2001.

The main purpose of these Regulations is to require employers, pursuant to the Organisation of Working Time Act, 1997 to keep:

- (a) a record of the number of hours worked by employees (excluding meals and rest breaks) on a daily and weekly basis;
- (b) a record of leave granted to employees in each week by way of annual leave or in respect of a public holiday and payment in respect of that leave;

(c) a weekly record of the notification of the starting and finishing times of the employees.

The Regulations also require that an employer keep a copy of the statement provided to each employee under the provisions of the Terms of Employment (Information) Act, 1994. The Regulations also provide for exemptions, subject to certain conditions, in relation to the keeping by employers of records of rest breaks and rest periods of employees under the Organisation of Working Time Act, 1997.

14. Organisation of Working Time (Inclusion of Transport Activities) Regulations 2004- S.I. No. 817 of 2004.

These Regulations transpose the provisions of Council Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000 concerning certain aspects of the organisation of working time in relation to transport workers other than (a) workers performing mobile road transport activities as provided for in Directive 2002/15/EC and (b) mobile staff in civil aviation as defined in the Annex to Council Directive 2000/79/EC of 27 November 2000.

The effect of the transposition of Directive 2000/34/EC is to apply the maximum average working week of 48 hours to mobile and non-mobile transport workers covered by that Directive.

In addition, these Regulations prescribe that persons employed in the activities specified in Regulation 6 and 8 of these Regulations shall be exempt from the application of sections 11, 12 and 13 of the Organisation of Working Time Act 1997 which deal respectively with daily rest, rest breaks and weekly rest, subject to being granted adequate rest or equivalent compensatory rest. Such persons shall also be exempt from the application of section 16 of that Act which deals with nightly working hours.

15. Organisation of Working Time (Inclusion of Offshore Work) Regulations 2004- S.I No. 819 of 2004.

These Regulations transpose the provisions of Council Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000 concerning certain aspects of the organisation of working time in relation to offshore work which means work performed mainly on, or from, offshore installations(including drilling rigs), directly or indirectly in

connection with the exploration, extraction or exploitation of mineral resources, including hydrocarbons, and diving in connection with such activities, whether performed from an offshore installation or a vessel.

Publicity and Flanking/Other Measures in relation to the New Legislation

Action to Disseminate Information

2.1.39 When the 1997 Act became law on 7th May 1997, the Employment Rights Unit of the Department of Enterprise, Trade and Employment prepared an explanatory leaflet on the Act in general. The Unit also prepared explanatory material on Sunday Premium, the Provision of Information, Zero Hours Contracts and on the Holidays and Public Holiday provisions in the Act. Explanatory information on the Act is also included in the Department's information booklet "Guide to Labour Law" which is available from the Department's Information Unit and on its website (www.entemp.ie). The Employment Rights Information Unit of the Department ensured - and continues to ensure - the dissemination of this explanatory material to as wide an audience as possible.

Codes of Practice under the Organisation of Working Time Act, 1997

2.1.40 **Two Codes of Practice (referred to under listing of Statutory Instruments) were made under the Act, as follows:**

1. Code of Practice on Compensatory Rest Periods

This Code of Practice came into operation in February 1998. It was facilitated by the Labour Relations Commission and is designed to assist employers, employees and their representatives in observing the provisions of the Act generally as regards compensatory rest. It gives guidance on arrangements that may be put in place to comply with the compensatory rests provisions which apply where, because of exemptions, collective agreements, emergencies or unforeseeable

circumstances, employees cannot avail themselves of the rest or break periods provided for.

2. Code of Practice on Sunday Working in the Retail Trade

This Code of Practice came into operation in November 1998. Again it was facilitated by the Labour Relations Commission and is designed to assist employers, employees and their representatives in observing the Act generally as regards Sunday working in the retail trade. It gives guidance, in particular, on arrangements that may be put in place to comply with the statutory rights of employees who work on Sundays.

Both Codes were declared Codes of Practice by Order of the Minister for Labour, Trade and Consumer Affairs.

Flanking/Other Measures to Facilitate Practical Implementation

2.1.41 The Department has in place an Employment Rights Information Unit where varying queries about employment rights generally, including the Organisation of Working Time Act, 1997 are dealt with on a daily basis. In addition, staff of the Employment Rights Information Unit, visit Citizens Information Centres and other business functions to disseminate information on general labour law, including the Organisation of Working Time Act, 1997. The Employment Rights Information Unit, in November 2001, commenced a pro-active awareness campaign whereby over a six-month period all secondary schools will be circulated with information on all aspects of employment law, including details of the Organisation of Working Time Act, 1997.

Labour Inspectors of the Department, in the course of their inspection activity, provide information and guidance as a matter of routine to employers on all aspects of labour law, including the Organisation of Working Time Act, 1997. For data on activity see [Table 3 and 4 below](#).

Monitoring of Implementation

Bodies Responsible for Monitoring Implementation of Legislation

2.1.42 As already stated, responsibility for the administration and enforcement of the Organisation of Working Time Act, 1997 rests with the Department of Enterprise, Trade and Employment whose Labour Inspectorate and agencies, the Labour Relations Commission, the Labour Court and the Employment Appeals Tribunal, have a function in the enforcement of the legislation. (The Act provides at Section 40(b) that the “relevant authority” that hears the proceedings may grant the same relief in respect of holiday claims as a Rights Commissioner may grant under Section 27(3) of the Act. Section 39(1) of the Act defines “relevant authority” as meaning a Rights Commissioner, the Employment Appeals Tribunal or the Labour Court). The Legal Services Unit of the Department’s Employment Rights and Industrial Relations Division have a role in enforcing Determinations of the Labour Court and the Employment Appeals Tribunal.

Methods Used for Monitoring

2.1.43 Alleged breaches of the Act come to the attention of the Rights Commissioner Service of the Labour Relations Commission by way of complaint. Rights Commissioners investigate complaints and issue decisions. Either party to a Rights Commissioner decision may appeal such a decision to the Labour Court. The Labour Court will then hear the appeal and issue a determination to the parties concerned. When a decision of a Rights Commissioner has not been carried out by an employer and the time for bringing an appeal against the decision has expired and no such appeal has been brought, the employee concerned may bring a complaint, that the decision has not been carried out by the employer, before the Labour Court. The Labour Court will then, without hearing the employer concerned or any evidence (other than that in relation to the non implementation), make a determination to the like effect as the decision of the Rights Commissioner. If the employer fails to implement a determination of the Labour Court within a further period of 6 weeks, the employee concerned, a trade

union of which the employee is a member or the Minister for Enterprise, Trade and Employment may make application to the Circuit Court for an order directing the employer to carry out the determination in accordance with its terms. The Circuit Court may, if it considers it appropriate to do so, direct the employer concerned to pay interest on the compensation awarded where the order relates to the payment of compensation.

2.1.44 The Employment Appeals Tribunal is empowered under Section 40 of the Organisation of Working Time Act, 1997 to permit an employee or his/her trade union to include a referral of a holiday complaint under that Act, along with any proceedings being taken to the Tribunal in respect of any legislation coming within its scope. In such circumstances the Tribunal hears the complaints and issues a determination. If an employer fails to carry out the determination in accordance with its terms, the employee concerned, a trade union of which the employee is a member or the Minister for Enterprise, Trade and Employment may make application to the Circuit Court for an order directing the employer to carry out the determination in accordance with its terms.

2.1.45 The Labour Inspectorate carry out investigations under the Act to ensure compliance with the working hours and rest breaks and with the record keeping requirements as provided for under the Act and under the Regulations made in 2001. Investigations take place following on from a complaint by an individual employee or other concerned person or from sectoral or targeted inspections. Targeted inspections take place throughout various employment sectors, including fast food outlets, restaurants, licensed premises, hotels, agriculture/horticulture and healthcare. Where it appears that an employer has failed to comply with the records requirement aspect of the legislation, the Department's legal advisers are consulted with a view to initiating legal proceedings.

Assessment of Effectiveness

Data Used To Assess Effectiveness

2.1.46 The data used to assess effectiveness includes, the number of complaints investigated by the Rights Commissioner Service of the Labour Relations Commission, the number of determinations issued by the Labour Court, the number of determinations issued by the Employment Appeals Tribunal, the number of determinations that the Minister is requested to enforce, the number successfully enforced by the Minister and the number of collective agreements approved by the Labour Court (Table 3). Data also includes, Information Unit and Labour Inspectorate inspection activity (Table 4), together with details of Labour Inspectorate resource levels.

Table 3 See www.lrc.ie or www.labourcourt.ie

<http://www.lrc.ie/documents/annualreports/2005/AnnualReport2005English.pdf>

<http://www.labourcourt.ie/labour/labour.nsf/lookuppagelink/HomeSearch>

Organisation of Working Time Act, 1997 (O.W.T. Act) Activity – Labour Relations Commission / Labour Court / Employment Appeals Tribunal / Legal Services Unit

Year	O.W.T. Act Complaints Investigated By the Rights Commissioner Service	O.W.T. Act Determinations Issued By Labour Court	O.W.T. Act Determinations Issued By Employment Appeals Tribunal	O.W.T. Act Minister Requested to Enforce Determinations in Circuit Court	Determinations Successfully Enforced By Minister	O.W.T. Act Collective Agreements Approved By Labour Court
1997	-	-	-	-	-	-
1998	130	6	1	2	2	112
1999	148	18	69	10	4	41
2000	288	18	145	18	3	31
2001	*	18	204	32	9	2

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* *Statistics not yet available*

Table 4

Organisation of Working Time Act, 1997 Activity in Information Unit, Labour Inspectorate and Legal Services Unit

<i>Year</i>	<i>Information Unit Queries*</i>	<i>Inspections</i>	<i>Referred For Prosecutions</i>
2001		1163	7
2002		1005	3
2003		1193	nil
2004		658	1
2005		753	nil

*Information should be sought from Information Unit.

Note 1

As transitional arrangements were in place for the introduction of the legislation, inspection activity for the records' aspect of the Act only commenced in 1999.

Note 2

The number of convictions may appear low in relation to the number of referrals for prosecution. This is explained by the fact that up until now, charges under the O.W.T.

Act tend to be dropped if an employer pleads guilty to more serious breaches under other employment rights legislation.

Note 3

Many of the irregularities/breaches identified relate to start and finishing times not being recorded. As the Regulations prescribing the type of records to be maintained only took effect in November 2001, irregularities of the nature identified were not referred for prosecution. Activity is now focusing on the record keeping requirements of the Act, as prescribed by Regulations in 2001.

Resource Level of the Labour Inspectorate

- 2.1.47 The authorised number of Labour Inspectors up to the year 2000 was 10 when the authorised number increased to 17. **The assignment of previously announced additional Labour Inspectors was completed in November 2005. that brought the complement of serving Inspectors to 31 officers.**
- 2.1.48 Copies of the Employment Regulation Orders and Registered Employment Agreements currently in force are available on the Department of Enterprise, Trade and Employment website www.entemp.ie under the Employment Rights Information page under “publications” and the Irish Labour Court website www.labourcourt.ie.

Text of ARTICLE 2 PARA. 2 of the Revised European Social Charter

ARTICLE 2 PARA. 2

"With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake: to provide for public holidays with pay;"

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please indicate the number of public holidays with pay laid down by legislation, stipulated by collective agreement or established by practice during the last calendar year.

Question B

Please indicate what rules apply to public holidays with pay according to legislation, collective agreements or practice.

Please describe, where appropriate, whether measures permitting derogation from legislation in your country regarding daily and weekly working hours have an impact on rules pertaining to public holidays with pay.

Question C

If some workers are not covered by provisions of this nature, whether contained in legislation, collective agreements, or other measures, please state what proportion of all workers is not so covered (see Article 1 of the revised Social Charter).

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) and Questions for answer by Ireland arising from our 21st Report, submitted in 2003, under the original European Social Charter (1961):

Paragraph 2 – Public holidays with pay

The Irish report recalls that there are nine statutory public holidays and states that following enactment of the Organisation of Working Time Act, 1997, there are now enhanced minimum legally enforceable entitlements for all employees to holidays and public holidays.

In respect of each public holiday, an employee is entitled to either:

- (a) a paid day off on the holiday or
- (b) a paid day off within a month or
- (c) an extra day's annual leave or
- (d) an extra day's pay

as the employer may decide.

If the public holiday falls on a day on which the employee normally works, the employee is entitled to a paid day off for the day. If the public holiday falls on a day on which the employee does not normally work, the employee is entitled to one fifth of his/her normal weekly wage for the day or to either (b) or (c) above as the employer may decide. If the employee is asked to work on the public holiday, the employee is entitled to (b) (c) or (d) above as the employer may decide.

The Committee holds that workers required to work on a public holiday must be given compensatory leave at least equivalent to the number of hours worked (see Conclusions XIV-2, p. 631) and the granting of an extra day's pay as in option (d) without compensatory leave would therefore not be in conformity with Article 2§2 of the Charter. The Committee wishes to know whether there is a service requirement on a public holiday, and if so, whether the worker required to work has the possibility, irrespective of what the employer may decide, of choosing between extra pay and a compensatory day off.

In reply to the Committee's question in the previous conclusion, the report states that part-time employees qualify for public holidays entitlement provided they have worked at least 40 hours during the five weeks ending on the day before a public holiday. Further to the question above, the Committee wishes to know whether part-time employees who qualify for public holiday's entitlement have a right to compensatory time off if they work on a public holiday.

Answer: If a part-time employee works on a public holiday they are entitled to one of (b), (c) or (d) above as determined by the employer.

Pending receipt of the information requested, the Committee defers its conclusion.

[Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 2, Paragraph 2:](#)

Note: Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

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Article 2, - The Right to Just Conditions of Work:- Paragraph 2 - Provision of Public Holidays with Pay.

Question A

2.2.1 There are nine statutory public holidays as follows

- New Year's Day - 1 January
- St. Patrick's Day- 17 March
- Easter Monday
- The first Monday in May
- The first Monday in June

The first Monday in August
The last Monday in October
Christmas Day - 25 December
St. Stephen's Day - 26 December.

Question B:-

2.2.2 The Organisation of Working Time Act 1997, which implements EU Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time, sets out statutory rights for employees in respect of rest, maximum working time and holidays. It repeals the Holidays (Employees) Act, 1973 and Section 4 of the Worker Protection (Regular Part-Time Employees) Act, 1991. The Organisation of Working Time Act now provides enhanced minimum legally enforceable entitlements for all employees to holidays and public holidays. Please see our Report under Article 2 Paragraph 1 above.

Question C:-

2.2.3 Please see our Report under Article 2 Paragraph 1 above.

Text of ARTICLE 2 PARA. 3 of the Revised European Social Charter

ARTICLE 2 PARA. 3

"With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake: to provide for a minimum of four weeks' annual holiday with pay;"

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please indicate the length of annual holidays under legislative provisions or collective agreements; please also indicate the minimum period of employment entitling workers to annual holidays.

Please describe, where appropriate, whether measures permitting derogation from statutory rules in your country regarding daily and weekly working hours have an impact on rules pertaining to the duration of annual holidays.

Question B

Please indicate the effect of incapacity for work through illness or injury during all or part of annual holiday on the entitlement to annual holidays.

Question C

Please indicate if it is possible for workers to renounce their annual holiday.

Question D

Please indicate the customary practice where legislation or collective agreements do not apply.

Question E

If some workers are not covered by provisions of this nature, whether contained in legislation, collective agreements or other measures, please state what proportion of all workers is not covered (see Article 1 of the revised Social Charter).

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) and Questions for answer by Ireland arising from our 21st Report, submitted in 2003 under the original European Social Charter (1961):

Note: Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

Paragraph 3 – Annual holiday with pay

The Committee notes from the Irish report that the legal framework relating to paid annual holidays has changed following the entry into force of the Working Time

Organisation Act, 1997. Henceforth all time worked qualifies for paid holiday time (with no qualifying period).

As from the leave year 1999/2000, depending on time worked, the minimum holiday entitlement is calculated by one of the following methods:

- a) four working weeks in a leave year in which the employee works at least 1 365 hours (unless it is a leave year in which he or she changes employment);
- b) 1/3 of a working week per calendar month that the employee works at least 117 hours;
- c) 8 % of the hours an employee works in a leave year (but subject to a maximum of four working weeks).

The holidays must be given to the employee within the leave year or, with the employee's consent, within six months of the following leave year. It is the responsibility of the employer to ensure that the employee takes his/her full statutory leave allocation within the appropriate period. Employees may, with the consent of the employer, carry over holidays in excess of statutory minimum leave to a following leave year.

In reply to the Committee's question in the previous conclusion, the report states that the only situation, in which pay in lieu of holidays can be given, is where the employment ceases and some of the employee's holidays have not yet been taken. Accordingly, employees may not trade their annual leave for a pay increase.

The Committee notes that a day of sickness during holidays which is covered by a medical certificate is not counted as annual leave.

While noting that part-time workers – as other workers – earn holiday entitlements from the time work is commenced (see above), the Committee again requests a clear and full description of the position of part-time workers under the new legislation.

Answer: Part-time workers can choose the most favourable method of calculation of annual leave from the three methods of calculation at (a), (b) and (c) above.

Finally, the Committee notes that, in general, the Act applies to any person working under a contract of employment or apprenticeship, employed through an employment agency or in the service of the State (excluding members of the *Garda Síochána* and the Defence Forces but including civil servants and employees of any local authority, health board, harbour authority or vocational education committee).

Pending receipt of the information requested, the Committee concludes that the situation in Ireland is in conformity with Article 2§3 of the Charter.

[Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 2, Paragraph 3:](#)

Article 2 - The Right to Just Conditions of Work:- Paragraph 3- Statutory Provision of a Minimum of *Four* Weeks' Annual Holiday with Pay.

Questions A- E refer:

2.3.1 The Organisation of Working Time Act 1997, which implements EU Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time, sets out statutory rights for employees in respect of rest, maximum working time and holidays. It repeals the Holidays (Employees) Act, 1973 and Section 4 of the Worker Protection (Regular Part-Time Employees) Act, 1991. The Organisation of Working Time Act now provides enhanced minimum legally enforceable entitlements for all employees to holidays and public holidays. Please see our Report under Article 2 paragraph 1 above.

Text of ARTICLE 2 PARA. 4 of the Revised European Social Charter

ARTICLE 2 PARA. 4

"With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake: to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;"

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please indicate the policies and the legislative measures taken to eliminate or to reduce the inherent risks of dangerous or unhealthy occupations. Please also describe the procedures for periodic review and evaluation.

Question B

Please state the occupations regarded as dangerous or unhealthy. If a list exists of these occupations, please supply it.

Question C

Where it has not yet been possible to eliminate or reduce sufficiently these risks, please state what provisions apply under legislation or collective agreements or otherwise in practice as regards reduced working hours or additional paid holidays in relation to this provision of the revised Charter.

Question D

If some workers are not covered by provisions of this nature, whether contained in legislation, collective agreements or other measures, please state what proportion of all workers concerned is not covered (see Article 1 of the revised Social Charter).

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) and Questions for answer by Ireland arising from our 21st Report, submitted in 2003, under the original European Social Charter (1961):

Paragraph 4 – Reduced working hours or additional holidays for workers in dangerous or unhealthy occupations

The Irish report recalls that there are no measures of the nature provided by Article 2§4 of the Charter and the Government is of the view that this provision is “seriously and dangerously out of date.”

The Committee is aware that Ireland ratified the Revised European Social Charter on 4 November 2000, including Article 2§4 in its new wording. However, it reiterates that according to Article 2§4, as long as the objective of eliminating all risks in the workplace has not been achieved the granting of reduced working hours or additional holidays remains an essential factor in reducing work-related accidents and diseases.

The Committee concludes that the situation in Ireland is not in conformity with Article 2§4 of the Charter as no provision is made for additional paid holidays or reduced working hours for workers engaged in dangerous or unhealthy occupations.

Text of Ireland's Second Report under the Revised European Social Charter in
relation to Article 2, Paragraph 4:

Note: Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

Article 2 - The Right to Just Conditions of Work - Paragraph 4 To eliminate Risks in an Inherently Dangerous or Unhealthy Occupation, and where It has not yet been possible to eliminate or reduce sufficiently these Risks, to provide for either a Reduction of Working Hours or Additional Paid Holidays for Workers engaged in such Occupations:

Our Response to Question A

2.4.1 The Safety, Health and Welfare at Work Act, 2005 is new legislation that repealed and replaced the Safety, Health and Welfare at Work Act, 1989. This legislation is accessible at:
<http://www.oireachtas.ie/documents/bills28/acts/2005/a1005.pdf>.

The 2005 Act is now the principal Act governing occupational safety and health matters in Ireland. This Act represents a modernisation of our occupational health and safety laws and it sets the scene for achieving further improvements in the national record on workplace safety and health.

2.4.2 The primary focus of the 2005 Act is on the prevention of workplace accidents, illnesses and dangerous occurrences and it also provides for significantly increased fines and penalties aimed at deterring the minority who continue to flout safety and health laws.

2.4.3 As with its precursor, the basic principles underlying the 2005 Safety, Health and Welfare at Work Act are the employers' duty of care to provide all their employees with a safe place of work; a safe system of work; safe plant and machinery and effective and appropriate occupational safety and health training. These principles incorporate the responsibility of an employer to identify the hazards and assess the risks associated with each job and put in place measures that minimise these risks in accordance with the Act.

2.4.4 As stated in a previous Irish report, the Irish approach is to tackle occupational safety and health problems at root rather than compensate workers either financially or with extra leave for undertaking dangerous work. The General Principles of Prevention, as set out in Schedule 3 to the Safety, Health and Welfare at Work Act 2005 are –

1. The avoidance of risks.

2. The evaluation of unavoidable risks.

Deleted: .

[3. The combating of risks at source.](#)

[4. The adaptation of work to the individual, especially as regards the design of places of work, the choice of work equipment and the choice of systems of work, with a view, in particular, to alleviating monotonous work and work at a predetermined work rate and to reducing the effect of this work on health.](#)

[5. The adaptation of the place of work to technical progress.](#)

[6. The replacement of dangerous articles, substances or systems of work by safe or less dangerous articles, substances or systems of work.](#)

[7. The giving of priority to collective protective measures over individual protective measures.](#)

[8. The development of an adequate prevention policy in relation to safety, health and welfare at work, which takes account of technology, organisation of work, working conditions, social factors and the influence of factors related to the working environment.](#)

[9. The giving of appropriate training and instructions to employees.](#)

Our Response to Question B

- 2.4.5 There is still no change in the definition of occupations which are classified as dangerous or unhealthy.

Our Response to Questions C and D

- 2.4.6 As stated in a previous Irish report, there are no workers in Ireland covered by provisions of this nature whether contained in legislation, collective agreements or other measures. The concept of “danger money” in the past tended to obscure the pressing need to eliminate the root cause of the problem in the first place. It was often the cheap option for employers to offer “danger money” rather than tackle the fundamentals of the problem. As also previously stated, it was felt that this provision of the Charter, which was drafted over 40 years ago, is seriously and dangerously out of date.

- 2.4.7 [The Organisation of Working Time Act, 1997, which transposes Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time, sets out the maximum working hours of employees in addition to the minimum breaks and rest periods and annual leave entitlements.](#) There is no statutory entitlement or provision in that Act as regards additional paid holidays for workers engaged in dangerous or unhealthy occupations. The Act provides that the maximum working week for night workers is an average of 48 hours averaged over two months. However, the Act also provides that for night workers whose work involves special hazards or a heavy physical or mental strain the maximum weekly working hours which apply to them is an absolute 48 hours.

Query from the European Committee of Social Rights on the 2003 Report on Article 2, Paragraph 4

2.4.8 The Irish report recalls that there are no measures of the nature provided by Article 2§4 of the Charter and the Government is of the view that this provision is “seriously and dangerously out of date.” The Committee is aware that Ireland ratified the Revised European Social Charter on 4 November 2000, including Article 2§4 in its new wording. However, it reiterates that according to Article 2§4, as long as the objective of eliminating all risks in the workplace has not been achieved the granting of reduced working hours or additional holidays remains an essential factor in reducing work-related accidents and diseases. The Committee concludes that the situation in Ireland is not in conformity with Article 2§4 of the Charter as no provision is made for additional paid holidays or reduced working hours for workers engaged in dangerous or unhealthy occupations.

Our Response

2.4.9 No change. Please see our answer as outlined in answer to Questions C and D above.

Text of ARTICLE 2 PARA. 5 of the Revised European Social Charter

ARTICLE 2 PARA. 5

"With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake: to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest."

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please indicate what provisions apply according to legislation, collective agreements or otherwise in practice as regards weekly rest periods.

Please indicate whether postponement of the weekly rest period is provided for these provisions and, if so, please indicate under what circumstances and over what period of reference.

Please indicate, where appropriate, whether measures derogating from statutory rules in your country regarding daily and weekly working time have an impact on rules relating to the weekly rest period.

Question B

Please indicate what measures have been taken to ensure that workers obtain their weekly rest period in accordance with this paragraph.

Question C

If some workers are not covered by provisions of this nature, whether contained in legislation, collective agreements or other measures, please state what proportion of all workers is not covered (see Article 1 of the revised Social Charter).

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) and Questions for answer by Ireland arising from our 21st Report, submitted in 2003, under the original European Social Charter (1961):

Paragraph 5 – Weekly rest period

The Committee notes from the Irish report that the Working Time Organisation Act, 1997 provides for a weekly rest period of 24 hours preceded by a daily rest period of 11 hours, i.e. 35 hours of continuous rest (Section 13). In lieu of granting this rest period in any period of 7 days, the employer may grant two rest periods of 24 hours each in the next following period of 7 days. If these two periods are granted consecutively they shall be preceded by the daily rest period of 11 hours. If they are not consecutive they shall each be preceded by an 11 hours rest period. The weekly rest period shall be a Sunday **unless the employee's contract of employment provides otherwise** (if the rest period is postponed as above, at least one of the two periods shall fall on a Sunday).

From the Code of Practice on Compensatory Rest Periods and Related Matters, the Committee notes that under an exemption provided for in a collective agreement approved of by the Labour Court an employee may be permitted to work 14 consecutive 8 hour days.

In those circumstances the employee, in respect of that period, has a minimum entitlement of 2 periods of 24 hours compensatory rest plus 2 periods of 11 consecutive hours daily rest. According to the Code of Practice a situation where the employee is given 3 consecutive periods of 24 hours off immediately after the 14 consecutive working days would therefore be acceptable, even exceeding the minimum requirement. The Committee considers that 12 consecutive days of work is a maximum before being granted at least two full rest days, and an arrangement as described above could only be acceptable in exceptional cases and subject to strict safeguards. It asks, what are the exact circumstances under which the weekly rest period may be postponed beyond 12 consecutive days and are there any specific safeguards in addition to approval of the collective agreement by the Labour Court (e.g. prior authorisation from the Labour Inspection).

Answer: Ireland agrees that the weekly rest period should not be postponed beyond 12 consecutive days and will amend the Code of Practice on Compensatory Rest to provide so.

Section 14 of the Working Time Organisation Act provides that any employee who is required to work on a Sunday and, his or her having to work on that day has not been taken account of in the determination of pay, shall be compensated as follows:

- by the payment to the employee of a reasonable allowance having regard to all the circumstances or
- by increasing the employee's rate of pay by a reasonable amount having regard to all the circumstances or
- by granting the employee reasonable paid time off from work having regard to all the circumstances or
- by a combination of two or more of the above means.

The Committee takes note of the information on the Code of Practice On Sunday Working in the Retail Trade. It asks that the next report contain up-dated information on the extent of Sunday working in practice.

Pending receipt of the information requested, the Committee defers its conclusion.

Answer: Information is not available on the extent of Sunday Working.

Text of Ireland's Second Report under the Revised European Social Charter in
relation to Article 2, Paragraph 5:

Note: Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

Article 2 - The Right to Just Conditions of Work - Paragraph 5 - Weekly Rest Period coinciding, as far as possible, with the Traditional Day of Rest:-

Questions A, B and C refer:

2.5.1 Please see our Report under Article 2 paragraph 1 above. Sub-paragraph 2.1.38 relates to the 13 Statutory Instruments made under the Organisation of Working Time Act 1997 and two other Statutory Instruments made under legislation, but relevant to the Organisation of Working Time Act 1997. In particular, see Statutory Instruments Nos. 3, 4,7 relating to "excluded sectors" and No 9 in relation to the Code of Practice on Sunday Working in the Retail Trade and Related Matters. The information contained in sub-paragraph 2.5.5 pages 21 and 22 of our 17th Report on the Implementation of the European Social Charter still applies with the exception of the last two sentences of the last paragraph relating to the numbers involved in the labour force in 1994.

2.5.2 In this connection, please see the website of the Central Statistics Office (CSO) at www.cso.ie for the most recent statistics in this area. These statistics can be found by going to the following link pages on this website:

www.cso.ie/population

www.cso.ie/statistics

www.cso.ie/demography and labour force

www.cso.ie/industrial employment, earnings and hours worked

www.cso.ie/quarterly national household survey -module of length and pattern of working time

Response to ECSR Queries:-

2.5.3 Weekly Rest Period:

The weekly rest period shall be a Sunday **unless the employee's contract of employment provides otherwise** (if the rest period is postponed as above, at least one of the two periods shall fall on a Sunday).

2.5.3 Period of Postponement of Rest Period :-

Ireland agrees that the weekly rest period should not be postponed beyond 12 consecutive days and will amend the Code of Practice on Compensatory Rest to provide so.

2.5.4 Extent of Sunday Working in Practice:

Information is not available on the extent of Sunday Working.

Text of Article 2, Para.6 of the Revised Charter and the Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

ARTICLE 2 PARA. 6

"With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake: to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;"

Question A

Please indicate the rules (in legislation, collective agreements) or other provisions which apply for informing workers in writing of the essential aspects of their contract or employment relationship.

Please describe the content and form of this information, as well as the point at which it must be communicated in writing.

Please indicate how rules or other measures are applied in practice.

Question B

If the rules are not of a general nature (Appendix to the revised Social Charter), please indicate the exceptions and referring to item b of the Appendix, please state the reason for their exclusion (see Article I of the revised Social Charter).

Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 2, Paragraph 6:

As we have never submitted a report on this provision of the Revised European Social Charter before, there is no previous report to be updated nor are their any questions directly asked of Ireland by the ECSR (European Committee of Social Rights) in relation to such a report. Please answer Questions A and B above.

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Text of Article 2, Para.7 of the Revised Charter and the Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

ARTICLE 2 PARA. 7

"With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake: to ensure that workers performing night work benefit from measures which take account of the special nature of the work".

Question A

Please indicate the rules (legislation, collective agreements or in practice) in force which ensure that workers performing night work benefit from measures to take account of the special nature of the work (medical examinations, breaks, compensatory time off, access to company services, inspections, circumstances in which it is possible to transfer to day work, etc.). Please indicate in particular the hours to which the term "night work" applies.

Question B

Please indicate the proportion of any workers who are not covered (see Article I of the revised Social Charter).

Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 2, Paragraph 7:

Question A above refers:

- 2.7.1 Section 16(1) of the Organisation of Working Time Act 1997 provides that "night time" means the period between midnight and 7 a.m. on the following day.
- 2.7.2 Section 16(1) of the 1997 Act also provides that a night worker means an employee who normally works at least 3 hours of his or her daily working time during night time and whose annual night time hours equal or exceed 50% of his or her total number of hours worked in a year.
- 2.7.3 Section 16(2)(b) of the 1997 Act provides that a night worker shall not work more than an average of 48 hours a week averaged over 2 months.
- 2.7.4 Section 16(2)(a) of the 1997 Act also provides that a night worker whose work involves special hazards or a heavy physical or mental strain shall not work more than 48 hours per week.

- 2.7.5 Regulation 6 of the Safety, Health and Welfare at Work (Night Work and Shift Work) Regulations 2000- S.I. No. 11 of 2000 provides that for the purposes of section 16(2)(a) of the 1971 Act must carry out an assessment of the risks associated with the work of a night worker to determine whether that work involves special hazards or a heavy physical or mental strain.
- 2.7.6 Regulation 7(1) of the Safety, Health and Welfare at Work (Night Work and Shift Work) regulations 2000 a provides that an employer shall before he or she employs a night worker and at regular intervals during their employment make available to that night worker, free of charge, an assessment of the effects, if any, on the health of that night worker by reason of him and her being employed as a night worker.
- 2.7.7 Regulation 7(5) of the Safety, Health and Welfare at Work (Night Work and Shift Work) Regulations 2000 provides that" If a night worker becomes ill or otherwise exhibits symptoms of ill health, and that illness or those symptoms is or are recognized as being connected with the fact that he or she performs night work, the employer shall, whenever possible, assign duties to the worker to perform that do not involve his or her performing any night work and to which he or she is suited."

Question B above refers:

- 2.7.8 These figures are not available.

Ends

ARTICLE 3: THE RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS

Note: Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

ARTICLE 3: THE RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS ARTICLE 3 PARAS. 1 to 4

Please indicate how organisations of employers and workers are consulted by the authorities on the measures required to implement each of the paragraphs of Article 3 (procedure and level of consultation, content and frequency of consultation).

Text of ARTICLE 3 PARA. 1 of the Revised European Social Charter

ARTICLE 3 PARA. 1

“With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers’ and workers’ organisations: to formulate, implement and periodically review a coherent national policy on occupational health and the working environment. The primary aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, particularly by minimising the causes of hazards inherent in the working environment;”

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Please describe policy in the field of occupational safety, occupational health and the working environment and the measures taken to improve occupational safety and health and to prevent health and safety risks. Please describe also the measures of implementation of this policy as well as procedures for its periodic review and evaluation.

Text of ARTICLE 3 PARA. 2 of the Revised European Social Charter

ARTICLE 3 PARA. 2

"With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Contracting Parties undertake, in consultation with employers' and workers' organisations: to issue safety and health regulations;"

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please list the principal legislative or administrative provisions issued in order to protect the physical and mental health and safety of workers, indicating clearly:

- a. their material scope of application (risks covered and the preventive and protective measure provided for) and;
- b. their personal scope of application (whatever the legal status – employees or not – and whatever their sector of activity, including home workers and domestic staff).

Please specify the rules adopted to ensure that workers under atypical employment contracts enjoy the same level of protection as other workers in an enterprise.

Question B

Please indicate the special measures taken to protect the health and safety of workers engaged in dangerous or unhealthy work.

Text of ARTICLE 3 PARA. 3 of the Revised European Social Charter

ARTICLE 3 PARA. 3

"With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Contracting Parties undertake, in consultation with employers' and workers' organisations: to provide for the enforcement of such regulations by measures of supervision."

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please indicate the methods applied by the Labour Inspectorate to enforce health and safety regulations and please also give information, *inter alia*, statistical, on:

- a. the places of work, including the home, subjected to the control of the Labour Inspection, indicating the categories of enterprises exempted from this control;
- b. the number of control visits carried out;
- c. the proportion of workers covered by these visits.

Question B

Please describe the system of civil and penal sanctions guaranteeing the application of health and safety regulations and also provide information on violations committed:

- a. the number of violations;
- b. the sectors in which they have been identified;
- c. the action, including judicial, taken in this respect.

Question C

Please provide statistical information on occupational accidents, including fatal accidents, and on occupational diseases by sectors of activity specifying what proportion of the labour force is covered by the statistics. Please describe also the preventive measures taken in each sector.

Text of ARTICLE 3 PARA. 4 of the Revised European Social Charter

ARTICLE 3 PARA. 4

“With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers’ and workers’ organisations: to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions”.

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please indicate whether occupational health services (health, security and occupational health services) exist in all companies and in all sectors. If not, please state whether plans have been made to establish them, when they will be implemented in practice and/or whether provision is made for inter-company services.

Question B

Please describe the functions, organisation and operation of occupational health services.

ARTICLE 3, PARAGRAPH 1

“With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers’ and workers’ organisations to:- formulate, implement and periodically review a coherent national policy on occupational health and the working environment. The primary aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, particularly by minimising the causes of hazards inherent in the working environment;”

Question F

Please describe policy in the field of occupational safety, occupational health and the working environment and the measures taken to improve occupational safety and health and to prevent health and safety risks. Please describe also the

measures of implementation of this policy as well as procedures for its periodic review and evaluation.

Our response to Questions E and F

Note: Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

The Health and Safety Authority is the national body in Ireland charged with responsibility for securing health and safety at work. It is a state-sponsored body, established under the Safety, Health and Welfare at Work Act (1989), and it reports to the Minister for Enterprise, Trade and Employment. The new Safety, Health and Welfare at Work Act 2005 contains provisions regarding consultations to be carried out by the Health and Safety Authority.

The Act reaffirms a key function of the Health and Safety Authority to keep under review legislation relating to safety, health and welfare at work and make proposals to the Minister, or other appropriate Ministers, for legislation or for the updating or amendment of existing legislation. The Minister for Enterprise, Trade and Employment may also direct the Authority to undertake reviews of health and safety laws and, also, to assist in the preparation of draft legislation. The Authority is required to consult appropriate bodies e.g. representatives of employers and employees, before submitting proposals to the Minister.

The general functions of the Authority are to promote, encourage and foster the prevention of accidents, dangerous occurrences and injury to health at work, to promote education, training and other measures which promote safety, health and welfare. The Authority must also make adequate arrangements for the enforcement of health and safety laws and monitor, evaluate and make recommendations to the Minister regarding the implementation of and compliance with both health and safety laws and best practice relating to safety, health and welfare at work and the review and maintenance of records by employers. The Authority must also promote, encourage and foster co-operation with and between representative bodies as regards the prevention of risks to safety, health and welfare, make arrangements to provide information and advise and engage in or support research, surveys and studies on matters within its responsibilities and publish the results.

The Authority is also required to keep under review the "associated statutory provisions" which, as listed in the Act, comprise other statutes which could have a bearing on the safety, health and welfare of persons at work, but for which the Authority has no administrative or enforcement function.

The Authority is further required under Act to submit proposals as appropriate from time to time to the Minister for the making or revoking of instruments under those provisions. Such provisions could arise from review of the relevant statutory provisions, for the implementation of relevant European Union Directives or for new measures to be taken at national level.

Under the Safety, Health and Welfare at Work Act, 2005, employers' and workers' organisations are represented on the Board of the Health and Safety Authority (HSA). Policies and activities of the HSA are determined by a 12 member tripartite Board, representing the Social Partners (Employers, Trade

Unions and Ministerial Appointees). Members of the Board also serve on its Legislation and Guidance Subcommittee, Finance and Planning Subcommittee, Authority Review Subcommittee. Details of membership and meetings of the Board and Subcommittees of the Board are given in the appendices of the HSA Annual Reports for each of the years 2002 to 2005.

The Board of the Health and Safety Authority sets overall direction and policy.

European Committee on Social Rights (ECSR) queries on Article 3, Paragraph 1

Query 1

Despite the Committee's request, the report does not state clearly whether Ireland prohibits the use of asbestos in its most dangerous forms, namely crocidolite amphibole fibres in the workplace. It therefore repeats its question.

Our Response

The European Communities (Dangerous Substances and Preparation) (Marketing and Use) Regulations 2003 (S.I. No. 220 of 2003) and the European Communities (Dangerous Substances and Preparations) (Marketing and Use) (Amendment) Regulations 2003 (S.I. No. 503 of 2003) which transposed Council Directive 76/769/EEC and various amending Directives, prohibit [the placing](#) on the market or use of all type of asbestos or asbestos-containing materials or products.

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[Despite these prohibitions, during refurbishment, renovation and demolition work, workers can potentially disturb asbestos containing materials which were in place before the bans came into operation. Therefore, the Safety, Health and Welfare at Work \(Exposure to Asbestos\) Regulations 2006 \(S.I. No. 386 of 2006\), which transposed Directive 2003/18/EC, apply to work where there is or may be asbestos fibres present.](#)

[These Regulations apply to all work activities which expose persons at work to risks arising from the inhalation of dust from asbestos or materials containing asbestos. The Regulations aim to protect employees by introducing a single exposure limit value for all work activities where exposure to asbestos dust in the air at a place of work may arise. The Regulations also emphasise the need for adequate training. Persons involved in demolition and asbestos removal activities must provide evidence of their ability to do this work in a safe way to ensure the protection of their employees.](#)

[The Health and Safety Authority is working to ensure those persons who are at risk from existing asbestos materials in workplaces, or who work with such materials know the best way to control and prevent exposure occurring. By improving and monitoring adequate compliance with best practices the risk from fibres being released is controlled and prevented and any residual risk is then controlled and reduced.](#)

[Asbestos materials which are damaged, or at risk of being disturbed or in poor condition, must be removed in a safe manner to prevent fibres being released to the air. However, where the asbestos material is in good condition and is not at risk from damage or being disturbed, it can remain safely in place but must be](#)

monitored and assessed regularly to ensure that it remains in good condition. Such materials, therefore, should be labelled and their location marked on plans of buildings so that their location is known in advance of any work or refurbishment which could disturb or damage those materials in the future. By appropriately managing asbestos-containing materials *in situ* the risk from possible exposure is minimised and, in general, should not create a risk to persons at work or in the vicinity of such buildings.

The Regulations are available on the Health and Safety Authority's website - www.hsa.ie

Query 2 re Protection of certain vulnerable categories of workers

In reply to the general question on measures to take account of the occupational health and safety needs of persons on fixed term and temporary contracts, the report provides information on employers' obligation to assess risks. However, there is insufficient information to assess the conformity of the situation.

The Committee notes that to be in compliance with Article 3.1 of the Charter States must introduce measures to ensure that workers on temporary and fixed term contracts receive appropriate information, training and medical surveillance, so that they are not discriminated against in terms of occupational health and safety on account of their employment status.

These measures should offer those concerned effective protection from disease-causing agents, including circumstances where the risk results from several successive periods of exposure with different employers, and where necessary should include a ban on the employment of temporary employees for certain particularly dangerous activities. The Committee therefore asks the Irish authorities to indicate how the regulations apply the Charter in this regard.

Our Response

In the Safety, Health and Welfare at Work Act, 2005, the definition of employee includes a fixed-term employee and a temporary employee.

The Safety, Health and Welfare at Work Act, 2005 provides that workers on temporary and fixed term contracts receive appropriate information, training and medical surveillance and that they are not discriminated against in terms of occupational health and safety on account of their employment status.

The 2005 Act provides that where an employer proposes to use the services of a fixed term employee or a temporary employee, the employer shall, prior to commencement of employment, give information to the employee relating to—

- (i) any potential risks to the safety, health and welfare of the employee at work,
 - (ii) health surveillance,
 - (iii) any special occupational qualifications or skills required in the place of work,
- and
- (iv) any increased specific risks which the work may involve.

The Act also requires an employer who engages a fixed term contract employee or uses the services of temporary employees to ensure that working conditions are safe for the period of time they spend with the employer. The Act re-enacts Regulation 5 (d) of the Safety, Health and Welfare at Work (General Application) Regulations 1993 and is in compliance with EU Directive 91/383.

The duties falling on an employer under the 2005 Act as regards permanent employees apply equally to fixed term contract employees and to employees whose services are secured through an employment agency or through some other means.

The 2005 Act also sets out in some detail the various types of information on safety, health and welfare required to be given by employers to [all their employees](#). It also re-enacts the Regulation 11 of the Safety, Health and Welfare at Work (General Application) Regulations 1993 and is in compliance with Article 10 of EU Directive 89/391.

The information on safety and health to be given by the employer must be in a form, manner and language that can be understood. It must include information on hazards, risks and measures taken as regards safety, health and welfare and the names of emergency staff and safety representatives. Employees of another employer working in the place of work must also be informed.

Where an employer obtains such employees through a temporary employment business he must pass on information about the skills required for the job and its specific features and ensure [that](#) the information is passed on to the employees. The temporary employment business is obliged to give the same information to employees.

Adequate information on safety and health is critical to the prevention of accidents and ill-health at work. Its absence can be the cause of many accidents.

ARTICLE 3 PARAGRAPH 2

"With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Contracting Parties undertake, in consultation with employers' and workers' organisations: to issue safety and health regulations;"

Question G

Please list the principal legislative or administrative provisions issued in order to protect the physical and mental health and safety of workers, indicating clearly:

- a. their material scope of application (risks covered and the preventive and protective measure provided for) and;
- b. their personal scope of application (whatever the legal status – employees or not– and whatever their sector of activity, including home workers and domestic staff).

Please specify the rules adopted to ensure that workers under atypical employment contracts enjoy the same level of protection as other workers in an enterprise.

Our Response to Question G

The website of the Health and Safety Authority is www.hsa.ie. All legislation related to the area of occupation health and safety including the Safety, Health and Welfare at Work Act 2005 Act and, inter alia, the General Application Regulations 1993 can be accessed by going to www.hsa.ie and clicking on 'Legislation and Enforcement'. The Acts, Orders, Regulations and Codes of Practice, etc. are listed therein under five categories:

- [General legislation](#)
- [Chemicals legislation](#)
- [Construction legislation](#)
- [Mines & Quarries legislation](#)
- [Other legislation](#)

The Health and Safety Authority's Annual Reports 1998 to 2005 inclusive are also available to download by accessing www.hsa.ie, clicking on 'Publications and Forms' and choosing 'Corporate Publications' from the 'choose a publication type' menu.

The most important occupational safety and health statutes and regulations, issued in Ireland, are cited in the Health and Safety Authority's list of Occupational Safety and Health Legislation referred to above. The principal statutory provisions include the Safety, Health and Welfare at Work Act, 2005 (No.10 of 2005) and [Regulations made under it, as well as a range of Regulations made under the Safety, Health and Welfare at Work Act 1989, which continue in force but which are scheduled for replacement later this year or in 2007.](#)

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Occupational safety and health legislation extends to every employer, to every self-employed person and to workers in all sectors of economic activity. It also applies to members of the public who may be affected by work activity.

With regard to the rules adopted to ensure that workers under atypical employment contracts enjoy the same level of protection as other workers in an enterprise please see our response above.

Question H

Please indicate the special measures taken to protect the health and safety of workers engaged in dangerous or unhealthy work.

Our Response to Question H

Occupational safety and health legislation extends to every employer to every self – employed person and to workers in all sectors of economic activity.

ARTICLE 3 PARAGRAPH 3

"With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Contracting Parties undertake, in consultation with employers' and workers' organisations: to provide for the enforcement of such regulations by measures of supervision."

Question I

Please indicate the methods applied by the Labour Inspectorate to enforce health and safety regulations and please also give information, inter alia, statistical, on:

- a. the places of work, including the home, subjected to the control of the Labour Inspection, indicating the categories of enterprises exempted from this control;
- b. the number of control visits carried out;
- c. the proportion of workers covered by these visits.

Question J

Please describe the system of civil and penal sanctions guaranteeing the application of health and safety regulations and also provide information on violations committed:

- a. the number of violations;
- b. the sectors in which they have been identified;
- c. the action, including judicial, taken in this respect.

Question K

Please provide statistical information on occupational accidents, including fatal accidents, and on occupational diseases by sectors of activity specifying what proportion of the labour force is covered by the statistics. Please describe also the preventive measures taken in each sector.

Our Response to Questions I, J and

Details of health and safety inspections and of the enforcement of health and safety legislation during the period from 1 January 2002 to 31 December 2005 are shown in Appendices to the various individual Annual Reports, accessible on www.hsa.ie.

Powers of inspectors

[Section 64 of the 2005 Act provides power for an inspector to enter any place he or she believes to be a place of work or believes may be used to store articles or substances or records \(hereafter referred to as *the place*\) and to enquire into, search, examine and inspect to ascertain if safety and health legislation is being complied with and to take along any necessary equipment or materials.](#)

Directions for improvement plan

[Section 65 of the 2005 Act provides that an inspector may give a written direction to an employer requiring the submission of an improvement plan in the case of an activity involving or likely to involve a risk to the safety, health or welfare of persons.](#)

Improvement notice

[Section 66 of the 2005 Act provides that where an inspector is of the opinion that a person is contravening safety and health legislation or has failed to submit an improvement plan or a revised improvement plan or to implement an improvement plan under Section 65, he or she can serve an improvement notice on the person in control of the work activity concerned.](#)

Prohibition notice

Section 67 of the 2005 Act enables an inspector who is of the opinion that an activity at a place of work involves or could involve a risk of serious personal injury to any person, including from an article or substance or otherwise, to serve a prohibition notice on the person in control of the activity. A prohibition notice legally requires either the immediate cessation of that work activity or cessation from the effective date and time specified on the prohibition notice. A prohibition notice does not require a specific contravention of statutory duty.

Contravention of prohibition notice — application to High Court

Section 68 of the 2005 Act provides that where activities are carried on in contravention of a prohibition notice served under Section 67, the High Court may, on an application by an inspector, by order prohibit the continuance of the activities. The application to the High Court may be *ex parte* (without consulting and informing the person the prohibition notice has been served upon) and the court may make an interim or interlocutory order and set down terms and conditions regarding the payment of costs.

Order of High Court as to use of place of work

Section 71 of the 2005 Act applies where the Authority (or a person prescribed under Section 33), considers that the risk to the safety, health or welfare of persons is so serious that the use of a place of work or part of it should be restricted or immediately prohibited until specified measures have been taken to reduce the risk to a reasonable level. The section enables the Authority (or such person) to apply, *ex parte* (without consulting and informing the person against whom the order is sought) to the High Court for an order restricting or prohibiting the use of the place of work or part thereof. The court may make any interim or interlocutory order it considers appropriate. Such an order has effect despite permission under any other statute for the use of the place of work. In the case of an application for the revocation or variation of an order under Section 71 the Authority (or a person prescribed under Section 33 as appropriate) is entitled to be heard.

Offences

Section 77 of the 2005 Act provides for two broad ranges of offences under the Act and under safety and health legislation. The first category applies to offences that may only be tried by the Authority summarily in the District Court and the second category covers offences that may be tried either summarily or on indictment, in the case of summary disposal by the Authority and on indictment by the Director of Public Prosecutions.

The section provides for several other offences covering contraventions of particular sections or other specific matters. This section also provides that, in addition to the imposition of a fine in respect of an offence, a convicted person may also be ordered to take steps to remedy health and safety matters within a specific time.

The section provides that a person having duties under the Act who breaches safety and health legislation is guilty of an offence if another person suffers any personal injury as a consequence of such breach unless the case has been heard and dismissed before the personal injury occurred or where the injury, excluding death, was not caused directly by the alleged breach.

A person charged with a summary offence under safety and health legislation may have another person whom he or she charges as the actual offender brought before a court when the case is being heard. If the offence is proved and the first person satisfies the court that he or she used all due diligence to enforce safety and health legislation and that the second person committed the offence without his or her consent, connivance or willful default, that person may be convicted and be liable to pay incidental costs and the first person is not guilty but may be cross examined by the prosecution.

Where an offence is committed through failure to meet the time deadline to do something, the offence is deemed to continue until that thing is done. An employer does not have a defence in a case taken for breach of safety and health legislation by reason of any act or default by an employee or by a competent person appointed under section 18.

Section 78 of the 2005 Act provides for a fine under summary jurisdiction not exceeding €3,000 for a person guilty of an offence under the first category of offences set out in Section 77(1). A person guilty of any other offence set out in Section 77 is liable, on summary conviction, to a fine not exceeding €3,000 or imprisonment up to 6 months or both or, on conviction on indictment, to a fine not exceeding €3 million or imprisonment for up to 2 years or both.

In the case of a conviction, the Court, unless it is satisfied that there are special and substantial reasons for not doing so, must order the person convicted to pay the Authority's costs and expenses.

Provisions regarding certain offences

Section 79, of the 2005 Act, subject to the making of Regulations under the 2005 Act, provides that where an inspector has reasonable grounds for believing that an offence has been committed, he or she may serve the person with a notice of an "on-the-spot" fine stating that the person is alleged to have committed the offence and that a prosecution will not be instituted during the period of notice if a payment specified in the notice is made.

A person on whom the notice is served has 21 days in which to make the payment, which may not exceed €1,000 per alleged offence and which can be set out in the Regulations.

The Authority (or a person prescribed under Section 33) may receive payments, issue receipts and retain monies so paid which are not recoverable in any circumstances by the person who made them.

The Authority (or a person prescribed under Section 33) may not initiate a prosecution in respect of the alleged offence during the period of the notice and, if the payment is made during that period, no prosecution can be launched in respect of the particular alleged offence.

In any prosecution for non-payment of the "on-the-spot" fines, the onus is on the accused to prove that payment has been made.

Details of infractions and penalties imposed for non-observance of occupational safety and Health regulations are shown in Appendices to the various Health and Safety Annual Reports, from 2002 to 2005 inclusive.

Details of industrial accidents and occupational diseases by sector of activity are also shown in various Health and Safety Authority Annual Reports, for 2002 and 2003. Details of industrial accidents for 2004 and 2005 are available in a new HSA publication entitled Summary of Fatality, Injury and Illness 2004-2005 published at the same time as the 2005 Annual Report. This gives a statistical breakdown of accidents and fatalities in 2004 to 2005.

Note: all the reports outlined in above paragraphs are available electronically on the Health and Safety Authority's website.

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Board of HSA

The Board of the HSA (Health and Safety Authority) comprises 12 members - a chairperson, 5 nominees of the Minister of Enterprise, Trade and Employment, 3 trade union nominees and 3 employer nominees. Page 8 of the 2005 Annual Report refers.

Workers are represented on workplace Safety Committees and play a part at enterprise level through their participation and at national level through the participation of ICTU (Irish Congress of Trade Unions) on the HSA Board. Thus workers contribute in the enforcement of occupational safety and health legislation.

European Committee on Social Rights (ECSR) query on Article 3 Para 3

In order to reach a conclusion the Committee needs to know the development in the number and the frequency of fatal accidents. It requests that this information be included in the next report

Our response

The latest statistics regarding the number and frequency of fatal accidents are available in the Summary of Fatality, Injury and Illness 2004-2005 which was published by the Health and Safety Authority in 2006 at the same time as its Annual Report. It is available electronically on the HSA website.

ARTICLE 3 PARAGRAPH 4

“With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers’ and workers’ organisations: to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions”.

Question L

Please indicate whether occupational health services (health, security and occupational health services) exist in all companies and in all sectors. If not, please state whether plans have been made to establish them, when they will be implemented in practice and/or whether provision is made for inter-company services.

Our Response to Question L

Occupational health services do not exist in all companies and all sectors in Ireland. Unlike countries like Finland, there is no statutory requirement to provide such services. Some larger private companies and many public sector organisations have occupational health services but the majority of small (10 to

49 employees) and micro (1 to 9 employees) companies have none. There are no statutory plans to establish such services.

However, the workplace health and wellbeing strategy which is currently being drafted in Ireland will recommend the provision of such services, especially to small and micro enterprises. It is likely there would have to be additional persons trained as occupational physicians and nurses to provide such services in the medium term.

The construction sector through a union funded scheme has set up the Construction Workers' Health Trust, whereby nurses visit construction sites and provide health screening and advice on health promotion activities to workers. However, this tends to be limited to larger sites. It is likely there will be a recommendation in the workplace health and wellbeing strategy to extend this scheme to a greater number of construction workers and to other sectors.

Question M

Please describe the functions, organisation and operation of occupational health services.

Our Response to Question M

Occupational health services where they exist in Ireland are provided in a number of ways.

Larger companies especially the multinationals would have a team including an occupational physician, occupational health nurse, ergonomist and possibly a work psychologist. In addition, such companies would have an occupational hygienist. Pre employment medicals and ongoing assessment of the health and wellbeing of workers would be maintained. Their activities would not be limited to a preventive role but would also include workplace health promotion activities and rehabilitation of injured/ill workers.

Medium size companies tend to provide such services on a part time basis, mainly by using occupational health nurses carrying out health screening and health promotion activities a couple of days a week. The company has a contract with an occupational health practice that will place a nurse with a company for a day(s) per week to provide a range of services.

Small (10 to 49 employees) and micro (1 to 9 employees) tend not to have any occupational health services.

Ends

TEXT OF ARTICLE 4 PARA. 1 OF THE REVISED EUROPEAN SOCIAL CHARTER

ARTICLE 4: THE RIGHT TO A FAIR REMUNERATION

ARTICLE 4 PARA. 1

"With a view to ensuring the effective exercise of the right to a fair remuneration, the Contracting Parties undertake: to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;"

"...The exercise of this right shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions;"

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please state what methods are provided and what measures are taken to provide workers with a fair wage, having regard to national living standards and particularly to the changes in the cost of living index and in national income.¹

Question B

Please specify if these include methods for fixing minimum wage standards by law or collective agreements.

Question C

Please indicate what proportion of wage-earners are without protection in respect of wages, either by law or collective agreement.

Question D

Please provide information on:

- national net average wage² (ie. after deduction of social security contributions and taxes³);*
- national net minimum wage if applicable or the net lowest wages actually paid (i.e. after deduction of social security contributions and taxes).⁴*

Please provide information, where possible, on:

- the proportion of workers receiving the minimum wage or the lowest wage actually paid (after deduction of social security contributions and taxes);*
- the trend in the level of the minimum net wage and/or the lowest wage actually paid compared to national net average wage and any available studies on this subject.*

¹ If your country has accepted Article 16, there is no need to give information here concerning family allowances, etc.

² In principle the net average wage should be the overall average for all sectors of economic activity. The average wage may be calculated on an annual, monthly, weekly, daily or hourly basis. Wages cover remuneration in cash paid directly and regularly by the employer at the time of each wage payment. This includes normal working hours, overtime and hours not worked but paid, when the pay for these latter are included in the returned earnings. Payments for leave, public holidays and other paid individual absences may be included insofar as the corresponding days or hours are also taken into account to calculate wages per unit of time.

³ The net wage (average and minimum) should be calculated for the standard case of a single worker. Family allowances and social welfare benefits should not be taken into account. Social security contributions should be calculated on the basis of the employee contribution rates laid down by law or collective agreements etc. and withheld by the employer. Taxes are all taxes on earned income. They should be calculated on the assumption that gross earnings represent the only source of income and that there are no special grounds for tax relief other than those associated with the situation of a single worker receiving either the average wage or the minimum wage. Indirect taxes are thus not taken into account

⁴ The net minimum wage should be given in units of time comparable to those used for the average wage.

ORIGINAL EUROPEAN SOCIAL CHARTER (1961) – EUROPEAN COMMITTEE OF SOCIAL RIGHTS (ECSR) ADDENDUM TO CONCLUSIONS XV-2 (IRELAND) AND QUESTIONS FOR ANSWER BY IRELAND ARISING FROM OUR 21ST REPORT, SUBMITTED IN 2003 UNDER THE ORIGINAL EUROPEAN SOCIAL CHARTER (1961):

Note :- Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

Query 1- The National Minimum Wage Act 2000 entered into force on 1 April 2000. Under the Act, an experienced adult worker is entitled to a minimum hourly rate of pay, which on 1 April 2000 was Ir£4-40 (Irish Punts) (€5-58). The Committee assumes that the rates given are gross values and asks what the net rate is. Employees under the age of 18 years were entitled to 70% of this minimum hourly rate of pay.

Our Response: The National Minimum Wage was introduced in Ireland in April 2000. Since its introduction there have been three increases to the minimum wage rate. The latest of these increases took effect on 1 February, 2004 when the minimum wage was increased to €7.00 per working hour. In its December 2004 Budget, the Government provided for increases in tax credits. These increases remove those on the minimum wage in Ireland from the tax net. The minimum wage was further increased to €7.65 per hour from 1 May 2005.

Query 2:- *According to Eurostat, the monthly minimum wage in Ireland in 2000 amounted to €945 and the net average monthly earnings for a single person working in the manufacturing industry amounted to about €1,753. This means that in 2000, the minimum wage amounted to 64.7% of the net average wage. This is in principle in conformity with the Charter. The Committee refers to its question above on the net rates of the minimum wage. However those with less than two years work experience (acquired after the age of 18 years) who earn either 80 or 90% of the minimum wage earn either 58.2% or 51.7% of net average earnings. **The Committee wishes to know how such a wage can be considered as sufficient to guarantee a person a decent standard of living and it asks whether in these cases the persons concerned would be entitled to any supplementary benefits.***

Our Response: Prior to the introduction of the minimum wage legislation the *National Minimum Wage Commission* was appointed by the Government to advise on the introduction of a national minimum wage. The Commission examined a number of issues including the social implications of a national minimum wage and the determination, implementation and enforcement of a minimum wage.

The National Minimum Wage Commission recommended that sub-minimum rates should apply to employees in the first two years of employment over age 18. The Commission expressed the view that employers should be encouraged to focus on training and that the structure of the national minimum wage should provide encouragement and inducement for employers to take on unskilled staff and to involve them in training.

This recommendation was endorsed by the *Inter-Departmental Group on Implementation of a National Minimum Wage* which considered that *"It takes some time for a person entering the work force for the first time to learn the general disciplines of work and to build a relationship of mutual trust with an employer. All other things being equal, an experienced employee is more valued by an employer than a new entrant."*

These sub-minimum rates, therefore, were recommended by the *National Minimum Wage Commission*, endorsed by the *Inter-Departmental Group on the Implementation of a National Minimum Wage* and subsequently implemented in the Minimum Wage legislation.

There are no supplementary benefits specifically provided for those on these sub-minimum rates. However, as pointed out in Query 1 above, in its December 2004 Budget, the Government provided for increases in tax credits. These increases remove those on the minimum wage in Ireland from the tax net.

Query 3 According to the report nearly all of the 1.7million labour force are covered by the National Minimum Wage Act. Excluded from the scope of the Act are close relatives of the employer such as spouse, father, mother, son daughter, brother and sister and apprentices within the meaning of the Industrial Training Act 1967 and the Labour Services Act 1987. Also excluded are certain experienced adult workers named by the Labour Court in granting a temporary exemption to an employer from paying the minimum wage (minimum period of temporary exemption is three months and the maximum period is twelve months). **The Committee asks to be informed of the reasons for these exemptions and of the estimated number of persons excluded from or exempt temporarily from the Minimum Wage Act.**

Our Response:

• Close Relatives

The principle of excluding an employee who is a close relative of an employer from certain employment rights legislation was established prior to the Minimum Wage Act. It was not considered desirable to brand arrangements, which could include evening, weekend and summer work, or assistance at critical times, that derive from the special relationship between the employee and employer, as constituting a criminal offence if the minimum wage was not paid for the hours worked by a close relative. The exclusion of close relatives from the provisions of the Minimum Wage Act was supported by the Social Partners.

• Apprentices within the meaning of the Industrial Training Act 1967 and the Labour Services Act 1987

Apprentices serving statutory apprenticeships as defined in the above Acts are excluded from the provisions of the National Minimum Wage Act as their pay rates are determined in accordance with long established practice and procedure involving a direct relationship with current craft rates. The apprenticeships lead to craft worker status for the apprentices who complete their apprenticeship.

An *Inter-Departmental Group on the Implementation of a National Minimum Wage* recommended the exclusion and stated:

"apprentices are in a somewhat different position to other employees. They are also distinguishable from most other trainees in that the off-the-job element of apprenticeship is more intense and of longer duration than is the case for most trainees in employment. Apprentices' pay is determined by means of long

established practice which relates it to the rate for equivalent fully qualified employees. The involvement of the relevant unions in the process minimises any prospect of exploitation. It is questionable whether such a well established practice should be upset by imposing a generally applicable rate.”

The Social Partners supported the exclusion of these apprentices from the provisions of the Minimum Wage legislation.

There are 28,000 statutory apprentices.

- ***Employers in financial difficulties exempted by the Labour Court***

In order to reduce potential job losses arising from the payment of the national minimum wage, an employer, who is unable to pay, may apply to the Labour Court for a temporary exemption from the experienced adult national minimum hourly rate of pay in respect of an employee or a number of employees. An application cannot be made in respect of an employee under the age of 18, or others on sub-minimum rates.

To-date the Labour Court has received no applications for exemptions under this provision.

Comment : Pending the receipt of the information, the Committee defers its conclusion.

Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 4, Paragraph 1:

Note :- Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

ARTICLE 4: - THE RIGHT TO A FAIR REMUNERATION: PARAGRAPH 1:-

THE RIGHT OF WORKERS TO A REMUNERATION SUCH AS WILL GIVE THEM AND THEIR

FAMILIES A DECENT STANDARD OF LIVING;”

QUESTION A:

- 4.1.1 Social partnership at national level in Ireland evolved from the National Wages Agreements of 1970s. In 1979 and 1981 two **National Understandings** were negotiated between the Government and the social partners which included, in addition to agreements on pay, provisions on taxation, education and training, and industrial relations. This process was discontinued between 1982 and 1987 when pay bargaining reverted to local level.
- 4.1.2 The process of social partnership in recent years has been expressed in **seven National Programmes**, negotiated between the Government and social partners, the Programme for National Recovery (1988-1990); the Programme for Economic and Social Progress (1991-1993); the Programme for Competitiveness and Work (1994-1996); Partnership 2000 for Inclusion, Employment and Competitiveness (1997-2000); the Programme for Prosperity and Fairness (2001-2003); **Sustaining Progress – Social Partnership Agreement (2003-2005)**; and **Towards 2016, Ten-Year Framework Social Partnership Agreement 2006-2015**. These Programmes embody a strategic approach to the development of the economy. The centralised approach to wage determination inherent in them has, in addition to producing competitive wage settlements, facilitated greater attention being given to issues such as corporate strategy, technical change, training and work practices and other important factors influencing international competitiveness.
- 4.1.3 The Programmes have been more than centralised wage agreements. They have represented a **negotiated consensus** between Government and the Social Partners on a wide range of issues including:
- the evolution of public spending and taxation;
 - policies to promote growth and employment performance;
 - specific structural changes to enhance competitiveness;
 - initiatives to provide opportunities for the long-term unemployed; and
 - an evolution of incomes consistent with the need for international competitiveness.
- 4.1.4 The Programmes have been singularly effective in securing an **improved economic and employment performance** thus raising living standards.

4.1.5 Pay Terms of National Social Partnership Agreements

The table below details the pay increases under the National Agreements since 1987. It should be noted that the commencement date and the end date for each agreement may vary from employment to employment. This is because the agreements are voluntary, and such detail is left to local negotiation.

The pay terms of all social partnership agreements are negotiated **voluntarily** and they come into force in individual employments through normal industrial relations processes. While the pay terms are not binding in the formal sense, it is expected that implementation would be effected through local agreement. In the case of non-unionised employments and where the employer is a member of a body party to the Agreement, there is a clear expectation that the terms will be applied. However, it is open to an employee whose employer has refused to pay the terms of the Agreements to refer the dispute to the Labour Relations Commission, Tom Johnson House, Haddington Road, Dublin 4, (phone no.01 6136700). The dispute can only be investigated if the employer is willing to participate in such an investigation.

PROGRAMME FOR NATIONAL RECOVERY (PNR) - (1988 - 1990)	
In each year of the agreement:-	
	3% on the first £120 p.w. of basic pay.
	2% of any amount of basic pay over £120 p.w.
or at least:	£4 p.w., for full-time adult employees.
PROGRAMME FOR ECONOMIC AND SOCIAL PROGRESS (PESP) - (1991 - 1993)	
Year 1:	4% of basic pay.
Year 2:	3% of basic pay.
Year 3:	3.75% of basic pay.
	or at least:
Year 1:	£5 p.w., for full-time adult employees.
Year 2:	£4.25 p.w., for full-time adult employees.
Year 3:	£5.75 p.w., for full-time adult employees.
In addition local bargaining of 3% of basic pay in year 2 permitted.	

PROGRAMME FOR COMPETITIVENESS AND WORK (PCW) - (1994 - 1996)	
Year 1:	2% of basic pay.
Year 2:	2.5% of basic pay.
Year 3:	2.5% of basic pay for first six months plus 1% of basic pay for second six months. or at least:
Year 2:	£3.50 p.w., for full-time adult employees.
Year 3:	£3.50 p.w., for full-time adult employees.
PARTNERSHIP 2000 (P2000) - (1997 - 2000)	
Year 1:	2.5% of basic pay.
Year 2:	2.25% of basic pay.
Next 9 Months:	1.5% of basic pay.
Next 6 Months:	1% of basic pay. or at least:
Year 2:	£3.50 p.w., for full-time adult employees.
Next 9 Months:	£2.40 p.w, for full-time adult employees.
Next 6 Months:	£1.60 p.w., for full-time adult employees. In addition local bargaining of 2% of basic pay in year 2 permitted.
PROGRAMME FOR PROSPERITY AND FAIRNESS (PPF) - (2000 –2002)	
Year 1:	5½% of basic pay.
Year 2:	5½% of basic pay. Adjusted pay terms
Next 9 months	4% of basic pay. 1 st April, 2001 2% of basic pay 1 st April, 2002 1% of basic pay in the form of a once-off lump sum payment
	or at least:
Year 1:	£12.00 p.w., for full-time adult employees.
Year 2:	£11.00 p.w., for full-time adult employees.
Next 9 months:	£9.00 p.w., for full-time adult employees
SUSTAINING PROGRESS PART 1 (SP) – (2003 – MID 2004)	
	Private Sector Pay

Phase 1	3% of basic pay for the first 9 months of the Agreement.
Phase 2	2% of basic pay for the next 6 months of the Agreement.
Phase 3	2% of basic pay for the final 3 months of the Agreement.
Public Sector Pay	
<i>A pay pause of 6 months to be followed by:</i>	
Phase 1	3% from 1 January, 2004
Phase 2	2% from 1 July, 2004
Phase 3	2% from 1 December, 2004
SUSTAINING PROGRESS PART 2 (SP) – (JULY 2004 TO END 2005)	
It is agreed by the parties that basic pay for those earning in excess of €9 per hour shall be increased by 5.5% to be paid in the following phases	
Private Sector Pay	
Phase 1	1.5% of basic pay for the first six months of this Agreement.
Phase 2	2% of basic pay for the next 6 months of the Agreement.
Phase 3	2% of basic pay for the final 3 months of the Agreement.
It is agreed by the parties that basic pay shall be increased by 6% for employees earning up to and including €9 per hour to be paid in the following phases:	
Phase 1	2% of basic pay for the first six months of this Agreement.
Phase 2	1.5% of basic pay for the next six months of this Agreement.
Phase 3	2.5% of basic pay for the next six months of this Agreement.
Public Sector Pay	
Phase 1	1.5% of basic pay from 1 June, 2005 for six months.
Phase 2	2% of basic pay from 1 December, 2005 for six months.
Phase 3	2% of basic pay from 1 June, 2006 for three months.

Towards 2016

**The pay terms will run for 27 months from the expiration of part 2 of Sustaining Progress
Private Sector Pay**

Phase 1	3% of basic pay for the first 6 months of the Agreement as it applies in each particular employment or industry;
Phase 2	2% of basic pay for the next 9 months of the Agreement as it applies in each particular employment or industry – except for those employees on an hourly basic rate of €10.25 per hour or less on commencement of the second phase where a 2.5% increase will apply;
Phase 3	2.5% of basic pay for the next 6 months of the Agreement as it applies in each particular employment or industry; and
Phase 4	2.5% of basic pay for the next 6 months of the Agreement as it applies in each particular employment or industry
	Public Sector Pay
Phase 1	3% from 1 December 2006
Phase 2	2% from 1 June 2007; except for those earning up to and including €400 per week (€20,859 per annum), where a 2½% increase will apply;
Phase 3	2½ % from 1 March 2008; and
Phase 4	2½ % from 1 September 2008.

Question B

National Minimum Wage

4.1.6 The National Minimum Wage Act 2000 became law on 1 April 2000. Under the terms of the Act, an experienced adult worker is entitled to a minimum hourly rate of pay of €7.65 from 1 May, 2005. Employees under the age of 18 years of age are entitled to a minimum hourly rate of pay of € 5.36. An explanatory guide to the provisions of the Act is available at: <http://www.entemp.ie/publications/employment/2004/minimumwage.pdf>

4.1.7 The provisions of the National Minimum Wage Act apply to all employees except the following categories of employees who are excluded from its provisions:

- (i) close relatives of the employer such as a spouse, father, mother, son, daughter, brother and sister;
- (ii) apprentices within the meaning of the Industrial Training Act, 1967 and Labour Services Act, 1987 including an apprentice printer, bricklayer, mechanic, plumber, carpenter/joiner and electrician.

4.1.8 Under the terms of the Act an experienced adult worker must be paid an average hourly rate of pay that is not less than €7.65 per working hour. For the purposes of the Act an experienced adult worker is an employee who is not:

- (i) under age 18 or
- (ii) in the first two years after the date of first employment over age 18, or

(iii) a trainee undergoing a course of training or study, in normal working hours (which satisfies the conditions set out in S.I. No. 99 of 2000- please see website [Statutory Instruments 1922 ~ 350 of 2005](#), via the links 2000, SI No. 99 of 2000).

4.1.9 The sub- minimum rates which apply to these categories of employees are as follows:

Employee	Minimum Hourly rate of pay
Under age 18	€ 5.36
In the First Year from date of first employment over age 18	€ 6.12
In the Second Year from date of first employment over age 18	€ 6.89
In a course of training or study over age 18, undertaken in normal working hours	
* 1st one third period	€ 5.74
2nd one third period	€ 6.12
3rd one third period	€ 6.89

*Each one third period must be at least one month and no longer than twelve months.

Minimum Wage for those under 18 year of age

4.1.10 The National Minimum Wage Act came into effect in Ireland in April 2000. Prior to the introduction of the legislation the *National Minimum Wage Commission* was appointed by the Government to advise on the introduction of a national minimum wage. The Commission examined a number of issues including the social implications of a national minimum wage and the determination, implementation and enforcement of a minimum wage.

4.1.11 The *National Minimum Wage Commission* recommended that employees under the age of 18 should be entitled to 70% of the national minimum wage. This percentage was recommended to strike a balance between ensuring that young employees are not exploited and ensuring that the rate of pay does not encourage students to leave full-time education.

4.1.12 This recommendation was endorsed by the *Inter-Departmental Group on Implementation of a National Minimum Wage* who felt that a reduced rate for those under 18 raised important issues for national education and employment policies and required particularly careful consideration. In their report they stated that *'the Group is of the view that, having regard to the fact that there will always be a certain group of young people entering full time employment before the age of 18, that this group is amongst the most vulnerable in society, there is need to cater for them in the context of a national minimum wage. Nevertheless, it is also clear that the introduction of a national minimum wage has two possible effects on this group - a possible increase in the supply of such workers attracted by the minimum wage rate to leave education earlier than they would otherwise have done and a possible reduction in demand for such workers by raising their price to beyond a level which employers were prepared to pay.'*

4.1.13 The sub-minimum rate for those under 18, therefore, was recommended by the *National Minimum Wage Commission*, endorsed by the *Inter-Departmental Group on the Implementation of a National Minimum Wage* and subsequently implemented in the Minimum Wage legislation.

Minimum Wage for young workers under 16 years of age

4.1.14 The Council of Europe has remarked on the fact that the same sub-minimum rate of the National Minimum Wage applies to young workers who are under 16 years of age as applies to those aged 16 – 18 years. It should be noted however, that the employment of children under 16 is generally prohibited by the Protection of Young Persons (Employment) Act 1996, though a child over 14 years may be permitted to do light work during school holidays provided it is not harmful to health, development or schooling or may be employed as part of an approved work experience or education programme. A child over 15 may also do such work for up to 8 hours a week during school term. Any child under 16 may be employed in film, theatre, sports or advertising activities under licence from the Minister for Enterprise, Trade and Employment.

Employers in financial difficulties exempted by the Labour Court

4.1.15 In order to reduce potential job losses arising from the payment of the national minimum wage, an employer, who is unable to pay, may apply to the Labour Court for a temporary exemption from the experienced adult national minimum hourly rate of pay in respect of an employee or a number of employees. An application cannot be made in respect of an employee who is paid less than minimum wage rate of €7.65 (e.g. this exemption cannot be sought where an employee is being paid less than €7.65 because they are under the age of 18).

4.1.16 To-date the Labour Court has received no applications for exemptions under this provision.

Joint Labour Committees

4.1.17 Minimum rates of pay, and other conditions of work, for workers in certain sectors are determined by Joint Labour Committees (JLCs). Currently, there are 19 JLCs in existence. Each JLC is composed of representatives of workers and employers in the sector concerned.

4.1.18 While JLCs are established by means of a statutory Order made by the Labour Court, they are independent bodies which determine minimum rates of pay and conditions of employment for workers in their respective sectors. The pay and conditions agreed by the JLCs are given the force of law in Employment Regulation Orders made by the Labour Court on foot of proposals made to the Court by the JLCs.

Registered Employment Agreement

4.1.19 Statutory regulation of wages or other conditions of employment is also carried out through the **Registered Employment Agreement (REA)** mechanism. While the terms of collective agreements in Ireland are normally not legally binding, a facility is available under the Industrial Relations Acts to register an agreement with the Labour Court and thereby give it legal effect. In the case of a sector-wide agreement, the effect of registration is to make the agreement binding on all employers and employees in the categories covered by it even if they were not involved in its negotiation. Registered Employment Agreements differ from Joint Labour Committees in that the parties to an REA must have reached agreement on its content before an application for registration is made to the Labour Court.

National Minimum Wage (NMW):

4.1.20 Virtually all of the **two** million strong labour force (the population of the **State is 4.2 millions**) are covered by the National Minimum Wage. The exceptions are close relatives of the employer (spouse, parents or children of employer) and almost all categories of apprentices. The results of inspections carried out by the Labour Inspectors are as follows:

NMW STATISTICS FOR YEARS 2000- 2005.

<u>YEAR</u>	<u>INSPECTIONS/ VISITS</u>	<u>PROSECUTIONS INITIATED</u>	<u>PENALTIES</u>
2000	3,419	0	0
2001	1,192	1	€63.49
2002	1,731	3	€850
2003	950	0	0
2004	416	1	,809-22
2005	481	0	0

Notes:

Employment Rights Enforcement Section took over the responsibility for prosecutions from the Labour Inspectorate in July 2000.

The above Statistics refer to periods April 2000 to **end of December 2005**.

The Column headed Penalties gives the total amount of the fines imposed.

The Information Booklet on the National Minimum Wage, current Employment Regulation Orders and current Registered Employment Agreements **may be accessed on the following websites:**

<http://www.entemp.ie/employment/rights/publications.htm>

<http://www.labourcourt.ie/labour/labour.nsf/LookupPageLink/HomeRatesOfPay>

with links to List of JLCs (JLC/ REA Rates of Pay) ; List of Current Employment Regulation Orders (note the text of Statutory Instruments may be accessed at website **Statutory Instruments 1922 ~ 350 of 2005**) and Registered Employment Agreements.

Question C:

Proportion of Wage Earners not covered by Law or Collective Agreements

4.1.21 See our response to ECSR query no. 3 at the beginning of the report on this sub-paragraph above.

Question D:

Remuneration Statistics:

4.1.22 Please see the website of the Central Statistics' Office (CSO) at www.cso.ie for the most recent statistical information in this area. These statistics can be found by going to the following link pages on this website:

- <http://www.cso.ie/statistics/Population.htm> for population statistics
- www.cso.ie/statistics for statistics on People and Society; Labour Market and Earnings; Environment and Climate; Economy; and Business Sectors.
- <http://www.cso.ie/statistics/LabourForce.htm> for Employment and Unemployment (ILO) 000's ; Employment and Unemployment (ILO) 000's ;Seasonally Adjusted Standardised Unemployment Rates

Persons Aged 15 Years and Over Classified by Sex and Principal Economic Status

Industrial Disputes Involving Stoppages of Work (Disputes in Progress During Year)

Statistical Yearbook of Ireland 2005

<http://www.cso.ie/releasespublications/documents/statisticalyearbook/2005/C16%20Earnings.pdf>

<http://www.cso.ie/releasespublications/documents/statisticalyearbook/2005/C2%20Labour%20Market.pdf>

<http://www.cso.ie/statistics/HousingandHouseholds.htm>

<http://www.cso.ie/releasespublications/documents/statisticalyearbook/2005/C17%20Housing%20and%20Households.pdf>

[Measuring Ireland's Progress 2005](#)

[Statistical Potential of Administrative Records - Working Report \(PDF 529KB\)](#)

[National Statistics Board Policy Needs for Statistical Data on Enterprises \(PDF 278KB\)](#)

[CSO Classifications](#)

http://www.cso.ie/census/documents/2006_prelim_press_release.pdf

4.1.23 Data on Family Budgets are shown in the following CSO Household Budget Survey

1999-2000 (the latest available) may be accessed at:

<http://www.cso.ie/releasespublications/documents/housing/hbs.pdf>

http://www.cso.ie/census/2006_preliminaryreport.htm

Text of ARTICLE 4 PARA. 2 of the Revised European Social Charter

ARTICLE 4 PARA. 2

"With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake: to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;"

"...The exercise of this right shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions;"

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please mention what provisions apply according to legislation and collective agreements as regards overtime pay, the method used to calculate the increased rates of remuneration and the categories of work and workers to which they apply.

Please specify what provisions apply in respect of overtime pay on Saturdays, Sundays and other special days or hours (including night work).

Question B

Please mention any special cases for which exceptions are made.

Please indicate, where appropriate, whether measures permitting derogation from legislation in your country regarding daily and weekly working hours (see Article 2 para. 1) have an impact on remuneration or compensation of overtime.

=====

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) and Questions for answer by Ireland arising from our 21st Report, submitted in 2003 under the original European Social Charter (1961)

Comment 1: The Committee takes note of the information provided in the Irish Report. The Organisation of Working Time Act of 1997 does not cover overtime remuneration. Hence, Irish workers do not have a statutory right to an increased rate of remuneration for overtime work. The determination of rates of payment for overtime work is generally left to the negotiation between employers and workers at the level at which basic pay and conditions of employment are normally settled (collective and individual agreements). This system was previously found to be in conformity with the Charter on the basis of surveys showing that collective agreements effectively provided for an increased rate of remuneration or compensation through extra time off.

Query 1: The most recent Irish report does not any information in practice. The Committee is therefore not in a position to assess whether collective or individual agreements guarantee an effective implementation of Article 4, Paragraph 2 for all workers. Accordingly, it requests that the relevant information be provided in the forthcoming report.

Comment 2: Pending receipt of the information requested, the Committee defers its conclusion.

Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 4, Paragraph 2:

Note :- Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

Question A refers:

4.2.1 Sunday Premium

The Organisation of Working Time Act 1997 provides for a premium for working on Sunday. Section 14 of the Act confers on an employee an entitlement to compensation if the employee is required to work on that day and if the fact of having to do so has not been taken into account in the determination of his/her pay. The compensation may take the form of (a) the payment of an allowance or (b) an increased rate of pay or (c) the grant of paid time off or (d) a combination of two or more of the above listed means. The allowance, the increase in pay and the paid time off while not specified in quantitative terms in the Act must be reasonable, relative to the employment circumstances of the individual employee. What is reasonable in this sense is ordinarily determined by reference to the compensation for Sunday working payable to a comparable employee as specified in a collective agreement in force in respect of a similar industry/business sector. This is the principle followed in cases relating to Sunday work compensation coming before Rights

Commissioners. If an employee is not in receipt of a premium for Sunday work and if the employer refuses to grant such a premium it is open to the employee to take a case to a Rights Commissioner.

4.2.2 **Holidays**

Under section 19 of the Organisation Of Working Time Act 1997 an employee is entitled to paid annual leave as follows:

- (a) 4 working weeks in a leave year in which he/she works at least 1365 hours (unless it is leave year in which he/she changes employment) or
- (b) one-third of a working week for each month in the leave year in which he/she works at least 117 hours, or
- (c) 8 per cent of the hours he/she works in a leave year (but subject to a maximum of 4 working weeks).

The pay for the above leave is current gross pay.

4.2.3 The Organisation of Working Time Act was passed in 1997. The purpose of this Act is to provide for the implementation of Directive 93/104/EC of 23 November 1993 of the Council of the European Communities concerning certain aspects of the organisation of working time, to make provision otherwise in relation to the conditions of employment of employees and the protection of the health and safety of employees, to amend certain enactments relating to employees, to repeal the Conditions of Employment Acts, 1936 and 1944, the Holidays (Employees) Acts, 1973 and 1991 and certain other enactments and to provide for related matters. Copies of current Employment Regulation Orders (ERO's) and Registered Employment Agreements are current Employment Regulation Orders and current Registered Employment Agreements **may be accessed on the following website:**

<http://www.labourcourt.ie/labour/labour.nsf/LookupPageLink/HomeRatesOfPay>

with links to List of JLCs (JLC/ REA Rates of Pay) ; List of Current Employment Regulation Orders (note the text of Statutory Instruments may be accessed at website **Statutory Instruments 1922 ~ 350 of 2005**) and Registered Employment Agreements.

The Organisation of Working Time Act 1997 may be accessed at http://www.irishstatutebook.ie/1997_20.html and the Explanatory Booklets/Leaflets on the various provisions of the Act are on the Department of Enterprise, Trade and Employment website <http://www.entemp.ie/employment/rights/publications.htm>. Please also see our report under Article 2, Paragraph 1 Sub-Paragraphs 2.1.30 to 2.1.48 refer, for a detailed explanation on the operation of the Organisation of Working Act, 1997.

4.2.4 Generally speaking, premia paid for overtime working are not the subject of statutory regulation but are determined through negotiation and agreement between the parties at the level at which basic pay and conditions of employment are normally settled. The exceptions are those industries / activities, which are

covered by Employment Regulation Orders or a small number of sector-wide Registered Employment Agreements, which set down premium rates for overtime working. Most collective agreements contain provisions in relation to remuneration for overtime working.

Question B:

4.2.5 The Government of Ireland has no information on whether measures permitting derogation from legislation in our country regarding daily and weekly working hours have an impact on remuneration or compensation of overtime.

ARTICLE 4 PARA. 3

Text of ARTICLE 4 PARA. 3 of the Revised European Social Charter

"With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake: to recognise the right of men and women workers to equal pay for work of equal value;"

"...The exercise of this right shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions;"

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please indicate how the principle of equal pay for work of equal value is applied; state whether the principle applies to all workers.¹

Question B

Please indicate the progress which has been made in applying this principle.

Question C

Please describe the protection afforded to workers against retaliatory measures, including dismissal. Please indicate the procedures applied to implement this protection.

¹ The term "equal pay for work of equal value" in this Form is to be understood in terms of ILO Convention No. 100 (Equal Remuneration), Article 1.

Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 4, Paragraph 3:

Note :- Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

- 4.3.1. Ireland did not accept this provision of the original European Social Charter (1961). Ireland has accepted this provision in the Revised European Social Charter (1996), which we signed and ratified on 4 November 2000.

Question A refers:

- 4.3.2 The Employment Equality Act 1998, as amended by the Equality Act 2004, outlaws discrimination in relation to employment on nine grounds, namely gender, marital status, family status, sexual orientation, religious belief, age, disability, race and membership of the Traveller community. The Act also provides an entitlement to equal pay in respect of like work. An employer may show by way of defence that there are reasons, other than one of the discriminatory grounds, for different rates of pay. The Act repeals and replaces Ireland's previous equal treatment legislation, the Employment Equality Act 1977 and the Anti-Discrimination (Pay) Act 1974.**

Question B refers:

- 4.3.3 The Employment Equality Act 1998 provided for the establishment of the Equality Authority and the Equality Tribunal. The Equality Authority works towards the elimination of discrimination and the promotion of equal opportunities. The Equality Tribunal provides the main locus of redress of first instance under the Act. Equal pay cases may be referred to the Director of the Equality Tribunal. The Director may, subject to the agreement of the parties to the claim, refer a case for mediation, if it appears possible to resolve it in that way. Cases not referred for mediation (and cases not resolved by mediation which are re-lodged with the Director) are investigated and a decision is issued. There is provision for the award of equal pay and arrears of pay where discrimination is found to have occurred. Decisions may be appealed to the Labour Court. Decisions and mediation settlements are binding and enforceable through the Circuit Court. In addition, cases may be referred from the Labour Court, by the Court or by a party to the case, to the High Court on a point of law. Alternatively gender discrimination cases may be referred directly to the Circuit Court.**

Question C refers:

- 4.3.4 The Employment Equality Act 1998 provided for the establishment of the Equality Authority and the Equality Tribunal. The Equality Authority works towards the elimination of discrimination and the promotion of equal opportunities. The Equality Tribunal provides the main locus of redress of first instance under the Act. Equal pay cases may be referred to the Director of the Equality Tribunal. The Director may, subject to the agreement of the parties to the claim, refer a case for mediation, if it appears possible to resolve it in that way. Cases not referred for mediation (and cases not resolved by mediation which are re-lodged with the Director) are investigated and a decision is issued. There is provision for the award of equal pay and arrears of pay where discrimination is found to have occurred. Decisions may be appealed to the Labour Court. Decisions and mediation settlements are binding and enforceable through the Circuit Court. In addition, cases may be referred from the Labour Court, by the Court or by a**

party to the case, to the High Court on a point of law. Alternatively gender discrimination cases may be referred directly to the Circuit Court.

4.3.5 The relevant equality legislation in relation to non- discrimination between men and women workers with respect to remuneration - the Anti-Discrimination (Pay) Act, 1974, (Act No.15 of 1974), which may be accessed at website

<http://www.irishstatutebook.ie/front.html> via the link **Acts of the Oireachtas 1922-2005**. This Act, in turn, has been replaced by the Employment Equality Act 1998, (Act No. 21 of 1998) as amended by the Equality Act 2004 (Act No. 24 of 2004). Copies of these Acts are accessible on the following websites:

<http://www.irishstatutebook.ie/front.html> via the link **Acts of the Oireachtas 1922-2005** or

<http://www.oireachtas.ie/documents/bills28/acts/2004/A2404.pdf> directly for the 2004 Act.

4.3.6 Further details on equality legislation are available on the following websites <http://www.equalitytribunal.ie/index.asp?locID=73&docID=-1> for Irish Acts and Statutory Instruments in relation to Equality on the Equality Tribunal's website.

<http://www.equalitytribunal.ie/index.asp?locID=49&docID=-1> for the frequently asked questions on the website of the Equality Tribunal.

<http://www.equality.ie/> for the Equality Authority's website.

<http://193.178.1.9/eng/index.asp?locID=106&docID=52> for the provisions of the Employment Equality Acts 1998 and 2004.

<http://193.178.1.9/eng/index.asp?locID=17&docID=110> for the Summary of Employment Equality

<http://193.178.1.9/eng/index.asp?locID=75&docID=48> for details on the frequently asked questions on the Employment Equality Acts 1998 and 2004.

Text of ARTICLE 4 PARA. 4 of the Revised European Social Charter

ARTICLE 4 PARA. 4

"With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake: to recognise the right of all workers to a reasonable period of notice for termination of employment;"

"... The exercise of this right shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions."

[The Appendix to the revised Charter stipulates that this provision shall be so understood as not to prohibit immediate dismissal for any serious offence.]

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please indicate if periods of notice are provided for by legislation, by collective agreements or by practice and if so, indicate the length of such periods, notably in relation to seniority in the enterprise.

Please indicate whether the periods of notice established by legislation can be derogated by collective agreements.

Please indicate the periods of notice applicable to part-time workers and to home workers.

Please indicate in which cases a worker may not be given a notice period.

Please indicate whether provision is made for notice periods in the case of fixed-term contracts which are not renewed.

Question B

Please indicate whether wage-earners may challenge the legality of such notice of termination of employment before a judicial authority.

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) and Questions for answer by Ireland arising from our 21st Report, submitted in 2003 under the original European Social Charter (1961):

Note: Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

Query 1 - The Committee notes from the information provided in the Irish report that the situation it had previously found not to be in conformity, because the periods of notice laid down in the 1973 Act, and in the regulations applying to civil servants were inadequate has not changed. It therefore concludes that the situation in Ireland is not in conformity with this provision of the Charter. Has the situation changed in the meantime?

Response

There has been no substantial change to the information given in our two previous reports - pages 129 and 130 of our 14th Report, page 44 of our 17th Report and page 73 of our 21st Report on Ireland's Implementation of the European Social Charter refer.

Some civil servants are currently excluded from the provisions of the 1973 Act. However, the Civil Service Regulation (Amendment) Act 2005

<http://www.oireachtas.ie/documents/bills28/acts/2005/1805.pdf>

<http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2004/3704/document1.htm>

inter alia, extended the provisions of the Minimum Notice Act to all civil servants. This extension of the provisions to civil servants goes hand in hand with the extension of the Unfair Dismissals Acts to most civil servants in the same Act.

There are no proposals to increase the minimum periods of notice prescribed in the Minimum Notice and Terms of Employment Act 1973 and there has been no demand for increasing the entitlements under the Act. Furthermore, as previously stated in past reports, it is the Irish position that the periods of notice, which the Committee appear to favour, were much too long to help sustain employment in the increasingly competitive global economy. Small open economies such as Ireland have to strike a balance between improving working conditions for those already employed and encouraging employers to hire more workers by not allowing the social costs of labour get too high. A sea-change in attitudes is occurring in this and similar areas throughout Europe due to the pressing need to tackle high structural unemployment

Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 4, Paragraph 4:

Note: Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

QUESTION A

Response:

4.4.1 In relation to Question A, there has been no change to the information given in our three previous reports – pages 129 and 130 of our 14th Report, page 44 of our 17th Report and page 73 of our 21st Report on Ireland's Implementation of the European Social Charter refer.

4.4.2 In summary, under the Minimum Notice and Terms of Employment Act 1973 the statutory notice entitlements are as follows:

1. Employees

If an employee has been continuously employed by the same employer for at least 13 weeks, s/he is entitled to a minimum period of notice before the employer may dismiss him/her. This period varies according to length of service as follows:-

Length of Service	Minimum Notice
13 weeks to 2 years	1 week
2 years to 5 years	2 weeks
5 years to 10 years	4 weeks
10 years to 15 years	6 weeks
More than 15 years	8 weeks

2. Employers

An employer is entitled to at least 1 week's notice from an employee who has been employed by the employer for 13 weeks or more and who proposes to give up his/her job.

3. Other provisions

These periods of notice are provided by law and are the minimum that must be given. Any provision in a contract of employment for shorter periods of notice than the minimum periods stipulated in the Act has no effect. The rights of employees to notice of termination of employment may be improved upon by collective bargaining but may not be diminished. The Act does not affect the right of an employer or an employee to terminate a contract of employment without notice due to the misconduct of the other party.

The Minimum Notice and Terms of Employment Act does not prevent an employer or employee from waiving his/her right to notice or accepting payment in lieu of notice.

Part-time employees and home workers - if they are employed under a contract of employment - have the same entitlements under the Act as other employees.

The Minimum Notice and Terms of Employment Act does not exclude employees on fixed-term contracts from the provision of the Act. However, it could be argued that such employees are aware from their written fixed-term contracts, when their contracts will expire. Notwithstanding this, it is perhaps prudent for parties to such a contract to include a notice provision in a fixed-term contract. Otherwise, an employee on e.g. a 3 year fixed-term contract, whose contract is terminated after say 6 months, would most likely be entitled to sue the employer for the balance of the contract, i.e. for 2.5 years' pay, in the absence of such a provision.

4.4.3 On a related matter, the Protection of Employees (Fixed-Term Work) Act 2003 (No 29. of 2003) came into operation on 14 July 2003. The purpose of the Act which implements EU Directive 1999/70/EC of 28 June 1999 concerning the Framework Agreement on fixed-term work concluded by UNICE, CEEP and the ETUC at EU level is:

- (i) to provide for the improvement of the quality of fixed-term work by ensuring the application of the principle of non-discrimination (i.e. fixed-term workers may not be treated less favourably than comparable permanent workers) and
- (ii) to provide for the removal of discrimination against fixed-term workers where such exists and the establishment of a framework to prevent abuse arising from the use of successive fixed-term employment contracts.

4.4.4 THERE IS ALSO A PROVISION IN THE ACT WHEREBY A FIXED-TERM EMPLOYEE WHO, IF DISMISSED BY HIS/HER EMPLOYER, CAN CONTEST THAT DISMISSAL BEFORE A RIGHTS COMMISSIONER ON THE GROUNDS THAT THE DISMISSAL WAS CARRIED OUT BY THE EMPLOYER TO AVOID THE PROVISIONS IN THE ACT CONCERNING THE RIGHT OF AN EMPLOYEE TO A CONTRACT OF INDEFINITE DURATION AFTER A CERTAIN NUMBER OF FIXED-TERM CONTRACTS.

QUESTION B – Challenge of Legality of Notice of Termination of Employment:

Please indicate whether wage-earners may challenge the legality of such notice of termination of employment before a judicial authority?

- 4.4.5 There has been no major change in relation to the information already provided. The avenue of complaint under the Act for employees dismissed without notice (with over 13 weeks continuous service) is to the Employment Appeals Tribunal.
- 4.4.6 Employees generally also have an avenue of redress under the Payment of Wages Act for non-receipt of notice since that Act deals with complaints regarding non payment of wages, which definition (of wages) includes any sum payable to an employee in lieu of notice of termination of employment.
- 4.4.7 On a related matter, as a result of amendments to the Protection of Employees (Employers' Insolvency) Act 1984, it is no longer necessary for employees of formally declared insolvent employers, dismissed without notice, to take cases to the Employment Appeals Tribunal under the Minimum Notice and Terms of Employment Act for redress. They may apply through the liquidator/receiver for payment from the Social Insurance Fund, where no funds are available to meet their claims from the employer's assets.

Text of ARTICLE 4 PARA. 5 of the Revised European Social Charter

ARTICLE 4 PARA. 5

"With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake: to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards."

"...The exercise of this right shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions."

[The Appendix to the revised Charter stipulates that it is understood that a Contracting Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exception being those persons not so covered.]

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please describe how and to what extent observance of this paragraph is ensured in your country, specifying the ways in which this right is exercised, both as regards deductions made by the employer for his own benefit and for the benefit of third parties.

Please indicate whether legislation, regulations or collective agreements provide for the non-seizability of a part of the wage.

Question B

Please state whether the measures described are applicable to all categories of wage-earners. If this is not the case, please give an estimate of the proportion of workers not covered and, if appropriate, give details of the categories concerned.

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) and Questions for answer by Ireland arising from our 21st Report, submitted in 2003 under the original European Social Charter (1961):

Comment 1- The Committee recalls that Article 4, Paragraph 5 requires that determination of deductions from wages shall not be left solely to the mere negotiation between the parties to an employment contract and that, if such negotiation is not prohibited per se, it shall be subject to precise statutory provisions , case law, government regulations or collective agreements.

It understands from the report that the only restrictions from wages, other than those permitted under the terms of the employment contract or are agreed in writing by the employee, may be set in relevant collective agreements.

Query 1 - Accordingly, it requests information showing that collective agreements provide for an effective protection of all workers against unreasonable deductions from wages. In particular it wishes to know whether there is any general rule, pursuant to which, after deductions from wages, workers shall not be left with less than the minimum subsistence amount.

Response to Query 1 – They (Collective Agreements) do not provide for an effective protection of all workers against unreasonable deductions of wages. Such protection is only provided in statute law not in collective agreements. (We have no further information on this matter.)

Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 4, Paragraph 5

Note: Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

Question A

4.5.1 There has been no change in the situation in respect of this provision of Charter since our last two reports under Article 4 paragraph 5, pages 28 and 29 of Ireland's Twelfth Report, page 47 of our Seventeenth Report (1998) and page 77 of our 21st Report (2003) on the Implementation of the European Social Charter refer.

Question B

4.5.2 Categories of employee covered by the Act

There are no exceptions to the Payment of Wages Act 1991 <http://www.irishstatutebook.ie/front.html>. Neither an employer nor an employee can contract out of the provisions of the Act. The protections provided in the Act apply to any person working under a contract of employment or apprenticeship, employed through an employment agency or through a sub-contractor, and in the service of the State (including members of the Garda Siochana (Police) and the Defence Forces, civil servants and employees of any local authority, health board, harbour authority or vocational education committee).

Response to Comments made / Queries raised by the European Committee of Social Rights addressed specifically to Ireland in Addendum to Conclusions XVI-2 (Ireland) – 2004:

4.5.3 In Ireland, collective agreements are generally private between the parties to the agreement and not publicly available. However, the Payment of Wages Act 1991 provides a right of complaint to a Rights Commissioner for any employee who has had an unlawful deduction made from wages with a right of appeal for the employer or the employee from a decision of a Rights Commissioner to the Employment Appeals Tribunal.

4.5.4 The text of the Payment of Wages Act, 1991 can be accessed at <http://www.irishstatutebook.ie/front.html> By law, employers are required to make deductions in relation to tax and social welfare contributions. In addition, it is Government policy to encourage employers and employees to enter into agreements at enterprise and sectoral levels concerning non-statutory deductions such as occupational pensions, personal health/life insurance. This approach reflects the voluntarist nature of our Industrial Relations system.

4.5.5 There is no general rule in the Payment of Wages Act about employees being left with not less than the minimum subsistence level after deductions from wages. However, special restrictions are placed on employers under the Act in relation to deductions (or the receipt of payments) from wages which-

- (i) Arise from any act of the employee (e.g. till shortages, bad workmanship, breakages etc.), or
- (ii) Are in respect of the supply to the employee by the employer of goods or services which are necessary to the employment (e.g. the provision or cleaning of uniforms).

4.5.6 Any deduction (or payment) from wages of the kinds described at (i) or (ii) must satisfy the following conditions:

- (i) the deduction (or payment to the employer) must be provided for in the contract of employment in a term whether express or implied and, if express, whether oral or in writing,
- (ii) the amount of the deduction (or payment to the employer) from wages must be fair and reasonable having regard to all the circumstances including the amount of the wages of the employee,

(iii) the employee must be given at some time prior to the act or omission or the provision of the goods or services, written details of the terms in the contract of employment governing the deduction (or payment to the employer) from wages. When a written contract exists, a copy of the term of the contract which provides for the deduction (or payment) must be given to the employee. In any other case, the employee must be given written notice of the existence and effect of the term.

Additional restrictions on deductions (or payments) for acts or omissions of the employee

4.5.7 Any deduction (or payment to the employer) arising from any act or omission of an employee, in addition to meeting the requirements set out at (i) to (iii) above, must satisfy the following conditions:

- (i) the employee must be given particulars in writing of the act or omission and the amount of the deduction (or payment) at least one week before the deduction (or payment) is made,
- (ii) the deduction (or payment), must be made no later than 6 months after the act or omission became known to the employer. However, if a series of deductions (or payments) are to be made in respect of a particular act or omission, the first deduction (or payment) in the series must be made within the 6 month period.

ARTICLE 9 - THE RIGHT TO VOCATIONAL GUIDANCE

"With a view to ensuring the effective exercise of the right to vocational guidance, the Parties undertake to provide or promote, as necessary, a service which will assist all persons, including the handicapped, to solve problems related to occupational choice and progress, with due regard to the individual's characteristics and their relation to occupational opportunity: this assistance should be available free of charge, both to young persons, including schoolchildren, and to adults."

Standard Questionnaire (directed at all Member States of the Council of Europe) for Article 9 of the Revised Charter :-

Question A

Please give a description of the service - its functions, organisation and operation - specifying in particular:

- a. whether access to services is free of charge;
- b. whether vocational guidance work is carried out in the public or private sectors;
- c. the measures taken to supply all persons with adequate information on the choice of employment;
- d. the measures taken to ensure a close link between vocational guidance and training on the one hand and employment on the other;¹
- e. the measures in hand for improving the services;
- f. the details of special measures to assist disabled persons.

Question B

Please indicate the measures taken in the field of vocational guidance to promote occupational and social advancement.

Question C

Please indicate the types of information available in the vocational guidance services and the means employed to disseminate this information.

Question D

Please indicate:

- a. the total amount of public expenditure devoted to vocational guidance services during the reference period;
- b. the number of specialised staff of the vocational guidance services and their qualifications (teachers, psychologists, administrators, etc.);
- c. the number of persons benefiting from vocational guidance broken down by age, sex and educational background;
- d. the geographical and institutional distribution of vocational guidance services.

Question E

Please indicate whether equality of access to vocational guidance is ensured for all those interested, including nationals of the other Contracting Parties to the Charter lawfully resident or working regularly in your territory, and disabled persons.

1 If your country has accepted Article 10 para. 1, it is not necessary to describe these measures here.

Comments made / Queries raised by the European Committee of Social Rights addressed specifically to Ireland in relation to the Text of Ireland's 21st Report under the original European Social Charter which was submitted to the Council of Europe in 2003 :-

Article 9 – Right to vocational guidance

The Committee takes note of the 21st Irish report under the original European Social Charter (1961).

As Ireland has accepted Article 15 of the Charter, the measures concerning the provision of vocational guidance for people with disabilities are dealt with under that provision. *Vocational guidance within the education system (organisation, expenditure, number of staff and persons assisted)* The report does not indicate any relevant changes to the situation, which was previously held by the Committee to be in conformity with the Charter.

The Committee asks if students can chose whether or not to follow the advice received through guidance. If the advice is compulsory, the **Committee asks** what the consequences are in case of non-compliance by the student.

The report indicates that there is no change in the number of staff, nor in the number of beneficiaries, who are all pupils enrolled in school. Expenses for vocational guidance counsellors amounted to 25,4 million € per year.

Vocational guidance in the labour market (organisation, expenditure, number of staff and persons assisted)

According to the report, vocational guidance in the labour market is delivered through the national Employment Service (NES). This consists of two strands: the Employment Service (ES) operated by the FAS (*An Foras Aiseanna Soathar* – Training and Employment Service) and the Local Employment Service (LES). Both employment services are meant to provide a range of services to job seekers, unemployed, employers, with the LES focusing especially with the most disadvantaged on the labour market (long-term unemployed). Services consist of information, assessment, guidance and counselling. LES provide in addition to mediation services (individual in-depth counselling activity), support for training, education and employment, aftercare services and employer liaison. Unemployed people are referred to ES offices after nine months of unemployment.

The Committee asks to be systematically provided with figures on expenditure, number of staff and of persons assisted in the labour market.

Dissemination of information

The report indicates that information is diffused by the countrywide web of ES offices (FAS and LES). It concerns employment, education or training opportunities, employment legislation, etc. The NES co-ordinates participation in national fairs and has set up a phonebased vocational information service and a website.

Nationals of the other Parties

The report indicates that legally resident foreigners have the same rights of access to free primary and secondary education up to and including Leaving Certificate. Since vocational guidance is part of the teaching courses from primary to secondary-level school (12 years old and over), nationals of the other Contracting Parties to the 1961 Charter and of parties to the Revised European Social Charter are treated equally. The Committee asks whether equality of treatment is also guaranteed as regards vocational guidance on the labour market.

Conclusion

The Committee concludes that the situation in Ireland is in conformity with Article 9 of the Charter.

Material supplied by the Department of Enterprise, Trade and Employment and FÁS (An Foras Áiseanna Saothair – The National Training and Employment Authority) :-

Article 9 Question A

9.1 National Employment Services

In Ireland Vocational Guidance for adults in the labour market is delivered through the National Employment Services (NES). The NES consists of two strands, FÁS Employment Services (ES) and the Local Employment Services (LES).

The NES was established with the aim of integrating the FÁS ES and the LES. The belief was that bringing the two strands together within one service structure would benefit the client groups, allow for greater coherence, and bring a sharper focus to existing delivery arrangements. Since 1999 operational management for the NES,

including the LES, rests with the FÁS Employment Support Service Unit under the direction of the National Employment Services Advisory Committee (NESAC). FÁS have recently agreed a new contracting arrangement, including a Schedule of Activity, with the LES' which should result in a greater complementarity of services and thus, an improved service to Jobseekers. Protocols have been developed for the referral of clients between FÁS and LES to ensure ease of access to the service most relevant to the jobseekers needs.

9.2 Locations

The FÁS ES operates through a network of 63 offices located throughout the country, including 11 offices operating from FÁS training centres. The LES operates through a network of offices and outreach centres located in 26 designated disadvantaged areas. There is also, typically, a number of contact point offices operating in a LES catchment area.

9.3 FÁS Employment Services

The objective of the FÁS Employment Services is the development and delivery of a vocational guidance and placement service. FÁS Employment Services act as a gateway to all FÁS and other relevant labour market services and provides a national high quality recruitment service which helps jobseekers to find the best possible job and to help employers to find the most suitable staff. FÁS prioritise specific target groups, especially those who find it difficult to access labour market opportunities, in order to stem the flow into long-term unemployment.

9.4 FÁS Main Target Groups

- Clients referred under the National Employment Action Plan.*
- Early School Leavers.*
- Long Term Unemployed.*
- Persons with a Disability.*
- Clients unplaced from FÁS training and Employment Programmes.*
- Employees facing redundancy.*

9.5 Gateway Definition

FÁS Employment Services, through its network of offices, is the access point to all FÁS training and employment programmes for jobseekers. FÁS Employment Services is also a referral point to the full range of labour market services and information for all jobseekers and employers.

Access Point: means that recruitment to all FÁS training and employment programmes, for jobseekers, is only possible through FÁS Employment Services and LES.

Referral Point: here “referral” means an appropriate referral to a suitable job or to a training/education opportunity outside of the FÁS network.

Information: Accurate and up to-date information, on all FÁS and other appropriate services, is available on the Employment Services portal as well as at all FÁS Employment Service Offices.

9.6 Local Employment Services

The Local Employment Services is community based and provides an intensive guidance and placement service to the most disadvantaged in the context of the local labour market.

9.7 LES Target Groups

- ❑ ***Long-term unemployed (12 months or more).***
- ❑ ***Dependant partners of Long-term unemployed.***
- ❑ ***Lone Parents.***
- ❑ ***Early School Leavers.***
- ❑ ***Persons with a Disability.***
- ❑ ***Members of the Travelling Community.***
- ❑ ***Ethnic Minorities.***
- ❑ ***Other locally identified groups.***

Access to the National Employment Services

All jobseekers have access to the service provided by the dual stranded Employment Services which is free of charge. There is a range of services and supports provided to Jobseekers to increase their employability.

Services Offered

All Employment Services offer information and advice to jobseekers on labour market opportunities. All our offices are equipped to cater for these information needs. The following are the range of services/tools available through-out all FÁS Employment Services Offices to assist jobseekers access relevant labour market information.

Guidance Services

- ***Every client registering with FÁS receives a guidance interview. During this guidance interview, the Officer explains the services of FÁS, outlines the guidance process to the client and makes a verbal agreement with the client which outlines their respective roles in the process. The guidance process can take place over a number of visits. The result of the guidance process would be an agreed action plan with the client.***
- ***In order to support staff to track interactions with clients, FÁS have developed an Information Technology Supported Caseload Tracking System.***

Referral Options

Self/Self Help Facilities:

- Touch screen kiosk facilities called WATIS provide information on all jobs vacancies advertised with FÁS, training and allowances for FÁS Services, details of training/employment programmes available and eligibility requirements for same.
- Self-help guidance facilities are available in all FÁS Employment Services Offices by way of our FÁS developed Career Directions. This is a Database of Careers Information/Interest Inventory. There are details on over 700 careers. Career Directions is available on the internet and a cd-rom version is sent to all Career Guidance Counsellors in schools and all Guidance Counsellors registered with the Institute of Guidance Counsellors.
- Qualifax a database of all Post Secondary School Courses, is available to jobseekers in all FÁS Employment Services Offices. This package is developed by the Department of Education and Science.
- All Employment Services Offices provide a free-phone service, whereby jobseekers can ring employers free of charge, a faxing facility and a Curriculum Vitae photocopying services is also available to jobseekers.
- Promotional literature on all FÁS Services can be accessed in all FÁS offices and also on the FÁS website www.fas.ie.
- A Freephone telephone guidance service is available for all FÁS registered clients on 1800 611 116 (FÁS Jobs Ireland). Jobseekers, through this service, can be provided with details of job vacancies in their chosen area of work.
- Through the FÁS website, jobseekers can input their Curriculum Vitae onto FÁS JobsIreland. This facility gives employers access to Jobseekers curriculum vitae and provides jobseekers with a greater level of access to potential employers.
- Jobseekers can access labour market opportunities in other EU member states via the European Employment Services Network.

Recruitment to FÁS Training/Employment Programmes

FÁS training/employment programmes include Specific Skills Training, Traineeships, Apprenticeship Schemes, Contracted Training, Community Training Centres, Community Employment, Social Economy.

Referral to Other Training/Education Programmes and Supports

As well as FÁS training and employment programmes, jobseekers may also avail of the FÁS Customised Training Fund (*where appropriate training is not available in the short-term*), Workplace (*where work-experience might be a useful option*) Pathways (*for group guidance*), High Support Process (*for most disadvantaged jobseekers*) and Career Directions (*IT guidance tool*).

Other Training/Education Programmes also include Youthreach, VTOS, Back to Work Programmes, PRSI Exemption Schemes, Revenue Job Assist, Third Level Education. These are managed by the Department of Education and Science and the Revenue Commissioners.

There are also a number of other Training/Education Providers, including Fáilte Ireland, BIM, Teagasc, Dept. of Education Regional Offices, Adult Education Centres, NALA to which jobseekers may be referred.

Local Employment Services

Jobseekers from certain target groups may be referred to the Local Employment Service (LES) which provides a specialised career-path planning service. The LES works with the following priority target groups: Long-term Unemployed (*1 year plus*), Lone Parents, Early School Leavers, Persons with a Disability, Dependent Spouses, Travellers, Ex-Offenders, Ethnic Minorities and other locally identified groups. FÁS may also refer EAP clients to the LES where appropriate.

Other Referrals

Jobseekers may also be referred to other supports such as Job Clubs, Personal Counselling Services, Addiction Clinics etc. Appropriate assistance may also be provided through referral to National Education Welfare Board, Citizens Information Centres, Free Legal Advice Centres, Local Networks, Health Boards etc.

9.8 Special Measures to assist People with Disabilities :-

Responsibility for vocational guidance, training and employment, in the labour market, for people with disabilities, transferred from the Department of Health and Children to the Department of Enterprise Trade and Employment (DETE) in June 2000. This transfer took place as part of the Government's policy to mainstream services for people with disabilities. To facilitate this transfer FÁS established a new internal unit, namely, the Disability Policy and Development Unit (DPDU) The aim of this unit is to assist in the integration of people with disabilities into the open labour market and to maintain the focus on disability within the organisation and expand FÁS services and programmes in this area.

FÁS have developed a range of supports and interventions to support people with disabilities in accessing employment and guidance and training services:

Supported Employment

Supported Employment is an open labour market initiative, which provides supports to disabled people, who traditionally have had difficulty getting into paid employment, by providing supports on the job. The programme is carried out by sponsor organisations on behalf of FÁS and they in turn employ a job coach can provide a range of supports tailored to the individual needs of the jobseeker with a disability both the job seeker and the employer provides the support. Supported Employment operates through a number of regionally based consortia of local organisations.

Supported Employment is aimed at persons with disabilities who: -

- Wish to take up paid employment and need assistance to find that employment
- Supported Employment prepares people for employment by undertaking vocational training or by participating on an Employment Programme.
- The Supported Employment Programme funds the placement of people with varying degrees of disability. However, the person must genuinely need the initial support of a Job Coach to obtain and retain employment in the open labour market.

9.9 Employment Support Scheme

The Employment Support Scheme offers financial support to employers in the private sector to encourage them to employ people with disabilities whose work productivity levels are between 50% and 80% of normal performance and are employed for at least 20 hours per week. In 2003 there were 452 people with disabilities on this scheme and this rose to 462 in 2004.

9.10 Workplace Equipment Adaptation Grant

A person with a disability who has been offered employment or are in employment and require a more accessible workplace or adapted equipment to do their job they or their employer may be able to receive a grant from FÁS towards the cost of adapting premises or equipment. A maximum of 63348.70 is available towards the cost of adaptations to premises or equipment.

9.11 Job Interview Interpreter Grant

This grant is available to people with a hearing or speech impairment who are attending job interviews

9.12 Personal Reader Grant

People who are blind or visually impaired and who need assistance with job related reading are entitled to apply for a grant to employ a personal reader.

9.13 Employee Retention Grant

The purpose of the grant is to assist employers to retain employees that acquire a disability that jeopardises their employability. The aim of the grant is to identify the supports and accommodations necessary to retain employees in their current job, or to re-train them for another position in the organisation.

Question B – Measures taken in the Field of Vocational Guidance to promote Occupational and Social Advancement

All NES measures in the field of vocational guidance are designed to promote occupational and social advancement.

9.14 National Employment Action Plan

In particular the Irish National Employment Action Plan (NEAP) adopted by the Government as its response to the European Guidelines. The NEAP includes a commitment to a more systematic engagement of the Employment Services with the unemployed. The core orientation of the Employability pillar in the EU Guideline which is based on a preventative strategy, is focused on early and systematic intervention with unemployed people, re-integrating them into the labour market as quickly as possible, inter-alia, by providing them with the necessary skills to improve their employability.

Implementation of this commitment commenced in September 1998. From that date, all persons under 25 who had reached six months on the Live Register (LR) were referred by the Department of Social and Family Affairs (DSFA) for interview by FÁS. As the National Employment Action Plan progressed, the selection criteria for involvement has also been extended to include other groups. By 2003 anyone reaching six months on the live register will be selected for referrals to FÁS.

Also from June 2003, the National Employment Action Plan targeted those long-term unemployed not previously referred under the NEAP as they were outside the referral thresholds as the programme began. Under this measure all persons aged between 18-54 not previously referred under the NEAP and more than 6 months on the live register are referred to FÁS for interview. This is in operation nationally in FÁS. There are approximately 40,000 clients to be referred in this category to FÁS over an 18-month period. This is in addition to the weekly referrals that are sent to FÁS by DSFA.

9.15 Process

On presenting for interview with an Employment Services Officer (ESO), the NEAP aims and process are outlined to the client. An EAP information leaflet is presented for information. The ESO, with the agreement of the client, develops an individualised Action Plan that provides a route to re-integration into the

workforce. This may include a variety of steps or interventions before the client is job ready, e.g. referral to a FÁS employment or training programme, customised training provision, Pathways programme for group guidance, referral to a basic education programme for literacy/numeracy input, referral to a Job Club to support job seeking, etc. Throughout the process, client interventions and engagement with the ESO are tracked using the Caseload Management System.

9.16 Special Initiatives developed in response to NEAP

The Pathways Programme

Through the operation of the NEAP it was concluded that there was a sizeable proportion of clients referred to the Employment Services who needed extra assistance in developing a career path action plan. The Pathways Programme was developed by FÁS Employment Services Support Unit as a response to this identified need.

Pathways is a two-week group guidance programme for NEAP with the aim of identifying the most appropriate development pathway for each participant in order to assist them obtain and maintain employment. The programme is delivered on a group basis in order to encourage a dynamic in which clients can support and learn from each other.

The programme is designed to be a highly positive and motivating experience. It adopts a cognitive-behavioural approach to learning, which aims to change the attitudes and actions of participants towards employment.

The High Support Process (HSP)

In January 2003, FÁS introduced a new High Support Process (HSP) to assist NEAP clients who are experiencing personal barriers to employment. Multi-Agency teams were put in place, comprising representatives of the Health Boards, Education, Probation and Welfare, etc to address these non-vocational barriers, e.g. drug abuse, literacy/numeracy.

Customised Training Fund

The Customised Training Fund was established in 1999 to give Employment Services Officers greater flexibility in responding to the identified training needs of specific caseload clients. The need for such flexibility was highlighted through the operation of the NEAP where the specific training needs of some NEAP clients could not be met by FÁS, or could not be met by FÁS, within a reasonable timeframe or at a location adjacent to the client's home.

FÁS works with other service providers in the guidance community and is involved in a number of joint ventures. The Return to Education Programme is a joint initiative between the National Adult Literacy Agency (NALA), Vocational Education Committees (VECs) and FÁS. It is an intensive literacy programme for Community Employment (CE) workers on FÁS CE Schemes. There are currently 46 FÁS/VEC Return to Education Programmes in 26 VEC areas and in all FÁS regions.

9.17 Other Services Provided

The Department of Education and Science provides funding to NALA to support policy initiatives, tutor training, development of materials etc. in the area of adult literacy. Joint initiatives are developed at local level through co-operation of VECs, FÁS, NALA and local employers.

All programmes targeting people in employment are being literacy proofed at design stage. A FÁS cross-functional working group on literacy has been established. In addition, preliminary discussions have been held with the National Adult Literacy Agency (NALA) regarding development of Literacy Proofing Tool for a pilot project. Also, an Internal Literacy Working Group to integrate literacy into Community Services Programmes as appropriate is progressing

FÁS ES actively participates on the National Guidance Forum. The long-term objectives of this forum are:

- To move from a fragmented provider of guidance to a cohesive multi-faceted professional, accessible service, responsive to the needs of the individual and society.
- **To champion, communicate and implement meaningful models of guidance that underpin a vision of personal fulfilment, a fair society and sustainable employability.**
- **To urgently harness and proactively manage the wealth of existing resources and agree mechanisms for measuring relevant and realistic outcomes.**
- To ensure that guidance becomes central to the public policy and planning process in both education and the labour market.

FÁS Provision for Offenders and Ex-Offenders

For many years FÁS has been working with the Irish Prison Services to provide FÁS services and information to prisoners and ex-offenders. The Equal Opportunities and Social Inclusion Unit of FÁS is at present looking at ways of enhancing the services FÁS offers to this category of client within the framework of the NESF recommendations. To assist this process a recent review of FÁS funded services and activity in the regions was conducted.

FÁS provision for the Traveller Community

In addition to the inclusion of Travellers on a range of FÁS Programmes, there are a number of special initiatives, which have been developed in response to approaches from Traveller support

groups locally. It is also important to note that at any given time there are Travellers attending FÁS programmes who may not have registered as Travellers.

The FÁS 'Gateway for Women' Pilot Process

In 2002, FÁS commenced the *Gateway for Women* pilot initiative, which is aimed at proactively encouraging women to return to the workforce. It is part-funded by FÁS and the Department of Justice Equality and Law Reform under the Equality for Women

Early School Leavers

FÁS engage with clients who are 16 to 21 years of age inclusive, who have officially left school without sitting their Leaving Certificate, who are experiencing difficulties in the labour market and who have referred or have presented to FÁS. There is a number of training options specifically run for clients in this category.

9.18 Question C

FÁS host an annual Jobs Fair “Opportunités”. This unique event draws together leading employers, education organisations and skills sectors, all under one roof. This Jobs Fair is run in conjunction with the Institute of Guidance Counsellors and not only provides details on opportunities available to jobseekers and school leavers, it runs seminars on interview skills, curriculum vitae presentation, apprenticeship, traineeship etc.

FÁS regularly promotes its services nationally and its website www.fas.ie has full details of all its services.

FÁS works closely with local communities and a number of FÁS staff are members of local committees which look at service provision and gaps in services in communities.

FÁS staff participate at local job exhibitions and regularly give presentations to schools on the range of options available to school leavers.

Question D

9.19 The breakdown of staff for the National Employment Services is as follows:

FÁS ES – 288.5 Employment Services Officers and 200 support staff engaged in providing vocational guidance to jobseekers.

The FÁS ES operates through a network of 63 offices located throughout the country, including 11 offices operating from FÁS training centres

9.20 The Budget for the FÁS ES staffing is as follows:

FAS ES Staffing Budget

2003: €24,759,634

2004: €26,071,713

9.21 **LES** – 172 Mediators and 130 support staff engaged in providing vocational guidance to jobseekers.

The LES operates through a network of offices and outreach centres located in 26 designated disadvantaged areas. There are also typically a number of contact point offices operating in a LES catchment area.

9.22 The Budget for the LES staffing is as follows:

LES Staffing Budget

2003: €11,900,000

2004: €12,083,000

	2003	2004

FAS		
Total New FÁS Registrations	91,022	82,933
Total NEAP clients referred to FAS	45,170	49,572
Total NEAP clients interviewed by FAS	28,758	33,181
Local Employment Services		
Total New LES Registrations	5,954	7,735
Total NEAP referred to LES	3,715	7,511
Total NEAP clients interviewed by LES	3,361	5,876

Staff Training for National Employment Services

9.23 Personal Development Plans

All staff prepare, at the beginning of every year, a personal development plan within an agreed framework of planned goals, standards, and competence requirements. The plan is prepared and reviewed in consultation with their Manager, with a view to ensuring that staff training, knowledge or competency gaps are addressed. This plan ensures that all staff are fully trained and equipped to deliver a quality service to all jobseekers.

A performance Development System has recently been introduced which provides an opportunity for Employment Services Officers and their Manager to jointly explore and agree an individualised annual Training Plan, review same and take appropriate action.

9.24 Core Competencies

A Core Competency Framework exists for FÁS Employment Services Officers. The aim of the framework is to help identify the key development needs amongst Employment Service Officers, and plan training and development programmes to address them.

9.25 Introductory Course for New Employment Services Officers

This course is organised by the Staff Development Unit, and is designed to equip new officers with the overview and knowledge required initially to carry out the role. It also provides participants with basic interview skills. At the end of the course participants will:

- Understand the concept and purpose of Employment Services.
- Know our full range of customers.
- Be able to conduct a registration interview.
- Understand the importance of quality.
- Be aware of the need to cooperate with agencies, such as DSFA.
- Be customer focussed.
- Appreciate the importance of networking.

9.26 NUI Certificate in Adult Guidance, Theory and Practice

All FÁS Employment Services Officers/LES Mediators at a minimum must undertake a Certificate in Adult Guidance Theory and Practice through the National University of Ireland.

This course has been developed by the National University of Ireland, Maynooth, in collaboration with FÁS. The course begins to address the needs of those working in a guidance capacity with unemployed adults. It introduces people to models of labour market guidance, and begins to explore the theoretical principles which underpin good practice.

9.27 The course:

- **Provides participants with an understanding of labour market services at local and national level.**
- **Familiarises participants with theories and approaches to adult guidance and counselling.**
- Provides an opportunity for participants to develop increased self-awareness.
- Develops participants applied skills in adult guidance.
- Provides a forum for practitioners to explore models of good practice.
- Explores the relationship between unemployment, poverty, and social exclusion.

9.28 Following on from this Certificate Programme FÁS ESO/LES Mediators can undertake a Diploma in Adult Guidance and Counselling. Employment Service Officers should be at least 3 years working in Employment Services, and have a Certificate in Adult Guidance before applying to NUI.

9.29 Diploma/Higher Diploma in Arts: Adult Guidance and Counselling

This two year course is run by the National University of Ireland, Maynooth, and is designed to serve as an accredited training for people working with adults in a guidance setting, providing information, advice, and placement services. The course provides participants with the skills and knowledge to understand, in particular, the effects of social exclusion and marginalisation on the individual and on groups, and helps them to become familiar with appropriate interventions and strategies. The course aims to develop critical awareness on the participants part of their professional role by:

- **Developing participant's knowledge of the theoretical field of Adult Guidance and Counselling.**
- **Facilitating the development of a critical awareness of issues of marginalisation and exclusion, as they relate to employment and unemployment.**
- **Enabling participants to develop the key skills and competencies involved in working with clients and employers.**

Changes in Employment Services has become more frequent due to the increased competitiveness of business, new technology and the employment needs of a much more diverse customer group. In such a climate of constant change FÁS recognises that it is paramount that staff in Employment Services are encouraged and given the opportunity to increase their knowledge and develop their skills and competencies.

FÁS operates an Equal Opportunities policy and all staff are regularly briefed/updated regarding changes in the Equality Legislation and the effects this may have on FÁS services to Jobseekers.

Question E

9.30 Access to NES

All citizens from the EU (15) and from the new EU (10) member States have the right to access FÁS training and employment programmes and to avail of Adult Vocational Guidance from the National Employment Service.

Persons who have been granted leave to remain in Ireland have the full rights of an EU national, including the right to work and to vocational training.

People in this category include Programme Refugees, Refugee/Convention Refugee, Leave to Remain on the basis of an Irish Born Child or being married to an Irish or EU citizen.

Information on Educational and Vocational Guidance supplied by the Department of Education and Science

9.31 Questions on Vocational Guidance.

The answers to some of the questions A to E are contained in the **OECD (2003) review of guidance – Ireland Country Paper**, which is appended to this report. The information in this document refers to both educational and vocational guidance. In Ireland, students with a disability can choose to attend mainstream schools and are fully integrated. They may receive extra learning support, where required and have full access to guidance in the normal manner.

9.32 Up-date on the guidance provision in second level schools

The allocation of time for guidance specified in the original document has not changed. The ratio for a full time guidance post is still 500: 1. However, the Guidance Enhancement Initiative launched in 2001 is a pilot initiative that invited schools to apply for additional guidance posts under three specified strands.

Some recent developments in the field of Educational and Vocational Guidance

9.33 The Guidance Enhancement Initiative (GEI)

In 2001, 50 additional full- time equivalent posts for guidance and counselling were allocated to second level schools under a new initiative, the *Guidance Enhancement Initiative* for a three year period. The Initiative included three strands under which schools could apply for additional guidance hours.

Develop and promote links between schools and industry, local agencies and the community

Increase the uptake of Science subjects

Increase retention rates/ combat early school leaving

Over 500 schools submitted applications. The guidance inspectors in co-operation with the NCGE developed a marking scheme for the assessment of the applications. The inspectors, a representative from the NCGE and two other experts in guidance formed the panel of assessors. In all, 103 schools benefited nationally from the GEI. The secondary, community and vocational sectors are represented. Successful schools were asked to submit a detailed plan of how they intended to staff, timetable, deliver and monitor this extra provision and a programme of monitoring and inspection was been carried out by the Inspectors of Guidance. An interim report was provided for the Minister.

In 2004 the Minister decided to extend the Initiative for a further two years and expand the number of posts by adding a further 30 WTE posts. Following a similar process of application and assessment a further 78 benefited from this tranche of the Initiative. The Inspectors of Guidance continue to monitor the progress of the GEI in schools during inspection visits and through regular feedback obtained from school principals and GCs

To date the GEI has had positive results :-

The GEI resources are targeted in schools and are addressing social and economic inclusion through a variety of approaches

It has contributed to a better and more considered management of guidance resources in schools and increased access for junior cycle students to guidance services so that the imbalance of provision between junior and senior cycles is being addressed

More time is available to address the individual needs of students and to provide support for minority groups such as travellers and non-nationals.

Some of the successful applications were joint with other school(s) and this has encouraged collaboration between schools located in the same areas

GEI required planning and integration with other subject areas and this has added to the development of a more structured and whole school approach to guidance delivery

Schools have begun to network more with the local community and outside organisations

9.34 The National Guidance Forum

The OECD's Education Committee and the Employment, Labour and Social Affairs Committee endorsed a comparative review of national policies for career information, guidance and counselling services. The 14 participating countries completed a detailed national questionnaire and then hosted a visit by an expert team. Ireland was the first country to complete a draft of the national questionnaire and hosted the visit of the review team in December 2001. The national seminar held during the review visit demonstrated the value of bringing the key players in guidance together to address issues of common concern. One of the recommendations of the review team was to create an Irish guidance forum to strengthen joint and co-operative work between the major guidance providers.

The National Centre for Guidance in Education (NCGE), at the request of the DES, convened a Working Party to plan and organised the establishment the National Guidance Forum. Represented on the Working Party are DES, DETE, NCGE, IGC and FÁS.

The NGF has been established with representatives of key stakeholders and has met on four occasions and work is ongoing in the sub-committees. The Chairperson of the NGF is Prof. Joyce O'Connor.

The NGF aims to:

- Develop links & exchanging information between guidance providers
- Develop plans for collaboration between providers
- Feed into national guidance policy through submissions to DES & DETE
- Review core competencies for guidance practitioners and clarify role of guidance practitioners
- Initiate collaboration as recommended by OECD Report

9.35 Guidelines for Second Level Schools on the Implications of Section 9(c) of the Education Act, 1998.

This document on *Guidelines for Second Level Schools on the Implications of Section 9 (c) of the Education Act (1998), relating to students' access to appropriate guidance* is being finalised by the Inspectors of guidance following receipt of submissions from the education partners. The document was issued to schools and the education partners in draft form in 2003 for consultation. A number of submissions were received and the finalised version will be published later this term. This will provide schools with an excellent reference document of what will constitute *appropriate* guidance in the context of the individual school. Schools will then be able to incorporate these guidelines into their guidance planning process.

9.36 National Review of Guidance

The Review was initiated by Minister Dempsey in 2003. This is the first ever review of guidance ever undertaken and it is now nearing completion.

The review has 4 strands –

- An audit of guidance and counselling provision in all second level schools carried out by the National Centre for Guidance in Education (NCGE)
- A qualitative study of guidance in 260 schools carried out by the ESRI
- In-depth case –study carried out by ESRI in 15 of the 260 schools
- Focus groups of relevant key stakeholders e.g. students, parents, arranged by the NCGE

Reports from the first 3 strands have been completed and work on the 4th strand is ongoing and the report is expected later this month. When the reports of all the strands are available the Inspectors of Guidance will compile the final report of the Review which will include the outcomes of the 4 strands. This report will be forwarded to the Minister. Key outcomes of the Review will be published later in the year. The findings of the Review will provide us with an excellent overview of guidance provision country wide. The IGC also completed a Professional Profile of its members in 2003. A synopsis of this survey will be included as an appendix in the final report of the Review. These combined surveys will provide a clear picture of the issues that are pertinent in guidance provision and delivery.

9.37 Resolution on Guidance: *Strengthening Policies, Systems and Practices in the Field of Guidance throughout life in Europe*

The Resolution on Guidance was adopted by the Council of Ministers of the European Union in May 2004. This resolution was adopted during the Irish Presidency of the EU. During the Presidency an informal meeting of European Ministers for Education and the Commission of the European Union was held in Dublin Castle, April 2004. The Conclusions of this meeting stressed the importance of all European citizens having access to guidance services at school level and at all later life stages, as appropriate and reflecting local circumstances.

9.38 QualifaX

QualifaX is a software programme developed, on a voluntary basis, almost twenty years ago by individuals in the IGC to support and enhance the work undertaken by Guidance Counsellors with students. It has been further developed and expanded, especially in recent years with funding from DES, to offer a wide range of information for students. It is widely used in all second-level schools, Further Education Centres, Public Libraries and in AEGI Centres nationally. QualifaX provides details on third level courses on the island of Ireland as well as information on points and grants, a multi-faceted search facility and links to College websites. Career Directions, produced by FÁS is included in the CD-ROM. This year the website is live. QualifaX continues to develop and since February of this year information on courses for adult guidance in 4 counties has been available. This pilot is now successfully completed and information from all other counties will be available by September 2005.

9.39 Guidance for Adult Learners – The Adult Education Guidance Initiative

The AEGI is one of a number of measures supported under *the National Development Plan (2000-2006)*. It is intended to provide guidance assistance in the implementation of EU policies on Lifelong Learning, as a social inclusion measure and contribute towards the development of a more skilled and knowledge-based workforce. The aim of the AEGI is to pilot the development of a dedicated educational guidance service for adult learners, particularly those returning to education on Vocational Training Opportunity Schemes (VTOS), Adult Literacy (NALA) and those engaging in local community education.

As a dedicated adult educational guidance service, the AEGI provides information, advice and guidance on an individual and a group basis, in educational and community settings to assist adults to make informed education choices and successful transitions. In 2005, the AEGI consists of 25 projects, established in three phases and located throughout the county in both urban and rural areas. The projects initially specifically aimed to provide an adult education guidance service to participants on VTOS, adult literacy and community education programmes. However, in 2003, in response to changing needs the target group was extended to include participants on the Back to Education Initiative (BTEI). The BTEI also includes an Adult ICT Skills Programme to widen access to digital literacy for adults. The outcomes and practices established by

the AEGI are intended to inform DES on ways to mainstream the educational guidance service in the period 2000-2006, and provide models of good adult education guidance practice. The final phase of the AEGI is shortly to be announced and this phase will increase the geographical spread of the initiative nationally to meet the needs of learners returning to education.

9.40 The NCGE

The *National Centre for Guidance in Education (NCGE)*, an agency of the Department, was established in 1995 to support guidance and guidance counsellors and provides guidance materials as well as support to guidance counsellors. Last year the NCGE issued a booklet entitled: *Planning the School Guidance Programme* to assist schools in the guidance planning process.

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Update on Material supplied to the Council of Europe in 2003 as part of Ireland's 21st Report under the original European Social Charter :- Note :- the updated material is in the red print :-

9.41 Sub-paragraph 9.17 of the 21st Report should be updated to read as follows :

There are the equivalent of 541 whole-time posts allocated to second level schools in respect of guidance. The total enrolment in these schools is of the order of 360,000 pupils. The allocation is granted to schools on an ex-quota basis and the actual allocation to an individual school is determined by the enrolment in the school on the following basis:

<u>Enrolment</u>	<u>Allocation</u>
1,000 and over	2.0 posts
800- 999	1.5 posts
500- 799	1.0 posts
250- 499	0.5 posts
200- 249	0.4 posts
Less than 200	0.36 posts

In addition allocations were made to schools which were selected under the Guidance Enhancement Initiative. 50 posts were allocated under this initiative with

effect from 2001/02 on the basis of an expert evaluation of schools' applications. The intent was to develop innovative ways of enhancing guidance for students and to promote links between schools, business, voluntary and state agencies. This scheme was further extended in the 2003/2004 school year when a further 30 posts were allocated. There are currently some 181 schools benefiting from the Guidance Enhancement Initiative.

Note :- One post equals 735 hours per annum.

APPENDIX TO IRELAND'S REPORT ON ARTICLE 9 :-

OECD REVIEW OF CAREER GUIDANCE POLICIES

COUNTRY NOTE

IRELAND

APRIL 2002

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1. INTRODUCTION

1. In the autumn of 2000 the OECD's Education Committee and its Employment, Labour and Social Affairs Committee endorsed a comparative review of national policies

for career information, guidance and counselling services. Participating countries complete a detailed national questionnaire, and then host a short one week visit by an expert team. Ireland was the first country to complete a draft of its national questionnaire, and hosted a review team visit on December 3-7, 2001¹. During the visit the review team visited guidance services in schools, in tertiary education, in employment offices, in training centres, and in community settings. In addition to visiting guidance programmes the team was able to meet key policy makers in both the education and employment portfolios, to talk to those responsible for developing career information materials, to meet representatives of professional associations of guidance practitioners and to talk to those responsible for training guidance practitioners. During the visit a national seminar was held that brought together a wide range of stakeholders to discuss key issues with the review team. Drawing upon the visit, the draft national questionnaire and other documentation, this Country Note summarises the impressions of the team as well as its suggestions for some of the ways in which career information, guidance and counselling service policies might be developed in Ireland². After a descriptive introduction, five areas are highlighted for consideration:

- A better balance of services within schools;
- A more integrated and co-ordinated approach to career information;
- A more integrated approach to the skills, qualifications and careers of practitioners;
- A more targeted approach to targets and resourcing; and
- Improved steering, governance and co-ordination.

2. THE CONTEXT

2.1 The Irish economy, labour market and education system

2. The Irish economy boomed during the 1990s, with GDP per capita growing by an annual average of 7.1% between 1990 and 2000, compared to an OECD average of 2.6%. Rising labour force participation and employment were accompanied by a shift of employment away from agriculture and towards services, with tourism and the ICT sector showing particularly strong growth. Falling unemployment levels led to skill shortages in some sectors of the economy, and to falling expenditure on active labour market programmes. Economic growth and a healthy labour market have particularly benefited the young and the well educated. Educational expenditure and participation in both secondary and tertiary education have risen. Upper secondary completion rates are now high in Ireland, as are tertiary qualification levels. The upper secondary general education pathway in Ireland is a large one by OECD standards, with relatively little specific vocational preparation taking place at that level. This results in a strong emphasis upon preparation for tertiary entry within the school system, and this is reinforced by competitive external examinations at the end of both stages of secondary schooling. Unlike most OECD countries upper and lower secondary schooling generally take place in the same institution in Ireland³, and average secondary school sizes are low. In addition to an expansion in participation in tertiary education, the 1990s saw a burgeoning in the number of upper secondary school leavers entering Post Leaving Certificate (PLC) institutions⁴. These institutions have many features in common with North American community colleges or Australian TAFE colleges, offering courses at a wide range of levels and to a wide range of students, both youth and adults. Progression paths have been developed between some such courses and tertiary education.

3. At 56% compared to an OECD average of 61%, female labour force participation in Ireland remains relatively low by OECD standards, although it has risen in recent years. Low levels of education in previous generations have resulted in a significant problem of low adult literacy levels, with an associated problem of pockets of long term adult unemployment⁵. Participation in adult and continuing education also remains low by OECD standards. Recent adult education initiatives have been designed to address these issues.

2.2 Career information and guidance services in Ireland: A brief overview

4. Career information, guidance and counselling services in Ireland are diverse, with long-standing services sitting alongside interesting recent initiatives and experimentation. The public sector plays the dominant role, but in practice service delivery is shared between many different government agencies, with the private sector, and organisations that represent guidance practitioners also playing a role. There is a strong core of committed guidance professionals in Ireland, and they are supported by an extensive institutional framework for service delivery, by a national infrastructure for training, and by the National Centre for Guidance in Education, an agency of the Department of Education and Science within the education portfolio⁶. (In addition there is a National Resource Centre for Vocational Guidance that helps to promote a European guidance dimension within the FÁS, the Irish Training and Employment Agency⁷). Clients seem to appreciate the quality of the services that are provided, as do school Principals⁸. Guidance has a clear legislative basis in both the education and labour portfolios and its importance has been reflected in a number of recent national policy initiatives: for example those dealing with adult education and services for the disadvantaged. While services are diverse, they are generally not specialised. Few, and certainly neither of the major services, focus exclusively upon *career* information, guidance and counselling.

2.2.1 Schools

5. The Education Act (1998) requires schools to ensure that “students have access to appropriate guidance to assist them in their educational and career choices”. To help meet this obligation, the Department of Education and Science gives schools an allocation that is equivalent to one Guidance Counsellor for every 500 students. These are normally qualified teachers⁹ who have obtained a post-graduate Diploma in Guidance and Counselling . In the past they have normally undertaken this training on a full-time basis, generally on release from their schools on full salary but paying their own tuition fees and in some cases also meeting substitute teaching costs¹⁰. However upon obtaining the qualification required for the job they receive no recognition in the form of a salary increase.

6. These staff are not all employed full-time in careers work. First, at the discretion of the Principal their time is divided between teaching normal school subjects and guidance¹¹. Second, the time that they devote to guidance is spent both on students’ personal and social problems and on careers work, as well as on tasks such as teaching study skills and helping students fill out application forms for tertiary education. The need to provide personal and social guidance as part of their job means that careers work can take second place when confronted with student crises on a day to day basis. However monitoring systems are weak, and hard evidence on how Guidance Counsellors actually divide their time between their different roles is not easy to come by.

7. Career education is not a mandatory part of the curriculum of Irish secondary schools. Neither are normal subject teachers required to help students to see the link between their studies and post-school careers as a standard part of their duties. At their discretion Guidance Counsellors can deliver careers lessons as part of the school's guidance programme, and to the extent that they do, this normally occurs in upper secondary school rather than in lower secondary school.

8. However career education is not completely absent from the curriculum. Those upper secondary school students who enrol in the Leaving Certificate Vocational Programme (LCVP) are required to take, in addition to traditional Leaving Certificate subjects, three attractive and well designed modules that help to prepare them for work and post-school careers. These give students workplace experience, develop job seeking skills, help to expand their knowledge of the workplace, and expose them to applied and contextualised learning styles in and out of the school. A significant work experience element is also included in the Leaving Certificate Applied programme, which also has a strong guidance focus. At the discretion of the school, guidance and work experience can also be included in the curriculum of the Transition Year, and in practice they appear to be in a large proportion of cases¹².

9. There are approximately 630 full-time equivalent positions for Guidance Counsellors in Irish secondary schools. The Department of Education and Science's Guidance Inspectorate is responsible for the professional supervision and inspection of Guidance Counsellors in secondary schools, although responsibility for decisions on resources rests elsewhere in the Department.

2.2.2 *The public employment service*

10. The 1987 Labour Services Act requires the Irish Training and Employment Agency (FÁS) "...to provide, or arrange for the provision of, whether for reward or otherwise, services consisting of the provision of guidance, advice and information in respect of choice of career and employment and to assist (whether financially or otherwise) in, and co-ordinate, the provision of such services by others".

11. The Irish public employment service has some distinctive features that affect the ways in which career information, guidance and counselling services are provided:

- Benefit administration takes place in a separate agency, leaving the employment service free to concentrate upon job placement and the management of labour market programmes (including associated occupational guidance);
- The employment service consists of two arms: FÁS and the Local Employment Service (LES). The LES was established in 1995 as a separate service to tackle pockets of persistent unemployment through smaller, more approachable local offices whose staff work to mobilise the long term unemployed and those not in the labour force back to work or study. Whilst in theory integrated, the two services in practice appear to operate separately; and
- FÁS is responsible for both employment services and training services, including the management of apprenticeship and the administration of vocational training centres.

12. One outcome of these arrangements is that the day-to-day work of front-line FÁS staff can combine a guidance function and a job placement function. As a result

most Employment Service Officers (and close to eight in ten of all LES staff) are at times involved in the provision of information, guidance and counselling services. The combined number of FÁS Employment Service and LES staff with at least some form of guidance training is close to eight in ten of those who become involved in providing information, guidance and counselling. FÁS and LES staff are able to undertake the University of Ireland, Maynooth Certificate in Adult Guidance and Counselling on a part-time basis over a twelve month period. Their tuition fees and release time for course attendance are paid for by FÁS, and on gaining the qualification those who complete the Maynooth course normally receive an increment on their salary scale. FÁS has set itself the goal of increasing the number of its staff (including LES staff) who are qualified at Diploma/Higher Diploma level in guidance and counselling. Another outcome of the way that the public employment service is organised is that guidance and placement services are able to be integrated with training services and located within FÁS training centres. Within a lifelong learning context this has the potential to give staff a stronger focus upon education and training.

13. The tight labour market of the 1990s has resulted in FÁS staff reducing the amount of time spent on managing labour market programmes, and has increased the pressures for the agency to strengthen its employer servicing functions and its role in training and in addressing skill shortages.

14. Within FÁS and the LES as a whole approximately 580 staff are involved in providing information, guidance and counselling services. While in practice much of this is limited to information provision, those clients who are case-loaded and given priority under the national Employment Action Plan receive a more in-depth guidance and counselling service. The LES is notable for employing staff (called Mediators) who provide basic guidance and information.

2.2.3 Post Leaving Certificate

15. Guidance services in the burgeoning Post Leaving Certificate (PLC) sector are staffed by the Department of Education and Science (DES) using the same qualification requirements and student-to-Guidance Counsellor ratios that are used to staff secondary schools, with the same discretion being given to the Principal as to the use of their time. Guidance staff appear to serve both enrolled students and prospective students. Unlike their colleagues in schools they are often required to play a marketing role, visiting upper secondary schools to provide information to prospective students. Like their colleagues in schools, Guidance Counsellors in the PLCs do not provide a focused careers service, but must meet needs for both career and personal advice and counselling.

2.2.4 Tertiary and post secondary education

16. All Irish universities and many Institutes of Technology provide a careers advisory service. Unlike guidance services in Irish schools and PLC institutions, careers services in tertiary education are normally specialist careers services, and are quite separate from the student health or psychological services that provide personal counselling and advice. The qualifications and training of those who staff these services are determined by the institutions themselves, without central regulation. The Irish Higher Education Authority has issued guidelines on such services, but these appear to be quite broad and to play a limited role in defining their nature in practice. A little under 37 careers advisers, and some 15 support staff and information officers, work in the careers services of these institutions.

2.2.5 Other

17. The great majority of all information, guidance and counselling staff in Ireland are employed in secondary schools and in the public employment service¹³. A number of interesting smaller services also exist.

- Following the publication of the White Paper on Adult Education¹⁴ 11 pilot adult education guidance programmes were established in 2000. An additional eight projects were established in 2001, and a further group of eight will be launched in 2002. The pilots are intended to provide support to adults who are enrolled in the Vocational Training Opportunities Scheme, in literacy programmes and in community education programmes¹⁵. These pilots are interesting and innovative in a number of ways. Networking, community links and partnerships are integral to their operations; clear targets for their client group have been established and monitoring methods have been put in place to assess how well targets are being achieved; an evaluation process that allows learning from best practice has been established; and their staffing structure makes use of para-professionals as well as of qualified Guidance Counsellors¹⁶. A post graduate Diploma in Guidance and Counselling is normally sought for guidance staff recruited to the pilots, as in secondary schools, but difficulty in obtaining sufficient qualified staff for the new pilots was reported.
- The Youthreach programme was established in 1989 and provides a safety net for early school leavers and unemployed youth. Individual programmes are located in a wide variety of settings: centres sponsored by local Vocational Education Committees; Community Training workshops that are funded by FÁS; and Senior Traveller Training Centres. The personal, social, educational and vocational problems experienced by many participants result in advice, guidance and counselling commonly forming part of the job of those who teach in the programme, and pilot training programmes have been established to meet this need. In addition a guidance service is provided to each programme by qualified personnel on a limited part-time basis¹⁷.
- Career guidance, normally as part of pre-release programmes, is provided within Irish prisons. Services provided by professional guidance counsellors are complemented by less structured guidance provided by probation officers, chaplains, teachers in the prison education service and the like.
- Career guidance is also provided by FAS within its small Asylum Seekers Unit¹⁸.
- Little is known about the extent of career guidance provided by the private sector in Ireland, although the Institute of Guidance Counsellors (one of the main professional bodies for guidance workers) reports having members employed in recruitment firms, management consultants and the like. That the sector is not large is hinted at by the limited number of entries in the Irish Golden Pages telephone directory for those providing such services. However the private sector does play a role in producing and disseminating career information. This is discussed in more detail in Section 3.2.

3. POLICY ISSUES

18. Ireland has a number of well developed and well supported information, guidance and counselling services. Strengthening the focus of these services upon *career* information, guidance and counselling will be important in helping to lay a more solid basis for lifelong learning in Ireland. In the short term the creation of separate career-focused services, to sit alongside and complement other types of guidance services, is not a practical option, both for resource reasons and because of the strong institutional infrastructure already invested in the provision of existing services. The emphasis in the medium term needs to be upon strengthening and supporting existing services to improve the ways in which they provide career-oriented assistance. We suggest five areas in which such a goal might be addressed.

3.1 A better balance of services within schools

3.1.1 A better balance between services in upper and lower secondary schooling

19. The 1999-2000 Audit of Guidance in Post Primary schools (NCGE, 2000) shows a major imbalance between guidance services provided in lower (junior cycle) and upper (senior cycle) secondary education. In over 60% of schools 20% or less of total guidance time is spent with students in the junior years of secondary schooling, and in roughly a quarter no time at all is spent with these students. This imbalance is very hard to justify¹⁹. If it were the case that resource limitations and student-Guidance Counsellor ratios require decisions to be made about priorities for access to services, school grade does not seem the most rational way to ration services. A more equitable way to ration services would be based upon student needs.

20. Certainly the potential number of guidance and counselling hours available per student constitutes a strong argument for developing better ways to screen students and ration services based upon student need²⁰. This would require more systematic tools for assessing student need to be developed.

21. Putting in place a stronger developmental approach to career assistance, to give students skills in career decision making, improve their knowledge of the world of work, and better prepare them for upper secondary subject choice is one answer to this problem. One of the strongest arguments in its favour is that, if well done, it will reduce the pressures upon Guidance Counsellors to provide career assistance in a one-to-one mode and give them increased time, when they are providing such assistance, to focus upon students who have the greatest needs. Where career assistance is included within the curriculum -- for example in the Leaving Certificate Vocational and Applied Programmes referred to in Section 2.2.1 -- we gained the impression that teachers responsible for delivering career-related modules and Guidance Counsellors can work well together in individual schools. However only limited opportunities are available for students to take part in such programmes. Expanding them will require policy decisions to be taken centrally. As curriculum-delivered and Guidance Counsellor-delivered career assistance are at the moment managed by separate areas of the Department of Education and Science these central policy decisions require a co-ordinated overall approach to be taken to career development policy. At the moment no policies are in place to ensure either that all students receive some careers education, or to prevent duplication in the use of limited resources to provide access to career education. Students in the Transition Year may receive career education for example, and then receive it again if they enter the Leaving Certificate Applied or Vocational programmes.

22. Mandating work experience, work orientation, career education or similar subjects within the lower secondary curriculum²¹ could be one policy option for addressing this issue. One of the arguments against such an option is the problem of crowding in the junior cycle curriculum. In Ireland's case such an argument will have greater force because of the importance of external examinations within the system, which increases the reluctance of students, parents and teachers to increase the time devoted to non-examinable subjects. However this argument does not apply within the Transition Year that around 40% of the cohort already take part in. It is an ideal place to begin to build such an approach: making career education and work exploration a mandatory part of the curriculum; integrating curriculum- and guidance-based approaches to career assistance at the policy level; and building a stronger basis for an integration of a teaching- and a guidance-based approach at the level of the school. A model is available in the link modules included in the Leaving Certificate Vocational Programme, and these are supported by excellent curriculum materials²². An important element of such an approach would be assistance with choice of senior cycle subjects in the light of students' occupational aspirations.

23. Another curriculum-based option would be to extend the opportunities for students to include career-related modules in their senior secondary programmes, as they are in the LCVP and the Leaving Certificate Applied. One of the many attractive features of the LCVP is that it allows students at the one time to prepare for tertiary entry examinations and to prepare themselves for their future careers, but to do so in a way that does not narrow their options by concentrating upon specific occupational preparation. At the moment students' flexibility in selecting subjects within the LCVP, and hence the wider attractiveness of the programme, appear to be constrained by the LCVP's origin in the European Social Fund²³. Ways of incorporating this approach into all Leaving Certificate programmes need to be explored, either by making subject choice in the LCVP more flexible, or by other means.

3.1.2 *A better balance between career-oriented services and personal and social guidance and counselling*

24. The 1998 Education Act requires schools to provide students with "appropriate guidance to assist them in their educational and career choices". Schools are now encouraged to develop guidance plans as a way of implementing this requirement, but as yet no definition exists of what appropriate guidance should be. We believe that there needs to be a clear statement by government, backed by resource decisions, that appropriate guidance includes access by all students to assistance with their career decision making and development. This would be an important step towards introducing an entitlement for all students to balance the obligation imposed upon schools in the 1998 Education Act. The implementation of such an entitlement would require the use of a wide variety of approaches in addition to on-to-one Guidance Counsellor interventions: curriculum-based approaches; experience-based approaches; the use of ICT; and the wider use of community resources are among these approaches. This would have implications for the overall approach to the allocation of resources for careers assistance purposes.

25. Clearly there are resource implications involved in making such a statement, the resolution of which will not be immediate. We address these at several points, including Section 3.1.1 above and Section 3.4.3 below. At the moment a number of factors mitigate against careers work being a high priority within schools' overall approach to guidance. These factors include:

- The absence of a formal guidance programme planning requirement for schools²⁴;
- Constraints on Guidance Counsellors' time arising from:
 - ⇒ A role that combines subject teaching with guidance;
 - ⇒ A role that combines personal and social guidance with careers guidance; and
 - ⇒ Existing student-to-Guidance Counsellor ratios.
- A weak integration of career guidance into either the curriculum or the day-to-day work of subject teachers; and
- Limited use of experience-based approaches, of ICT and of community-based resources to extend available Guidance Counsellor resources.

26. In obtaining a better balance between assisting students with their personal and social problems on the one hand and their career and work-related needs on the other, much attention has been given to only one of these factors: existing student-to-Guidance Counsellor ratios. The 2001 Guidance Enhancement Initiative has taken some steps to address these. However if career guidance is to achieve a better balance within the overall profile of schools' guidance activities, approaches that take all of the above factors into account need to be developed.

3.2 A more integrated and co-ordinated approach to career information

3.2.1 Existing products

27. The 1987 Labour Services Act gives FÁS a formal responsibility for developing career and employment information. In fulfilling this role it has developed *Career Directions* as its principal product. *Career Directions* provides information on some 800 occupations or careers. In the past it has been produced and distributed, both to FÁS offices and other agencies principally in CD-ROM format²⁵. However the version that was to become available in January 2002 is also to be available on the Internet²⁶, with a link to FÁS job vacancy data. *Career Directions* contains a front-end individual vocational interest assessment instrument that allows occupational interests and preferences to be evaluated and which is used to narrow the occupations or careers to be searched. While it produces a list of suggested occupations for the user it does not produce a report on the interest areas themselves. In this sense it is not a transparent instrument, giving no feedback to users that can be used to improve self awareness. It also appears to be somewhat ad hoc in its method of development, and not based upon accepted theories of occupational choice or rigorous psychometric principles. *Career Directions* contains a range of information on education and training requirements for the occupations that it includes, but this information is not as detailed as that contained in QUALIFAX, the second major Irish electronic career information product.

28. QUALIFAX is a directory of courses in tertiary education and in Post Leaving Certificate institutions. It contains information on student grants and on tertiary application procedures in addition to course information. Its development was an initiative of the Institute of Guidance Counsellors, although support for developmental work is now provided by the Department of Education and Science. It is widely distributed in CD-ROM format and can also be accessed on the Internet at <http://www.qualifax.ie/>. The version available at the time of the visit did not include courses in FÁS training centres (including apprenticeship courses), on courses available at the upper secondary level, or on adult education courses, but it is intended that the first of these will be included in the new version whose development is planned to

commence early in 2002. Like *Career Directions* it contains an interest assessment tool that is used to help narrow the courses to be searched. Like the tool built into *Career Directions* it is ad hoc in nature, and not based upon accepted theories of occupational choice or rigorous psychometric principles. Like the preference tool in *Career Directions* it is relatively untransparent, in that individuals' results are not reported to them, but this is intended to be rectified in the new version intended to be developed in 2002. QUALIFAX is not linked to job vacancy data or other FÁS data on labour market supply and demand.

29. In addition to *Career Directions* and QUALIFAX, *Careers World* is a widely used career information product that was developed by the private sector with financial support from the Department of Education and Science. Available on the Internet at <http://www.careersworld.com/> and distributed gratis to schools and other educational institutions in CD-ROM format, *Careers World* draws its information from enterprises, most of which are large and in the private sector, and enables them to provide information on the employment and careers that they offer. It is funded by employer subscriptions, and has been seen as a way for firms to help recruit staff in a tight labour market²⁷. Its coverage of small firms, which are the bulk of the Irish enterprises, is limited, as is its coverage of some occupational areas. Like *Career Directions* and QUALIFAX it incorporates a preference assessment exercise. It has a polished and professional feel to it with ample graphics and sound. The principal feature that is not contained in the other main products is its "real life" component: exemplars of individuals who are working in the contributing enterprises. It also provides links to tertiary and further education course information related to the occupational areas that it includes.

30. In addition to these three main products, there is a wide variety of other information available. Individual educational institutions, private firms, professional organisations and industry associations produce information, usually in print form, and distribute it to schools and other educational institutions. The national press produces careers guides. Many products developed and published by the private sector are available in print (for example a guide to adult education courses in the Dublin area is widely sold in bookshops and other locations). Some of the adult education guidance pilot programmes appear to be starting work to develop local data bases on education and training opportunities, with a particular emphasis upon adult education. And in some cases the LES appear to tailor information produced elsewhere to the needs of their clients: for example by simplifying the language and making it more visually attractive by the addition of simple graphics. It is commendable that clients' needs are being met in this way by local services, but it does hint at weaknesses in the initial central design of products to meet diverse client needs. Print-based sources such as all of these appear to be viewed favourably as very helpful sources of information, particularly by young people²⁸.

3.2.2 *A new and more comprehensive electronic product*

31. There are a number of gaps, and some duplications, in these services and products. Two approaches could be taken to achieve a more comprehensive and integrated approach.

- On the one hand the government could play the role of a market facilitator and standards setter: for example contracting out the production of career information products in order to stimulate a more diverse array of developers; laying down guidelines on quality standards; endorsing products

that meet these standards; and providing funds to users to enable them to purchase the products of their choice. A decision to play this type of role more strongly would entail an assessment of the scope for, and risks involved in, the stimulation of a sustainable private market for career information products in Ireland.

- Another option is for government to continue to act as the dominant producer of the major electronic career information products, but to do so in a more co-ordinated and comprehensive way, improving the quality of its products, and at the same time playing a stronger role in setting standards for the diverse range of other career information products available in Ireland²⁹.

32. While much of the career information available in Ireland is print-based, and this appears attractive to and valued by young people, arguments in favour of a progressive shift towards electronic delivery as the major vehicle are strong -- despite present hardware and software limitations. Electronic products can be updated easily and cheaply; it is easier to link occupational and education and training data to one another electronically than in print; electronic delivery enables self-assessment tools to be readily linked to occupational and educational data; and electronic delivery potentially allows links to job vacancy data, data on student grants and other forms of income support to be incorporated into a single system. The need to shift QUALIFAX away from a DOS based arrangement in 2002 provides an opportunity for some of these issues to be addressed, and for work to begin on the development of a more comprehensive, co-ordinated and integrated electronic career information product.

33. Such a product should satisfy a number of criteria. It should:

Assessment

- Include a simple yet psychometrically rigorous self-assessment tool at its front-end which provides the user with a summary report along a number of personal dimensions that have a sound basis in career choice theories;
- Use the summary dimensions reported by the assessment tool as a way to link users to information about occupations and to information about education and training courses, and to link these to one another;

Education and training information

- Contain comprehensive information on education and training courses at all levels: upper secondary, FÁS training courses including apprenticeships; Post Leaving Certificate courses; third level courses at universities and Institutes of Technology; and adult education courses;
- Contain or provide links to information on available income support for education and training;

Occupational and labour market information

- Contain comprehensive descriptions of a wide range of occupations;
- For each of these occupations provide labour market supply and demand data such as labour force size, income levels, unemployment rates and the like;

- Contain, where appropriate, graduate destination data such as employment rates and income levels ;
- Provide links to FÁS job vacancy data;

Quality

- Be based upon agreed standards (for example on currency and completeness) for the quality of the information provided for it by institutions;
- Be developed as a user-friendly product, with its readability and visual accessibility tested with potential users during the development phase;
- Allow all information to be easily printed in hard copy by users.

34. Given current technological limitations in schools in particular, such a product would need to be developed in the first instance in CD-ROM format, not only on the Internet. Developing such a product will not be a short term project. Nor can it be a task for only one organisation or agency. It will require a working partnership to be established between all concerned parties: the Department of Education and Science and FÁS in particular; but also education and training providers at all levels and professional associations.

3.2.3 A unified post-secondary admissions system

35. One other step, and a relatively simple one, can be taken to encourage a seamless view of learning opportunities in Ireland. At present those Leaving Certificate candidates who wish to enter further study must complete separate application forms for university and Institute of Technology courses on the one hand and Post Leaving Certificate (PLC) courses on the other. The existence of two separate admissions systems, only one run by the Central Applications Office, is inconvenient, unnecessarily complex and cumbersome for students, and encourages the perception of an artificial dichotomy between the two types of post-school education. It complicates the provision by Guidance Counsellors of practical advice to students on admission requirements, and makes it more difficult for students to see the similarities and relationships between courses in the two sectors. For both reasons -- the interests of prospective post-secondary students and the encouragement of a more seamless approach to post-secondary education -- it is strongly recommended that Ireland introduce a single applications and admissions system, requiring a single form to be completed, for both PLC and third level courses.

3.2.4 Setting standards for career information

36. The development of a comprehensive and integrated electronic product such as that described above should not be the only priority. The reality is that an enormous amount of the career information used in Ireland is in print form -- posters, leaflets, newspaper articles, magazines, books -- as well as on TV, on the radio or in video. Much of this is produced by educational institutions, but also by industry associations, professional groups, private enterprises, the media and the private publishing industry. Government has an interest in the quality of this information: its timeliness, its accuracy, its objectivity, its freedom from bias. Government therefore should play a role in helping to set standards for such products, and in helping improve their overall quality by endorsing those that meet these standards. Setting and promoting such standards will require a co-ordinated approach between the several agencies and organisations

involved, including the private sector, and in particular between the education and labour portfolios.

3.2.5 *Integrating networks and experience into career information strategies*

37. In all countries, including Ireland, evidence shows that young people obtain much of their career information from those that they know or are introduced to (family, friends, local employers, visiting speakers) or from experience (work experience, part-time jobs, industry visits). Yet often these information sources are not systematically incorporated into career development policies. In Ireland, and particularly within schools there is a lack of a widespread and systematic strategy to enable young people to contextualise career information through experience-based methods such as work experience and job shadowing, or the use of employers, alumni, parent and other community members and role models as part of schools' career guidance strategies. These are problems which need to be addressed as part of the adoption of a stronger developmental approach to career assistance in schools that was outlined in Section 3.1.1. Addressing them adequately will require co-ordination between the organisations and agencies that produce and develop career information, as well as between schools and community groups. And developing a wider and more systematic use of networks and experience as part of an overall approach to careers assistance will have implications for demands for increased resources to be devoted to Guidance Counsellors, hopefully reducing them in the longer term by extending the types of resources that schools can draw upon.

3.3 *A more integrated approach to the skills, qualifications and careers of practitioners*

38. The community of those who provide career information, guidance and counselling in Ireland is a wide one. They are located in many agencies: schools, universities, employment offices, government departments, community agencies, prisons and private enterprises are among them. Some provide services on a full-time basis, but most combine it with other jobs such as teaching or job placement. Some are regarded as professionals because of the level of the qualifications that they hold, but their professional work includes other forms of information, guidance and counselling in addition to career information, guidance and counselling. They work alongside many who are regarded as para-professionals: information officers, mediators and the like. And in addition there are many who provide this type of service informally as part of their main work roles: teachers of early school leavers; prison chaplains and warders and the like. Some of this very diverse group of people work mainly with youth. Some work mainly with adults. And some work with both. Some work largely with those members of society who suffer severe social and economic disadvantage. Some work mostly with those who do not but at times with those who do. All of this diverse group of people are trying to do similar things: help people with their career choices and career development. Their work is underpinned by a similar core of knowledge and skills. All can benefit from sharing their knowledge and experience with one another, and all need to work with similar tools and techniques. Like their clients they have career development needs. Some have to bear the costs of their initial training themselves. Others have these costs met by their employer. In some cases employing authorities provide them with a number of development and training opportunities, yet for many the opportunities for recurrent education and training are quite limited.

39. Whilst a wide community with many common interests and needs, it is a surprisingly fragmented one for such a small country. It is represented by several professional associations with different and often excluding membership requirements³⁰. It is served by several different training courses, designed to meet needs that are presumed to be separate but not focusing upon agreed common or core skills and competencies. These training courses lead to different qualifications that often bear little systematic relationship one to another, and which often deny the lifelong learning principles that so many who hold them strongly espouse³¹. Rarely for example can qualifications at a para-professional level be used as a building block towards higher level professional qualifications. And guidance qualifications often seem to be barriers to access to employment rather than a way of expanding career opportunities. This fragmentation in qualifications and training not only limits the career opportunities of those who work in the field. It also helps to limit the ability of the profession (employing authorities and employees equally) to focus upon common needs and concerns and to act collectively in both their mutual interests and to advance client interests. It helps to maintain distinctions that are increasingly artificial in a lifelong learning context between employment- and education- based career development.

40. The introduction of the adult guidance pilot programmes, and new government initiatives in the area of adult education, have thrown many of these issues into relief. The pilots are highlighting the need for the core skills of counsellors to be supplemented by the specialist knowledge and skills required for work with adults, a need which also exists in the case of those Guidance Counsellors with training largely designed for school settings who work in PLC institutions. The need for more flexible approaches to training, development and recruitment is highlighted by other developments. These include:

- The growing potential for ICT to extend access to career information, guidance and counselling;
- New approaches to career guidance that place an emphasis upon the involvement of community members such as parents, alumni and employers as advice and information resources;
- Increasing numbers of refugees and asylum seekers among the Irish population;
- New priorities in government policies for the disadvantaged; and
- A growing pressure for a European dimension to be included in education and employment policies.

41. At the moment training, qualification and career structures for career information, guidance and counselling workers in Ireland are having difficulty in coping with such developments.

42. As a first step in addressing these issues we recommend the development of a common standards framework for the skills, knowledge and competencies needed by those who work across the full spectrum of career information, guidance and counselling services in Ireland³². Such a standards framework, which should identify both core skills and the specialist skills required in different sectors, for workers at several levels, is needed as a basis for a more coherent approach to the construction of initial qualifications, as well as for the development of recurrent education and training programmes. It is an essential basis for the development of qualifications that can link to each other both horizontally and vertically in order to widen career opportunities for guidance workers and to increase the flexibility with which employing agencies can deploy labour.

3.4 A more co-ordinated approach to targets and resources

3.4.1 Policies to widen access by adults

43. If career information, advice and guidance are to be seamlessly integrated into national lifelong learning frameworks, careful thought needs to be given to how adults can access them. A key concern must be to ensure access to appropriate advice and information by those adults who do not fall within the client groups of the major institutional settings where career information, guidance and counselling is provided. In a lifelong learning context particular attention needs to be paid to those individuals who are in a process of transition: into and between employment and learning. In practice this means that those adults who are, for example, not job seekers and not students, but who wish to re-engage in learning or to develop their careers must not be allowed to fall through the cracks. At present those who are already employed and, in particular, those who are not in the labour force do not readily fall within the guidelines or client groups of the principal information, guidance and counselling services available in Ireland: schools; FÁS, the LES, tertiary education, PLC institutions, the adult guidance pilots³³. Given the low rates of labour force participation by women in Ireland improved information, advice and guidance for the group of women who are not in the labour force are important.

44. This is an issue that needs to be addressed as a priority. One option, given the advantages of a community-based rather than an institutionally-based solution to this problem, would be to take advantage of the strong community links of many of the adult guidance pilots and to change the guidelines for this programme so that both enrolled students and prospective students could be assisted. Another option would be for greater advantage to be taken of the provision in the 1987 Labour Services Act that allows FÁS to fund others -- for example community groups -- to provide career advice, guidance and information³⁴. Both options have much merit. Choosing whether one or the other, or what combination of the two, should be adopted requires a co-ordinated approach between the portfolios.

3.4.2 Funding adult access

45. The adult guidance pilot programmes are among the most interesting recent development in career information, guidance and counselling in Ireland. One of the impressive features of these pilots is that, unlike many other career services in Ireland they are clearly targeted: in this case towards those enrolled in specified courses. There have been suggestions³⁵ that adults outside of these designated courses might be charged a fee for services. Whatever the merits or otherwise of this suggestion, it runs the risk of creating distorted incentives for adults unless carefully co-ordinated between agencies and delivery settings. The adult guidance pilot programmes are not the only government services providing career assistance to adults in Ireland. Adults -- and in many cases adults whose characteristics appear similar to those serviced by the new pilot programmes -- also receive help from Guidance Counsellors in PLC institutions, from FÁS, from the LES, from the Prisons Service and from the Asylum Seekers Unit. In many cases it would be a matter of chance that determined which of these an adult, and in particular an adult who was not applying for or receiving welfare or unemployment benefits, approached for assistance. If one but not the others charged fees, without a common set of principles across agencies for deciding on who should be charged and at what rate, there is a risk of real inequities arising. This is an issue that needs to be addressed in a co-ordinated way between FÁS and the Department of Education and Science.

3.4.3 Allocating guidance resources

46. A further resource issue that affects services is the formula that is used to allocate guidance resources to PLC institutions. These are the same as those used to allocate resources to schools. However the student body in PLC institutions seems to consist of many adults and older adolescents who are disadvantaged, who suffer from personal or social difficulties, or who otherwise need more intensive assistance: for example overseas students who cannot call upon family networks for assistance. In addition the Guidance Counsellors are expected to undertake an institutional marketing role that is not expected of Guidance Counsellors in schools. This suggests a need for the basis upon which guidance resources are allocated to PLC institutions to be reconsidered.

47. Such a reconsideration should, however, be part of a wider consideration of how guidance resources are allocated to schools as well as to PLC institutions. At present the major basis is school size. This presumes that all schools have equal needs, but *ipso facto* this seems unlikely. The 2001 Guidance Enhancement Initiative took an important step towards recognising differential needs in the decision to allocate additional resources, at least in part, to schools with many disadvantaged students. However at best this is a rough and ready measure³⁶, and a clearer way of measuring need as a basis for allocating resources needs to be found.

48. However a more fundamental problem is that the formula used to allocate guidance resources to schools in fact does not allocate *guidance* resources. It allocates *teaching* resources, with the use of these hours, and their allocation between teaching duties and guidance, being at the discretion of the Principal. The 1998 Education Act requires schools to ensure that pupils have access to appropriate guidance to assist them with their educational and career choices. In Section 3.1.2 above we argued that there needs to be a clear statement by government, backed by resource decisions, that appropriate guidance includes access by all students to assistance with their career decision making and development. Strong pressure has been exerted to reduce student-to-Guidance Counsellor ratios as a way to increase guidance resources in schools. This is one approach to the resource decisions required if the government is to strengthen the implementation of the 1998 Act by giving students a right to assistance with their career decision making and development.

49. However an alternative approach, which will make fewer immediate demands upon the public purse, is to ensure that the resources allocated to schools for guidance are in fact used for this purpose, and to remove from Principals the discretion to allocate these resources for teaching purposes. This could be done as part of the government statement clarifying the meaning of "appropriate guidance" referred to in Section 3.1.2. We are attracted to a way of addressing this issue that does not focus only upon student-Guidance Counsellor ratios in large part because it implies a much broader view of resource allocation and of careers assistance work, particularly if conducted in association with a stronger emphasis upon guidance programme planning. As we indicate elsewhere, we are attracted to models in which face-to-face assistance by Guidance Counsellors is only one element in a strategic approach to career development and decision making that also includes curriculum delivery, ICT-based assistance, experiential learning in work places and communities, and extensive use of community members such as parents, employers and alumni. If additional resources are to be allocated to career information, guidance and counselling in schools we believe

that training programmes and resource development that can assist in the implementation of such a broader approach should receive a priority.

3.5 Improved steering, governance and co-ordination

3.5.1 Steering and governance

50. Recent years have seen progress in developing policy instruments for steering information, guidance and counselling services in Ireland. Both of the main services -- in schools and in the labour portfolio -- are now governed by legislative requirements, although the definition of the services required under the relevant legislation in each case remains fairly general. Within the education portfolio the National Centre for Guidance in Education conducts a number of valuable surveys and produces a number of useful reports that assist in highlighting key issues and pointing to directions for improvement. Within FÁS a similar function is performed by the Employment Services Support Unit, although publications on guidance issues are far fewer. In 1996 the National Centre for Guidance in Education issued schools with guidelines on guidance programme planning, and although guidance programme planning as yet occurs in less than one second-level school in three, with a committed Principal and committed guidance staff it can be a valuable internal instrument for setting goals and monitoring progress towards achieving them. Resources have recently been increased in the Department of Education and Science's guidance inspectorate. The 2001 Guidance Enhancement Initiative was an important step in moving towards a tailoring of guidance resources to policy priorities. While standards for service delivery, staff competences or career information are not used at the moment in Ireland, individual FÁS Employment Services Offices have ISO9000 accreditation and FÁS has recently introduced a course on management of guidance for senior managers. Services in tertiary education generally seek accreditation from AGCAS in the UK.

51. Despite this progress, there are additional steps that could be taken to improve the link between policy and practice. We have suggested the development of standards for career information in Section 3.2 above. We have also suggested in Section 3.3 above that a comprehensive standards framework for the competencies required of all career guidance workers be developed. Such a standards framework could be a basis for a much stronger role to be played by employing authorities in influencing the content of training for guidance staff, particularly within education where, at the moment, the role played by the Institute of Guidance Counsellors in accrediting programmes appears quite weak, with little leverage over institutions being exerted in practice. In light of the requirement of the 1998 Education Act for schools to provide students with appropriate guidance to assist them *in their educational and career choices*, there is a need for a strong emphasis upon *career* guidance within training programmes. The National Centre for Guidance in Education has regular discussions with training providers on a harmonisation of content. The management of this process more centrally by the government as the principal employer, bearing in mind the role of the Department of Education and Science in funding universities, would help to advance this process. This will need a joint collaborative approach to be adopted by the Department of Education and Science and FÁS.

52. Another weakness in linking policy making and practice is the absence of much basic administrative data that allows service use to be monitored. A precedent has recently been set in this area, with the new adult guidance pilots developing a simple client recording instrument to allow the use of services by designated target groups to be

monitored, and in addition the FÁS/LES Caseload management System is used to monitor and track clients' progress. Such experience has shown that it is possible to develop such an instrument in a way that preserves client confidentiality and that involves professional staff in a positive way in its use in order to improve service quality. There is a need to develop a similar instrument for use in all schools and Post Leaving Certificate institutions. The regular collection of data in these institutions on access to services as a function of age, gender, grade, geographical region and presenting problem is an essential tool for policy making. It would also be a valuable tool for individual Guidance Counsellors, giving them systematic rather than impressionistic, as at present, feedback on the services that they provide. Feedback to individual institutions should be an essential feature in the development of such an instrument.

53. The more comprehensive overall approach to the provision of careers assistance within schools that we have advocated in Section 3.2 will also require an improved and more co-ordinated way to monitor the overall resources -- both through personal guidance and through curriculum delivery -- that are devoted to careers assistance.

3.5.2 *Co-ordination*

54. The national seminar that was held during the national visit showed the value of bringing all key players in career guidance together to address key issues of common concern. To help ensure a co-ordinated approach to issues such as these, we advocate the creation of an Irish career guidance forum on a permanent basis in which all key players -- employing bodies; professional associations, trainers as examples -- are able to participate.

55. In addition to the creation of a forum such as this, there is a strong need for more systematic co-ordination between the major actors. At a number of points above we have suggested that many of the practical issues that need to be resolved in developing career information, guidance and counselling services in Ireland within a lifelong learning framework will require improved co-ordination between the key agencies and stakeholders involved. These include:

- Improved co-ordination between curriculum-based and guidance-based approaches to careers assistance within secondary schools, and a wider adoption of approaches that strengthen Guidance Counsellors' work through the use of experience, ICT and community resources;
- The development of a new and more comprehensive electronic career information product;
- The development and promotion of a set of standards for the full range of career information products available in Ireland;
- The development of a comprehensive standards framework for the skills, knowledge and competencies needed by the full spectrum of those who provide career information, guidance and counselling services, to be used as a basis for the content of initial and recurrent training programmes, to create better horizontal and vertical links between qualifications, and to improve career paths for guidance workers ;
- The need for decisions on whether improved adult access to guidance services would better be served by modifying the guidelines of the adult guidance pilots, by making greater use of provisions in the Labour Services Act, or by some combination of these;

- The development of a common set of principles to fund adult access to career guidance, in order to avoid the creation of distorted incentives between services.

56. While many agencies and organisations are involved in providing career information and guidance services in Ireland, the Department of Education and Science and FÁS are the two key agencies. Improved co-ordination and co-operation between them, in particular on the issues set out above, will be essential.

4. SUMMARY AND CONCLUSIONS

57. In moving closer to a lifelong approach to the provision of career information, guidance and counselling services, Ireland has many strengths. The legislative basis is solid, there is a climate that favours initiative and experimentation, the profession is a committed one, and the services that it provides appear on the whole to be well received. As the major services normally are provided by those who also have other tasks and roles -- personal counselling, job placement as examples -- there needs to be an emphasis upon ways in which the careers aspect of their work can be strengthened. We have made a number of suggestions, which are summarised in Appendix 3. Central to them is the development of an improved information base to help steer the development of services, improved co-ordination between the key stakeholders, and a more diverse approach to delivery that makes wider use of community resources, ICT, experience, and curriculum delivery. We have also suggested ways in which resources might better be targeted to improve adults' access to services and to sharpen the use of guidance resources in schools.

Appendix 1: OECD review team

David Fretwell
Lead Employment and Training Specialist
Human Development Sector
Europe and Central Asia
World Bank
Washington D.C., USA

Richard Sweet
Principal Administrator
Education and Training Division
Organisation for Economic Co-operation and Development
Paris, FRANCE

Appendix 2: Programme for the national visit

Monday 3 December

- 10.30-12.30 Meeting with the drafting committee for the national questionnaire
> Discussion of the programme for the week
> Discussion of the national seminar to be held on the Tuesday
- 12.30-13.30 Lunch
- 14.00-16.30 Discussion with senior officers of the Department of Education and Science
- 16.30-17.00 Discussion with National Centre for Guidance in Education

Tuesday 4 December

National seminar

- 10.30-11.00 Introduction to the OECD review and expected outcomes
- 11.00-12.00 Co-ordination and governance
- 12.00-13.00 Guidance practitioners: skills, qualifications and careers
- 13.00-14.00 Lunch
- 14.00-14.45 Career information: development and delivery
- 14.45-15.30 Evaluating guidance: quality assurance
- 15.30-16.15 Lifelong guidance for all: next steps

Wednesday 5 December

- 9.45-10.45 Irish Training and Employment Authority (FÁS): overview
- 10.45-11.45 Career information services: FÁS and other
- 11.45-12.45 Lunch
- 13.15-14.15 Southside Local Employment Service
- 14.45-15.30 FÁS Training Centre Loughlinstown
- 16.00-17.00 Discussion with senior officers of the Department of Enterprise, Trade and Employment

Thursday 6 December

- 9.00-10.30 Loreto College, Crumlin
- 11.00-11.45 Terenure College
- 12.45-13.45 Lunch
- 14.30-16.00 Dunlaoire Adult Educational Guidance Service
- 17.00-18.00 Dr Michael O'Rourke, School of Education, Trinity College Dublin

Friday 7 December

- 9.30-10.30 Liberties Vocational School, Dublin
- 11.00-12.30 Careers and Appointments Office, Trinity College Dublin
- 13.00-14.00 National visit review meeting

Appendix 3: A summary of suggestions and recommendations

Suggestion/recommendation

- Develop more systematic tools for assessing student need in order to obtain a better balance of services between the junior and senior cycles of secondary school, between different schools, and between schools and Post Leaving Certificate institutions
- Adopt a stronger developmental or curriculum-based approach to career assistance in schools by:
 - Including career education as a compulsory element in the curriculum of the Transition Year;
 - Incorporating the LCVP career-related modules in a wider range of Leaving Certificate programmes;
 - Making the LCVP more attractive by relaxing its guidelines to give students greater flexibility in subject choice
- Issue a clear and public statement (by government) that “appropriate guidance”, as specified in the 1998 Education Act, includes access by all students to assistance with their career decision making
- In considering the resource implications of such a statement, adopt a broader approach to the types of assistance that this would require than a simple focus upon student-to-Guidance Counsellor ratios
- Develop a new and more comprehensive electronic career information product
- Develop a unified post-secondary admissions system
- Develop standards for all forms of career information
- In association with the adoption of a stronger developmental approach to career assistance in schools, more clearly integrate the use of networks and experience into career information strategies
- Develop a common framework for the skills, knowledge and competencies required by all career guidance workers: at all levels and across all sectors
- Address the present gap in access to services by employed adults, and more particularly by adults not in the labour force, by:
 - Modifying the guidelines of the adult education guidance pilots; or
 - Making greater use of provisions of the 1987 Labour Services Act that allow service delivery to be contracted out to community groups; or
 - Both of these.
- Address the potential distorted incentives that could arise from charging adults for access to one type of service but not others

- Ensure, through a public statement by government, that guidance resources allocated to schools are used for guidance purposes

- Locate discussions with training providers on the harmonization of curriculum content more centrally within government
- Develop a client recording instrument for use by Guidance Counsellors in schools and Post leaving Certificate institutions

- Create an Irish career guidance forum on a permanent basis, and strengthen joint and co-operative work between the Department of Education and Science and FÁS on a number of specific issues.

1. Appendix 1 gives details of the review team.
2. These suggestions are summarised in Appendix 3.
3. Secondary schooling in Ireland takes place in a three-year junior cycle followed by a two-year senior cycle. However a significant proportion of students (roughly 40 %) also take an optional Transition Year between the end of the junior cycle and the beginning of the senior cycle.
4. Some 40% of upper secondary graduates are now reported to enter these institutions, roughly as many as enter tertiary institutions.
5. In the International Adult Literacy Survey 55% of Irish adults scored in the bottom two literacy levels, and the unemployment rate of this group was, at 23%, more than twice that of those scoring at average levels or above. In 1999 60% of all unemployment in Ireland was of 12 months duration or more, compared to an OECD average of 32%.
6. The National Centre for Guidance in Education develops guidance materials, provides advice on good practice, supports innovation and pilot projects, disseminates information to practitioners, organises in-service training, carries out a range of surveys and related research on guidance practice and needs, and advises the Department of Education and Science on policy development. It also acts as a European National Resource Centre for Guidance under the LEONARDO DA VINCI programme.
7. FÁS is responsible to the Department of Enterprise, Trade and Employment.
8. For example a 1997 survey of school students' views on the usefulness of sources of career information rated Guidance Counsellors higher than any other sources, including work experience or family (National Centre for Guidance in Education (1997) *Careers Information Materials in Irish Schools - Consumers View*, Dublin). A 1997 survey of Principals' attitudes to guidance services reported positive views, even if many Principals confessed to knowing little in detail of the work of Guidance Counsellors (McKenna, P., McNamarra, G. and Barrett, T. (1997) *Principals' Perceptions of the Guidance Service in Post Primary Schools*, National Centre for Guidance in Education, Dublin).
9. Under present practices the requirement for Guidance Counsellors to hold a teaching qualification allows some of their time to be diverted from guidance to teaching by individual Principals. However the combination of a teaching qualification and the skills and experience developed by the work of a Guidance Counsellor -- a whole school perspective, curriculum involvement, parent and community liaison are examples -- does, on reports received during the visit, appear to be a good basis for career advancement within the school system.
10. A part-time course has recently commenced, and this is proving to be an attractive option for those who wish to obtain a guidance qualification. It has been one factor in the closure of one of the full-time courses.
11. In smaller schools only half of the Guidance Counsellor's time is allocated to guidance, and half is expected to be used for teaching normal subjects. A 1999-2000 National Centre for Guidance in Education audit of guidance in second-level schools showed that in perhaps as many as a third of schools a third or more of Guidance Counsellors' time was being used for subject teaching, although this was less likely to be the case in larger schools.
12. The aim of the Transition Year is generally seen as aiding students' personal and educational maturity, in part by giving them a year in which they are freed from the pressures of preparing from competitive external examinations.

- 13 . These two services probably account for over 90% of all staff. This is likely to be somewhat of an overestimate, as the numbers employed in the private sector are not known, and the full-time equivalent staff in some of the smaller services such as Youthreach are not easy to estimate accurately.
- 14 . Government of Ireland (2000), *Learning for Life: White Paper on Adult Education*, Dublin.
- 15 . In practice it seems that prospective students and those enrolled in other programmes are also being served by the pilots.
- 16 . The projects are staffed by project co-ordinators, guidance counsellors and information officers.
- 17 . FÁS employs and provides training for a very small number of advocates who work on an outreach basis to support progression through and from Youthreach into employment
- 18 . And in addition asylum seekers may receive career guidance in FÁS Employment Service Offices.
- 19 . The effective absence of guidance services in primary schools is also notable.
- 20 . 22 hours of Guidance Counsellor time per week for each 500-799 students means that each student can receive at most between 6.8 and 10.4 minutes of personal attention per month.
- 21 . Elements of such approaches can be seen in some junior cycle subjects, but their emphasis is more upon personal development than upon career development.
- 22 . Another interesting model was encountered at Trinity College Dublin. There, personal development and employability skills courses developed and initially also delivered by the Careers Service are now integrated into the curriculum in ten per cent of the university's departments, with the teaching being provided by faculty rather than the Careers Service. This provides an excellent model for the development of a similar approach during the Transition Year.
- 23 . For example by the requirement that students include a foreign language in their programme.
- 24 . Guidelines for the practice of guidance and counselling in schools were issued by the National Centre for Guidance in Education in 1996 and were revised in 2001. The 1999-2000 guidance audit showed that only 10% of secondary schools had a written whole school development plan that included guidance provision, and only a further 18% had a written school guidance plan.
- 25 . It is not produced or distributed in a paper version, but individual sections on particular careers can be printed by users when required. This reduces the need for multiple leaflets or other printed information to be produced in bulk and stored in FÁS offices, schools or other locations.
- 26 . The cost of Internet access in Ireland is relatively high. On top of this, the ratio of computers, whether Internet connected or not, to students in Ireland is relatively low (see for example World Information Technology and Services Alliance (2000) *Digital Planet 2000: The Global Information Economy*, <http://www.witsa.org/dplanet>). Where computers are available students who need them for guidance purposes must compete for access to them with students needing to use them for formal school subjects. While government policies have provided each Guidance Counsellor with a computer, these are normally available in their offices, where large scale use by students is difficult. These factors pose particular problems for the electronic dissemination of career information. The first factor is one of the main reasons for CD-ROM being preferred as a distribution mechanism by many users. A 1998 survey of secondary schools by the

National Centre for Guidance in Education showed very limited use of the Internet to access career information by Guidance Counsellors, very limited use of software packages specifically for guidance, and a strong need both for improved hardware and software resources for career guidance purposes as well as for training by Guidance Counsellors.

- 27 . Whether it will continue to enjoy the same level of employer support in a labour market less marked by skill shortages is a key question for its future.
28. National Centre for Guidance in Education (1997) *Careers Information materials in Irish Schools - Consumers View*, Dublin.
29. Two of the main electronic products presently available in Ireland were initiated outside of government.
- 30 . Those working in the school sector and in adult education generally belong to the Irish Institute of Guidance Counsellors, which requires a post graduate diploma in guidance or its equivalent for membership, although not the teaching qualification that is required for employment. On the other hand those who work in FÁS generally belong to the Irish Institute of Adult Guidance and Counselling, which requires a minimum one year certificate in guidance for membership.
- 31 . However the directors of the major training courses have been meeting at regular intervals under the auspices of the National Centre for Guidance in Education in order to learn from one another and develop common approaches. This appears to have resulted in some successes in the development of training for Youthreach staff and community agents, as well as training in the management of guidance. A major gap in this process is the absence of FÁS.
- 32 . It is important however that it work in such a way that the construction of the competency framework is driven by the end users -- employers and the profession jointly -- rather than the training institutions.
- 33 . In principle the services of FÁS are available to everybody. However in practice, as in other OECD countries, the stigma attached to the association of public employment services with services for the unemployed deters many people from using them. In practice it appears that adult guidance pilots do in fact assist some who are not enrolled students, but this is not the intended group for their services.
- 34 . Some use is already made of this provision. For example FÁS provides funds to the Irish Congress of Trade Union Centres to provide information services in local communities.
35. See for example Section 10.1 of the Irish national questionnaire.
36. Though less rough and ready than an allocation of guidance resources in order to increase the uptake of science subjects, another part of the Guidance Enhancement Initiative. This both seems to have little to do with the needs of students, and to be unlikely to bear a great deal of fruit given the strong concentration of Guidance Counsellors' work in upper secondary school.

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APPENDIX 1
UNDER 21 THROUGHPUT BY FAS PROGRAMME AS AT 31.12.2004

Count of THRUPUT_YTD		MIU_SEX		
DESCRIPTION	U21	F	M	Grand Total
BRIDGING / FOUNDATION	Under 21	429	429	8
FOUNDATION / PROGRESSION IN CTC	Under 21	710	782	1,492
LOCAL TRAINING INITIATIVES	Under 21	257	249	506
RETURN TO WORK	Under 21	37	16	53
SPECIFIC SKILLS TRAINING / JTS	Under 21	654	669	1,323
APPRENTICESHIP	Under 21	23	8,183	8,206
SPONSORED TRAINING	Under 21	5	340	345
TRAINEESHIP	Under 21	279	232	511
SPECIALIST TRAINING PROVIDERS	Under 21	108	182	290
Grand Total		2,502	11,082	13,584

NOTE: 'LINKED WORK EXPERIENCE' IS INCLUDED IN 'FOUNDATION / PROGRESSION IN CTC'

APPENDIX 2
OVER 21 THROUGHPUT BY FAS PROGRAMME AS AT 31.12.2004

Count of THRUPUT_YTD		MIU_SEX		
DESCRIPTION	U21	F	M	Grand Tc
BRIDGING / FOUNDATION	Over 21	2,222	1,882	4,104
FOUNDATION / PROGRESSION IN CTC	Over 21	356	191	547
LOCAL TRAINING INITIATIVES	Over 21	1,057	300	1,357
RETURN TO WORK	Over 21	761	162	923
SPECIFIC SKILLS TRAINING / JTS	Over 21	2,702	3,116	5,818
APPRENTICESHIP	Over 21	44	8,107	8,151
SPONSORED TRAINING	Over 21	85	2,183	2,268
TRAINEESHIP	Over 21	763	446	1,209
SPECIALIST TRAINING PROVIDERS	Over 21	634	669	1,303
Grand Total		8,624	17,056	25,680

NOTE: 'LINKED WORK EXPERIENCE' IS INCLUDED IN 'FOUNDATION / PROGRESSION IN CTC'

APPENDIX 3
NDP CLIENT GROUP LTU THROUGHPUT BY FAS PROGRAMME AS AT 31.12.2004

NDP_CATEGORY	G
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Count of THRUPUT_YTD		MIU_SEX		
DESCRIPTION	U21	F	M	Grand Total
BRIDGING / FOUNDATION	Over 21	186	437	623
	Under 21	4	8	12
BRIDGING / FOUNDATION Total		190	445	635
FOUNDATION / PROGRESSION IN CTC	Over 21	15	25	40
	Under 21	1	1	2
FOUNDATION / PROGRESSION IN CTC Total		16	26	42
LOCAL TRAINING INITIATIVES	Over 21	81	52	133
	Under 21	4	3	7
LOCAL TRAINING INITIATIVES Total		85	55	140
RETURN TO WORK	Over 21	107	31	138
	Under 21	1		1
RETURN TO WORK Total		108	31	139
SPECIFIC SKILLS TRAINING / JTS	Over 21	291	404	695
	Under 21	19	10	29
SPECIFIC SKILLS TRAINING / JTS Total		310	414	724
Grand Total		709	971	1,680

LTU IS BASED ON THE NDP PROGRAMME COMPLEMENT OUTLINED IN THE NATIONAL DEVELOPMENT PLAN 2000 - 2006, AND EXCLUDES CLIENTS WHO MAY HAVE BEEN UNEMPLOYED FOR 12 MONTHS OR MORE, BUT DUE TO MEETING OTHER REQUIREMENTS HAVE ALREADY BEEN ALLOCATED TO A PRIOR CLIENT GROUP BASED ON AN AGREED PRIORITY LISTING.

Apprentice Registrations

Appendix 4

Trade	2000	2001	2002	2003	2004
Sheet Metal Wrkr	105	111	98	69	74
Agric. Mech.	58	65	67	45	50
Refrig Craftsprsn	101	77	78	74	88
Aircraft Mech.	81	82	60	28	28
Veh Body Repair	140	117	93	100	102
Painter Decratr	159	148	151	139	157
Bricklayer	441	416	441	549	678
Plasterer	188	201	186	268	310
Cabinet Maker	303	287	235	217	194
Wood Machinist	37	37	22	15	24
Originator	8	12	5	5	2
Printer	35	23	10	17	15
Carton Maker	2	1	1		
Bookbinder	14	6	7	2	1
Plumber	827	857	730	938	1249
Metal Fabricator	340	242	266	256	223
H Veh Mechanic	135	142	193	140	104
Const Plant Fittr	91	114	82	84	102
Toolmaker	124	105	43	46	39
Motor Mechanic	550	493	458	419	404
Carpntr/Joiner	1617	1667	1547	1850	2089
Fitter	403	322	229	212	180
Electrician	2150	2156	1814	1766	2028
Instrumentation	36	38	24	20	17
E. Instrumentatn	29	41	37	41	43
Floor/Wall Tiler	29	31	39	37	36
Total	8003	7791	6916	7337	8237

Text of ARTICLE 10 of the Revised Charter: THE RIGHT TO VOCATIONAL TRAINING

ARTICLE 10 PARA. 1

"With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake: to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;"

Standard Questionnaire (directed at all Member States of the Council of Europe) for the Revised Charter IN RELATION TO Article 10, Para 1:-

Question A

Please give an account of the functions, organisation, operation and financing of the services designed to provide vocational training for all persons including those with disabilities,¹ specifying in particular:

- a. the rules laid down by legislation, collective agreements or carried out otherwise;
- b. the total amount of public expenditure devoted to vocational training;
- 1 If your country has accepted Article 15, it is not necessary to describe the services for persons with disabilities here.
- c. the number of vocational and technical training institutions (at elementary and advanced levels);
- d. the number of teachers in such schools in the last school year;
- e. the number of pupils, full-time and part-time in such schools in the last school year.

Question B

Please indicate how the arrangements for vocational training are provided with reference to the various types of vocational activity and, if data are available, to age and to sex.

Question C

Please state what measures are taken to ensure a close link between vocational guidance and training on the one hand and employment on the other.¹

Question D

Please indicate the methods adopted by your government with a view to providing access to higher technical education and university education on the basis of the sole criterion of individual aptitude.

Question E

Please indicate whether equality of access to vocational training opportunities is ensured for all those interested, including nationals of the other Contracting Parties to the Charter lawfully resident or working regularly in your territory, and disabled persons.

Comments made / Queries raised by the European Committee of Social Rights addressed specifically to Ireland in relation to the Text

**of Ireland's 21st Report under the original European Social Charter
which was submitted to the Council of Europe in 2003 :-**

The Committee takes note of the information provided by the 21st Irish report under the original European Social Charter (1961), which was prepared in 2003 and which indicates the main changes which occurred in the organisation and delivery of vocational education and training during the period of reference.

The Irish education and training system consists of compulsory education, second-level schools, post-second level vocational education, higher education, further and adult education.

The Committee recalls that Article 10§1 covers all kind of higher education. In view of the current evolution of national systems, which consists in the blurring of the boundaries between education and training at all levels within the dimension of lifelong learning, the Committee considers that, today, the notion of vocational training of Article 10§1 covers initial training, i.e. general and vocational secondary education, university and non-university higher education, and continuing training. University and non-university higher education are considered to be vocational training as far as they provide students with the knowledge and skills necessary to exercise a profession.

Under Article 10§1 national reports should, accordingly:

- describe the most recent measures adopted to promote vocational training, including general and vocational secondary education, university and non-university higher education, apprenticeship, and continuing training (the description of the whole system may be recovered from existing database on the topic: Eurydice, Cedefop);
- highlight the bridges between secondary vocational education and university and nonuniversity higher education;
- outline the mechanisms for the recognition/validation of knowledge and experience acquired in the context of training/working activity in order to achieve a qualification or to gain access to general or technical education;
- underline the measures to make general secondary education and general higher education qualifications relevant from the perspective of professional integration in the job market;
- outline the mechanisms for the recognition of qualifications awarded by continuing vocational education and training;

- provide figures about the completion rate of students enrolled in higher education;
 - provide figures on the employment rate of people who hold a higher-education qualification and the waiting-time for these people to get a first qualified job.
- It is clear that access to higher technical or university education based solely on individual aptitude cannot be achieved only by setting up educational structures which facilitate the recognition of knowledge and experience as well as the transfer from one type or level of education to another; it also implies that registration fees or other educational costs do not create financial obstacles for some candidates.

The Committee requires that the next report provide detailed information on the entire education and training system on the basis of the above guidelines and the Form for Reports.

Secondary and further education

The Committee notes from the report that second-level schools (secondary, community/comprehensive and vocational establishments) still provide a range of courses blending general and vocational education. It therefore refers to the description it provided in its previous conclusion (Conclusions XIV-2, p.402). The Department for Education and Science is responsible for vocational education and training in second-level schools, while the Vocational Education Committees (VECs) administer vocational education and training in vocational schools and community colleges.

The Committee notes from official figures¹ that, in 2000/01, the number of students attending second level education was about 340 000; the number of schools amounted to 750 and the number of teachers about 25 000. The great majority of pupils enrol in second level schools and the completion rate of Senior Cycle (post-compulsory) is 81-82 %. Further education encompasses a range of post-compulsory education and training options provided in the education sector, largely by VECs, in both schools and out-of-school settings. The main elements of further education are Vocational Preparation and Training (VPT) courses, Post-Leaving Certificate (PLC) courses, courses for early drop-out students (which will be examined under paragraph 2 of Article 10), and adult education. PLC courses (see previous conclusion for their description) regarded as a bridge into higher education, and are chosen by 20 % of an age cohort (26 658 enrolments in 2001/2002), and show 89 % progression rate either to employment or further education/training. Adult education (guidance, literacy and numeracy courses, Back to Education initiative) has been growing following the publication of the White paper on Adult education. Many different tools, such as distance learning and TV transmission, are used to reach a larger public

Higher education

Higher education is provided by universities, technical colleges – institutes of technology, and other community or private colleges. Seven universities provide courses across a very wide spectrum of subjects, while the technical colleges and various institutions specializing in business and management are largely involved in occupationally-oriented education and training. Tuition is free at undergraduate level.

Students enrolled in third level education were about 124 000 in 2001/2002. The Committee asks the next report to provide the required figures for the last two indents of the guidelines on Article 10§1 mentioned above.

The report indicates that measures have been taken to facilitate access to higher technical and university education on the sole basis of individual aptitude as featured in the Access related targeted initiatives. Financial support has been given to higher education institutions to carry out activities designed to enhance equal opportunities, especially focusing on access for disadvantaged, mature and students with disabilities. The initiatives have proved to be successful.

The Committee notes that, following the 1999 Qualifications (Education and Training) Act, new qualifications bodies have been set up. Their task is to establish and maintain a framework for qualifications, as well as to develop mechanisms to facilitate the recognition of knowledge acquired through untraditional paths and transfers between different education and training sectors.

¹ Department of Education and Science, Statistics, www.education.ie .

The Committee observes from Eurostat that the total public expenditure for education represented, on a yearly average, about 4,7 % of the GDP during the period of reference. As far as equality of treatment is concerned, the report indicates in reply to the Committee that a one year length of residence requirement applies to everyone for access to third-level education, but not for second-level education. This means Irish and non-nationals alike. The Committee considers this amounts to indirect discrimination since nationals of the other Contracting Parties to the 1961 European Social Charter and nationals of the States Parties to the Revised European Social Charter, lawfully residing or regularly working in Ireland, are potentially more affected than Irish nations by the length of residence requirement.

Therefore, the situation is contrary to the Charter.

Conclusion

The Committee concludes that the situation in Ireland is not in conformity with Article 10§1 of the Charter because of indirect discrimination against nationals of the other Contracting Parties to the 1961 European Social Charter and nationals of the States Parties to the Revised European Social Charter, lawfully residing or regularly working in Ireland, who are potentially more affected than Irish persons by the length of residence required in order to access third level education.

Questions A-E of the Standard Questionnaire above refer :-

In relation to Article 10, Paragraph 1, the situation in Ireland remains much as it was in 2003, when the Government of Ireland reported on Article 10, Paragraph 1 of the original

European Social Charter (1961) as part of our 21st Report to the Council of Europe on the implementation of that Charter.

Material supplied by the Department of Enterprise, Trade and Employment and FÁS (An Foras Áiseanna Saothair / National Training and Employment Authority)

■- Sub-Paragraphs 10.1.1 to 10.1.13 ; 10.1.19, 10.1.33, 10.1.34, 10.1.63 to 10.1.67 ; 10.1.76, 10.1.77 and 10.1.135 of Ireland's 21st Report under the original European Social Charter (1961), submitted to the Council of Europe in 2003, refer.

10.1.1 As Ireland has accepted Article 15, the measures concerning the training of people with disabilities are dealt with under that provision.

10.1.2 FÁS is responsible nationally under the Labour Services Act 1987 for training, re-training, employment schemes, placement and vocational guidance services, helping local community groups and workers' co-operatives to create jobs and assisting persons seeking employment elsewhere in the European Union. Since 2000 FAS has responsibility for Vocational Training and Employment for people with disabilities. There are 20 permanent FÁS Training Centres and 43 Community Training Centres. These centres are located in ten regions of the Republic. FÁS offers a wide range of training programmes and also offers interactive training courses on the FAS eCollege website. These programmes are constantly updated and developed to ensure that skills are relevant to general industrial needs. All FÁS services are open to men and women equally, disabled people, to all citizens of the European Union and to those with Refugee status and leave to remain. The current range of training programmes is set out in sub-paragraphs 10.1.3 to 10.1.13 below.

10.1.3 Youth Training Programmes :-

Under a programme called YOUTHREACH, young people who leave school without qualifications are offered up to 24 months integrated education and training and work-based experience to suit their particular needs. The first year is spent on a foundation programme. If after a year, the young people are still unemployed, they are offered further training in more specific skills and /or work experience. A senior psychologist from the National Educational Psychological Service has been assigned to the Further Education Section in the Department of Education and Science, with responsibility for coordination and supervision of psychological services to young trainees. A more detailed explanation of this programme is contained in sub-paragraphs 10. 1.136 to 10.1.153 below.

10.1.4 Training for Long-Term Unemployed :-

These programmes are specifically designed to assist the long term unemployed in assessing their career potential and employment opportunities and to provide appropriate training for them.

10.1.5 Community Training :-

FAS community based training schemes provide basic training and work experience for unemployed persons on projects which are of benefit to local communities.

10.1.6 Specific Skills :-

Training is provided for unemployed persons wishing to obtain specific vocational skills, update their skills or change their careers.

10.1.7 New Technology :-

Using more modern technology, training is provided in all aspects of new technology, e.g. computer applications, software, instrumentation and electronics.

10.1.8 Marketing and Sales Training :-

These programmes are aimed at developing marketing and sales skills, while assisting industry to increase its market potential.

10.1.9 Apprenticeship :-

Apprenticeship courses provide a mixture of off-the –job training and employment experience in a variety of trade categories including construction, engineering, printing & paper and electrical.

10.1.10 Enterprise Training :-

This provides persons with the skills and knowledge necessary to set up businesses.

10.1.11 Community Youth Training Programme :-

This programme provides off-the – job training and work experience on community projects (mainly in construction type projects).

10.1.12 Alternance :-

Alternance provides alternating periods of training and work experience for the long-term unemployed including Return to Work courses for women, who have been absent from the workforce for some time.

10.1.13 Specialist Training Provision

Because some people with disabilities may require:

- Additional training duration,
- Adapted equipment,
- Enhanced programme content,
- Reduced trainer to trainee ratios, and/or
- Staff, specially qualified in training people with disabilities. FAS currently contracts with approximately 20 specialist training agencies to provide this type of training. These Specialist Training Providers (STPs) provide Introductory and Specific Skills training to approximately 2,500 people with disabilities in 60 centres throughout Ireland. They are required to meet the same standards in relation to the design and delivery of training, as other training programmes, and lead to the same certification as per the programmes noted above.

Please see our updated response under Article 15.1.

The Department of Enterprise, Trade and Employment

10.1.14 This Department has policy responsibility for two broad fields, enterprise, technology and human resource development. The principle elements of human resource policy are vocational training and retraining, employment and work experience programmes and

the operation of a placement and guidance service. The administration of these services are carried out by FÁS, the National Training and Employment Authority.

FÁS: An Foras Áiseanna Saothair, The National Training and Employment Authority

10.1.15 FÁS was established in 1988 under the Labour Services Act. Its activities are directed by a board representing Government and the social partners. FÁS delivers both initial and continuing vocational training. Its principal functions are to provide:

- Training and retraining;
- Employment programmes and schemes;
- A placement and guidance service;
- **An advisory service to industry;**
- Support for community enterprise and the social economy;
- Assistance to persons seeking employment elsewhere in the European Union.

10.1.16 FÁS has a network of Employment Service Offices, **20 Training Centres** and **43 Community Training Centres** throughout the country, as well as many contracted training facilities and community-based training locations.

Apprenticeship

10.1.17 A new standards-based apprenticeship scheme has replaced the time-served scheme since 1995. It provides alternating on-the-job and off-the-job training in conjunction with FÁS training centres and the technological colleges. Normally an apprenticeship lasts four years. Successful apprentices receive the National Craft Certificate, which is a compulsory requirement for craftsperson status.

10.1.18 The curricula for apprenticeships are based on uniform pre-specified standards that are agreed with industry. They are written by experts nominated by employers, trade unions, the Department of Education and Science and FÁS.

10.1.19 Apprenticeship in Ireland has always been linked to a small number of trades unlike most Northern European countries.

10.1.20 Many professional bodies also operate apprenticeship style schemes involving full-time employment with day-release or night-time courses. The professional bodies set standards and examinations in relation to their profession, for example accountancy and law.

Traineeship

10.1.21 The National Traineeship Programme is being developed by FÁS as the primary vocational skills and pre-labour market entry programme for labour market entrants. The programme is intended to provide both on -the-job and off-the-job training and will involve the social partners in curriculum development, determination of appropriate standards and the provision of work experience placement.

FÁS

10.1.22 **FÁS has developed national quality assurance (QA) policies and procedures that govern all FÁS delivered, funded and procured training programmes. This national QA**

approach adheres to the requirements of the Qualifications Act 1999, and reflects the requirements of the NQAI, HETAC and FETAC, as well as those outlined in the organisation's Statement of Strategy and EU targets in relation to training and education.

10.1.23 Apprenticeship Training is certified jointly by FÁS and the Department of Education and Science. In the case of non-designated trades, (such as bakers and hairdressers) the trade itself was involved in certification.

Homeless, Asylum, Disability, Drug Court and Equality Initiatives

10.1.24 In addition to the above a range of pilot actions are under way

- Providing basic education services for some 200 **homeless people** in the Dublin area, visiting homeless hostels, providing evening family learning groups, summer programmes etc and an education co-ordinator in the Homeless Agency in line with Government Report on Homelessness
- Providing supports in a number of Dublin based PLC colleges for integration of people with **disabilities** into Further Education programmes in collaboration with the National Training and Development Institute
- Operating an integrated programme of treatment, rehabilitation, education and training for drug addicts at risk of a custodial sentence who opt for the **Drug Court** Initiative, in collaboration with the health and probation service

:- Sub- Paragraphs 10.1.20 to 10.1.25 of Ireland's 21st Report submitted in 2003 refer :-

10.1.25 No change reported in relation to material previously supplied by the Department of Agriculture and Food ; the Department of Arts, Sport and Tourism ; the Department of Communications, Marine and Natural Resources ; the Department of Health and Children ; the Department of Community, Rural and Gaeltacht Affairs and the Department of Justice, Equality and Law Reform.

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Material supplied by the Department of Education and Science:- Sub- Paragraphs 10.1.14 to 10.1.18; 10.1.26 to 10.1.32 ; 10.1.35 to 10.1.62 and 10.1.68 to 10.1.247 of Ireland's 21st Report submitted in 2003 refer :-

10.1.26 No change reported.

Text of ARTICLE 10 PARA. 2 of the Revised Charter

"With a view to ensuring the effective exercise of the right to vocational training, the

Parties undertake: to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments."
1 If your country has accepted Article 9, it is not necessary to describe these measures here.

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Standard Questionnaire (directed to all Member States of the Council of Europe) in relation to Article 10, Para. 2 of the Revised Charter :-

Question A

Please give an account of the legal framework and the functions, organisation, **operation and financing of apprenticeships and/or other systems for training young boys and girls in various jobs in your country.**

Question B

Please give an account of the measures taken to implement this provision, stating approximately, if possible, the number of young persons benefiting from training systems.

Question C

Please indicate how the arrangements for vocational training are divided between the various types of vocational activity.

Question D

Please describe any measures under which private apprenticeship schemes are assisted out of public funds.

Question E

Please indicate whether the measures described are applicable to all categories of young boys and girls likely to benefit from and wishing to undertake apprenticeship or vocational training. If this is not the case, please give an estimate of the proportion of those not covered and, if possible, indicate the categories concerned.

Question F

Please indicate whether equality of access to apprenticeship training is ensured for all those interested, including nationals of the other Contracting Parties to the Charter lawfully resident or working regularly in your territory, and disabled persons.

Comments made / Queries raised by the European Committee of Social Rights addressed specifically to Ireland in relation to the Text of Ireland's 21st Report under the original European Social Charter which was submitted to the Council of Europe in 2003 :-

Article 10, Paragraph 2 – Promotion of apprenticeship

The Committee takes note of the information provided by the Irish report about apprenticeships and other training arrangements for young people.

The report indicates that, during the period of reference, there has been no change in respect of the legislation governing apprenticeships (the Standards-Based Apprenticeship Scheme). The Committee therefore refers to description in its previous conclusion

Conclusions

In reply to the Committee's questions, the report indicates that, as yet, no amendment of the legislation concerning the minimum duration of apprenticeship has been agreed upon. The number of places available is set by employers themselves, but the FAS (Training and Employment Authority - *An Foras Aiseanna Soathar*) provides incentives for the creation of places. The number of apprentices grew from 6 324 to 7 791 during the period of reference, while wages generally rose from 33,3 % of the basic craft rate in the first year of apprenticeship to 89,8 % of this rate in the fourth year.

The report also provides information about other existing training arrangements for young people in a variety of areas. They are: FAS National Traineeship Programme, Training for Public Services, Skills Training, Training Course for first time job seekers and young employed, etc. The Youthreach programme provides two years integrated education, training and work experience for young people aged 15 and over who have left school early without qualifications or vocational training. Participants in 2001 numbered 2 641 and the progression rate to employment or further education was 74 %. The Senior Travelling Training Centres apply the same kind of training as Youthreach but with no upper age limit to the Travellers. In 2001, the number of participants was 811 and the progression rate to employment or further education was 51,2 %.

In reply to the Committee's question about equal treatment of non-nationals, the report is unclear. While it reiterates on the one hand that non-EEA nationals need a work permit to accede apprenticeship – because it is an employment contract – it indicates on the other hand that non-EEA nationals holding a work permit cannot avail themselves of the FAS services unless they possess a Stamp 4 and Leave to Remain permit.

The Committee reiterates its question as to whether non-EEA nationals of the other Contracting Parties to the 1961 European Social Charter and of Parties to the Revised European Social Charter, lawfully resident or regularly working in Ireland, are granted equal access to apprenticeship and other training arrangements.

Pending the information requested, the Committee defers its conclusion.

10.2.1 Question A

Please give an account of the legal framework and the functions, organisation, operation and financing of apprenticeships and/or other systems for training young boys and girls in various jobs in your country.

10.2.2 Reply

An Foras Áiseanna Saothair (FÁS) – The National Training and Employment Authority was set up in 1988, under the Labour Services Act 1987. The principal functions of FÁS, as laid down in the Act, are:

- training and re-training
- designated apprenticeship
- recruitment service
- employment programmes
- placement and guidance service
- assistant to community groups
- advice for people returning to Ireland and those seeking employment elsewhere in the EU
- consultancy and human resources related services, on a commercial basis, outside the State (through FÁS International Consulting Ltd.)

The statutory functions of the organisation also include the collection and publication of information relating to the labour market and the provision, to the Minister, of information, reports, etc. on matters within FÁS' remit.

During 2000, as part of Government policy to mainstream services for people with a disability, responsibility for vocational training and employment for people with a disability, together with a number of staff from the former National Rehabilitation Board, transferred to FÁS. The Local Employment Service network, which is located in 26 areas around the country, was assimilated under FÁS as a discrete component of a more integrated dual-stranded national employment service (FÁS employment services being the second strand).

The Board of FÁS has responsibility for the overall direction of the organisation and its policies and reports to the Minister for Enterprise, Trade & Employment. Its members, who are appointed by the Minister, comprise a Chairman, representatives from employer, trade union, education, social welfare and youth interests, a representative of the Minister for Finance, two representatives of the Minister for Enterprise, Trade & Employment and two FÁS employee members.

10.2.3 Question B

Please give an account of the measures taken to implement this provision, stating approximately, if possible, the number of young persons benefiting from training systems.

10.2.4 Reply

FÁS delivers training programmes in apprenticeship, specific skills training, return to work, bridging, community programmes, early school leaver programmes and programmes for persons with disabilities. This activity is delivered in FÁS training centres, local community centres in partnership with other organisations and to the mechanism of utilising external consultants, in short term contracts, to run such programmes in remote locations. The apprenticeship activity is delivered as follows

Phase 2 in FÁS training centres, phases 4 and 6 in the Institute of Technology Colleges under the Department of Education. The approximate throughput is set out in Appendix 1.

10.2.5 Question C

Please indicate how the arrangements for vocational training are divided between the various types of vocational activity.

10.2.6 Reply

As mentioned in the reply to "B" FÁS have in place a number of programmes to implement its training objectives at national level. These programmes are

Apprenticeship
Traineeship
Specific Skills Training
Return to Work
Bridging and Foundation
Community Training Programmes
Community Training Workshops
Local Training Initiatives
Specific Training Provision for persons with disabilities

These programmes are delivered nationwide through a number of providers including FÁS Training Facilities, the Institutes of Technology, FÁS approved training colleges and FÁS approved training providers. All training arrangements delivered with organisations both private and public are subject to appropriate contracts and procedures.

10.2.7 Question D

Please describe any measures under which private apprenticeship schemes are assisted out of public funds.

10.2.8 Reply

None

10.2.9 Question E

Please indicate whether the measures described are applicable to all categories of young boys and girls likely to benefit from and wishing to undertake apprenticeship or vocational training. If this is not the case, please give an estimate of the proportion of those not covered and, if possible, indicate the categories concerned.

10.2.10 Reply

FÁS does not apply standard eligibility requirements to attend FÁS programmes. Any eligibility requirement will be dictated by the content and standard of the programme being planned to ensure that participants are capable of learning and reaching the required standard of certification. FÁS runs a range of programmes from very basic foundation programmes to high level type programmes to address the needs of all persons wishing to undertake training. In the case of apprenticeship programmes apprentice applicants must be at least 16 years of age and have attained a minimum of grade D in 5 subjects in the Junior Certificate examination or equivalent.

Where individuals do not meet the minimum educational requirements they may be registered as apprentices by an employer if:

- Prospective apprentices have satisfactorily completed an approved preparatory training course and an assessment interview; or
- being over 25 years of age, have at least 3 years relevant work experience and satisfactorily completed an assessment interview; and
- where required the prospective apprentice has passed an appropriate colour vision test.

10.2.11 Question F

Please indicate whether equality of access to apprenticeship training is ensured for all those interested, including nationals of the other Contracting Parties to the Charter lawfully resident or working regularly in your territory, and disabled persons.

10.2.12 Reply

FÁS has a policy of equal access to apprenticeship and all our training programmes are for all persons entitled to employment in the country. Programmes are run as stated previously to address the various needs of persons wishing to undertake training, including a special provision for persons with disability. In the case of apprenticeship programmes apprentice applicants must be at least 16 years of age and have attained a minimum of grade D in 5 subjects in the Junior Certificate examination or equivalent.

Where individuals do not meet the minimum educational requirements they may be registered as apprentices by an employer if:

- Prospective apprentices have satisfactorily completed an approved preparatory training course and an assessment interview; or
- being over 25 years of age, have at least 3 years relevant work experience and satisfactorily completed an assessment interview; and
- where required the prospective apprentice has passed an appropriate colour vision test.

Text of ARTICLE 10 PARA. 3 of the Revised Charter

"With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake: to provide or promote, as necessary:

- a. adequate and readily available training facilities for adult workers;
 - b. special facilities for the retraining of adult workers needed as a result of technological development or new trends in employment;"
-
-

Standard Questionnaire (directed to all Member States of the Council of Europe) in relation to Article 10, Para. 3 of the Revised Charter :-

Question A

Please give details of the facilities provided for the training and retraining of adult workers, in particular the arrangements for retraining redundant workers and workers affected by economic and technological change.

Question B

Please indicate how the arrangements for vocational training are divided between the various types of vocational activity.

Question C

Please state whether the measures described are applicable to all categories of interested workers likely to benefit from and in need of training or retraining facilities. If this is not the case, please give an estimate of the proportion of those not covered and, if appropriate, give details of the categories concerned.

Question D

Please indicate the approximate number of adult workers who have participated in training or retraining measures.

Question E

Please describe special measures to assist adult women wishing to take up or resume employment.

Question F

Please indicate whether equality of access to adult training and retraining is ensured for all those interested, including nationals of the other Contracting Parties to the Charter lawfully resident or working regularly in your territory, and disabled persons.

=====

Comments made / Queries raised by the European Committee of Social Rights addressed specifically to Ireland in relation to the Text of Ireland's 21st Report under the original European Social Charter (1961) submitted in 2003 :-

Under Article 10§3 of the Charter, the Committee considers continuing vocational training for employed and unemployed persons, including the long-term unemployed. Accordingly, the Committee will examine only those of the activation measures for unemployed people that strictly concern training. It is under Article 1§1 of the Charter that the Committee considers activation measures for the unemployed in general terms.

Employed people

The report indicates that FAS (Training and Employment Services) provides continuing vocational training for employed people. The Committee refers to its previous conclusion for the description of certain programmes still in force (Conclusions XIV-2, p. 405). The Committee notes from another source¹ that the Specific Skill training programme was completed in 2000 by 1420 trainees, 75 % of which were subsequently in employment. The Traineeship programme gathered for about 1500 persons, 78 % of which were placed by the end of 2000.

Special training programmes for return to work of women are also in place. The Government and FAS incentive the organisation of in-company training through various training support schemes. The Committee notes from the FAS Annual Report for 2000 that this institution continued to implement a range of "sponsored"

training for companies, which is financially supported by employers, and to which about 3 400 employees participated. From Eurostat, the Committee observes that, in 1999, 52 % of employees participated in some form of continuing vocational training, which was proposed by 56 % of the enterprises.

In view of the growing relevance of continuing vocational training, the Committee asks that the next report provides information on the existence of preventive measures against the deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic progress.

Unemployed people

From Eurostat, the Committee observes that, during the period 1997-2000, unemployed people decreased from 152 200 to 73 900, that is from the 9,9 % to the 4,2 % of the labour force (the total of employed and unemployed people in the country). The share of long-term unemployed (i.e., those persons who have been without work for 12 months or more), as a percentage of total unemployment, was 57 % in 1997 and 36 % in 2000.

FAS provides training and retraining for unemployed people and persons made redundant. Among others, the Vocational Training Opportunity Scheme (VTOS) gives unemployed people over 21 years of age and who have been unemployed for at least six months the opportunity to follow courses of two years duration. Lone parents are also targeted.

According to the report, in 2001, there were 5 305 participants, mainly unemployed, and the progression rate towards employment or further education stood at around 70 %.

Other training programmes specifically focus on long-term unemployed people.

¹ FAS Annual Report and Financial Statement 2000,
www.fas.ie/annual_report/annual_report00/contents.html.

From another source¹, the Committee observes that, in Ireland, the activation rate of unemployed people with respect to training measures was 7,9 % (about 18 000 participants) in 1998, 10 % (about 19 000 participants) in 1999, and 11 % in 2000. Taking into consideration the low level of this rate, the Committee asks that the next report give more information on all the training measures available for long-term unemployed people, and on how it is planned to raise the activation rate with respect to these kinds of measures.

The Committee asks that the next report provide precise information on expenditure for continuing training and occupational training. Moreover, it asks for information on the sharing of the burden of the cost of both continuing and occupational training among

public bodies (state or other collective bodies), unemployment insurance systems, enterprises, and households.

In reply to the Committee's question on equal treatment of non-nationals, the report refers to its arguments under Article 10§1. The Committee therefore infers that the one year length of residence condition also applies as regards access to continuing vocational training. It recalls that any length of residence or employment requirement is contrary to the Charter.

Conclusion

The Committee concludes that the situation in Ireland is **not in conformity** with Article 10§3 of the Charter because of indirect discrimination against nationals of the other Contracting Parties to the 1961 European Social Charter and nationals of the States Parties to the Revised European Social Charter, lawfully residing or regularly working in Ireland, who are potentially more affected than Irish persons by the length of residence requirement in order to access continuing vocational training.

10.3.1 Question A

Please give details of the facilities provided for the training and retraining of adult workers, in particular the arrangements for retraining redundant workers and workers affected by economic and technological change.

10.3.2 Reply

FÁS training centres including community, public and private facilities are available for carrying out training for adult workers. FÁS responds to changes in technology and in economic circumstances by providing a range of programmes to update and retrain persons who have become unemployed as result of redundancy, business closures and technological change.

Some of these programmes are:

- Apprenticeship
- Traineeship
- Specific Skills Training
- Return to Work
- Bridging and Foundation
- Community Training Programmes
- Community Training Workshops
- Local Training Initiatives
- Specific Training Provision for persons with disabilities

10.3.3 Question B

Please indicate how the arrangements for vocational training are divided between the various types of vocational activity.

10.3.4 Reply

As mentioned in the reply to "B" FÁS have in place a number of programmes to implement its training objectives at national level. These programmes are

Apprenticeship
Traineeship
Specific Skills Training
Return to Work
Bridging and Foundation
Community Training Programmes
Community Training Workshops
Local Training Initiatives
Specific Training Provision for persons with disabilities

These programmes are delivered nationwide through a number of providers including FÁS Training Facilities, the Institutes of Technology, FÁS approved training colleges and FÁS approved training providers. All training arrangements delivered with organisations both private and public are subject to appropriate contracts and procedures.

10.3.5 Question C

Please state whether the measures described are applicable to all categories of interested workers likely to benefit from and in need of training or retraining facilities.

If this is not the case, please give an estimate of the proportion of those not covered and, if appropriate, give details of the categories concerned.

10.3.6 Reply

FÁS does not apply standard eligibility requirements to attend FÁS programmes. Any eligibility requirement will be dictated by the content and standard of the programme being planned to ensure that participants are capable of learning and reaching the required standard of certification. FÁS runs a range of programmes from very basic foundation programmes to high level type programmes to address the needs of all persons wishing to undertake training. In the case of apprenticeship programmes apprentice applicants must be at least 16 years of age and have attained a minimum of grade D in 5 subjects in the Junior Certificate examination or equivalent.

Where individuals do not meet the minimum educational requirements they may be registered as apprentices by an employer if:

- Prospective apprentices have satisfactorily completed an approved preparatory training course and an assessment interview; or
- being over 25 years of age, have at least 3 years relevant work experience and satisfactorily completed an assessment interview; and
- where required the prospective apprentice has passed an appropriate colour vision test.

10.3.7 Question D

Please indicate the approximate number of adult workers who have participated in training or retraining measures.

10.3.8 Reply

The throughput for these programmes is set out in Appendix 2.

10.3.9 Question E

Please describe special measures to assist adult women wishing to take up or resume employment.

10.3.10 Reply

Women can participate on all FÁS training and employment programmes, some programmes are delivered on a part-time basis. In 2004, 29,442 women completed training and employment programmes (making up 42% of total completions) compared with 40,248 men. Of these women 16,036 were between the ages of 25-44.

Expanding the Workforce (ETW) is one of the ways in which FÁS is adopting more flexible methods of delivering services to women.

Expanding the Workforce

The process aims to provide a gateway for women returners into the labour market. It focuses on the needs of the individual and aims to tailor interventions to deliver the supports in the manner, place and time frame to suit the client group.

The process also aims to influence and support employers to examine and improve work practices making the work place more welcoming to women returners. All provision is locally based and adapted to each woman's particular needs.

THE PROCESS BEGINS WITH ACTIVE PROMOTION TO THE CLIENT GROUP. TO DATE THIS HAS BEEN IN THE FORM OF REGIONAL LAUNCHES, LOCAL PUBLICITY DRIVES, MAIL-SHOTS, AND MEDIA COVERAGE.

ONCE REGISTERED, PARTICIPANTS' NEEDS ARE ASSESSED TO ESTABLISH AN ACTION PLAN. THIS ASSESSMENT FILTERS THE REGISTRANTS INTO ONE OF FOUR CATEGORIES – REFERRALS, DISENGAGED, TRAINING NEED AND EMPLOYMENT READY.

- REFERRALS: WHERE A CLIENT IS ASSESSED TO NEED LONG-TERM, NON-FAS RELATED SUPPORTS PRIOR TO RETURNING TO WORK. THIS CATEGORY OF CLIENT IS REFERRED TO THE RELEVANT SUPPORT AGENCIES (E.G. LITERACY, DRUG ABUSE ETC).
- DISENGAGED: WHERE A CLIENT, IN DISCUSSION WITH A MEDIATOR, CONSIDERS THE PROCESS UNSUITABLE FOR THEM.
- TRAINING: WHERE A CLEAR TRAINING NEED IS ESTABLISHED - SAMPLE TRAINING INTERVENTIONS MIGHT BE PRE-EMPLOYMENT TRAINING, CONFIDENCE BUILDING, JOB SEEKING SKILLS, COMPUTERS, ACCOUNTS. SOME CLIENT MAY REQUIRE MULTIPLE INTERVENTIONS. TRAINING MAY BE DELIVERED, OR FUNDED BY FAS.

- EMPLOYMENT READY: WHERE A CLIENT IS DEEMED JOB READY.

This process also provides for post-placement on-the-job training and development, and such training greatly enhances the employability and career potential of participants and minimises the risk of women returners falling into the category of low-paid workers.

The process is of significant benefit to employers and aims to influence and support them in examining and changing HR practices (e.g recruitment criteria, flexi-time, job sharing, term-time etc). Assistance is given to employers in the areas of vacancy matching, advertising, interview preparation, and one-to-one access to our client group at event such as employer-specific recruitment days.

The ETW process has been part-funded by the Department of Justice Equality and Law Reform under the Equality for Women Measure to a total to date of €450k. It commenced in Dublin in 2002, extending in 2003 to the West of Ireland. A further €1m has been awarded to FÁS by the Department of Justice Equality and Law Reform for the purposes of mainstreaming the process across all FÁS regions.

2004 saw it expand to the North East and North West of the country, where it was funded under Peace II and part-financed by the NDP and FÁS to a total of €517 to September 2005.

FÁS provision for women returners fits strongly with FÁS goals as set out in the FÁS Strategic Plan. It is planned to have the ETW process mainstreamed in all regions by December 2005 and the learning gained by the project team from the pilot process will be hugely beneficial when mainstreaming this process. Influencing employers' recruitment and training policies will continue throughout 2005.

The ETW Process when mainstreamed will form an important part of service provision for this client group. Mainstreaming this process will in turn increase the availability of part-time courses on offer for FÁS trainees. FÁS will continue to secure a ring-fenced budget for this process.

10.3.11 Question F

Please indicate whether equality of access to adult training and retraining is ensured for all those interested, including nationals of the other Contracting Parties to the Charter lawfully resident or working regularly in your territory, and disabled persons.

10.3.12 Reply

FÁS has a policy of equal access to apprenticeship and all our training programmes are for all persons entitled to employment in the country. Programmes are run as stated previously to address the various needs of persons wishing to undertake training, including a special provision for persons with disability.

Text of ARTICLE 10 PARA. 4 of the Revised Charter

"With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake; to provide or promote, as necessary, special measures for the retraining and reintegration of the long-term unemployed;"

=====

Standard Questionnaire (directed to all Member States of the Council of Europe) in relation to Article 10, Para. 4 of the Revised Charter :-

Please indicate the special measures taken to provide or promote the retraining and reintegration of long-term unemployed, including as far as possible information on the number of participants and the results achieved.

Comments made / Queries raised by the European Committee of Social Rights addressed specifically to Ireland in relation to the Text of Ireland's 21st Report under the original European Social Charter (1961) submitted in 2003 :-

*Paragraph 4 – Encouragement for the full utilisation of available facilities
Fees and financial assistance (Article 10§4 a and b)*

The Irish report under Article 10§4 indicates that no fees are charged for FAS training courses, nor for second-level education and undergraduate third level education.

As far as financial assistance is concerned, the report indicates that students at third level may apply for three maintenance grants schemes. The Higher Education Grants (HEG) apply mainly to university students; the VEC Scholarship Scheme applies to students holding certain diploma level and progressing further; the Third Level Trainee Scheme applies to students pursuing diplomas and certificates courses in the technological sector. A Maintenance Grant for PLC courses also exists. All these grants are means-tested and distinguish between adjacent (students living at home) and non-adjacent (students living away from home) rates. Top-up

amounts are available under certain conditions, as is financial assistance from special funds for disadvantaged persons or persons finding themselves suddenly in economic difficulties. In the year 1999/2000, there were, respectively, about 25 000 grant holders for HEG, 5700 for VEC Scholarships, and 15 000 for Third Level Trainees.

¹ EC, Joint Employment Reports 1999, 2000 and 2001, (www.europa.eu.int). In 1998-99, the activation rate was defined as the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons. In 2000, the activation rate is defined as the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures.

The report indicates that training allowances are also given in the context of training programmes, such as Youthreach and Vocational Training Opportunity Scheme. The Committee asks whether this is also the case with respect to all the other forms of training.

In reply to the Committee's question on equal treatment, the report indicates that the candidate's parents or the candidate himself (where a mature student) must have been ordinarily resident in the administrative area of the Local Authority for one year in order to be eligible for maintenance grants. This rule applies to Irish nationals, EU nationals and non-EU nationals who are married to an Irish national, or a EU national, or is the child of such a person. EU nationals who do not satisfy this condition, but who have been ordinarily resident in an EU Member State for one year and for a purpose other than receiving fulltime education, are eligible to apply for a means-tested grant covering fees.

The Committee infers from this that non-EU nationals do not receive any form of financial assistance with tuition fees, nor with maintenance unless they satisfy the above rule concerning marriage or birth.

The Committee recalls that, according to the Appendix to the Charter, equality of treatment shall be provided to nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned. This implies that no length of residence is required from students and trainees admitted to reside in any capacity other than being a student or a trainee, or having authority to reside by reason of their ties with persons lawfully residing, on the territory of the Party concerned before starting training. This does not apply to students and trainees who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training.

To this purpose, the Committee recalls that it has held that length of residence or employment requirements for financial assistance for vocational training are contrary to the provisions of the Charter (Conclusions XIII-2, Austria, p.221; XIII-3, Finland, p.324; XIV-2, Belgium, p.146, Finland, p. 238). Therefore, it concludes that the situation is not in conformity with the Charter.

Training during working hours (Article 10§4 c)

The report indicates that it is standard practice to facilitate workers to undergo training at the request of the employer during normal working hours.

Efficiency of training (Article 10§4 d)

The Committee **asks** for information about evaluation of training to be provided in the next report.

Conclusion

The Committee concludes that the situation in Ireland is **not in conformity** with Article 10§4 of the Charter on the grounds that equal treatment for non-nationals of Contracting Parties to the 1961 European Social Charter and of Parties to the Revised European Social Charter lawfully resident or regularly working in Ireland with respect to fees (non-EU nationals) and financial assistance (EU and non-EU nationals) for training is not guaranteed.

10.4.1 Question A

Please indicate the special measures taken to provide or promote the retraining and reintegration of long-term unemployed, including as far as possible information on the number of participants and the results achieved.

10.4.2 Reply

FÁS runs a number of programmes to address the needs of the long term unemployed. FÁS has a policy of providing as a priority places for the long term unemployed in all our training programmes, such programmes geared towards the long term unemployed are

- Apprenticeship
- Traineeship
- Specific Skills Training
- Return to Work
- Bridging and Foundation
- Community Training Programmes
- Community Training Workshops
- Local Training Initiatives
- Specific Training Provision for persons with disabilities

The throughput for the long term unemployed under the various programmes types are set out in Appendix 3.

Text of ARTICLE 10 PARA. 5 of the Revised Charter

"With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake: to encourage the full utilisation of the facilities provided by appropriate measures such as:

- a. reducing or abolishing any fees or charges;
- b. granting financial assistance in appropriate cases;
- c. including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;
- d. ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally."

Note :- As this is an entirely new provision of the European Social Charter, (there was no Article 10, Paragraph 5 in the original European Social Charter), we have never reported on this provision before.

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Standard Questionnaire (directed to all Member States of the Council of Europe) in relation to Article 10, Para. 5 of the Revised Charter :-

Question A

Please give a brief account of any fees or charges imposed in respect of vocational training and indicate, where appropriate, the measures taken to reduce or abolish such fees or charges.

Question B

Please describe the system existing in your country for providing financial assistance (allowances, grants, loans, etc.) to participants in vocational training. Please indicate also the nature of the financial assistance provided (amounts, duration, eligibility criteria, etc.). Please indicate whether equal treatment in respect of financial assistance is ensured for nationals of all the Contracting Parties to the Charter lawfully resident or working regularly in your territory.

Question C

Please indicate the measures taken to include time spent on training taken by workers, at the request of their employer, in the normal working hours.

Question D

Please indicate the supervision and evaluation measures taken in consultation with the social partners to ensure the efficiency of apprenticeship and other training arrangements for young workers.

Question E

Please indicate if the provision of sub-paragraphs (a), (b) and (c) of Article 10 para. 4 are applicable to the great majority of the persons concerned.

10.5.1 Question A

Please give a brief account of any fees or charges imposed in respect of vocational training and indicate, where appropriate, the measures taken to reduce or abolish such fees or charges.

10.5.2 Reply

As stated before FÁS does not charge any fees in respect of vocational training, however in the case of evening courses FÁS charges a nominal fee to cover the cost of the training facilities for the duration of the evening programme. FÁS pays allowances to all participants attending our programmes. These allowances are set out in Appendix 4.

All FÁS trainees and apprentices are under the supervision of FÁS instructors and external tutors where appropriate while attending training programmes. Trainees are expected to attend training on the dates specified and any absences are noted and followed up.

10.5.3 Question B

Please describe the system existing in your country for providing financial assistance (allowances, grants, loans, etc.) to participants in vocational training. Please indicate also the nature of the financial assistance provided (amounts, duration, eligibility criteria, etc.). Please indicate whether equal treatment in respect of financial assistance is ensured for nationals of all the Contracting Parties to the Charter lawfully resident or working regularly in your territory. Do the above provisions (in Question A) apply to the great majority of persons concerned

10.5.4 Reply

Yes, the provisions in Question A apply to the great majority of our programmes.

FÁS provides a range of allowances for those persons attending our apprenticeship training and other vocational training. These allowances as at December 2004 are set out in Appendix 4.

10.5.5 Question C

Please indicate the measures taken to include time spent on training taken by workers, at the request of their employer, in the normal working hours.

10.5.6 Reply

FÁS through its competency based programmes grant aids those companies who wish to undertake training in their company during normal working hours. The aim of the Competency Development Programme (CDP) is to raise the competency level of targeted employees in particular occupations within specific sectors to ensure that the national stock of skills matches the national human resource requirements for continuous economic growth.

The programme provides a training subsidy to enhance the competency level of specific members of the company's workforce aimed at enabling employees to cope with frequent and ongoing changes in work practices.

The proposed training will be targeted at a limited number of key skill needs which will be identified in elements of the following sectors by research and /or consultation with the relevant industry/business stakeholders and other agencies and within a FÁS prioritisation set by the financial constraints of budget availability.

Funding priority is given towards the development of employees in the general operative category.

The following **key sectors** will be within the scope of the programme:

Business Related Services
Chemicals
Clothing, Footwear and Textiles
Construction

Contract Cleaning Services
Engineering /Electronics
Film and TV
Food and Drink
Logistics/Software / Transport
Motor
Printing, Paper and Packaging
Retail / Wholesale

FÁS provides a substantial contribution towards the eligible cost of this training, e.g.

- **60% of the agreed cost for certified programmes ***.
- **40% of the agreed costs for programmes without certification ***.

* 10% additional funding is available when training takes place in the BMW region.

FÁS through its National Register of Trainers registers and approves competent training organisations and tutors which are available to industry to deliver such programmes.

The Apprenticeship system is a modular standards based system generally comprising of seven alternating phases of on-the-job and off-the-job training and development. These alternating phases of training consist of three off-the-job phases and four on-the-job phases. The duration of three off-the-job training phases does not normally exceed 40 weeks. The first phase on-the-job is an introduction to apprenticeship, safety, the world of work and to the basic skills of the trade. The remaining phases of on-the-job training and development entail the practice and further development of knowledge, skills and competencies learned in the off-the-job phases.

As part of our training programmes FÁS places trainees on work experience in nominated companies. In the case of other training programmes, on average, 20% of the training hours are spent in nominated companies under the supervision of FÁS staff.

10.5.7 Question D

Please indicate the supervision and evaluation measures taken in consultation with the social partners to ensure the efficiency of apprenticeship and other training arrangements for young workers.

10.5.8 Reply

The National Apprenticeship Advisory Committee (N.A.A.C.) comprises of representatives from the FÁS Board, the Irish Congress of Trade Unions, Employer Bodies, the Institutes of Technology and representatives from the Department of Enterprise, Trade and Employment, the Department of Education and Science and the Department of Finance. FÁS in consultation with the N.A.A.C. has recently commenced a review of all apprenticeship programmes to ensure the programme curricula reflects the current and expected needs of the respective industry sectors.

Reviews of other vocational training programmes are carried out by senior training services management on an ongoing basis. The process of these reviews involves the examination by subject matter experts, FÁS staff and representatives from industry to ensure the relevance of our training programmes. In addition the conclusions of these reviews will be forwarded to FETAC (Further Education and Training Awards Council) for their comments and to other public and private bodies for comment.

10.5.9 Question E

Please indicate if the provision of sub-paragraphs (a), (b) and (c) of Article 10 para. 4 are applicable to the great majority of the persons concerned.

10.5.10 Reply

Yes, these are applicable to the greatest majority of trainees.

ARTICLE 11: THE RIGHT TO PROTECTION OF HEALTH

General aspects (in respect of all of Article 11)

Question A

Please indicate the forms of ill-health which at present raise the greatest public health problems in your country by reason of their frequency, gravity and any sequels.

Please indicate what illnesses were the main causes of death.

Question B

Please describe the measures aimed at ensuring universal access to health care.

Please also indicate on what conditions the various health services are made available to the whole of your country, describing the geographical distribution of these services.

Question C

Please indicate how public health services are organised in your country and state, if possible:

1 States having accepted one or more paragraphs of Article 11 are invited to respond to the questions under this heading.

2 If the statistical information requested under this provision is available from publications of Eurostat, WHO or OECD you are invited to refer to the relevant publication.

a. the number of private or public preventative and screening clinics (if possible distinguishing between general or specialised, particularly in the fields of tuberculosis, sexually transmitted diseases, AIDS, mental health, mother and child welfare, etc.) and the annual attendance of them making special mention of services for schoolchildren;

b. the regular health examinations arranged for the population in general or for a part thereof, and their intervals;

c. the number of general hospitals and public or private establishments for specialised treatment (especially for tuberculosis, psychiatry – including day hospital –, cancer, after-care, functional and occupational rehabilitation). Give the respective proportions of public and private establishments. Please indicate the number of beds available (or of places in case of day hospitals or rehabilitation clinics accepting out-patients);

d. the number per 1 000 persons of doctors, dentists, midwives and nurses, indicating if possible, the situation in urban and rural areas;

e. the number of pharmacies per 1 000 persons and if possible their geographical distribution;

f. Please indicate the percentage of GDP allocated to health expenditure.

Text of ARTICLE 11 PARA. 1 of the Revised European Social Charter

"With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia: to remove as far as possible the causes of ill-health."

=====

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please indicate infant and perinatal mortality rates for the reference period concerned.
Please indicate the life expectancy at birth in your country.

Question B

Please describe any special measures taken to protect the health of:

- a. pregnant women, mothers and babies;
- b. children and adolescents;¹
- c. the elderly;
- d. disadvantaged persons or groups (for example the homeless, families with many children, drug addicts and the unemployed, etc.).

Please supply information on all measures taken to protect the reproductive health of all persons, in particular adolescents.

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Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) Articles 7, 8, 11, 14, 17 and 18 and Questions for answer by Ireland arising from our 19th Report, submitted in 2001, under the original European Social Charter (1961):

None - because Ireland did not accept this provision of the original European Social Charter (1961). Ireland has accepted this provision of the Revised European Social Charter, which we signed and ratified on 4 November 2000. Accordingly, we have to report on this provision for the first time now.

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Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 11, Paragraph 1:

ARTICLE 11: THE RIGHT TO PROTECTION OF HEALTH

Paragraph 1 - "With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to

take appropriate measures designed inter alia: to remove as far as possible the causes of ill-health."

Material supplied by the Department of Health and Children:

General Aspects (in respect of all Aspects of Article 11):

1. Strategic Policy Context for Article 11

11.1.1 **The National Health Promotion Strategy 2000 – 2005** identified the need for overall health policy to protect and promote the health of children and young people and highlights the particular role of health promotion in preventing alcohol and drug abuse. In addition, the strategy recognises the need to develop policy which can address the determinants of health and health inequalities. This policy agenda has since been incorporated into "**Quality and Fairness: A health system for you**", which may be accessed at website http://www.dohc.ie/publications/strategy_progress_2004.html and thereby represents a move towards a cross-government commitment to addressing the broader determinants of health. In **2004 a Review of the National Health Promotion Strategy** (which may be accessed at website <http://www.dohc.ie/publications/nhis.html>) was commissioned and completed. The aim of the review was to Report Progress on the Implementation of the National Health Promotion Strategy, to propose areas of work or actions requiring further implementation support and to assist in Identifying performance indicators and evaluation methodologies.

11.1.2 The purpose of the **National Health Promotion Strategy** is to provide the broad policy framework for a wide range of health protection and improvement developments. While focusing on the link between health and its determinants, health promotion advances its aims and objectives through three approaches of population groups, settings and topics. Please see the following website http://www.healthinfo.ie/search_publications_database/

11.1.3 **Preventing Alcohol Addiction.** Please see the following website http://www.healthinfo.ie/search_publications_database/index.php?topic=1&publisher=9&search=&srchnow=y

In the context of the prevention of alcohol addiction, a **Strategic Task Force on Alcohol** was established in January 2002. It produced an Interim Report in May of that year and published its Second Report in September 2004, which may be accessed at the following website http://www.dohc.ie/publications/strategic_task_force_on_alcohol_second.html

Government approval has been granted to the Minister for Health to implement the recommendations of the Task Force which come within her remit and other Ministers have been asked to implement the recommendations appropriate to their Departments. Progress has been made in a number of areas including Voluntary Codes of Practice on Alcohol Advertising, community mobilisation, public awareness, engagement with sports bodies, research and data collection.

Working Group on Alcohol

11.1.4 On foot of a Government Decision, a Working Group on Alcohol was recently established to help mobilise the stakeholders through social partnership to achieve

a targeted and measurable reduction in alcohol misuse. The Working Group operates in the context of the Special Initiative on Alcohol and Drug Misuse.

- 11.1.5 The Working Group is comprised of the social partners, the relevant Government Departments, the Gardai, the National Drugs Strategy Team and the Health Services Executive. In this first phase, the Working Group is seeking to agree a programme of actions which can deliver targeted results in relation to underage drinking, binge drinking and drink- driving. The Working Group's Report and recommendations were published in February 2006. A copy of this Report can be down loaded at the following website link
http://www.dohc.ie/publications/pdf/alcohol_misuse.pdf?direct=1

Preventing Drug Abuse

- 11.1.6 The Health Promotion Unit plays an important role in the provision of drugs education and the prevention of substance use among the population. The National Health Promotion Strategy 2000-2005 identifies the strategic importance of supporting models of best practice that promote the non-use of drugs and minimise the harm caused by them. The Unit is also guided in its work by the National Drugs Strategy – “*Building on Experience 2001-2008*” with a view to providing a holistic response to the issues around substance use prevention. Specific Actions set out in the Strategy include:

Support for the implementation of Social Personal and Health Education & other Substance Use Education Programmes

- 11.1.7 In Ireland Drug Education is delivered in schools through the Social, Personal and Health Education (SPHE) Curriculum. Both the Department of Health and Children and Education and Science have responsibility for supporting the introduction and implementation of this curriculum area in schools. The National Health Promotion Strategy 2000 – 2005 and the 1998 Education Act set out the commitment of the Irish Government to SPHE within the context of the Health Promoting School.
- 11.1.8 The focus of SPHE is to enable students to develop a framework for responsible decision making for every aspect of their lives. This includes being able to say ‘no’ to the misuse of different substances, including drugs, tobacco and alcohol; to have an awareness of the consequences of substance misuse and to make conscious and informed decisions about the use of drugs in their lives.
- 11.1.9 Since September 2003, SPHE has been mainstreamed in all post-primary schools as a core element of the curriculum for Junior Cycle students. Work on the prevention of substance misuse is supported in the context of SPHE, and the Post-Primary SPHE Support Service provides training for teachers. The ‘On My Own Two Feet’ substance misuse prevention programme has also been integrated into the SPHE curriculum. It is envisaged that this curriculum will be extended to Senior Cycle in the next few years.

11.1.10 At Primary level the Primary Curriculum Support Programme has responsibility for training teachers in the SPHE curriculum and since September 2003 all primary schools have time-tabled SPHE on the curriculum. The “Walk Tall” Substance Misuse Prevention Programme also provides training for teachers in the delivery of age appropriate substance use messages, dealing with topics like self-esteem, attitudes and feelings towards drugs, and on the development of communication skills.

Development of a National Drugs Awareness Campaign

11.1.11 The campaign has been developed through consultation and partnership with all those involved in drug abuse prevention. It is a three-year campaign launched in 2003 and aims to increase awareness amongst the general population about current problem drug use and its consequences across society through the achievement for measurable change in the knowledge and attitude of targeted groups. The campaign, consisting of both advertising and public relations, is made up of different phases with each phase dealing with different population groups and topics. In addition to the advertising and Public relations elements, a range of information materials, a website and a national helpline have also been developed.

11.1.12 To date, various phases have targeted the general population, parents and 18-35 year olds. The first phase, aimed at raising awareness across the population, included a specific television advertisement targeting young people. Emphasising the importance of communication this message was supported by the provision of a telephone helpline, an information brochure and a website www.drugsinfo.ie. Subsequent phases particularly those targeting parents, also focused on open and honest communications with children and young people. The Health Promotion Unit is currently engaged in the development of further phases of the campaign, in consultation with relevant experts.

Schools Substance Use Policies

11.1.13 The Health Promotion Unit has worked in partnership with the Health Services Executive and the Department of Education and Science to support a process to develop and produce Guidelines for Schools to assist in developing Substance Use Policies. These have been circulated to all schools nationwide. These Guidelines highlight the importance of education curriculum as the core preventative strategy for schools. Further support has been made available to schools through a range of agencies. An online resource has also been developed to support this process.

ARTICLE 11: THE RIGHT TO PROTECTION OF HEALTH

ARTICLE 11 PARA. 2

[Text of ARTICLE 11 PARA. 2 of the Revised European Social Charter](#)

"With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia: to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;"

[Questions asked of all Contracting Parties \(member states of the Council of Europe, which have signed and ratified the European Social Charter\):](#)

Question A

Please indicate what advisory and screening services exist:

- a. for schools;
- b. for other groups.

Question B

Please describe any measures taken to further health education, including information campaigns.

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) Articles 7, 8, 11, 14, 17 and 18 and Questions for answer by Ireland arising from our 19th Report, submitted in 2001, under the original European Social Charter (1961):

None - because Ireland did not accept this provision of the original European Social Charter (1961). Ireland has accepted this provision of the Revised European Social Charter, which we signed and ratified on 4 November 2000. Accordingly, we have to report on this provision for the first time now.

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[Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 11, Paragraph 2:](#)

Questions A and B refer:

11.2.1 Please see our response under Article 11, Paragraph 1 above.

ARTICLE 11: THE RIGHT TO PROTECTION OF HEALTH

ARTICLE 11 PARA. 3

Text of ARTICLE 11 PARA. 3 of the Revised European Social Charter

"With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia: to prevent as far as possible epidemic, endemic and other diseases, as well as accidents." If your country has accepted paragraphs 9 and 10 of Article 7, it is not necessary to repeat the information given thereon here.

Question A

Please indicate what measures other than those mentioned above are taken to prevent epidemic, endemic and other diseases (compulsory or optional vaccination, disinfection, epidemics policy).

Question B

Please indicate what general measures are taken in the public health field, such as:

- a. – prevention of air pollution,
- prevention of water pollution,
- prevention of soil pollution;
- b. protection against radioactive contamination;
- c. protection against noise pollution;
- d. food hygiene inspection;
- e. minimum housing standards;
- f. measures taken to combat smoking, alcohol and drug abuse, including multiple addiction, as well as against sexually transmitted diseases.

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) Articles 7, 8, 11, 14, 17 and 18 and Questions for answer by Ireland arising from our 19th Report, submitted in 2001, under the original European Social Charter (1961):

Article 11 — Right to protection of health

Paragraph 3 – Prevention of diseases

The Committee takes note of developments in Ireland concerning the prevention of health risks in general and prophylactic measures in particular.

Policies for the prevention of avoidable risks

Reduction of environmental risks

General

The Committee notes the existence of extensive modern legislation and observes that Community environment law has been incorporated into the national system in its entirety. The Committee notes from OECD data¹ that environmental expenditure rose during the 1990s, but without exceeding 1 % of GDP. In particular, at 0.6 % of GDP, expenditure to combat pollution was lower than in most other OECD countries. Since European Union grants are to be progressively withdrawn owing to the country's economic growth, the Committee will remain attentive to the development of the national budget allocated to maintaining a healthy environment.

Air pollution

The Committee observes from OECD data that a combination of changes in consumption patterns driven by the recent increase in *per capita* income and the inadequacy of the Irish environmental protection infrastructure is causing the country serious environmental problems, especially as regards controls on the emission of air pollutants from transport and power generation.

As regards the controlling of local area pollution, the Committee notes from the most recent report submitted by Ireland to the United Nations Economic and Social Committee on the application of the International Covenant on Economic, Social and Cultural Rights² that in Dublin air quality was improved with the entry into force of a ban on the marketing, sale and distribution of bituminous coal. Measurements of smoke before and after adoption of the ban show that air quality is now superior to the national standard. A similar ban was introduced in Cork in 1995. Other measures taken comprise vehicle emissions controls and fuel environmental standards.

However, overall nitrogen oxide emissions have risen since 1994 instead of stabilising at 1987 levels as required by the Sofia Protocol. Sulphur dioxide emission levels remain high in comparison with other western European countries, and they

¹ *Environmental Performance Review on Ireland*, 2000.

² E/1990/5/Add. 34, 26 September 1997.

must be considerably reduced if they are to comply with the Oslo Protocol. While noting that Ireland is the only European Union country not to have ratified the Geneva Protocol on emissions of volatile organic compounds, the Committee observes from OECD data³ that these emissions declined significantly during the reference period.

In 1997 Ireland adopted a national strategy for sustainable development and a strategic environmental evaluation process has recently been introduced for the sake of systematic assessment of the possible effects on the environment of policies in other sectors.

As far as global pollution is concerned, the Committee notes that Ireland ratified the United Nations Framework Convention on Climate Change (Rio de Janeiro, 1992) in 1993. In order to meet the targets set for the European Union following the 1997 Kyoto Conference, Ireland has undertaken, *inter alia*, to restrict emissions in 2008-2010 of the main types of greenhouse gas to no more than 13 % above 1990 levels. OECD data indicate that carbon dioxide emission levels will probably be exceeded if supplementary measures are not taken, but that methane emissions are under control.

Asbestos –

The Committee requests a reply in the next report to the general question asked in Conclusions XIII-4 concerning measures taken to protect the health of persons exposed to asbestos, excluding exposure in the workplace (which is considered under Article 3). It requests that the next report indicate what restrictions and bans limit the use, marketing and manufacture of asbestos, what steps have been taken to detect the presence of asbestos in residential and public buildings and what obligations firms are under concerning waste containing asbestos.

Ionising radiation – The Committee notes that Ireland produces no nuclear energy. It nonetheless requests information concerning preventive measures to protect people from other risks of exposure to radiation (with the exception of exposure in the workplace, which is considered under Article 3) and asks in particular whether regulations comply with the recommendations made in 1990 by the International Commission on Radiological Protection (ICRP) and the standards laid down in Council Directive 96/29/Euratom on the protection of the health of workers and the general public against the dangers arising from ionising radiation.

Food safety

In view of the threat to health of diseases related to food and the recent outbreaks of such diseases, as well as the emergence of food products derived from biotechnology, the Committee has decided to look at food safety measures in all states party to the

³ *OECD Environmental Data*, 1999 Compendium.

Charter. It stresses that under Article 11 states have a responsibility to ensure a high degree of safety in this area for their populations.

Referring in particular to the resolution on food safety adopted in May 2000 at the 53rd World Health Assembly, and while recognising the importance of international strategies, the Committee points out that, in order to meet Charter obligations in this field, states must set national legal standards regarding food hygiene which take account of relevant scientific data. They must also establish and maintain mechanisms for monitoring compliance with these standards at every stage of the food chain, develop, implement and update systematic prevention measures, chiefly by way of labelling, and monitor the occurrence of food-borne diseases.

The Committee asks that the next report provide up-to-date information on these three aspects (standards, monitoring and prevention) so that it can assess the situation when it next examines Article 11.

Measures to combat smoking and alcoholism

In Ireland the principal causes of sickness and death are circulatory disorders. According to Eurostat data⁴, the male mortality rate due to such disorders was by far the highest in the European Union.

Smoking – The Committee stresses the importance of measures against smoking in meeting the requirements of Article 11 of the Charter. It recalls that smoking, a major cause of avoidable death in developed countries (in Europe 30 % of deaths from cancer are attributable to smoking) is associated with a wide range of diseases (cardiac and circulatory diseases, cancers, pulmonary diseases etc.). Smoking kills one adult in ten throughout the world. The World Health Organisation (WHO) forecasts an increase to up to one in every six deaths by 2030,⁵ which is more than the figure for any other cause of death. The Committee also notes that WHO is drawing up a convention on measures to combat smoking and points out that WHO, as part of the Health for All campaign, has set a target for European countries of raising the proportion of non-smokers in the population to at least 80 % and protecting non-smokers against involuntary exposure to tobacco smoke.

Smoking is the most important problem on which the Health Promotion Unit of the Irish Department of Health organises public education and health promotion programs. The Department also implements a range of legislative anti-smoking measures. The most recent text – the Tobacco (Health Promotion and Protection) Regulations 1995 – prohibits or restricts smoking in certain public places, including educational establishments, food areas, public transport, medical facilities and places of entertainment. The Department also seeks to extend protection against

⁴ *Eurostat Yearbook: A statistical eye on Europe 1988-1998*

⁵ World Health Report 1999.

environmental tobacco smoke to workers by means of a Voluntary Code of Practice against Smoking in the Workplace. The effectiveness of the code is being evaluated.

The Committee takes note from the United Nations report cited above of the Smoking Cessation and Reduction Action Programme (SCRAP) for 12-13 year olds, which was developed by the Health Promotion Unit in conjunction with the Irish Cancer Society and the National Youth Federation. Due to the positive results of this programme (see below) it has been made available to all second-level schools.

The Committee observes from Eurostat data that the figure for cigarette consumption per head has not risen in the 1990s but remains above the average for EU and EEA member states (1,784 cigarettes per person per year in 1997, compared with a European average of 1,646). The proportion of the population smoking daily is about the European average (29 %). The Committee further notes from the United Nations report cited above, that the proportion of the population over the age of 15 which smokes has decreased from 43 % in the early 1970s to about 27 % in the 1990s.

Alcohol – The Committee notes in the United Nations report cited above that the problem of use of alcohol by young people is a priority issue for the Department of Health and that numerous measures have been taken in terms of health education in this field, particularly in schools. However, it notes from Eurostat data that contrary to the general trend in Western Europe, the annual consumption of pure alcohol by persons over the age of 15 is increasing, although this is still below the European average (in 1996, 9.1 litres compared to 9.4 litres). The Committee asks that the next report contain a description of the legislative measures taken to regulate the supply of alcohol.

Prophylactic measures

Epidemiological monitoring

All reports submitted so far have indicated that a system for collecting data and monitoring numerous transmissible diseases is in operation in Ireland. The Committee notes from the United Nations report cited above that a manual on the fight against infectious diseases has been published for distribution to all educational establishments with a view to assisting teachers in differentiating between infections which are less serious and those which need medical attention.

Immunisation

The Committee notes from the annual report for 1999 of the Department of Health and Children that the national child immunisation programme recommends inoculation against diphtheria, poliomyelitis, tetanus, whooping cough, Hib meningitis, mumps, measles and rubella. Vaccinations are carried out free of charge by general

practitioners (programme revised in 1995) who are responsible for ensuring, in so far as possible, that at least 95 % of the children assigned to them are vaccinated.

The Committee takes note of the vaccination rates recorded in the WHO “Immunisation Profile” for Ireland⁶: in 1997, 76 % of the population was vaccinated against diphtheria, tetanus, polio and Hib meningitis. The Department of Health report gives a measles, mumps and rubella vaccination rate of 80 %. The Department acknowledges that these rates do not meet national goals and fall short of WHO targets for the eradication of measles and polio in particular.

The Committee emphasises that this situation could raise problems of compliance with Article 11 paragraph 3, which requires that all means be used not only to reduce the incidence of disease but also, in line with WHO targets and recommendations, to neutralise the virus reservoir. It therefore strongly urges the Irish authorities to take all necessary measures to improve the situation and asks to be kept informed of developments.

Conclusion

Pending receipt of the information requested on the regulation of asbestos-related risks, ionising radiation and alcohol abuse and pending developments in the situation regarding immunisation, the Committee defers its conclusion.

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Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 11, Paragraph 3:

Note: Changes which have occurred since the submission of our 19th Report under the original European Social Charter in 2001, are shown in red print.

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Please see the following publications for an overview of the Irish Health System:
http://www.dohc.ie/publications/pdf/annual_report_2004.pdf?direct=1 (Annual Report 2004 of the Department of Health and Children);

<http://www.dohc.ie/publications/> (Publications of the Department of Health and Children, 1994-2006);

http://www.dohc.ie/publications/pdf/health_system_achievements_oct_2005.pdf?direct=1

⁶ <http://www.who.int/vaccines-surveillance/>

(D/H&C (Department of Health and Children) Publication on Achievements of the Health Service, October 2005);

http://www.dohc.ie/publications/pdf/strategy_progress_2004.pdf?direct=1 *(D/ H&C Publication Quality and Fairness – A Health System for You – Action Plan Progress Report 2004 – published in May 2005);*

Question A, General Aspects (in respect of all of Article 11) refers (Sub-Paragraphs 11.3.1 to 11.3.3 refer) :- Update of Material provided in Sub-Paragraphs 11.3.1-11.3., Page 80 of Ireland's 19th Report under the original European Social Charter, which was submitted to the Council of Europe in 2001:

11.3.1 *The main causes of ill-health based on statistics of hospital admissions and discharges, plus attendances at out-patient clinics are those related to mental illness, accidents, poisonings, violence and diseases of the respiratory system, circulatory system and musculoskeletal system.*

11.3.2 *The main causes of death are coronary heart disease, cancer, strokes and other diseases of the circulatory system. Please see the following websites for the relevant statistical information:*

<http://www.dohc.ie/statistics/> *(list of statistical information available from the Department of Health and Children)*

<http://www.dohc.ie/publications/hstat02.html>
(Health Statistics 2002 – Published by the Department of Health and Children)

http://www.dohc.ie/statistics/health_statistics/
(More statistical information available from the Department of Health and Children)

http://www.dohc.ie/statistics/health_statistics/table_d7.html *(Immunisation Rates)*

http://www.dohc.ie/statistics/health_statistics/table_c5.html *(Cases of Infectious Diseases notified)*

http://www.dohc.ie/statistics/health_statistics/table_b3.html *(Births, Deaths and Marriages)*

http://www.dohc.ie/statistics/health_statistics/table_b7.html *(Principal Causes of Death)*

http://www.dohc.ie/statistics/health_statistics/table_b1.html *(Life Expectancy)*

<http://www.cso.ie/> (*Home Page of Central Statistics' Office / CSO*)

<http://www.cso.ie/statistics/Population.htm> (*CSO Principal Population Statistics*)

<http://www.cso.ie/statistics/BirthsDeathsandMarriages.htm> (*CSO- Births, Deaths and Marriages Statistics*)

<http://www.cso.ie/statistics/HealthandSocialConditions.htm>
(*CSO Principal Health and Social Conditions Statistics*)

http://www.cso.ie/statistics/new_cancers_diagnosed.htm (*CSO- New Cancers diagnosed*)

http://www.cso.ie/releasespublications/documents/other_releases/2004/progress/measuringirelandsprogress.pdf (*See pages 50-52 of the publication, Measuring Ireland's Progress 2004, which deal with Health matters.*)

<http://www.healthpromotion.ie/> (*Health Promotion Unit's home page*)

<http://www.healthpromotion.ie/topics/>

<http://www.healthpromotion.ie/publications/#>

<http://www.healthpromotion.ie/campaigns/>

http://www.healthpromotion.ie/health_promotion_strategy/

http://www.healthpromotion.ie/cvd_strategy/

http://www.healthpromotion.ie/health_strategy/

<http://www.healthpromotion.ie/research/>

<http://www.irishhealth.com/index.html>

http://www.irishhealth.com/link02.html?f_ltid=3

http://www.healthpromotion.ie/press/irelands_changing_heart/ (*HPU (Health Promotion Unit) Publication – Ireland's Changing Heart, 2003*) ;

http://www.healthpromotion.ie/other_hpu_websites/ (*This website allows access to other useful websites.*)

<http://www.crisispregnancy.ie/>

http://www.nco.ie/work_of_the_national_childrens_office/youth_homelessness_strategy/

(National Children's Office – The Youth Homeless Strategy) ;

11.3.3 The incidence of infectious diseases is shown on the following website:

http://www.dohc.ie/statistics/health_statistics/table_c5.html

Questions B and C, General Aspects (in respect of all Aspects of Article 11)

refers

Measures to ensure Universal Access to Health Care:- Update of Material provided in Sub-Paragraphs 11.3.4 to 11.3.46, Pages 81-97 of Ireland's 19th Report under the original European Social Charter submitted in 2001 :-

Please see the publication Health Statistics 2002 prepared by the Information Management Unit of the Department of Health and Children, in particular Section D, Community Health and Welfare Services on Pages 104- 122 of that document, which may be accessed at

<http://www.dohc.ie/publications/hstat02.html>

Primary Health Care

11.3.4 Primary health care general practitioner services, HIV/ AIDS prevention, care, management and surveillance; dental, aural and ophthalmic services ; health promotion, control of infectious diseases ; immunisation ; screening drug abuse programmes ; family planning ; anti-tobacco programmes ; public health nursing ; pre-school and school health examinations ; the Maternity and Infant Care Scheme ; food safety.

Secondary Health Care

11.3.5 Secondary care services include acute and general hospital services. Continuing Care / Personal Social Services

11.3.6 Continuing care encompasses services for the elderly, the mentally ill, persons with disabilities and home support services for children and their families.

Eligibility for Health Services – Section D (Community Health and Welfare Services) , Pages 105-121 of Health Statistics, 2002 refer:-

11.3.7 The category of eligibility for health services to which a person belongs, determines what services he / she should pay for and what services he /she is entitled to free of charge. *There are two levels of entitlement to health services in Ireland - Category One (full eligibility) or Category Two (limited eligibility).*

Eligibility for health services usually depends on your income. It is not connected to Pay Related Social Insurance (PRSI) contributions.

11.3.8 Any person who is considered by the Health Service Executive Area (formerly known as 'health board') to be "ordinarily resident" in Ireland has either **Category One** "full eligibility" or **Category Two** "limited eligibility" for Health Services.

If you are taking up residence in Ireland or returning here to live, you would be regarded as ordinarily resident in Ireland if you satisfy your Health Service Executive (HSE) Area that it is your intention to remain in Ireland for "a minimum of one year".

11.3.9 To establish that a person is ordinarily resident a Health Service Executive (HSE) Area may require:

- Proof of property purchase or rental, including evidence that the property in question is the person's principal residence.
- Evidence of transfer of funds, bank accounts, pensions etc.
- A residence permit or visa.
- A work permit or visa, statements from employers etc.
- In some instances, the signing of an affidavit (a sworn written statement) by the applicant.

11.3.10 The fact that a non-EU National has established his/her eligibility for health services does not automatically mean that their dependants are also eligible. Dependants of non-EU Nationals may also have to satisfy the above requirements.

Overseas Students

11.3.11 An overseas student would be considered ordinarily resident in Ireland for health services purposes if he/she is attending a registered course of study of at least one academic year's duration.

EU Citizens

11.3.12 Under EU Rules if you are living in Ireland and getting a Social Security Pension from another EU State you may be entitled to a Medical Card here without having to satisfy the usual means test **provided** you are not getting an Irish Social Welfare Pension and are not employed or self-employed here. If you have unearned income of more than 3,174.34 euro per year you may be regarded as self-employed and would have to satisfy a means test in order to get a Medical Card. Generally, if you work in one Member State and live in another, you are entitled to get health services in the state where you live and where you work. This means that workers who live here but work in Northern Ireland are entitled to get medical cards here without a means test. Their families are also entitled to a medical card in Ireland without a means test provided the spouse is not employed or self-employed here.

11.3.13 A National of another EU Member State who is not covered for health services under EU Rules should have his/her status as "ordinarily resident" sorted out by

the Health Service Executive (HSE) Area (formerly known as '*health board*') in order to be eligible for health services here.

Short-term Visitors to Ireland

11.3.14 **Visitors from EU Member States** are entitled to urgent medical treatment here without charge provided they present the European Health Insurance Card. Visitors from the United Kingdom do not require the European Health Insurance Card. Evidence of residence in the United Kingdom may be required e.g. social security documentation or driving licence.

11.3.15 **Visitors from Australia** are entitled to urgent medical treatment here on the same basis as non-medical card holders, i.e., they are subject to hospital charges. Visitors will, on presentation of suitable identification (passport/evidence of residence in Australia) be entitled to hospital services as a public patient and will be invoiced for the relevant hospital charge.

11.3.16 **Visitors from countries outside the EU** may be charged for any treatment provided in Ireland.
Further information is available from your Local Health Office.

The material in sub-paragraphs 11.3.7 – 11.3.16 was sourced from the Oasis website http://oasis.gov.ie/health/health_services_in_ireland/medical_card.html

11.3.17 Medical Cards in Ireland:-

See web site

http://oasis.gov.ie/health/health_services_in_ireland/medical_card.html#id3145458 See also sub-paragraphs 13. 1.4 – 13.1. 8, pages 178-180 of Ireland's Third Report under the Revised European Social Charter submitted in 2006, which is appended to our report on this provision of the Revised Charter. The statistics in relation to Medical Cards are given on pages 106-110 of Health Statistics 2002, which was published by the Information Management Unit of the Department of Health and Children.

- [Rules](#)
- [Rates](#)
- [How to apply](#)
- [Where to apply](#)

11.3.18 Information

A medical card issued by a [Health Service Executive \(HSE\) Area](#) in Ireland enables the bearer to receive certain health services free of charge.

If you are issued with a medical card, the card would normally cover you and your dependent spouse and child dependants. (In other words, your dependent spouse and children would normally be entitled to certain health services free of charge also). Medical cards are small plastic cards (similar in size to a credit card). Everyone in Ireland that is over 70 years that is normally resident in Ireland, is entitled to a medical card regardless of means.

Unless you have a medical card, visits to family doctors in Ireland are not free. The GP Visit Card was announced in 2005 as a new initiative to assist those who did not qualify for a medical card on income grounds but for whom the cost of visiting a GP was often prohibitively high. [Read more about GP Visit Cards here.](#)

11.3.19 What health services are normally covered?

If you have a medical card, you are entitled to free GP (family doctor) services; [prescribed drugs and medicines](#) (with some exceptions); [in-patient public hospital services](#); [out-patient services](#); [dental, optical and aural services](#); medical appliances; [maternity and infant care services](#); and a maternity cash grant of 10.16 euro on the birth of each child.

You are free to choose a GP from a panel of participating doctors. The GP you select must generally have his/her practice within seven miles of where you live. The GP must agree to accept you as a patient. Read more about [GP Services for Medical Card holders](#) here.

A full-time student aged 16-25 who is financially dependent on his/her parents will only be entitled to a medical card if his or her parents held a medical card. A student who is financially independent of his or her parents and who satisfies a means test may be entitled to a medical card. A student in receipt of [Disability Allowance](#) will generally be entitled to a medical card.

If you qualify for a medical card, you will be given a list of doctors and a Doctor's Acceptance Form. You pick a doctor from the list and ask the doctor to sign the Acceptance Form, which is then returned to the Health Service Executive (HSE) Area office. Your medical card will show your doctor's name. The doctor you choose must generally have his or her practice within seven miles of where you live. The doctor must agree to accept you as a patient. It could happen that a doctor would be unwilling to take you on, for example, if he or she already has too many patients, but this is not normally a problem.

Medical card holders are exempt from paying the Health Contribution portion of social insurance. They may also be exempt from paying [school transport charges](#).

11.3.20 Rules

Persons with no income other than:

- [Old Age Non-Contributory Pension](#) (maximum)
- Deserted Wife's Allowance
- [Infectious Diseases \(Maintenance\) Allowance](#)
- [Disability Allowance](#)
- [One-Parent Family Payment](#) (max.)
- [Widow's/Widower's \(Non-Contributory\) Pension](#) (max)
- [Orphans \(Non-Contributory\) Pension](#) (max.)
- [Blind Person's Pension](#) (max.)
- [Supplementary Welfare Allowance](#)
- [Unemployment Assistance](#)

will be regarded as being eligible for a medical card. Hardship cases are dealt with individually on merit.

In general, if you are getting the maximum rate of a means-tested payment, you will be granted a medical card without having to undergo a further means test. Medical cards are usually granted to children in foster care. Some people may be entitled to a Medical Card under EU Regulations.

Full-time students aged 16-25 who are financially dependent on their parents would only be entitled to a medical card if their parents held a medical card. Students who are financially independent of their parents, e.g., they have income from part-time work, and

who satisfy the means test may be entitled to a medical card. In this case, the Health Service Executive (HSE) Area where the student is attending college would issue the medical card. A student in receipt of Disability Allowance will generally be entitled to a medical card.

Lone parents with dependants are assessed under the income limits for married persons.

Patients who qualify for a medical card under the increased income limits for those aged 70 or over will be able to remain with their current GP only if that GP applies for a limited Primary Care Re-imbursement Service (formerly known as General Medical Services) contract.

You can use your medical card for up to three months if you are living temporarily in a different area. In this case, you can attend any GP in the area participating in the medical card scheme. If you are going to be away longer than three months, you should apply to the Health Service Executive (HSE) Area office of that area, for a medical card. If you move to a different part of your own HSE Area, you can apply to change your doctor.

11.3.21 Rates

Medical Card income guidelines with effect from 13 October, 2005. [Examples of how your income will be calculated/assessed is listed in some worked examples here.](#)

Weekly Income Limit (Gross less tax and PRSI)

Category	Aged under 66	Aged 66-69
Single person living alone	184 euro	201.50 euro
Single person living with family	164 euro	173.50 euro
Married couple/Lone-parent with dependent children	266.50 euro	298 euro
Allowance for first 2 children aged under 16	38 euro	38 euro
Allowance for 3rd and subsequent children under 16	41 euro	41 euro
Allowance for first 2 children aged over 16 (with no income)	39 euro	39 euro
Allowance for 3rd and subsequent children over 16 (no income)	42.50 euro	42.50 euro
Dependants over 16 years in full-time non-grant aided third-level	78 euro	65 euro

Reasonable expenses incurred in respect of **childcare costs** and **rent/mortgage payments** will also be **allowed**. Weekly travel costs to work (the actual cost of public transport or mileage at .50 cent per mile) are also allowed. (There is however, no exact definition of what '*reasonable expenses*' actually constitutes in relation to housing or childcare costs).

Assessments for medical card purposes for couples are on the basis of the age of the older person.

All persons aged 70 years and over are entitled to a Medical Card irrespective of income. This medical card which is **not means tested**, covers the applicant only, and **does not cover dependents**.

*In the case of a married couple where one spouse is aged over 70 years and the other spouse is aged under 70 years, the spouse under age 70 will be subject to the income guidelines. For couples aged between 70-79 years, the limit is 596.50 euro. For married couples aged 80 years or over, the limit is 627.00 euro.

11.3.22 How to apply

Get application form MC1 and a list of participating doctors from the [health centre](#) or Community Care Office for your area. Alternatively, you may [download a medical card application form here \(pdf\)](#). Complete it and bring it to the doctor you have chosen from the list of participating doctors. If the GP accepts you as a patient, he/she signs the form. Your employer also has to sign the form and certify your earnings or if you are claiming a social welfare payment, the form has to be stamped at the [Social Welfare Local Office](#). Self-employed people have to submit their most recent Tax Assessment Form and audited accounts.

11.3.23 Where to apply

Contact your local health centre or Community Care Office in your area if you have any questions about medical cards and eligibility.

Private Medical Insurance

11.3.24 Private Health Insurance in Ireland – Source :- See website

http://oasis.gov.ie/health/health_insurance/private_health_insurance.html

- [Rules](#)
- [How to apply](#)
- [Further information](#)

11.3.25 Information

A number of companies offer voluntary private health insurance in Ireland.

The [Voluntary Health Insurance Board](#) (VHI) is the largest provider of voluntary private health insurance. It is a statutory body whose board is appointed by the Minister for Health and Children. [BUPA](#) is the second largest provider of voluntary private health insurance in Ireland. [Vivas](#) is the third voluntary private health insurance provider to operate in Ireland. There are a number of long-established health insurance providers that deal only with particular groups of employees - membership is confined to employees and retired employees and their dependants. These schemes are known as restricted membership schemes - examples include the [Gardaí](#), prison officers and [ESB](#) employees. The rules governing health insurance apply equally to all providers with some limited exceptions for the restricted membership schemes.

11.3.26 Using health insurance

Health insurance is used to pay for private care in hospital or from various health professionals in hospitals or in their practices. The arrangements vary from one company to another but most companies have agreements with hospitals that the company will pay the hospital directly. In general, you pay the health professional and then claim from the health insurance company. You should check with your own company as to exactly what procedures they use.

11.3.27 Health Insurance Authority

The Health Insurance Authority is the independent statutory regulator for the private health insurance market in Ireland. The Authority monitors the operation of health insurance business in Ireland and advises the Minister for Health and Children in this regard, including assessing the effect of any regulations or new legislation on consumers. The Authority aims to ensure that consumers are aware of their rights; that policies and publicity material describe cover in a fair and comparable way and that community rating, open enrolment and lifetime cover are protected and maintained. The Authority also reviews the appropriateness of the procedures used by insurers in their dealings with consumers.

The Health Insurance Authority has published a report entitled "Understanding and Comparing Private Health Insurance Products" (pdf), which is a brief guide to the main costs and benefits of the private health insurance products sold by BUPA Ireland, Vivas and Vhi Healthcare.

11.3.28 Risk equalisation

One of the Health Insurance Authority's primary functions relates to the operation of a Risk Equalisation Scheme. Risk equalisation is a process that aims to equitably neutralise differences in insurers' costs that arise due to variations in the health status of their members. This process is relevant to the customer in so far as it may affect matters such as the operation of community rating or competition between insurers.

The Minister for Health and Children determined that risk equalisation would commence from 1st January 2006, having considered the recommendation and the supporting evidence submitted by the Health Insurance Authority, and having considered subsequent representations submitted by insurers.

11.3.29 Register of Insurance Companies

The Authority maintains the register of insurance companies that are entitled to offer health insurance in Ireland.

Rules

Until 1994, the only health insurance companies offering services in Ireland were the VHI and the restricted membership companies. The European Union 3rd Directive on Non-Life Insurance, which came into effect on 1 July 1994, allowed other companies to

offer private health insurance and since then BUPA Ireland and Vivas Health have entered the Irish market. At the same time, the Health Insurance Act, 1994 was passed, which regulated the health insurance market. The Health Insurance (Amendment) Act 2001 and the Health Insurance (Amendment) Act 2003 also enhance the role of the Health Insurance Authority and provide for the introduction of lifetime community rating.

11.3.30 Regulation of health insurance

All private health insurance providers must be registered with the Health Insurance Authority. Typically, insurers must also satisfy various prudential requirements, which are appropriate to the Financial Regulator - these are requirements that apply generally to all insurance and financial services companies and relate to matters like their financial operation and their investment policies. While VHI is currently exempt from meeting these requirements, it does maintain a significant level of reserves, well above the minimum level required under the relevant EU legislation and is now obliged to reserve so as to attain authorisation by the year 2012.

11.3.31 Minimum level of benefits

At present, companies that are offering cover for in-patient hospital services must offer a minimum level of benefits. They must provide a minimum level of cover in respect of:

- day care/in-patient treatment
- hospital out-patient treatment
- maternity benefits
- convalescence
- psychiatric treatment and substance abuse.

The minimum accommodation level is semi-private in a public hospital.

11.3.32 Other insurance contracts

Companies are allowed to offer contracts limited to certain health services, e.g., dental and optical services, without being subject to the general requirements about community rating, open enrolment and lifetime cover. They may also offer contracts in relation to GP and out-patient services without having to meet minimum benefit requirements.

11.3.33 Access

There are three general principles that apply to health insurance:

- Open enrolment
- Lifetime cover
- Community rating

11.3.34 Open Enrolment

At present, health insurance companies must accept anyone who wishes to join, subject to any applicable waiting periods before cover takes effect, regardless of age, sex or health status - this is known as "open enrolment". Restricted membership schemes must accept everyone who is qualified to join.

11.3.35 Lifetime cover

Once you join and continue to pay your premiums, the insurance company cannot refuse to provide you with cover - this is called "lifetime cover".

An individual or family, having already served both the requisite waiting periods relevant to their age when first taking out private health insurance and any waiting period for a pre-existing condition may switch from one insurer to another, and if such an occurrence takes place within 13 weeks, those waiting periods will not have to be served again. Therefore, persons can normally move from one insurer to another without loss of cover.

11.3. 36 Community Rating

"Community rating" means that the insurance company must charge the same rate for a given level of service, regardless of age, sex or health status. So all adults pay the same amount for the same benefits. Unlike motor insurance or life insurance, matters such as age, sex, sexual orientation, health or past record of claims do not affect the price charged for insurance.

Charges for people aged under 18, people aged 18 to 23 who are in full-time education, retired people who have a special arrangement within their company's health insurance scheme and people in group health insurance schemes may all be lower than the normal adult rate.

Exceptions to the general rules

11.3.37 Initial Waiting Periods/Pre-Existing Conditions

The health insurance company may not refuse to accept you on the basis of your health status but it may restrict the cover it gives you in certain circumstances. With regard to waiting periods, at present insurers are entitled to apply an initial waiting period of 26 weeks in respect of persons aged under 55 and 52 weeks in respect of those aged between 55 and 64, and 104 weeks for persons aged 65 or over, before private health insurance cover becomes effective.

In addition, the health insurance company may refuse to cover you in respect of pre-existing conditions for longer periods after you join. These are not more than 5, 7, or 10 years on payment of benefit for treatment arising from a pre-existing condition where the age at enrolment was: under 55, 55 or over and under 60 and over 60 respectively. So, for example, if you have diabetes, the insurance company may refuse to provide you with any cover for diabetes for a specified period but must cover you for any other illnesses once the initial waiting period has expired.

It is a general principle in insurance that you must give all relevant information to the insurance company. If you do not, then the entire contract may be void.

11.3.38 How to apply

You must apply directly to the health insurance company that you wish to join. Each company must abide by the general rules described but, after that, they are free to make

their own rules. The level of cover available and the rates charged vary from one company to another. If you are experiencing problems with getting cover, you should contact the Department of Health and Children or the Health Insurance Authority.

Further information

Department of Health and Children,

Hawkins House,

Hawkins Street,

Dublin 2 .

Tel: (01) 635 4000

Fax: (01) 635 4001

Health Insurance Authority,

Canal House,

Canal Road,

Dublin 6.

Tel: (01) 406 0080

Fax: (01) 406 0081

11.3.39 *The Health Insurance Authority is the regulatory body for private health insurance in Ireland. The Authority's remit is to monitor and research health insurance generally; operate the risk equalisation scheme; advise the Minister on health insurance generally; monitor the operation of other relevant regulations as prescribed and safeguard the interests of current and future health insurance consumers. See website <http://www.hia.ie/>*

11.3.40 *Please see the text of the White Paper on Private Health Insurance published by the Department of Health and Children in 1999 at website <http://www.dohc.ie/publications/pdf/phi.pdf?direct=1> Details of the growth of private health insurance are given in sub-paragraphs 1.2- 1.4, pages 7 and 8 of that document.*

11.3.41 *The number of persons in Ireland who avail of private medical insurance has been increasing for a number of years. In 1999, an estimated 1.5 million persons have insurance cover compared with the 1993 estimate of 1.3 million. Taking account of the increase in the population in that time, the proportion of persons with private insurance has grown by over 12%.*

11.3.42 *The estimates include the Voluntary Health Insurance Board (VHI), BUPA (Ireland), who entered the market in January 1997, St. Paul's Garda (Police) Medical Aid Society, the Prison Officers' Medical Aid Society and the Electricity Supply Board's Medical Provident Fund. The schemes operated by insurers focus, primarily, on cover for hospital costs.*

General Practitioner Medical and Surgical Services:

(Sub-Paragraphs 11.3.11 – 11.3.17, Pages 84-87 of Ireland's 19th Report under the original European Social Charter, submitted in 2001, refer: Please also see Sub-

Paragraphs 13.1.3 –13.1.8, Pages 176-180 of Ireland’s Third Report under the Revised European Social Charter, the text of which is appended to the report on this provision.)

Note: The Health Service Executive (HSE) took over full operational responsibility for running the country's health and personal social services on January 1, 2005 in place of the Health Boards and Regional Health Authorities.

- 11.3.43 The purpose of this material is to give a flavour of the history and development of the GMS (General Medical Service) with particular regard to the contractual aspects. The Scheme will always be an evolving one and should be viewed in the context of the wider society in which we live and the economic and social processes that drive change. In that regard, medical card scheme was introduced in 1972 to remove the social stigma associated with the public dispensary system that had remain unchanged since Victorian times.
- 11.3.44 In Ireland, general practitioners operate essentially in the private sector providing services to private patients for particular fees. Essentially, therefore, what the State has done in providing public general practitioner services under the medical card scheme is to recognise the reality of the organisation of Irish general practice and engage general practitioners (as independent contractors) to provide a high quality service to public patients. The State also provides substantial support for the employment of support staff, such as nurses and secretaries, for medical card doctors.
- 11.3.45 Of the approximate 2400 general practitioners (full and part time) operating in this state, just over 1800 are in the GMS Scheme. They and other non-GMS Scheme GPs may also have separate contracts with Health Service Executive Areas to provide other specific services, for example, under certain immunisations programmes.
- 11.3.46 The GMS Scheme contract entered into between general practitioners and Health Service Executive Areas for the provision of services to medical cardholders comes about as a result of negotiations with the Irish Medical Organisation which is the only body representing general practitioners to hold a negotiation licence. Agreements arising from those negotiations are translated into official Departmental Circulars setting out the terms of the agreements for implementation at Health Service Executive Area level.
- 11.3.47 When the Medical Card Scheme was introduced in 1972 it was a fee per item based arrangement. Following a review of the scheme in the mid-1980s the basic payment structure changed, in 1989, to an age and sex patient based capitation system. However, certain GMS Scheme doctors opted at that time to remain on fee per item. Further, there are a range of specific payments for particular services that co-exist with this capitation structure.
- 11.3.48 Under the GMS Scheme, doctors may currently enter the Scheme by way of open competition or (in certain circumstances) by way of experience and qualifications. In the former case, the position is that the Health Service Executive Area will publicly advertise a GMS Scheme contract (for example, on the retirement of the present practitioner). In the latter case, the doctor does not acquire a public patient panel on entering the Scheme

but he or she may seek to build up their medical card panel over time (having regard to whether they have a limited or full contract). It should also be noted that the Minister for Health & Children has power to direct the Health Service Executive to give a contract to a doctor. Contracts are, in every case, with the Health Service Executive rather than the Department of Health & Children.

11.3.49 It is proposed as part of the GMS Info project that a consolidated version of the GMS Scheme contract for GPs (General Practitioners) will appear on this page. It will be of greatest benefit to medical practitioners but it should also be of relevance to the public, academics and anyone with an interest in medical services. Finally, anyone interested in this area should visit www.gpit.ie/eGMS to view an unconsolidated version of the GMS Scheme contract.

11.3.50 The GMS Services Scheme provides a wide-ranging treatment based general practice service to medical cardholders. In general, preventative services are not covered. Medical card eligibility is generally determined by reference to needs and means (but all persons aged 70 and over have automatic eligibility). The wording in the Health Act 1970 states that medical cards are issued to persons who, in the opinion of the Chief Executive Officer of a Health Board, are "*...unable, without undue hardship, to arrange general practitioner medical and surgical services for themselves and their dependents*" Please see the notes and statistics in Section D, Pages 104-122, Health Statistics 2002, in particular the note on the GMS on page 105 of that publication.

11.3.51 The Scheme allows medical card patients to choose their general practitioner from a choice of locally based contracted doctors. Patients may be assigned to particular GPs but only in certain limited instances. A GMS Scheme doctor will generally provide services to patients from his or her own premises but, in some instances, the doctors may operate from Health Board premises.

11.3.52 Services by GMS Scheme doctors must be provided without discrimination to medical cardholders, for example, a contracted doctor cannot have scheduled surgery hours that differentiate between public and private patients.

11.3.53 Medical card doctors are required to make suitable arrangements to enable patient contact to be made with them or their locums/deputies outside normal hours for urgent cases.

11.3.54 Persons who are unable without undue hardship to arrange General Practitioner medical and surgical services, plus dental and optometric services for themselves and their dependants, are provided with such services free of charge under the GMS Scheme. An eligible person registers with the Doctor of his/her choice, from among the list of named Doctors who have entered into agreements with Health Service Executive Areas. Drugs, medicines and appliances supplied under the Scheme are provided through Community

Pharmacies. Dental and Optometric services are provided by Dentists and Optometrists who have contracted with **Health Service Executive Areas** to do so.

11.3.55 With effect from 1 March 1999, the Community Drug Schemes, which included the Drug Cost Subsidisation and Drug Refund Schemes, were merged into the Drugs Payments Scheme. Under this Scheme, individuals or families, who are normally resident in the State and who do not have medical cards, are reimbursed for expenditure over a threshold of €53-33 per month for approved drugs, medicines and appliances. Claimants must register for the Scheme with the appropriate Health Services Executive Area. Claims under the Scheme are processed and paid by the General Medical Services (Payments) Board. Further information on the Drugs Payments Scheme is given on page 111 of Health Statistics 2002 – see website link below

<http://www.dohc.ie/publications/pdf/hstat02.pdf?direct=1>.

11.3.56 Under the Long Term Illness Scheme, persons who suffer from one or more of a schedule of illnesses are entitled to obtain, without charge, irrespective of income, necessary drugs, medicines and / or appliances under the Long Term Illness Scheme. All such claims are processed and paid by the General Medical Services (Payments) Board. The statistics on the Long Term Illness Scheme are given on pages 112 and 113 of Health Statistics 2002 (see above link).

Child Care Services

11.3.57 The Health Service Executive (HSE) has a statutory responsibility to promote the welfare and protection of children. In order to achieve this objective, the HSE may provide substitute care for those children who are not receiving adequate care and protection at home. Children may be received into the care of the HSE either with parental consent or on foot of a care order. The HSE also provide assessment and protection to children in suspected abuse cases. The statistical information in respect of Children in Care and Child Abuse Cases is provided in Section E, pages 124-132 of Health Statistics 2002 (see above link).

Health Services for Women

11.3.58 The crude birth rate fell continuously from a rate of 21.8 live births per 1,000 population in 1980 down to 14.8 in 1989. Following an increase to 15.1 in 1990, it then decreased to 13.5 in 1994 and 1995. After a steady increase to 14.6 in 1998, provisional figures dropped to 14.5 in 2000. Provisional figures for 2001 show a marked increase in that year to 15.1. Although the total fertility rate in Ireland has declined in recent decades, it

continues to be the highest within the European Union. Statistics are given on pages 36-42 and on page 224 of Health Statistics 2002 (see above link).

11.3.59 The Maternity Services, Gynaecology Services, Cervical Cancer Testing, Family Planning Services, Fertility Services, Breast Cancer and Health Education for Women are available as reported in our previous reports on this provision of the Charter.

Health Services for the Elderly

*11.3.60 Elderly persons are entitled to the health services on the same basis as everyone else. In addition, the **Health Service Executive** provides a range of services such as:*

- public health nursing ;*
- home help and meals on wheels services ;*
- day care, physiotherapy, occupational therapy and chiropody ;*
- hospital services, including assessment and rehabilitation ;*
- extended and respite care for dependent elderly and their carers ; these services are provided by **Health Service Executive** hospitals and homes or in private nursing homes ;*
- people in approved private nursing homes are entitled to a contribution towards the cost at rates approved by the Minister of Health and Children from time to time.*

11.3.61 The income guidelines for entitlement to medical cards for persons aged 70 years or over are given in sub-paragraph 11.3.21 above.

Other Health Services

11.3.62 In addition to the above, other health services include services for people with disabilities including monetary allowances education, training, employment, day and residential services. Other community-based services include public health nursing, home help and social work.

*11.3.63 The publication **Health Statistics 2002**, published by the **Information Management Unit of the Department of Health and Children** includes detailed statistical information on **Acute Hospital Services – see Section H, pages 166-224 of Health Statistics 2002 and on Community Hospitals and Extended Care – see Section J, pages 226-238 of that publication.***

*11.3.64 Clinics for sexually transmitted diseases (STDs) are provided at STD clinics in the following hospitals:
St. James' Hospital, Dublin; Mater Hospital, Dublin; Baggot Street Clinic, Dublin; Victoria Hospital, Cork ; Shantalla Clinic, Galway ; Regional Hospital Limerick, Waterford Regional Hospital ; Sligo General Hospital.
Updated statistics on STDs are given in Section C, pages 66-70 of Health Statistics 2002 (see paragraph 11.3.55 above for website link to this Report).*

Psychiatric Services

Positive Mental Health

- 11.3.65 *Mental health is equally as important as physical health to the overall well-being of a person. Poor mental health has a significant impact on a person's quality of life and their contribution to society. In terms of lifestyle practices, SLAN (Survey of Lifestyle, Attitudes and Nutrition) provides data for perceived requirements for better health. The majority of respondents from both genders ranked less stress as the top requirement for better health, followed by more will power, a change in weight, more money and less time in smoky places.*
- 11.3.66 *The magnitude of depression, one of the most common mental illnesses, is becoming more evident with research. The commonly accepted figure for the prevalence of depression among the general population was one in twenty people but recent data revealed it to be as high as one in fourteen among those in the workforce.*
- 11.3.67 *Since 1986, there has been a 30% increase in the number of psychiatric attendances. In 1998, depressive disorders accounted for 38% of female admissions and 22% of male admissions to psychiatric hospitals. A cause for concern is the dramatic increase in the suicide rate especially among young men.*
- 11.3.68 *Details of community psychiatric services are presented in Section F – Psychiatric Services, (pages 134-154) of the publication Health Statistics 2002, which was published by the Information Management Unit of the Department of Health and Children and is Section G – Services for People with an Intellectual Disability on pages 155-164 of that publication.*
- 11.3.69 *The child health services are available as reported in our previous reports on this provision of the Charter.*

Occupational Health Examinations for Workers

- 11.3.70 *Ireland's laws on health and safety at work are administered and enforced by the Health and Safety Authority. The Authority is a State-sponsored body coming under the auspices of the Department of Enterprise, Trade and Employment.*

Under the Safety, Health and Welfare at Work, (General Application) Regulations, 1993 all employers are obliged to report accidents at work which result in employees being absent for more than three days to the Health and Safety Authority. However, there is considerable under-reporting of accidents. In order to gain a better picture on overall levels of workplace accidents, the

Authority also makes use of other sources of data including the Central Statistics Office's Quarterly National Household Survey (formerly the Labour Force Survey), the Department of Social, Community and Family Affairs' Occupational Injury Benefits Claims Allowed and the Irish Insurance Federation's Employer Liability Claims Allowed. The statistical data relating to occupational accidents is shown in Section C – Health Status and Lifestyle, (pages 67-68) of the publication Health Statistics, 1999. Please see also the Health and Safety Authority's Annual Report for 2000 in particular the chapter on Occupational Health (pages 18-19) and the supporting statistics in Appendices 1 and 2 (pages 55- 65). The Health and Safety Authority's Programme of Work for 2001 is also appended to this Report.

- 11.3.71** Although there are a number of centres, which specialise in the treatment of personal injuries (however sustained), there are currently no hospitals or clinics in Ireland devoted entirely or mainly to the treatment of occupational injuries per se.
- 11.3.72** It is estimated that currently there are 300 occupational medical practitioners (mostly part-time) and 200 occupational health nurses in Ireland.
- 11.3.73** The Occupational Health Service of the Health and Safety Authority acts as a specialist support unit to the Health and Safety Inspectorate in particular for:
- investigation of occupational diseases
 - advice on health surveillance
 - advice on preventive systems for particular health hazards
- 11.3.74** Inspection visits are made to a range of employments such as factories, farms, hospitals, retail outlets etc. where relevant issues are discussed with both management and employees. These work sites vary with the annual programme.
- 11.3.75** There is ongoing dialogue and co-operation with a range of organisations e.g. employer, trade union, sectoral, trade, professional, academic etc., in relation to the improvement of health and safety standards generally and in relation to specific topics and issues.
- 11.3.76** A range of advisory and guidance material is produced and disseminated by the Authority itself, and in conjunction with various public agencies, interest groups etc. Among the material currently available there are the following
- Patient Handling and Manual Handling Generally
 - Protection of Young Persons at Work
 - Occupational Hazards
 - Noise Induced Hearing Loss
 - Pregnant Workers
 -
- 11.3.77** The Safety, Health and Welfare at Work (General Application) Regulations, 1993, which are made under the Safety, Health and Welfare at Work Act, 1989, require every employer to ensure that health surveillance is made available at regular intervals for every employee, appropriate to the health and safety risks that may be incurred at the place of work. The objective is to ensure that any adverse variations in workers' health, which may be related to their working conditions, are identified as early as possible so that appropriate remedial and preventive measures may be implemented.

11.3.78 Specific occupational medical examinations must also be made available under other Regulations to workers exposed to asbestos, lead and noise.

11.3.79 Young persons, between the ages of 15 and 18 years are now covered by the Safety Health and Welfare at Work (Children and Young Persons Regulations), 1998 which implement Council Directive 94/33/EC on the protection of young people at work.

Publicly Funded Acute Hospitals

11.3.80 The latest information and statistics on publicly funded acute hospitals is given in *Section H – Acute Hospital Services, (pages 166-224) of the publication Health Statistics 2002.*

Health Service Employment Statistics

11.3.81 The latest information of Health Service Employment Statistics is given in *Section K, pages 240-252 of the publication Health Statistics 2002 (see paragraph 11.3.55 above for website link to this Report).*

Health Promotion Unit

11.3.82 Please see our report under Article 11, Paragraphs 1 and 2 above.

The Incorporation of Social, Personal and Health Education into the Second Level (School) Curriculum

11.3.83 Please see our report under Article 11, Paragraphs 1 and 2 above. Further details are available in the National Health Promotion Strategy 2000- 2005, a copy of which was submitted with our previous Report.

11.3.84 The *Health Service Executive* has the responsibility for preventing the spread of infectious diseases within the community. Under the Infectious Diseases Regulations, a medical officer of health “shall make such arrangements as are necessary or desirable for investigating the nature and source of such infection and for removing conditions favourable to such infection”. Please see *Section C – Health Status and Lifestyle, (pages 60-102) of the publication Health Statistics 2002* for further information and statistical data.

11.3.85 All immunisations are promoted and delivered by the State for the common good, on a voluntary basis.

Response to ECSR Enquiries concerning the Environment in Ireland:

11.3.86 Please see the following relevant websites:

www.environ.ie website of the Department of the Environment and Local Government
www.epa.ie This is the website of the Environmental Protection Agency. Environmental Protection Agency is directly responsible for a wide range of functions, including the regulation of large or complex activities that have significant polluting potential; for monitoring and reporting on environmental quality; and enforcing compliance with environmental protection legislation in Ireland.

<http://www.environ.ie/DOEI/DOEIPub.nsf/wvNavView/PublicationsList?OpenDocument&Lang=en> for the list of publications of the Department of the Environment and Local Government;

<http://www.environ.ie/DOEI/DOEIPub.nsf/wvInfoView/22EB358F59499CE280256F0F003DB978?OpenDocument&Lang=en> for the publications of the Department of the Environment and Local Government concerning Waste Management issues ;

[http://www.environ.ie/DOEI/DOEIPub.nsf/0daac160e1d73c27d80256f0f003dbc05/\\$FILE/DOEBulletin63_web.pdf](http://www.environ.ie/DOEI/DOEIPub.nsf/0daac160e1d73c27d80256f0f003dbc05/$FILE/DOEBulletin63_web.pdf) for the Environment Bulletin Developments in the Area of Environmental Protection, Issue 63, December 2005.

www.raceagainstwaste.com This is the website of the Race Against Waste Campaign, whose purpose is to raise awareness of the need for an integrated approach to waste management. The website contains information on how to prevent, reduce, re-use and recycle the waste, which people produce at work and at home. There are extensive links to other appropriate websites.

www.enfo.ie This is the website of ENFO, the Environmental Information Service. ENFO is Ireland's public information service on environmental matters, including sustainable development. The service was established in September 1990 and provides public access to wide ranging and authoritative information. ENFO is a service of the Department of the Environment and Local Government. The website contains the full text of ENFO leaflets, on-line database of the ENFO library collection of environmental books and journals, a Children's Corner, an on-line order form for requesting ENFO publications and travelling exhibitions, lists of environmental NGOs and Local Authority Environmental Awareness Officers, Irish and international environmental links etc.

www.sei.ie This is the website of Sustainable Energy Ireland formerly the Irish Energy Centre, a Government funded body, contains information on the environmentally and economically sustainable production, supply and use in support of government policy across all sectors of the economy. This website also has an educational aspect for use by second level physics students.

www.rpii.ie This is the website of the Radiological Protection Institute of Ireland, which is the national organisation with regulatory, monitoring and advisory responsibilities in matters pertaining to ionising radiation. In particular the Institute concerns itself with hazards to health associated with ionising radiation and with radio-active contamination in the environment.

www.envirocentre.ie This is a free and regularly updated environmental information portal from **Enterprise Ireland**, designed specifically to enhance environmental awareness in Irish industry, with particular emphasis on small and medium enterprises (SMEs).

www.comhar-nsdp.ie Comhar was established in 1999 as the forum for national consultation and dialogue on all issues relating to sustainable development. Comhar works in three-year cycles and began its third term in January 2006, under Chairman Professor Frank Convery.

Comhar, formerly the National Sustainable Development Partnership, has recently been renamed as Comhar - Sustainable Development Council. Comhar's 25 members are drawn from five pillars: the State sector, economic sectors, environmental NGOs, social/community NGOs and the professional/academic sector. Comhar is supported by a full-time Secretariat based in St. Andrew Street, Dublin 2.

www.wfdireland.ie This website gives information regarding the implementation of the EU Water Framework Directive in Ireland.

www.irishspatialstrategy.ie National Spatial Strategy (NSS) is a coherent national planning framework for Ireland for the next 20 years. It's about people, places and potential. Making the most of our cities, towns and rural places to bring a better spread of opportunities, better quality of life and better places to live in.

Key to the strategy is the concept of balanced regional development. The NSS will sustain Dublin's role as the engine of the economy while strengthening the drawing power of other areas, bringing people, employment and services closer together.

It will mean better quality of life - less congestion, less long distance commuting, more regard to the quality of the environment and increased access to services like health, education and leisure. By making the most of our cities, towns and rural places, we will get the growth and development to reach our potential.

The NSS also recognises the importance of other plans and programmes and their relevance to achieving the aims of the Strategy. In addressing spatial issues for the island of Ireland as a whole and strengthening cross-border co-operation, the NSS acknowledges the importance of Shaping Our Future, the Regional Development Strategy for Northern Ireland.

The NSS will also contribute to the Midterm Review of the National Development Plan (NDP)

The National Spatial Strategy was launched by the Taoiseach and the Minister for the Environment and Local Government on Thursday 28th November 2002 at the Royal Hospital Kilmainham.

www.coillte.ie Coillte is the public body which manages the nation's forests.

http://www.coillte.ie/about_coillte/downloads/2005_Summary_of_Annual_Report.pdf for the 2005 Annual Report of Coillte.

<http://www.coillte.ie/newsletters/index.htm> for Coillte's on-line newsletters which deal with forestry matters including the environment, sustainability etc.

<http://www.dcmnr.gov.ie/Energy/> This website belongs to the Department of Communications, Marine and Natural Resources and deals specifically with issues of energy planning and efficiency.

www.tidytowns.ie for details of the National Tidy Towns Competition sponsored by the Department of the Environment and Local Government.

Appendix to Our Report on Article 11, Paragraph 3:

Extract from Ireland's Third Report under the Revised European Social Charter, submitted in 2006.

Sub-Paragraphs 13.1.3- 13.1.8, Pages 176-180 of the Third Report refer:

Material supplied by the Department of Health and Children:

13.1.3 *The material supplied by the Department of Health and Children for inclusion in Ireland's First Report on our Implementation of the Revised European Social Charter, (Article 13, Paragraph 1 refers), remains substantially the same, with some amendments. Oireachtas Éireann (the Irish Parliament) passed three Acts in relation to the Health Service, the full texts of which are given on the attached links:*

The Health Act 2004 (No. 42 of 2004) is available at the attached link:

<http://www.oireachtas.ie/documents/bills28/acts/2004/a4204.pdf>

The Health Amendment Act 2004 (No. 19 of 2004) is available at the attached link:

<http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/acts/2004/A1904.pdf>

The Health Amendment Act 2005 (No. 3 of 2005) is available at the attached link:

<http://www.oireachtas.ie/documents/bills28/acts/2005/a305.pdf>

Those Acts deal with the following matters:

Health (Amendment) Act 2004

An Act to provide that the members of the health boards established under the Health Act 1970, the Eastern Regional Health Authority, the Northern Area Health Board, the East Coast Area Health Board and the South-Western Area Health Board shall cease to hold office upon the commencement of this Act; to provide that the functions of those bodies shall be performed by their chief executive officers and, in certain circumstances, by the Minister for Health and Children; to remove the distinction between reserved and executive functions; for those purposes to amend the Health Act 1970, the Health (Amendment) (No. 3) Act 1996, the Health (Eastern Regional Health Authority) Act 1999 and other enactments; and to provide for matters connected therewith.

Health Act 2004

An Act to establish the health service executive and to provide for the dissolution of the Eastern Regional Health Authority, the Northern Area Health Board, the East Coast Area Health Board, the South-Western Area Health Board, the Health Boards established under the Health Act 1970 and certain other bodies; to provide for the transfer of the functions of the dissolved bodies and their employees to the health service executive; to establish mechanisms for involving public representatives, users of health and personal social services and other members of the public in matters relating to those services; to establish a statutory framework for handling certain complaints relating to health and personal social services; to establish mechanisms for the future dissolution of certain other health bodies and for the transfer of their functions and employees to the health service executive; and to provide for related matters

The Health Amendment Act 2005 (No. 3 of 2005) is:

An Act to amend the Health Act 1970 and the Social Welfare (Consolidation) Act 1993.

Health Service Executive

<http://www.dohc.ie/agencies/hse.html>

The Health Service Executive (HSE) took over full operational responsibility for running the country's health and personal social services on January 1, 2005.

Oak House,

Limetree Avenue,

Millenium Park,

Naas,

Co. Kildare

Tel: 045 880400

Fax: 1890 200857

Email: info@hse.ie

Web: <http://www.hse.ie/>

Medical Assistance

13.1.4 In 2005, the population of the State was estimated at 4.13m. There were 1.148m people covered by the medical card scheme as at 31st December 2004 representing about 27.8% of the population of the State. With effect from 2005, persons with limited eligibility and who satisfy the necessary criteria as regards personal means for a general practitioner visit card, which entitles the holder to the services of a family doctor free of charge. The income guidelines used to assess persons for this benefit are 25% above those for the ordinary medical card. The Government has set a target of 200,000 (two hundred thousand) persons to be covered by this benefit.

Persons in Category 2, i.e., non-medical card holders have "limited eligibility" for health services and are entitled to:

- all in-patient hospital services in public wards, subject to modest statutory charges i.e. **€40** per night with a maximum charge of **€400** in any twelve months ;
- specialist services (excluding dental and routine ophthalmic and aural services, except where these are on referral from a child health clinic or school health examination) in out-patient clinics. There is a **€40** charge for persons who attend the Accident and Emergency Department without a referral note from their GP. This applies only to the first visit of any episode of care and does not apply at outpatient clinics;
- a maternity care and infant welfare service, including the services of a family doctor during pregnancy and family doctor services for mother and infant up to 6 weeks after the birth ;
- drugs and medicines for the treatment of certain specified illnesses under the Long Term Illness Scheme ;

- a maximum payment of **€85** per month under the Drugs' Payment Scheme. Persons certified as having a long-term condition with an on-going requirement for prescribed drugs and medicines do not have to pay more than **€85** in any month on prescribed medication.

13.1.5 Sub-paragraph 13.1.9, page 164 of our First Report under the Revised Charter refers. There has been no change. Persons with either "full eligibility" or "limited eligibility", who opt for private treatment in a public hospital or who opt for treatment in a private hospital, are liable for all costs involved. Insurance cover for private treatment is available to the general public through two insurance undertakings, the Voluntary Health Insurance Board and BUPA Ireland.

13.1.6 Sub-paragraph 13.1.10. page 164 of our First Report under the Revised Charter refers. Entitlement to health services in Ireland is primarily based on residency and means apart from persons over the age of 70 who are automatically entitled to health services free of charge. Any person, regardless of nationality, who is accepted by the health boards as being ordinarily resident in Ireland, is entitled to either full eligibility (Category 1, i.e. medical cardholders) or limited eligibility (Category 2) for health services. About **27.8% (1.148m. out of 4.130m.)** of the population of the State currently have medical cards and are entitled to health services free of charge. The remainder of the population have limited eligibility for health services, including an entitlement to public hospital and public consultant treatment, subject only to modest statutory charges.

13.1.7 Sub-paragraph 13.1.11, page 164 of our First Report under the Revised Charter refers. There has been no change. The guidelines issued by the Department of Health and Children to the Health Boards dealing with residence specifically state that when persons, who do not meet the residence requirement, have insufficient income, the health board may provide treatment at a reduced charge or without charge. The nationality of a person is not a factor in the provision of a medical card or health services.

13.1.8 *Sub-paragraph 13.1.13, page 165 of our First Report under the Revised Charter refers. There has been no change. The Irish Government wishes to point out that in practice there is no problem and that individuals are not refused the medical card on the grounds of non-completion of the residence period. Guidelines to this effect had been issued to the relevant authorities. It is also necessary but sometimes difficult to reconcile the assistance that has to be provided for "humanitarian" reasons with the efforts to combat "social tourism".*

It is suggested that the ECSR's position on this subject is too legalistic and that account needs to be taken of the situation on the ground and the fact that appeals are possible in the event of cases being turned down.

Ends

Article 15

ARTICLE 15 OF THE REVISED CHARTER: THE RIGHT OF PERSONS WITH DISABILITIES TO INDEPENDENCE, SOCIAL INTEGRATION AND PARTICIPATION IN THE LIFE OF THE COMMUNITY

ARTICLE 15 PARAGRAPH 1

Text of ARTICLE 15 PARA. 1 of the Revised European Social Charter

“With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular: to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private;”

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please indicate the criteria applied to grant disabled status and give an estimation of the total number of persons with disabilities as well as the number of persons with disabilities of working age. If paragraph 1 of this Article has been accepted it is sufficient to supplement the reply concerning that paragraph here.

Question B

Please describe the measures taken to provide persons with disabilities with education, guidance and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private, and provide information on the following points:

- a. assessment of the skills of persons with disabilities and criteria used to assess the prospects of rehabilitation of persons with disabilities;*
- b. organisation of education for persons with disabilities in ordinary schools and/or specialised schools (access, number of persons and establishments);*
- c. organisation of vocational guidance for persons with disabilities (access, number of persons with disabilities receiving guidance through mainstream or specialist provision);*
- d. organisation of vocational training (access, number of persons with disabilities receiving vocational training through mainstream or specialist provision);*
- e. adjustment of the methods of vocational rehabilitation in accordance with the needs of the labour market;*

f. financial assistance available to persons with disabilities undertaking vocational rehabilitation.

Question C

Please specify whether the measures mentioned above are available to all persons with disabilities irrespective of age, the nature and origin of their disability.

Question D

Please specify:

- a. the number and nature of the principal institutions giving general education, guidance and vocational training and the number of places available;
- b. the number of persons undergoing such training;
- c. the number of staff, their qualifications and the measures taken to ensure their expertise;
- d. the organisation of co-operation between general and specialised services.

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) and Questions for answer by Ireland arising from our 21st Report, submitted in 2003 under the original European Social Charter (1961):

Paragraph 1 – Vocational training arrangements for the disabled

The Committee notes the information provided in Ireland's report.

According to the report there is no comprehensive statistical data on the number of persons with disabilities in Ireland, although the Department of Justice, Equality and Law Reform is committed to putting arrangements in place to review and identify key statistical needs in relation to people with disabilities. The Committee therefore asks the next report to provide information on the total number of persons with disabilities, the number of compulsory school age and the number of working age. The Committee notes however that according to the Central Statistics Office of Ireland 8,3 % of the population has a disability.

On a general level the Committee notes that over the reference period there have been several important developments in the field of disability. The Employment Equality Act 1998 which entered into force in 1999 outlaws discrimination in employment and vocational training inter alia, on the grounds of disability (see further under Article 15§2). The Equal Status Act 2000 further prohibits discrimination (see below). The National Disability Authority (NDA), an independent statutory agency was established in 2000 to inter alia, act as a central, national body

to assist in the coordination and development of disability policy and to implement standards for services for persons with disabilities. A mainstreaming policy for services for people with disabilities was introduced in 2000; this means the delivery of services for persons with disabilities by the same public bodies that provide these services to everybody else. Responsibility for service provision for persons with disabilities which previously lay with the National Rehabilitation Board (NRB) under the aegis of the Department of Health and Children was transferred to the Departments and agencies with general responsibility for their provision. As a result vocational training and employment services are now under the responsibility of the Department of Enterprise Trade and Employment.

General Education

The education of children with disabilities is the responsibility of the Department of Education and Science. The report states that Ireland still does not have legislation governing educational provision for students with disabilities, therefore the right of access to education is not statutorily guaranteed. However the Committee notes that the Equal Status Act 2000 explicitly outlaws discrimination in education, it **asks for further information** on the operation of this Act and any further measures planned to strengthen the right of children with disabilities to education. The report provides information on the disability team of the National Educational Psychological services (NEPS) who provide support and assistance to schools and classes for children with physical and sensory impairments, as well as supporting children with disabilities in mainstream schools. This team saw over 200 children in 2000/2001 and consultations were offered to 18 schools concerning the integration of a child with a disability.

The Committee notes from the information in the report that this team seems understaffed and **asks what measures** have been taken to address this.

The Committee wishes to receive more comprehensive information on the total number of children with disabilities of compulsory school age, the number in special schools and the number integrated into mainstream schools (both primary and secondary) along with information on measures in place to support and facilitate integration (apart from psychological support referred to in the report), in particular for children with intellectual disabilities.

The Committee notes in this respect that the report states many pupils with disabilities do not take the state post primary examinations and in respect of young persons with visual impairments that half the adolescents concerned are unable to benefit from academic type education. It **asks for the reasons** for the apparent low rate of educational attainment.

The Committee **asks whether** general teacher training incorporates special needs education as an integral component.

Vocational Training

*The report firstly provides information on various vocational training courses and pre vocational training available for different groups of young persons - post primary-with disabilities (hearing disabilities, visually impaired). It also provides information on training for people with disabilities within special facilities. However, the Committee notes that training for persons with disabilities was restructured in 2000 and is now administered by FAS (National Training and Employment Authority) for the Department of Enterprise Training and Employment as a part of the policy on mainstreaming and **ASKS** what effect this has had on training administered in special centres referred to above.*

The Committee notes that the full range of FAS services are available to persons with disabilities (young persons and adults), it further notes that FAS contracts with 20 specialist training agencies to deliver training to people with disabilities from almost 60 centres throughout the country. The Department of Enterprise, Trade and Employment estimates that 80 % of the total number of persons with disabilities, in FAS funded training, are in specialist training agencies.

*The Committee **asks** whether measures are planned to further mainstream training, promote and facilitate integration of persons with disabilities into mainstream training or whether the arrangements are regarded as satisfactory.*

All training programmes, directly delivered by FAS or through external providers lead to nationally recognized certification.

The Committee wishes to receive information in the next report on measures in place to enable persons with disabilities attend university.

Conclusion

Pending receipt of the information requested the Committee defers its conclusion.

Text of Ireland's Second Report under the Revised European Social Charter in
relation to Article 15, Paragraph 1:-

Note:- Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

Questions A –D above refer:

Material supplied by the Department of Education and Science:-

15.1.1 There was no change in the position with regard to legislation governing educational provision for students with disabilities during the reference period (1 January 2001 to 31 December 2002). Ireland still does not have legislation governing educational provision for students with disabilities. The right to access to education to education is not, therefore, statutorily guaranteed.

15.1.2 The education of children with disabilities is the responsibility of the Department of Education and Science. **The level of resources allocated to schools in recent years to meet the special educational needs of children with disabilities has grown very significantly. Notwithstanding this development, the Department has been concerned for some time at its lack of capacity to deliver the required level of service to schools, parents/ guardians and pupils under current structures. An internal review highlighted the over-centralised structure of the Department and its lack of any locally-based capacity for service delivery and co-ordination as key deficiencies in the system. As a result of findings of the review, the Government approved the establishment of a National Council for Special Education, hereafter referred to as the NCSE.**

The NCSE has been established as an independent statutory body with responsibilities as set out in the National Council for Special Education (Establishment) Order, 2003. This Order, made pursuant to the Education Act, 1998, gives the Council the authority to:

- a) carry out research and provide expert advice to the Minister for Education and Science on the educational needs of children with disabilities and the provision of related services,
- b) provide for a range of services at local and national level in order that the educational needs of children with disabilities are identified and provided for, and
- c) co-ordinate, with health authorities, schools and other relevant bodies, the provision of education and related support services to children with disabilities.

With effect from 1 October 2005 it has been formally established under the Education for Persons with Special Educational Needs Act 2004 (EPSSEN Act). That Act sets out both the general functions of the Council and its specific function in relation to the provisions of the Act.

The general functions of the Council as set out in Section 20 of the EPSSEN Act may be summarised as follows.

- Planning and co-ordinating provision of education and support services to children with special educational needs.
- Disseminating information on best practice concerning the education of children with special educational needs.
- Providing information to parents in relation to the entitlements of children with special educational needs.
- Assessing and reviewing resources required by children with special educational needs.
- Ensuring that progress of students with special educational needs is monitored and reviewed.
- Reviewing education provision for adults with disabilities.
- Advising educational institutions on best practice.
- Consulting with voluntary bodies.
- Advising the Minister for Education and Science on matters relating to special education.
- Conducting research and publishing findings.

Details on the work of the National Council for Special Education can be accessed at the following website link: <http://www.ncse.ie/>

A copy of the Education for Persons with Special Educational Needs Act 2004 (EPSSEN Act) can be accessed at the following website link: <http://www.oireachtas.ie/documents/bills28/acts/2004/A3004.pdf>

The contact details of the Special Education Needs Organiser can be accessed on the attached website link: http://www.ncse.ie/docs/SENO%20Office%20Addresses%2018_08_2006.pdf

- 15.1.3 A project on the translation of one of the widely used intelligence tests into Irish sign language was begun and it is planned to create a videotape of its administration as a training aid.

Services were provided to the Visually Impaired Children's Assessment Team (VICAT), which is administered by the National Council for the Blind in Ireland. VICAT provides assessment and advice regarding development and school placement for pre-school children with a visual impairment.

The Disability team is a support team rather than a front line team and the way in which it works is described in the previous paragraph.

General Vocational Training for Persons with a Hearing Disability:

- 15.1.4 Many pupils with disabilities do not take the State Post-Primary Examinations (the Junior Certificate and the Leaving Certificate). For such pupils, pre-vocational or pre-apprenticeship training is provided for varying periods. During these periods, they are given the opportunity of engaging in four or five occupations such as woodwork, metalwork, fitting and turning, printing, copy typing, card punching, junior accountancy and business studies. By providing a variety of work situations, this pre-vocational training affords pupils the opportunity of deciding on a particular vocation. By familiarising them with the activities of the vocation of their choice and by enabling them to acquire the technical vocabulary associated with it, the pre-vocational course helps them to benefit from apprenticeship and other forms of technical training.
- 15.1.5 The range of occupations included in the pre-vocational courses is kept under review. The needs of society are changing constantly and the activities chosen provide for appropriate levels of experience in the newer aspects of the economy. Pupils, who are unable to follow examination courses, are given instruction in needlework, tailoring, machining, leatherwork, pottery and basic book-keeping, while continuing to study general subjects.
- 15.1.6 All other post-primary pupils in the special schools for pupils with hearing disability, visit factories and offices, accompanied by their teachers. Many pupils are taken up by FÁS and by voluntary bodies catering for people with disability, for vocational training in a wide variety of work. In this context, the pre-vocational training, which the pupils have received in the schools for the deaf, has been found to be of great assistance in guiding, stimulating, and orienting their efforts to select and to train themselves for a future career in life. In recent years, some students in the schools for pupils with hearing impairment have participated in Vocational Preparation and Training Programmes for early school leavers in ordinary schools. These courses have been funded to a considerable extent by the European Union.

FAS website portal on Disability issues can be accessed at the following link:
<http://www.fas.ie/disability/index.htm>

General Vocational Training for the Visually Impaired:

- 15.1.7 In relation to the provision for people with visual impairment, approximately half the adolescents concerned are unable to benefit from academic type education. An

alternative curricular arrangement is made for such pupils including basic literacy and numeracy skills, Braille (where necessary) and mobility. In addition, specially adapted programmes are available in simple woodworking, crafts, pottery, home economics, activities of daily living and physical education. Music and musicianship are major subjects. Special equipment and specialist teachers are sanctioned for this work. All pupils are encouraged to learn to type, both as a means of communication with the sighted population and to prepare those who may wish to train as professional typists.

- 15.1.8. For many years, the only employment outlet for many persons with visual impairment was in a *Sheltered Workshop*, which produced cane furniture. While this shop still provides a satisfying outlet for certain students, many other avenues of employment have been explored. Many visually handicapped students now join courses run by FÁS (the State Training and Employment Authority). Voluntary bodies, in receipt of considerable support from State and EU funds, provide courses for people with disabilities in a variety of ways.

FAS website portal on Disability issues can be accessed at the following link: <http://www.fas.ie/disability/index.htm>

- 15.1.9. The **National Council for the Blind**, in cooperation with the Rehabilitation Institute, runs a three weeks' pre-telephone course, for visually handicapped young adults. The course is largely an orientation one and further intensive training is provided for those, who are deemed suitable for employment as telephonists. A proportion of posts as telephonists for blind people are set aside by many State agencies and large business corporations. However, modern technology has eliminated some of the need for telephonists generally; the scope for further employment is limited. The National Council of the Blind website can be accessed at the following link: <http://www.ncbi.ie/index.php>

Persons with Physical Disability

15.1.10 Transition from school to work is particularly difficult for persons with physical disability. Nevertheless, an increasing number of them attend ordinary primary and post – primary schools. Some of these secure employment immediately on leaving school with the help of the various job-training agencies, both State and voluntary.

- 15.1.11 For those, with more severe physical disabilities, including multiple disabilities, there is a growing realisation that a programme of pre-vocational training, including work experience, is necessary during their last year at school. With this end in view, the Department of Education and Science has sanctioned additional teaching staff in the two largest schools for people with disabilities in the country to enable such programmes to be developed. The Work Experience Programme, already in operation in the schools for persons who have mild disabilities, provides valuable guidelines for those initiating similar programmes in the schools for people with physical disability. Nevertheless, the people with physical disability have particular problems, which will need special solutions. The evidence to date is that they, in common with many other categories of

people with physical disabilities, can achieve far more than was hitherto thought feasible. The challenge for educators is to help them to reach their full potential.

- 15.1.12 The Department of Education and Science, together with Vocational Training Centres' Management Authorities, recently completed a review of its funding of Vocational Training Centres. Agreement has been reached on an improved level of funding which reflects the need for reduced instructor/trainee ratios in the Centres. This improved level of funding will be put in place once Ministerial approval for the change has been given.

Material supplied by the Department of Enterprise, Trade and Employment (including Material supplied by FÁS – An Foras Áiseanna Saothair – the National Training and Employment Authority):-

Pilot Programme for Employment of People with Disabilities:

- 15.1.13 The Government's Pilot Programme for Employment of People with Disabilities (PEP) is designed to support commercially viable businesses where at least 50 per cent of the employees are disabled people. Under this Scheme seven industries employ 180 disabled people. Wage subsidy grants are provided for disabled employees who also retain their medical cards and certain secondary benefits. In 2003, the Department of Enterprise, Trade and Employment concluded its consideration of existing sheltered employment models, and in the interest of developing a more mainstreamed approach devised a Full-Time Employment Support Scheme (FTESS). This new Scheme will be applied to all commercially orientated enterprises in the State who provide full-time employment to disabled workers by providing a wage subsidy; an additional allowance (where a high proportion of disabled employees exist); and a grant towards an Employment Assistance Officer for those enterprises employing more than 30 disabled employees. The Department of Enterprise Trade and Employment's proposed to incorporate those people currently employed under PEP onto FTESS by the end of 2005. See sub-paragraphs 15.2.1 to 15.2.6 below.

VOCATIONAL GUIDANCE AND TRAINING

- 15.1.14 Training and employment services for people with disabilities were restructured in June 2000 as part of the Government's policy of mainstreaming services to people with disabilities. The objective of the Government's policy is to provide services to people with disabilities in an integrated way which offers them more choice than was previously available. This approach is in accordance with the recommendations in the Report of the Commission on the Status of People with Disabilities, which was published in 1996 (see above). A copy of this Report was appended to our 17th Report, which we submitted to the Council of Europe in 1998.
- 15.1.15 Under the restructuring, policy responsibility for vocational training and employment of people with disabilities in the open labour market transferred from the Department of Health and Children to the Department of Enterprise, Trade and Employment. Responsibility for social skills and personal development training (referred to as

'Rehabilitative Training') and for Sheltered Occupational Services remained with the Department of Health and Children, including the Training Opportunities Programme (TOPs) and those disabled trainees under Level 1 who required training of a more rehabilitative nature.

- 15.1.16 Employment and vocational training policies for people with disabilities are now formulated in the Department of Enterprise, Trade and Employment as part of general labour market policy, underlining the move from a medical attitude to disability to an inclusive economic and social view of disability. Level 1 Training programme that demonstrated an ability for facilitating progression to further training became the responsibility of DETE, (the Department of Enterprise, Trade and Employment) in addition to Levels 2 and 3, which are more specific job training programmes.
- 15.1.17 The Department of Enterprise, Trade and Employment's policies are being developed through a three dimensional approach, which involves:
- (1) facilitating the progression of people with disabilities into sustainable employment through the **development of their skills**;
 - (2) **stimulating awareness** amongst employers of the contribution which people with disabilities can make to their businesses and encouraging companies to more actively consider recruiting people with disabilities to fill their vacancies;
 - (3) providing specific **employment supports** for people with disabilities and employers.
- 15.1.18 The provision, administration, and monitoring of vocational training services is carried out by FÁS, the national Training and Employment Authority, on behalf of the Department of Enterprise, Trade and Employment.

Assessment and Guidance

- 15.1.19 FÁS provides services to the public through 56 Employment Offices and 20 Training Centres. In addition, FÁS operates outreach centres and clinics throughout the country. All FÁS staff attended a one-day training programme in disability awareness training, and an additional 1,567 staff attended an additional two-day training programme in disability etiquette and practice.
- 15.1.20 The Employment Offices provide a “gateway service” for all individuals, including people with disabilities, seeking to prepare for, or find, employment. Through one-to-one interviews, FÁS establishes the needs, skills, aptitudes and interests of each client. The interview can also determine any additional supports required by the people with disabilities in vocational training or employment settings. All Employment Services Officers have undertaken FÁS Occupational Guidance for People with Disabilities and are regularly updated on new initiatives and developments in the disability field, in addition other customers of FÁS. 309 Employment Services Officers attended this training.

15. 1.21 The number of disabled people who have registered with FÁS are as follows:

2004	2003	2002
3014	2574	2431

15.1.22 People with disabilities can benefit from the full range of FÁS programmes and services available to help people prepare for, and find, employment. These include services such as:

- Job Placement
- Bridging Programmes
- Specific Skills Training
- Community Employment Programmes
- Apprenticeship
- Traineeship
- Social Economy Programme
- Job Clubs
- eCollege

15.1.23 FÁS continues to actively promote the inclusion of people with disabilities in their Programmes.

15.1.24 The mainstreaming of vocational training and employment services meant that FÁS needed to ensure that disabled people have the same right of access to labour market services as their non-disabled peers. This means that FÁS ensures that the disabled people and their requirements are included in the development of all structures, policies and practices; and that this results in good practice. To this aim, FÁS:

- Worked towards increasing the capacity of services already available through FÁS (either through our own infrastructure or contracted services) such as FÁS mainline provision, Local Employment Services (LES), Job Clubs and Community Training Centres (CTCs), Community Employment, etc.
- Designed and developed new grants for employers, as well as new employment initiatives (See Article 15.2)
- Promoted services and programmes for disabled people to potential users and employers
- Assisted in formulation and development of policies and strategies for the provision of labour market services for disabled people by working closely with other government departments, and other major stakeholders, including a National Advisory Committee on Disability (See 15.1.31), to identify emerging issues and gaps in service provision.

FÁS also established a new internal unit (Disability Policy and Development Unit) to assist the integration of disabled people into the labour market and to maintain the focus on disability within the organization, and expand FÁS

services and programmes in this area.

Vocational Training

15.1.25 Vocational training is one of the primary routes available to help people to realize their full occupational potential. It is important that people with disabilities have access to the widest possible vocational training provision and that they have the same right of access and opportunities which are available to people who do not have a disability.

15.1.26 The Department of Enterprise Trade and Employment continues to aim to improve the skills of people with disabilities in the open labour market. Developing the skills of people with disabilities through vocational training is a key element of this overall strategy. Vocational training provision for people with disabilities is provided through FÁS, either directly or indirectly, as it is for people who do not have disabilities.

FÁS provides a wide range of training courses of an industrial and commercial nature through, inter alia, FÁS Training Centres, Community Training Centres, Community Training Programmes and contracted training providers. FÁS also offers interactive training courses through its eCollege. Consequently, FAS provides a compendium of training options for disabled people that includes distance learning, mainline and specialised training.

FÁS have also developed a range of supports and interventions to support people with disabilities in accessing employment, career guidance and training services. Should a person with a disability identify any special requirements to assist them participate fully in training, FÁS will endeavour to facilitate them in line with current statutory requirements, including the provision of assistive technology; the use of training support assistants and sign language interpreters and assistance towards additional transport costs to attend training.

Should a customer with a disability identify a training course run by an outside agency, which FÁS do not offer, it is possible that FÁS may contribute towards the course fee from a Customised Training Budget.

15.1.27 In addition, because people with disabilities may require extra training duration, enhanced programme content, reduced trainer/trainee ratios, and/or specially qualified staff, FÁS contracts with approximately 20 specialist training agencies (mainly Health Boards and non-governmental agencies) to deliver training to people with disabilities from almost 60 centres throughout the country. These specialist training agencies have an established expertise in delivering training to people with disabilities. They are required to meet minimum standards in relation to the design and delivery of training programmes and FAS has agreed progression targets with them for participants to move to further training and/or employment. Please also [Article 10. 1.13](#).

15.1.28 A review of vocational training provision for disabled people carried out by consultants appointed by the Department of Enterprise, Trade and Employment in 2002 was completed in 2003. The purpose of the review was to examine the delivery of vocational training for disabled people through various forms of provision funded by FÁS, and to identify areas where efficiencies and effectiveness could be improved. Consultation with key service providers and other key stakeholders on the recommendations and contained within the report was conducted by FÁS through its National Advisory Committee on Disability. The broad thrust of the recommendations has been accepted, and FÁS is currently devising its vocational training strategy for disabled people.

FÁS provides occupational training for the unemployed and re-entrants to the workforce through Specific Skills Training and Traineeships and training for those in employment through apprenticeships and in-company training. It also contracts with 20 Specialist Training Providers (STPs), such as the National Learning Network (formerly National Training and Development Institute), in 55 Centres to deliver vocational training to disabled people who require more intensive support than would be available in the mainline options outlined above. This training is provided exclusively to disabled people, within a segregated setting.

The number of people 'In Training' in FÁS (excluding Apprenticeships) during the period 2004 and 2005 were as follows: 24,953 for 2005 and 17,071 for 2004. Further analysis of these training figures indicates that 1,555 disabled people (i.e., a total of persons in receipt of disability-related payments Disability Benefit, Disability Allowance, Blind Pension and Invalidity Pension) were 'In Training' in 2005, representing 6% of the total. The figure for 2004 was 1,662 disabled people which represent a little less than 10% of the total for that year. Of the 1,555 disabled people 'In Training' in 2005, 1,175 were referred to Specialist Training Provision. In 2004, of the 1,662 disabled people; 1,246 were referred to Specialist Training Provision. This represents 75% of the disabled people 'In Training' for 2005 and 2004⁷.

Other developments

- 15.1.29 Training allowances for people with disabilities in vocational training were standardised from July 2001, ensuring equality of treatment for people with disabilities in the vocational training system.
- 15.1.30 All people with disabilities training under FÁS's remit (i.e. including those being trained by external and specialist providers) now receive a standard Training Allowance. An additional Training Bonus of €31.80 was also introduced from July 2001 for people with disabilities, giving them parity with the allowances paid to Long Term Unemployed people.
- 15.1.31 FÁS has established a National Advisory Committee on Disability to assist and advise it on matters relating to the development and provision of effective vocational training and employment services to people with disabilities. The Committee includes representatives from organisations of people with disabilities, service providers, social partners and relevant Government Departments.
- 15.1.32 A Customer Service Survey to obtain feedback from disabled people who availed of FAS services during the period June 2000 to June 2002 was completed in February 2003. The focus of the research was to assess the quality of services provided to this client group, and to evaluate the extent the service provided met individuals' needs. Personal interviews were conducted with 68 registrants in Dublin, Cork, Limerick, and Galway. Discussions were also held with FÁS staff. The population surveyed generally express satisfaction with the service provision offered. They appreciated appointments, the quality of one-to-one interviews with Employment Services Officers and help with completing the forms. As a result of this survey, FÁS:
- Reviewed its criteria of its case listing of individuals as a 'person with a disability';
 - Revised its promotional literature for disabled people, making it more user friendly;
 - Are in the process of developing a list of potential supports and accommodations disabled people may require; to be used by Employment Services Officers;

⁷ Figures relating to training are from FÁS' Management Information System (MIS): Training Statistics

- Introduced 'case-conferencing' for 'complex' cases;
- Is reviewing in follow-up of disabled people following training.

15.1.33 A considerable range of actions to resolve existing 'disability' access problems, and implement new access standards have been, or are in the process of being undertaken.

EMPLOYMENT

Principles

15.1.34 A key objective of the approach to vocational training for people with disabilities outlined above is to improve employment opportunities for them in the open labour market. The policy approach being followed in this area is based on the recognition that people with disabilities have a contribution to make to the economy.

15.1.35 This approach is strengthened, on a legislative basis, by the Employment Equality Act, 1998, (**Act No. 21 of 1998**) as amended by the Equality Act 2004 (**Act No. 24 of 2004**) which prohibits discrimination against people with disabilities and other groups in respect of employment and vocational training. Copies of these Acts are accessible on the following websites: <http://www.irishstatutebook.ie/front.html> **via the link Acts of the Oireachtas 1922-2005 or**

<http://www.oireachtas.ie/documents/bills28/acts/2004/A2404.pdf> directly for the 2004 Act.

Employment in an ordinary working environment

15.1.36 Within the *public sector*, each organisation is required to take action to achieve a 3% target level of employment of people with disabilities. The target is a Government led positive action measure intended to facilitate the integration of people with disabilities into employment. The commitment has been adopted with the agreement of the Social Partners. Although the target level has not been achieved in the overall public sector to date, many individual Departments and organisations have exceeded the target.

15.1.37 Policy responsibility for the employment of people with disabilities in the *private sector* rests with the Department of Enterprise, Trade and Employment. The Department's policies are being developed through a three dimensional approach, which involves:

- (1) facilitating the progression of people with disabilities into sustainable employment through the *development of their skills*;
- (2) *stimulating awareness* amongst employers of the contribution which people with disabilities can make to their businesses and encouraging companies to more actively consider recruiting people with disabilities to fill their vacancies;
- (3) providing specific *employment supports* for people with disabilities and employers.

15.1.38 Actions to develop the skills of people with disabilities are outlined in this report under the heading of **Vocational Training** (see paragraphs 15.1.19 to 15.1.26 above).

Stimulating Awareness

- 15.1.39 To stimulate awareness amongst employers of the contribution which people with disabilities can make, the Department of Enterprise, Trade and Employment has supported a number of projects which can add value to achieve this objective.
- 15.1.40 The Department agreed to provide funding of up to €888,820 to the end of March 2004 for a joint initiative from the Irish Congress of Trade Unions (ICTU) and the Irish Business and Employers Confederation (IBEC) to promote the employment of people with disabilities in the private sector. This project involved the establishment of a number of regional networks to raise awareness, explore skills availability among people with disabilities, identify local employment opportunities and provide information on supports which are available to people with disabilities and employers to assist integration into the workforce. Key players, including employers, trade unions, relevant Government Departments and agencies, disability agencies and people with disabilities, are participating in the project.
- 15.1.41 The Department sponsored a major conference in April 2003, focusing on the contribution which people with disabilities can make to business. A similar conference was sponsored by the Department in 2002.
- 15.1.42 Over the period 1998–2000, the Department sponsored a project operated by the Industrial Development Authority which examined issues relating to the recruitment of graduates with disabilities. Practical outcomes of the project were the publication of a guide for employers on the recruitment of graduates with disabilities, the establishment of a scholarship programme for graduates with disabilities involving a number of Multi National Companies, the delivery of Disability Awareness Training in participating companies, work placement opportunities for graduates with disabilities, and the forging of linkages between education institutions and employers.

Employment supports for people with disabilities and employers

- 15.1.43 FÁS, the National Training and Employment Authority, operates a number of schemes and supports specially targeted at promoting the employment of people with disabilities including:
- *Employment Support Scheme* – a wage subsidy for an employer who takes on a person with a disability on a full-time basis where that person's productivity is assessed as between 50% of 80% of normal productivity levels.
 - *Workplace/Equipment Adaptation Grant* for employers to adapt a workplace or provide specialist equipment to facilitate the integration of a person with a disability into employment.
 - *Personal Reader Grant* for blind or visually impaired people who need to engage an individual to provide assistance with job-related reading.
 - *Job Interview Interpreter Grant* to pay for an interpreter to attend a job interview with a person who has a hearing or speech impairment.

- *Disability Awareness Training Support Scheme*, available to employers to assist in the integration of people with disabilities into the workforce and to eliminate mistaken perceptions about people with disabilities and their capacity to be productive and effective colleagues and employees.
- *Employee Retention Grant* for employers to re-train workers who acquire a disability in the course of their working lives so they can continue to work in the same company.
- *Supported Employment Programme*, under which Job Coaches source jobs and provide on-the-job support to people with disabilities in the open labour market. Almost 800 people with disabilities have obtained employment under the programme since it was introduced at the end of 2000.

Sheltered Employment

15.1.44 Sheltered Employment is defined, in Ireland as:

“Employment in an enterprise established specifically for the employment of people with disabilities, but which may also employ able-bodied people.”

15.1.45 Sheltered Employment enterprises should display the following characteristics:

- (1) they should have entrepreneurial objectives with a view to generating sufficient revenue to achieve sustainability;
- (2) they will be operating in a commercial market place with a traded income;
- (3) they will provide direct goods and/or services for sale in the market place in response to market needs;
- (4) they should comply with all statutory requirements in relation to employment rights, PRSI (pay related social insurance) and income tax liability.

15.1.46 This definition distinguishes Sheltered Employment enterprises from workshops which provide a range of sheltered occupational services to people with disabilities and do not primarily have commercial objectives. Such workshops fall under the remit of the Department of Health and Children.

15.1.47 In 2001, the Department of Enterprise, Trade and Employment commissioned a review of Sheltered Employment in Ireland. The review was intended to:

- identify the extent of Sheltered Employment in Ireland;
- identify the numbers employed, types of activity carried out, level of State subvention, wage levels, conditions of employment, level of progression to open employment and potential commercial viability of the enterprises;

- identify any difficulties which may arise within different model of Sheltered Employment in terms of commercial viability, terms and conditions of workers and sustainability of employment;
- identify and quantify the social, economic and financial benefits, if any, accruing to people with disabilities and to the State;
- compare Sheltered Employment provision with other forms of provision available to people with disabilities;
- evaluate the role of Sheltered Employment in Ireland in terms of its social and economic effectiveness, relevance in the context of current labour market conditions, and efficiency.

15.1.48 Policy proposals are formulated based on the findings of this review.

Question B:

15.1.49 The number of staff engaged in training people with disabilities for open employment by Specialist Training Providers was 824 in 1996 (Source: Report to Monitoring Committee for OP (Operational Programme) '94-'99, April 1997).

15.1.50 As part of the Government's restructuring of services for people with disabilities operational responsibility for vocational training rests with FÁS. FÁS provides a wide range of training courses to jobseekers (and employees) through its own 20 Training Centres nationwide, Community Training Centres, Contracted Training Providers, Community Training Programmes and FÁS' Net College. All of these training options are available to people with disabilities.

15.1.51 There are currently 20 FÁS centres, 57 STP centres (approximately 20 Specialist Providers), 41 CTC centres and 21 CTP centres operating to deliver vocational training. FÁS approve a list of CTPs to refer people to, and this number of centres can fluctuate. The D/Enterprise, Trade and Employment estimate that approximately 80% of the total number of people with disabilities in FÁS funded training are in specialist training agencies.

15.1.52 The Department of Enterprise, Trade and Employment, through FÁS funds the STPs, in the region of € 13,500 per allocated place. Allocations are decided at the beginning of the year. In 2004, there were approximately 1660 places allocated to the National Training and Development Institute, part of the Rehab Group, out of a total of 1962 allocated to all STPs. This amounts to over €25.2 million⁸ spend on the provision of vocational training services to people with disabilities through the specialist training providers. The total allocation in 2003

⁸ Number of allocated places x €13,500

in respect of payments, facilities or services for those with physical or intellectual and mental disabilities amounts to €42 million.

Material supplied by the Department of Social and Family Affairs in relation to Question B (b):

1. Background

- 15.1.53 Every effort is made to ensure that children with special educational needs receive an education appropriate to their needs and in recent years, very significant additional resources have been made available to schools to enable them to provide for children with such needs.
- 15.1.54 In this regard, the following dedicated resources are now deployed to support children with special educational needs in the primary system:
- More than 2,600 resource teachers
 - More than 1,500 learning support teachers
 - More than 1,000 teachers in special schools
 - More than 600 teachers in special classes
 - Nearly 6,000 special needs assistants
 - More than €30million on school transport for special needs pupils
 - More than €3million towards specialised equipment and materials
- 15.1.55 In addition to the above, the level of resources being made available by the Department to support students with special educational needs in the second level system has also grown significantly in recent years. In the current school year to date, the Department has allocated approximately 1,387 whole-time equivalent teachers and approximately 628 special needs assistants to second level schools and VECs to cater for the special educational needs of students at second level.
- 15.1.56 The establishment of the National Council for Special Education is a further major step in ensuring that the requirements of children with special educational needs are identified and the necessary resources put in place in a timely and effective manner.

2. Range of services available to children with special educational needs at Primary School level

- 15.1.57 Children who have been assessed as having special educational needs have access to a range of special support services. The services range from special schools dedicated to particular disability groups, through special classes/units attached to ordinary schools, to placement on an integrated basis in ordinary schools, with special back-up supports.
- 15.1.58 The Department's policy is to ensure the maximum possible integration of children with special educational needs into ordinary mainstream schools. Where mainstream provision is not appropriate children can be catered for in special schools which are dedicated to particular disability groups. There are 107 special schools in the country at present. These schools cater for children from 4 to 18 years of age and each school enjoys a significantly reduced pupil teacher ratio and other staffing supports. Additional special needs assistant support is provided if deemed necessary. Special schools also receive increased rates of capitation funding.
- 15.1.59 Children with special educational needs can also attend special classes attached to ordinary mainstream schools. All special classes enjoy the same increased levels of staffing and funding as are made available to the special schools. Children with special educational needs attending special classes attached to ordinary schools may also, where appropriate, be integrated into ordinary classes for periods of the school day.
- 15.1.60 While children are awaiting a suitable educational placement, the Department may sanction Home Tuition as an interim measure, if appropriate.

3 Support for Special Needs at Second Level:

- 15.1.61. Students with special educational needs at second level, are supported by the Resource Teacher Service and/or the Special Needs Assistant Service. The nature and the level of support provided are based on the professionally assessed needs of each student.
- 15.1.62 In the 2004/2005 school year, special needs students are supported by:
*approx. 1,387 whole time equivalent resource teachers, and
* approx. 628 whole-time equivalent Special Needs Assistants
- 15.1.63 This compares with 2003/04 school year where the level of allocation was:
*approx. 1,050 whole-time equivalent Resource Teachers, and
*approx. 450 whole-time equivalent Special Needs Assistants.
- 15.1.64 In 2002/03 the level of allocation was:
*approx. 700 whole-time equivalent Resource Teachers, and

*approx. 400 whole-time equivalent Special Needs Assistants.

- 15.1.65 In the current school year, approx. 17,650 students with special educational needs are in receipt of resource teacher and/or special needs assistant service support.
- 15.1.66 This compares with approx. 12,500 students in 2003/04 6,000 students in 2002/03 and 3,500 students in 2001/02.
- 15.1.67 In the 1997/98 school year, an estimated 1,600 students with special needs were being supported by an allocation of approx. 200 resource teacher equivalents.
- 15.1.68 As indicated above, there has been a very substantial growth in demand for special education services at second level over the past few years. It is considered that this development merely reflects the reality that significant numbers of pupils, who had been in receipt of special support in the primary sector from 1999 onwards, are now transferring to the second level system. Such students and their parents have an expectation of continuing access to special support services.

4. Models of Response at Second Level:

- 15.1.69 The policy is to encourage the maximum possible level of integration of students with special needs into ordinary classes. Many students with special needs are capable of attending ordinary classes with the support of the Resource Teachers and/or Special Needs Assistants Service.
- 15.1.70 However, in some cases the severity of the disability can be such as to require a more dedicated response. In such cases, we support the establishment of special dedicated classes or units attached to the second level school. All such units are resourced at significantly reduced pupil teacher ratios. For example, in the case of children with a mild general learning disability the support rate would be based on a maximum PTR equivalent of 11:1. At the other end of the spectrum, special classes for e.g. children with autism/aspergers syndrome would be resourced at a PTR equivalent of 6:1.
- 15.1.71 In some cases, the level of special need involved can be such that the child's needs could not be adequately addressed within the second level system. In such cases, placement would be arranged in one of the special schools which cater for students from 4 to 18 years of age. Each such facility is dedicated to a particular disability group.

5. Special Education Support Service:

- 15.1.72 This service, which was established in September, 2003:
- manages and co-ordinates the nation-wide provision of In-Service courses in the area of special education.

- undertakes a detailed examination and evaluation of current and emerging professional development requirements.
- develops and delivers a range of supports in response to training needs identified
- provides ongoing school-based support
- liaises with relevant bodies

6. Transfer of certain functions to the NCSE:

- 15.1.73 With effect from 1 January 2005, the National Council for Special Education (NCSE) has taken over responsibility for processing resource applications for children with disabilities who have special educational needs and in particular it is responsible for the following:
- Deciding on applications for resource teaching hours in respect of children with low incidence disabilities with special educational needs at primary level;
 - Deciding on applications for additional teaching support in respect of children with disabilities with special educational needs at second level;
 - Deciding on applications for special needs assistant (SNA) hours;
- 15.1.74 Under the new arrangements, the Council, through the local Special Educational Needs Organiser (SENO) will process the individual applications for resources at primary and post primary level and inform the school of the outcome.
- 15.1.75 The Department issued a Circular and Letter advising the authorities of primary and post primary schools respectively, of the arrangements put in place as a result of the transfer of these functions to the NCSE. The Council and the Department have put transitional arrangements in place to ensure a smooth transfer of functions.

7. Background Information on the NCSE

- 15.1.76 The Council currently has 12 members all with a special interest in or knowledge of the area of education of children with disabilities.
- 15.1.77 There are 71 Special Education Needs Organisers (SENOs) employed by the Council since September 2004, who have been deployed on a nationwide basis, with at least one SENO being deployed in each county. Each SENO is responsible for the primary and second level schools in their area and they have made contact with each of their schools and informed them of their role. A recruitment process for a further 9 SENOs has been commenced by the Council to bring their total up to 80 persons nationwide. In addition to the SENOs, there are 17 staff employed at the Head Offices of the Council in Trim, Co. Meath.
- 15.1.78 In addition to processing requests for resources, the Council will co-ordinate the provision of education and related support services with health boards, schools and

other relevant bodies. That will ensure that when a child has been identified as having a special need, the services can be put in place immediately.

- 15.1.79 The SENOs are responsible for ensuring that all special educational needs in their areas are addressed in an effective manner. They are charged with facilitating access to, and co-ordinating education services for, children with special needs in their areas. They will do this by liaising between local providers of educational services, and of necessary ancillary services, the council, the Department and parents. In many cases provision will be based on individual education plans for the children involved. The SENOs were recruited in an open, competitive process and all have previous experience of direct service provision to people with disabilities and have wide-ranging experience from which the whole system can benefit.

8. The Education for Persons with Special Educational Needs Act 2004

- 15.1.80 In addition to the changes made in the delivery of resources to date the Education for Persons with Special Educational Needs Act 2004 provides a map to the future development of special educational needs services. The Act reflects the Government's commitment to putting in place a strategy to address the needs of people with disabilities.

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- 15.1.81 A copy of the Education for Persons with Special Educational Needs Act 2004 (EPSEN Act) can be accessed at the following website link: <http://www.oireachtas.ie/documents/bills28/acts/2004/A3004.pdf>

- 15.1.82 The following bullet points outline some of the main provisions of the Act:
- The Act creates rights to an educational assessment for children with special educational needs;
 - The Act creates rights to the development of an individual educational plan;
 - The Act creates rights to the delivery of education services on foot of the plan.
 - It also ensures that the resources necessary to vindicate those rights will be available to schools, health boards and the council.
 - Parents must have a right to be consulted and fully informed at every stage of the process;
 - Parents have a right to appeal any decisions concerning their children and these matters to an independent appeals board. The Board will have the power to compel bodies, including health boards to take specific actions to address matters before it.

Material supplied by the Department of Social and Family Affairs concerning Question B (f) financial assistance available to persons with disabilities undertaking vocational rehabilitation.

15.1.83. The Back to Education Allowance, (BTEA) administered by the Department of Social and Family Affairs (see details in response to Question B under Article 10 Para 5 above), may be availed of by persons with disabilities.

The numbers availing of these provisions, previously in receipt of a disability type payment, were as follows:

Table 15.1.x

	2001	2002	2003	2004
BTEA	428	549	711	649

15.1.84 **Material submitted by the Department of Justice, Equality and Law Reform in paragraphs 15.1.19 to 15.1.29 (pages 206- 209 of Ireland’s 21st Report under the 1961 Social Charter, submitted in 2003) refers and remains relevant:**

Note: Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

15.1.85 Employment Equality Act, 1998

The Employment Equality Act, 1998 came into operation on 18 October, 1999 and outlaws discrimination in employment on nine distinct grounds, including disability. It allows employers to put positive action measures in place to promote equal opportunities. The Act is comprehensive in scope and deals with all areas relevant to employment including access to employment, conditions of employment, remuneration, promotion and vocational training. Disability is broadly defined in the Act to include total or partial absence of bodily or mental faculties; chronic disease, whether manifest or not; and learning and personality conditions.

15.1.86 The Act allows for positive action measures intended to reduce or eliminate the effects of discrimination in order to facilitate the integration into employment of a number of categories of persons including those with a disability. Under the Act, an employer must do all that is reasonable to accommodate the needs of a person with a disability, unless the employer can show that there is a cost to him/her other than a nominal cost.

18.1.87 The Employment Equality Act, 1998, (No. 21 of 1998) as amended by the Equality Act 2004 (Act No. 24 of 2004) which prohibits discrimination against people with disabilities and other groups in respect of employment and vocational training.

18.1.88 Copies of these Acts are accessible on the following websites:

<http://www.irishstatutebook.ie/front.html> via the link **Acts of the Oireachtas 1922-2005** or

<http://www.oireachtas.ie/documents/bills28/acts/2004/A2404.pdf> directly for the 2004 Act

Equal Status Act, 2000

15.1.89 The Equal Status Act, 2000 prohibits direct and indirect discrimination in the provision of services, goods and facilities, also on nine distinct grounds, including disability. The Act covers all goods and services available to the public, whether on foot of payment or not, irrespective of whether they are provided by the public or private sector. Services are defined broadly to include access to public places, banking and insurance services, entertainment, transport, professional services, education, disposal of premises and provision of accommodation and registered clubs. The Act explicitly outlaws discrimination in education.

Equality Infrastructure

15.1.90 The Equality Authority and the Office of the Director of Equality Investigations were established in 1999 under the Employment Equality Act, 1998 to underpin the statutory rights provided in both Acts.

The National Disability Authority

15.1.91 The National Disability Authority (NDA) is the independent statutory agency, established under the National Disability Authority Act, 1999, in June, 2000. The principal functions of the National Disability Authority are:

- To act as a central, national body to assist in the co-ordination and development of disability policy.
- To undertake research and develop statistical information for the planning, delivery and monitoring of disability programmes and services.
- To advise on the development of standards and codes of practice in programmes and services for people with disabilities.
- To monitor the implementation of standards and codes of practice in programmes and services for people with disabilities.
- To liaise with service-providers and other bodies to support the development and the implementation of appropriate standards for programmes and services for people with disabilities.

Mainstreaming

- 15.1.92 A mainstreaming policy for services for people with disabilities was introduced in June, 2000. Mainstreaming means the delivery of services for people with disabilities by the same public bodies that provide these services to everybody else.
- 15.1.93 Responsibility for service provision for people with disabilities, which previously lay with the National Rehabilitation Board (NRB), under the aegis of the Department of Health and Children, was transferred to Departments and agencies with general responsibility for their provision:
- vocational training and employment services were transferred to FÁS;
 - non-vocational work and training services were transferred to the health boards;
 - audiology services were transferred to the health boards;
 - child psychology services were transferred to the National Educational Psychological Service (NEPS) under the Department of Education and Science; and
 - information, advice and support services were transferred to Comhairle, a new agency established under the Department of Social, Community and Family Affairs.
- 15.1.94 The staff and resources of the NRB were transferred with the relevant services. This facilitated a minimum disruption to existing service provision and continuity of expertise.

Commencement of provisions of the Disability Act 2005

The Minister of State at the Department of Justice, Equality and Law Reform, Mr. Frank Fahey T.D., announced the signing of a Commencement Order bringing provisions of the Disability Act 2005 into operation.

The provisions that come into operation include the following:

Commencement Date 29 July 2005

Nature of Provisions

Provisions relating to Sectoral Plans for key Departments

Draft Sectoral Plans for the six key Departments have been published and are the subject of consultations. The Ministers for Health and Children; Social and Family Affairs; Transport; Communications, Marine and Natural Resources; the Environment, Heritage and Local Government; and Enterprise, Trade and Employment are required under the legislation to finalise the Plans for presentation to the Oireachtas within a year.

Commencement Date 31 December 2005

Nature of Provisions

Requirements relating to Access to Buildings and Services

Government Departments and public bodies will be required to make their mainstream public services accessible to people with disabilities. This will include making information available in accessible formats and providing supports to access services where practicable.

The public access areas of most public buildings must be made accessible by 2015. This will include retro-fitting many older buildings.

Limitations on the use of Genetic Testing for employment, insurance and mortgage purposes

Limitations on the use of information obtained from Genetic Testing to ensure that people who may be affected by genetic disorders will not be subject to unreasonable requirements from an employer or an insurance or mortgage provider.

Statutory targets for the employment of people with disabilities in the public service

All Government Departments and public bodies are required to take action to achieve a 3% target for the employment of people with disabilities. The NDA will have responsibility for monitoring and reporting on overall compliance.

Commencement Date 1 January 2007

Nature of Provisions

The establishment of a Centre for Excellence in Universal Design in the NDA

The Centre for Excellence in Universal Design will promote best practice in the design of buildings and products, including computers and other electronic systems so that they are usable by everyone, especially people with disabilities.

Links to various publications/reports/speeches/sectoral plans on disability issues can be accessed on the Department of Justice, Equality and Law Reform website at the following link by typing in the word "disability" in the "search" facility

[http://www.justice.ie/80256DFF005F2D06/\\$\\$Search?OpenForm&Seq=1](http://www.justice.ie/80256DFF005F2D06/$$Search?OpenForm&Seq=1)

Policy-Making and Implementation (material from the Department of Health and Children)

- 15.1.95 Under the Health Act 1970, full responsibility for the care, medical rehabilitation, guidance, training and occupational rehabilitation of disabled people is assumed by the Department of Health and Children. Section 68 of the 1970 Health Act gives Regional Health Boards the responsibility for providing disabled persons with vocational rehabilitation services. This responsibility was delegated to the National Rehabilitation Board (NRB) which is funded by the Minister for Health and Children. Responsibility for monitoring the public service quota lies with the Economic and Social Policy Division of the Department of the Taoiseach (Prime Minister).
- 15.1.96 The NRB was established in 1967. It provides specialist services directly, gives information and advice on disability resources and on accessible environments. It prepares standards and guidelines on training and on the environment. Its remit includes:

vocational guidance and the placement of disabled persons in training and employment;

setting standards for vocational training programmes and approving training centres;

co-ordinating training for people with disabilities which is part-funded by the European Social Fund (ESF).

- 15.1.97 On 18th November 1997, on the occasion of the first anniversary of the launch of the Report of the Commission on the Status of People with Disabilities, the Government announced its intention to establish a National Disability Authority. It was also announced that the staffing and assets of NRB will form the basis for the resources necessary to establish the new body (see paragraph 15.1.91 above).
- 15.1.98 In her speech at the Symposium on Disability and Human Rights held in Dublin Castle on that day (18 November 1997), the then Minister - Minister Mary Wallace said "the Government regards the recommendations made by the National Disability Authority as fundamental to promoting equal opportunities for people with disabilities. We are totally committed to radical change to ensure that the needs and aspirations of people with disabilities, their families, carers and advocates are comprehensively addressed".
- 15.1.99 "The NDA Establishment Group presented its Report 'Building a Future Together' to Government in July 1998. The Irish Government has responded by announcing the following measures:
- A new 21 person National Disability Authority is being established on a statutory basis. It will assume responsibility for advising the Minister for Justice, Equality and Law Reform on policy and on the development and implementation of standards for services for people with disabilities.
 - *The new NDA will act in an open and transparent fashion. It will publish each year its report to the Minister and it will be laid before the Houses of the Oireachtas. It will advise on the establishment of service standards for those providing care, support and services and will monitor standards. The NDA will also be responsible for research into improving services.
 - The membership of a non-statutory National Disability Authority, which has been appointed by the Minister for Justice, Equality and Law Reform pending the enactment of the legislation establishing a statutory Authority is comprised of 65% of people with disabilities or carers.
 - Currently people with disabilities have to go to separate and specific agencies for training and employment services, social welfare advice and certain health services rather than the agencies used by most members of the general public. These services will now be mainstreamed. This will involve major transfers of services involving three Government Departments (1) Health and Children; (2) Enterprise, Trade and Employment and (3) Social, Community and Family Affairs and the existing National Rehabilitation Board.
 - The three main elements in the transfer of services will comprise:
 - (a) the transfer of vocational training and employment services from the Department of Health and Children to the Department of Enterprise, Trade and Employment;
 - (b) the establishment of a new organisation under the Department of Social, Community and Family Affairs, which will merge the new Disability Support Service and the National Social Services' Board to form one mainstream

organisation which will provide information, advice and advocacy services on disability matters;

(c) the provision within the health services of the Audiology services currently provided by the National Rehabilitation Board.

- When these legislative and service provisions are in place, the National Rehabilitation Board (NRB) will be dissolved.

A copy of the Disability Act 2005 can be accessed at the following website link:
<http://www.justice.ie/80256E010039E882/vWeb/pcJUSQ6M7FQD-en>

A copy of the Government's statement on multi-annual funding for Disability Support Services can be accessed at the following website link:

<http://www.justice.ie/80256E010039C5AF/vWeb/pcJUSQ654EGM-en>

A copy of the Government's Press Statement on the commencement of the 2005 Act can be accessed at the following website link:

<http://www.justice.ie/80256E01003A02CF/vWeb/pcJUSQ6EYMBE-ga>

General Comments / Responses :- Sub-Paragraphs 15.1.74, 15.1.75, 15.1.77, 15.1.79 and 15.1.84 to 15.1.91, Pages 219- 222 of Ireland's 21st Report under the original European Social Charter, submitted in 2003 refer :-

15.1.100 In relation to the measures with regard to vocational training measures with a direct link to employment vis a vis standards for the organisation and validation of training (foundation, basic specific skills, and intermediate and higher specific skills; the precise objectives set in terms of progression towards mainstream / specialised training and towards employment), the position is outlined in our response at subparagraphs 15.1.41 to 15.1.47 above. Please see the FAS (the National Training and Employment Authority) [Annual Report for 2003, in particular the material on Services for People with Disabilities – page 27 of that Annual Report refer](#). It may also be accessed on the FAS website www.fas.ie

15.1.101 Details of the policies and achievements of the new National Disability Authority are available on its website: www.nda.ie under the links “policy and law” and “publications”. The final summary progress report for the Programme for Prosperity and Fairness (which took effect in March/ April 2000) covering the the period 2000-2003 is available on the the Department of the Taoiseach's website (www.taoiseach.gov.ie).

15.1.102 As part of the Government's overall policy on the provision of Quality Services to the public on ongoing basis, all staff involved in the vocational rehabilitation process receive training in rehabilitation issues and are given the opportunities to attend further training and / or re-training courses.

15.1.103 *The Committee asks what practical measures have been taken to ensure equal treatment for nationals of other Contracting Parties (the member states of the Council of Europe which have signed and ratified the European Social Charter) lawfully residing or regularly working in Ireland with regard to vocational training for people with disabilities.*

15.1.104 **Response**

The Employment Equality Act 1998, enacted on 18 October 1999, outlaws discrimination in relation to employment on nine distinct grounds, namely: gender, marital status, family status, age, race, disability, religion, sexual orientation and membership of the Traveller community. The Act outlaws discrimination on any of the discriminatory grounds in all areas relevant to employment including access to employment, conditions of employment, training and promotion. It also prohibits the publication of discriminatory advertisements and discrimination by employment agencies, providers of vocational training, trade unions and professional and trade associations.

The Act outlaws discrimination on any of the discriminatory grounds in all areas relevant to employment as follows:

- Discrimination by employers with regard to access to employment, conditions of employment, training and promotion (*section 8*)
- Discrimination in collective agreements with regard to access to and conditions of employment and equal pay (*section 9*)
- Discriminatory advertising or advertising that might reasonably be understood as indicating an intention to discriminate (*section 10*)
- Discrimination by employment agencies against any person seeking employment or other services of the agency (e.g. career guidance or training) (*section 11*)
- Discrimination in the provision of vocational training or any instruction needed to carry on an occupational activity (*section 12*)
- Discrimination by trades unions, professional and trade associations as regards membership and other benefits (*section 13*).

The above Act may not be construed as requiring the recruitment, retention or promotion of anyone not available or willing to do, or fully capable of doing, the particular job. In the case of a person with a disability, fully capable of doing the job may include doing it with the assistance of special treatment or facilities (*section 16(1) - (3)*).

The Act also provided for the establishment of the Equality Authority and the Office of the Director of Equality Investigations (which changed its business name during 2002 to ODEI - the Equality Tribunal). The Equality Authority works towards the elimination of discrimination and the promotion of equal opportunities. The Office of the Director of Equality Investigations provides the main locus of redress of first instance under the Act.

Equality cases, other than those involving dismissal, may be referred to the Director of Equality Investigations. The Director, may subject to the agreement of the parties to the claim, refer a case for mediation, if it appears possible to resolve it in that way. Cases not referred for mediation (and cases not resolved by mediation which are re-lodged with the Director) are investigated and a decision is issued. There is provision for the award of redress where discrimination is found to have occurred. Decisions may be appealed to the Labour Court⁹. Cases involving the dismissal of an employee are referred directly to the Labour Court and may be appealed to the Circuit Court. In addition cases may be referred from the Labour Court, by the Court or by a party to the case, to the High Court on a point of law. Alternatively gender discrimination cases may be referred directly to the Circuit Court.

The Act provides that both the Equality Authority and the Office of the Director of Equality Investigations provide annual reports on their activities, which are presented to Government. The Equality Authority's Annual Reports contain an overview of the initiatives undertaken by them in relation to the elimination of discrimination and the promotion of equality of opportunity. The ODEI Annual Reports provide *inter alia* statistics on cases taken under the Employment Equality Act 1998 and summaries and analyses of emerging caselaw. Copies of the Annual Reports of both bodies for 2000 and 2001 are enclosed for the Committee's information. The reports and other publications are also available on the Authority and ODEI websites - www.equality.ie and www.odei.ie. The Labour Court also produces an annual report on its activities. The 2000 and 2001 reports are available on the Labour Court's website www.labourcourt.ie.

Section 33 of the Employment Equality Act 1998 also provides for an exclusion from the general principle of non-discrimination for State training or work experience schemes, aimed at particular groups of disadvantaged persons, if it is unlikely that without such provision, the particular group would receive such provision.

Please see the FAS (the National Training and Employment Authority) Annual Report for 2003, in particular **the Services for People with Disabilities – pages 27 of that Annual Report refer**. A copy of that report is enclosed. It may also be accessed on the FAS website www.fas.ie Please also see the Quarterly National Household Survey – Second Quarter 2002 (copy enclosed). This material may also be accessed on the website of the Central Statistics' Office www.cso.ie reference Labour Market Statistics – Quarterly National Household Survey

Text of ARTICLE 15 PARA 2 of the Revised Charter

Text of ARTICLE 15 PARA. 2 of the Revised European Social Charter

“With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to

⁹The Labour Court is not a court of law. It operates as an Industrial Relations Tribunal and provides a free, comprehensive service for the resolution of disputes about industrial relations, equality, organisation of working time, national minimum wage and part-time workers rights matters.

independence, social integration and participation in the life of the community, the Parties undertake, in particular: to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services;”

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please describe the measures taken to promote the employment of persons with disabilities in an ordinary working environment and in particular the measures concerning the placing of persons with disabilities; incentives for employers to hire persons with disabilities and, where appropriate, measures obliging employers to adjust working conditions. Please provide information on employment obligation for persons with disabilities. Please specify the measures to ensure the retention of persons with disabilities in employment (duty of occupational redeployment for persons who become disabled following an accident at work or an occupational disease, ban on dismissal of workers because of their disability, obligation for employers to adjust working conditions, provision of support for persons with disabilities to start their own business, etc.).

Question B

Please indicate the number (or an approximation) of persons with disabilities who during the reference period found paid employment (whether in specialised institutions or not; in the public or private sector).

Question C

Please provide information on sheltered employment structures (type, capacity, pay rates for persons with disabilities working there). Please indicate the opportunities which exist to transfer from sheltered employment to open employment.

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Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) and Questions for answer by Ireland arising from our 21st Report, submitted in 2003 under the original European Social Charter (1961):

Paragraph 2 – Placement arrangements for the disabled

The Committee notes the information provided in Ireland’s report. It refers to its general remarks made under Article 15§1 on the developments in the disability field which took place over the reference period and its questions regarding the number of persons with disabilities in Ireland.

The Employment Equality Act 1998 entered into force in 1999, it prohibits discrimination *inter alia*, on grounds of disability. It covers all areas related to

employment including access to employment, conditions of employment, remuneration, promotion and vocational training. The Act allows for positive action measures intended to reduce or eliminate the effects of discrimination and under the Act an employer must do all that is reasonable to accommodate the needs of a person with a disability unless the employer can show that there is a cost to him/her other than a nominal cost. The **Committee asks** for further information on any relevant case law on reasonable accommodation and the notion of 'nominal cost'. The Act also provided for the establishment of the Equality Authority and Office of the Director of Equality Investigations (ODEI). Equality cases other than those involving dismissal may be referred to the OEID, which may with the agreement of the parties refer the case to mediation. Cases not referred to mediation and non-resolved cases may be investigated by the OEID and a decision issued. There is provision for the award of redress where discrimination has found to have occurred. Decisions may be appealed to the Labour Court. Cases involving the dismissal of an employee are referred directly to the Labour Court.

Measures to promote employment

The Committee recalls a 3 % quota for the employment of persons with disabilities exists in the public sector. According to the report figures compiled in 2002 indicated that 2,8 % of those employed in the civil service have a disability, however, another survey which relied on self-definition/self declaration, indicated that 7 % of all staff have a disability. Measures are currently under discussion to improve existing policy for people with disabilities within the civil service.

As regards the wider public service the Committee notes that according to the report, while there has been an increase in the number of persons with disabilities in employment in the public service, the level is below the 3 % quota; 1,89 % in 2000. The Committee **asks** to be kept informed of all developments in this area.

Responsibility for the employment of persons with disabilities in the private sector now rests with the Department of Enterprise, Trade and Employment, which is developing policies based on a three dimensional approach; development of the skills of persons with disabilities, stimulating awareness among employers of the contribution of persons with disabilities can make, providing employment support to employees with disabilities and employers.

Employment services for persons with disabilities are now administered by FAS (the National Training and Employment Authority). Employment of persons with disabilities is encouraged through the existence of several measures: Employment support scheme-a wage subsidy scheme, Jobstart and workplace scheme, Workplace/equipment adaptation grant, Personal reader grant, Job interview interpreter grant, Employee retention grant, Disability awareness training support scheme, Supported employment programme. According to the report, 984 persons with disabilities were placed in paid employment in 1999. In order to be able to better evaluate the situation, the Committee asks the next report to provide information on the estimated number of persons with disabilities in employment on the open labour market and the number benefiting from the above mentioned

measures to promote employment as well as the number of persons with disabilities seeking employment.

The Committee notes from the report that training for the visually impaired was previously often orientated towards them being employed in sheltered workshops producing cane furniture and that the visually impaired are to have priority for certain telephonist posts and accordingly training is often orientated towards this. The Committee has reservations as to whether this compatible with the principle of integration and equal opportunities. It asks whether this is still the situation.

Sheltered employment is defined as employment in an enterprise established specifically for the employment of persons with disabilities, but which may also employ able-bodied people. Such enterprises operate in the commercial market place; they provide direct goods and/or services for sale in the market place and comply with all statutory requirements in relation to employment rights. Sheltered employment enterprises are to be distinguished from workshops, which do not primarily have commercial objectives and fall under the remit of the Department of Health and Children. Approximately 34 enterprises employing 700 persons are considered as sheltered employment enterprises.

The Committee notes that sheltered employment is currently being reviewed and policy proposals will be formulated on the basis on the findings of this review, it asks to be kept informed of these. A national network of sheltered workshops is in place for persons with disabilities who are unable to obtain employment. It is estimated that there are 8 000 persons in some 230 workshops. People in sheltered workshops retain their statutory benefits and are paid a discretionary supplementary payment by their service provider. A working group within the Department of Health and Children has drafted a Code of Practice for Sheltered Workshops.

The Committee wishes to receive further information on the final Code once ***adopted. It recalls in this respect that it has stated, in particular in respect of production orientated work, that the right to fair remuneration and just working conditions should apply to all workers irrespective of whether they work on the open labour market or in sheltered facilities.***

Pending receipt of the information requested the Committee concludes that the situation in Ireland is in conformity with Article 15§2 of the Charter.

Text of Ireland's Second Report under the Revised European Social Charter in
relation to Article 15, Paragraph 2:

Note: Changes which have occurred since the submission of our 21st Report under the original European Social Charter in 2003, are shown in red print.

Questions A- C above refer:

Employment

Stimulating Awareness Among Private Employers [Transferred from Article 15.1- see sub-paragraph 15.1.13 above.]

- 15.2.1 To stimulate awareness amongst employers of the contribution which people with disabilities can make, the Department of Enterprise, Trade and Employment has supported a number of projects which can add value to achieve this objective.
- 15.2.2 **Workway** is the first initiative in Ireland to bring together employers, people with disabilities, trade unions and other groups representing the interests of people with disabilities in networks, established under the initiative to improve their employment opportunities. It is the first such know partnership initiative in Europe to seek to address the high levels of unemployment among disabled people in the private sector. The initiative was conceived under the Programme for Prosperity and Fairness, which acknowledged that social partners have a major role in raising awareness and promoting the employment of disabled people in the private sector. **Workway** was launched in June 2002. Funding for the duration of Phase I completed in March 2004, and Phase II is currently being funded by FAS. An evaluation of this initiative was recently completed and the outcomes analysed. Information on Workway initiative can be accessed at www.workway.ie
- 15.2.3 The Department sponsored a major conference in April 2003, focusing on the contribution which people with disabilities can make to business. A similar conference was sponsored by the Department in 2002.
- 15.2.4 Over the period 1998–2000, the Department sponsored a project operated by the Industrial Development Authority which examined issues relating to the recruitment of graduates with disabilities. Practical outcomes of the project were the publication of a guide for employers on the recruitment of graduates with disabilities, the establishment of a scholarship programme for graduates with disabilities involving a number of Multi National Companies, the delivery of Disability Awareness Training in participating companies, work placement opportunities for graduates with disabilities, and the forging of linkages between education institutions and employers.

15.2.5 FÁS funds 'GET AHEAD – the National Forum of Graduates with Disabilities' address the needs of graduates with disabilities. The aim of this this initiative is three-fold:

- To develop an information network for graduates with disabilities;
- To establish with key employers a Work Placement or Mentoring Scheme in conjunction with the higher education sector;
- To carry out national research into the employment situation of graduates with disabilities.

The project commenced in January 2004 and finished in December 2005.

15.2.6 In 2004, FÁS implemented a significant national promotional campaign to inform employers of the advantages of employing disabled people and the supports and assistance available. This involved a national media advertising campaign (Ability in the Workforce); co-sponsorship of the "Three Sixty" TV magazine series and the O₂ Ability Awards (promoting best practice among employers in the employment of disabled people). In this context, 'Ability in the Workforce' is focused on the types of assumption we make about the types of jobs disabled people are capable of doing. In addition FÁS sponsored the following publications:

- Just Ask (focusing on employment and people with mental health difficulties).
- Myths and Facts about employing people with disabilities (in conjunction with Business Plus).
- Ready, Willing and Able: a basic handbook aimed at employers to overcome the myths of hiring a disabled person and available supports. This publication was launched at the 2003 conference.

In 2005, FÁS will be developing two further brochures. The first one will focus on health and safety and disability (in conjunction with the Health and Safety Authority) and a brochure specifically focused on adaptations with the context of SMEs.

Positive to Disability

15.2.7 Positive to Disability was initiated and established by NRB (National Rehabilitation Board) in 1994, and subsequently become the responsibility of FAS following the transfer of services in June 2000. The aim of this award was to promote and recognise human resource policies, within private and public sector organisations that resulted in equal opportunities in accessibility, recruitment, retention and training for disabled people. Currently approximately 40 companies hold this award and some of these companies continue to use the logo. A survey of these companies in 2002 showed that while applicant companies were required to submit policies, procedures and processes that reflect 'best practice' in the employment of disabled people, they were not assessed on actual practice in context. Therefore, the Positive to Disability award reflected good will and intent and not necessarily results or actions. In addition, the Positive to Disability award pre-dated existing equality legislation, and enactment of the Employment Equality Act 1998 and Equal Status Act 2000 resulted in statutory requirements for many of the standards originally specified under Positive to Disability. Those Acts may be accessed on the following website:-

<http://www.irishstatutebook.ie/front.html> via the link **Acts of the Oireachtas 1922-2005 or**

<http://www.oireachtas.ie/documents/bills28/acts/2004/A2404.pdf> directly for the 2004 Act.
(See paragraph 15.1.35 above)

15.2.8 Following extensive consultation with FAS' National Advisory Committee on Disability, IBEC, ICTU, DETE, Equality Authority and National Disability Authority in regards to the future development of the Positive to Disability award, it was agreed that:

- Diversity, including disability, should be reflected in any award for excellence in Human Resource development;
- Excellence among employers who employed disabled people should be acknowledged;
- Further development should take into account the principles and practices of 'mainstreaming'.

15.2.9 Excellence Through People (as Ireland's national standard for human resource development) provides a structured focus for human resource development within an organisation. In addition the Aisling Foundation, in conjunction Access Ability, has established the O₂ Ability Awards; recognising companies that are successful in working with disabled people, particularly in the areas of 'people-management'. Considering that the revised standard for Excellence through People has strengthened its equality and diversity elements, and companies who feel they are 'positive to disability' may be acknowledged through the O₂ Ability Awards, FAS is mainstreaming the 'Positive to Disability' award. Positive to Disability as a stand-alone award will cease and existing companies, if they have not already obtained ETP, will be encouraged to apply (about 20 out the current 40 companies already hold ETP). Companies will also be encouraged to apply for the O₂ Ability Awards, of which FAS will continue to be a sponsor.

15.2.10. The European Year of People with Disabilities (EYPD) 2003 initiated a year-long campaign to raise awareness of the rights of people with disabilities, to ensure their full Participation as citizens of Ireland and Europe. In July 2003, at the request of the Minister for Labour Affairs, FÁS undertook the role of Lead Agency for a consortium of organisations working for the employment of people with disabilities. The consortium comprised of FÁS, the National Disability Authority, IBEC, ICTU, People with Disabilities in Ireland, EQUAL, Gandon Enterprises and the Aisling Foundation. The consortium undertook to deliver a series of five regional conferences to highlight best practice in employing people with disabilities in business, with a view to creating targeted awareness of disability activity at a local level.

Employment Supports

15.2.11 Many disabled people, having overcome significant barriers in normal day-to-day activities, are often highly motivated, flexible and loyal, and will bring these strengths to the workplace. FAS assists people with disabilities and employers through direct services or grant assistance.

15.2.12 The Employment Support Scheme was set up in 1990 to assist people with disabilities to obtain open employment. The scheme offers financial support to employers in the private sector to encourage them to employ people with disabilities whose work productivity levels is less than average. It aims to enable people with disabilities whose productivity levels are between 50% - 80% of average and employed for at least 20 hours per week, to work alongside able-bodied colleagues without loss of income. A person on the Employment Support Scheme is subject to the same conditions of employment as other employees including PRSI contributions, annual leave, tax deductions and minimum wage requirements.

15.2.13 The scheme operates as follows:

- a shortfall in productivity is recognised by the employer and the employee;
- the employer completes an application form and submits it to the local FÁS Employment Office;
- FÁS, the employer and employee agree on the level of productivity;
- employer pays 100% of the gross salary as advertised;
- FÁS pays a grant to the employer to cover the shortfall in productivity;
- The productivity shortfall is reassessed on the basis of performance after 6 months initially and every 12 months thereafter;
- the employee retains for 1 year any secondary benefits which they are in receipt of prior to employment e.g. medical card, travel pass.

15.2.14 Currently, there are approximately 540 participants on the Employment Support Scheme, with a budget allocation of 3.3 million Euros. FÁS, through its Employment Services, administer the scheme. This Scheme is currently being reviewed to enhance its efficiency and effectiveness.

Workplace Equipment Adaptation Grants

15.2.15 This measure aims to assist an employer wishing to employ a disabled person whose workplace or premises would need adaptation. Grants up to €5,000 are available to help adapt a workplace or to provide a specialised equipment needed by an employee who has a disability. Adaptations for which a grant may be given include ramps for wheelchair users, modified toilets, voice synthesisers for visually impaired, amplifiers for telephones, computer operators and machinery adaptations which for example, can be used by foot instead of hand. Total WEAGS in 1999: €255,608 (£201,308). Total WEAGS in 1998: € 233,167 (£183,634). **The total budget in 2004 for Employment Supports (WEAGS and others) was €349,000.**

15.2.16 NDA also provides employers with free advice on making adaptations to buildings and sourcing suppliers of specialised equipment.

Personal Reader Grant

15.2.17 A Personal Reader **Grant** is available to help people with visual impairment who are starting a new job and need support in settling in are either in danger of losing their jobs are returning to possible new jobs or are restricted in their career development. The Personal Reader **Grant** is designed to supplement, rather than replace any reading help provided by work colleagues on a voluntary basis by friends or relatives and is paid up to a maximum of 640 hours. **FAS also** provides a grant towards the cost of providing an interpreter for people with hearing or speech impediments attending job interviews, providing **€106.68** per three hour period.

Job Clubs

15.2.18 The Job Clubs aim to give people with disabilities the support and training which they may need to improve their job prospects. Job Clubs usually last for 14 weeks. **There has been reduced need for this service since the introduction of the Supported Employment Programme.**

15.2.19 Disability Awareness Training Support Scheme One of the key factors in assisting the integration of disabled into the workforce is to overcome mistaken perceptions of disabled people and their capacity to work. To increase awareness, and overcome these perceptions, a grant is available to employers, through FAS, to cover the cost of disability awareness training for their organisation's staff and personnel. This grant has been available since January 2002.

15.2.20 Employee Retention Grant The purpose of this grant is to assist employers to retain employees that acquire a disability that jeopardizes their employability. The aim of the grant is to identify the supports and accommodations necessary to retain employees in their current jobs, or to re-train them for another position in the organization. This grant has been endorsed by industry and unions alike.

15.2.21 Supported Employment Programme In light of the review carried out on behalf of FAS, in 2002, new criteria for the provision of Supported Employment services were introduced in 2003. Following a tendering process with project sponsors, FAS has contracted with a number of organizations to delivery supported employment services under the new criteria. FAS engaged in active dialogue with representative organizations on aspects of the new criteria.

Sheltered Employment

15.2.22 In June 2000 the Government decided that responsibility for vocational training and employment of people with disabilities – including Sheltered Employment and the Pilot Programme for the Employment of People with Disabilities (PEP) - would transfer from the Department of Health and Children to the Department of Enterprise, Trade and Employment, as part of overall Government policy of mainstreaming services to people with disabilities

15.2.23 An independent review of Sheltered Employment, including the PEP companies, was completed at the end of 2001 on behalf of the Department of Enterprise, Trade and Employment. The review found that some 34 enterprises, employing over 700 disabled workers, may fit the description of Sheltered Employment enterprises, even if not all of these enterprises afford full employment status to their workers. Future policy in regard to the operation of Sheltered Employment and the Employment Support Schemes is currently under active consideration by the D/Enterprise, Trade and Employment .

The Full Time Employment Support Scheme (FTESS)

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15.2.24 The Department of Enterprise, Trade and Employment has a commitment under Sustaining Progress to “. . . develop actions and a policy framework aimed at enhancing the potential of sheltered employment to provide better employment opportunities for people with disabilities”. The Department sought to address this commitment through a more mainstreamed approach by developing a new full-time employment support scheme, FTESS, which would also be applicable to sheltered employment enterprises. The underlying objective of the scheme is to increase the numbers of persons with a disability in employment by creating, as far as practicable, a level playing field for them

in seeking out or remaining in employment. The mechanism proposed is the payment of a wage subsidy to the employer to compensate for the reduced productivity of the disabled worker. A budget line of €10 million has been established for the scheme for 2005 FÁS was requested to implement the proposed scheme in 2005.

Other Developments

15.2.25 FÁS, following the transfer of responsibilities for vocational training and employment services for people with disabilities to FAS from NRB in 2000. FAS established the National Advisory Committee on Disability (NACD) in 2002 to assist and advise FÁS on the development and provision of services for people with disabilities. This Committee consists of representatives of organisations for and of people with disabilities, relevant government departments, FAS, ADM and the social partners.

15.2.26 The NACD to advises FÁS on what is required to continue to promote the integration of people with disabilities into employment, and to assist in identifying any remaining existing disincentives that may be encountered by people with disabilities for participation in employment.

Terms of Reference

15.2.27 The aim of the National Advisory Committee on Disability (NACD) is to assist and advise FÁS on matters relating to the development and provision of effective vocational training and employment services for people with disabilities by:

1. Assisting and advising on the provision and/or systems necessary for greater inclusion of people with disabilities on FÁS programmes and services;
2. Providing FÁS with assistance in identifying gaps and existing disincentives in regards to FÁS programmes and services, and providing advice on how these may be overcome;
3. Assisting FÁS in promoting meaningful policies, processes and procedures that encourage the employment, retention and advancement of people with disabilities in the open labour market.

Question B:- Please indicate the actual or approximate numbers of persons with physical or mental disabilities placed in paid employment, outside or inside specialised institutions during the period 2000-2003.

15.2.28

Number of people with a disability who have been placed in employment by FÁS

2004	2003	2002
4,812	4,791	5,572

Source FAS EU Client Register Database

Responsibility for the compilation of statistics related to the employment of people with disabilities was assigned to FÁS, the Training and Employment Authority, in June 2000.

EMPLOYMENT OF PEOPLE WITH DISABILITIES - CODE OF PRACTICE

Introduction

The civil service, as an employer, is committed to a policy of equality of opportunity for all staff. The purpose of this Code of Practice is to provide a clear statement of this policy in relation to people with disabilities and to provide guidance for Departments and Offices in relation to their employment.

Definition

In the context of employment, the term "people with disabilities" means people with physical, sensory or psychological impairments which may

- have a tangible impact on their functional capability to do a particular job

or

- have an impact on their ability to function in a particular physical environment

or

- lead to discrimination in obtaining or keeping employment of a kind for which they would otherwise be suited.

It will be noted that the definition covers a very wide range of disabilities, so wide, indeed, as to render misleading most generalised statements or assumptions about the capabilities or limitations of people with disabilities in employment. While some disabilities are obvious (e.g. as in the case of wheelchair users), others are not readily apparent (e.g. epilepsy or mental illness). Furthermore, the same disability can vary in its severity and affect people differently. Finally, while some people with disabilities may require special assistance and/or equipment to realise their full potential, most can be fully effective employees without special help. Accordingly, care should be taken to avoid

the use of stereotypes and every person with a disability should be treated as an individual. Consideration of any question concerning the employment of people with disabilities should proceed from a position of presumed ability until otherwise demonstrated.

Policy statement

The civil service is committed to a policy of equal opportunity for people with disabilities and, in particular, is committed to ensuring

- that people with disabilities who are capable of effective performance in the jobs which they hold or to which they aspire are not disadvantaged by reason of having a disability,

and

- that all reasonable efforts are made to meet the special requirements to which some disabilities give rise so as to maximise access to employment in the civil service for people with disabilities and to enable staff with disabilities to make the fullest possible contribution to the work of their Departments.

Particular attention is drawn to the commitment made by the Government to the employment of people with disabilities in the civil service to a minimum of 3% of total staff. All Departments are required to play their full part in ensuring that this objective is met and maintained.

Recruitment

People with disabilities are entitled to apply for any post in the civil service for which they are qualified and to have their applications considered on the basis of their abilities, qualifications and suitability for the work in question. Furthermore, it is recognised that people with disabilities which would in the past have been regarded as rendering them unsuitable for any or most types of employment, are now in a position, through the use of advanced technology and other means, to overcome the constraints imposed by their disabilities and the environment in which they live and work and to engage in a far wider range of employments.

The Civil Service Commission are required by statute to ensure that a person selected for appointment to a post in the civil service is in good health and free from any disability which would be likely to interfere with the proper discharge of the duties of the post in question. In carrying out this task, the Commission ensure that decisions are based on objective considerations (normally medical advice) rather than on assumptions concerning the limitations imposed by the disability in question.

The following guidelines will apply in relation to recruitment:

. No unnecessary or irrelevant obstacle will be placed in the way of people with disabilities applying for posts in the civil service filled by open competitions run by the Civil Service Commission.

. Through their contacts with organisations which deal with disability and in their promotional literature, the Commission will encourage people with disabilities to consider the civil service as a career choice.

. The Commission will make all reasonable efforts to provide such special facilities and equipment as are necessary to enable applicants with disabilities to participate in competitions for posts for which they would otherwise be suited.

. Interview boards will be briefed on disability awareness and the equal opportunities policy.

. In supplying any information on the duties of posts to the Commission, Departments should take care to avoid specifying inessential requirements which could have the effect of excluding people with disabilities. Where the suitability of a particular candidate with a disability is at issue, Departments should also have regard to any flexibility which might reasonably be employed to facilitate a person with the disability in question.

. Where the Commission form an opinion that a candidate is unable, by virtue of a disability, to properly discharge the duties of a post, the candidate in question will be afforded an opportunity to respond to that opinion before a final decision is made.

Reception and integration into the workplace

It must be recognised that people with disabilities may encounter greater difficulties than others in adjusting to a new workplace. Accordingly, particular attention is required when placing staff with disabilities and when monitoring their performance in the initial stages in employment.

Good communication is a key requirement in overcoming difficulties which may arise. It is an obvious fact, but one which may be overlooked in practice, that the best source of information about disability and what that might imply in the workplace is the person with the disability. Accordingly, full and frank discussion of the problems which some staff with disabilities may encounter is essential if difficulties are to be minimised. It is

thus important that superiors and officers in personnel sections who deal with staff with disabilities should overcome any inhibitions which they may feel about discussing a person's disability directly with him or her.

The following guidelines will apply in relation to the reception of staff with disabilities and their integration into the workplace:

. Where a personnel section is aware that a new recruit has a disability a meeting should be arranged to discuss his/her initial placement, any problems which s/he might encounter resulting from the disability and any facilities which may be required to optimise performance on the job.

. In deciding on the placement of a recruit with a disability, regard should be had to any particular issues which may require to be addressed. For example, staff with mobility problems should, where possible, be located close to accessible toilets and ramped entrances.

. The person who will be the new recruit's superior should be fully informed of the recruit's circumstances and should be involved in any discussions concerning special difficulties which might arise and special facilities which might be required.

. The work of recruits with disabilities should be carefully monitored in the initial stages of employment and any problems which arise should be discussed frankly with the person concerned with a view to identifying remedial measures.

Career development

Staff with disabilities should have the same opportunities as other staff to develop full and rewarding careers in the civil service.

The following guidelines will apply in relation to career development:

. In assigning duties to staff with disabilities, care should be taken to ensure, to the greatest extent possible, that they are given the same opportunities as other staff to acquire the range of skills and experience necessary for future career development.

. Staff with disabilities should be offered the same access to training as other staff and measures should be taken to ensure they are not inhibited from availing of such opportunities by problems of physical or sensory access to training centres, conference rooms, format of training materials, etc.

. Staff with disabilities should be encouraged to apply for promotion where it appears that they may be reluctant to do so because of their disability.

. Staff with disabilities should not be excluded from promotion solely because their disability may prevent them carrying out the full range of duties in the higher grade; rather the test employed should be whether they are capable of successfully undertaking the duties of a reasonable number of the posts in the higher grade.

. While it is appreciated that some staff with disabilities may not be able to undertake the duties of all posts in their grade, every effort should be made to afford them the same opportunities as other staff to broaden their experience through staff mobility arrangements.

Accommodation and equipment

Most staff with disabilities can operate effectively without requiring modifications to their working environment. However, special facilities are required by some. It is the policy in the civil service to ensure that, insofar as is practical, the working environment is such as to minimise problems which face staff with certain disabilities. Particular importance attaches to providing access for people with mobility or sensory problems, both staff and members of the public who may wish to use Government offices. The key to progress in this regard is sensitivity to the obstacles which particular physical environments place in the way of people with certain disabilities and a planned approach to the progressive removal of them.

Departments should also acquaint themselves with the range of special aids and equipment available to assist people with certain disabilities. Again, most staff with disabilities will not require special equipment but in some cases mechanical aids can greatly enhance the comfort and efficiency of the staff concerned.

The following guidelines will apply in relation to accommodation and equipment:

. The Office of Public Works will take the requirements of people with disabilities fully into account in their assessment of buildings for rental purposes.

. In undertaking any significant structural alteration to or renovation of an existing building, the OPW will, insofar as is practicable, include in the works such alterations as are necessary to bring the building concerned up to an acceptable standard of accessibility for people with disabilities (major constraints apply in this regard, however, in the case of certain buildings, for example, listed buildings).

. Departments which carry out work on their own buildings should also consider what alterations might reasonably be included in the work to improve accessibility. The OPW will be available to advise in this regard.

. Accommodation Officers in Departments should, in the course of their normal duties, note any access problems or other features of the buildings occupied by their Departments which may cause problems for people with disabilities with a view to the progressive eradication of such problems.

. Departments should consult staff with disabilities about special equipment which might enhance their efficiency and effectiveness in performing their duties and adopt a positive approach to reasonable requests for such equipment.

Safety and Evacuation Procedures

Staff with disabilities may have particular problems in regard to evacuation procedures. For example, the evacuation of people with mobility problems raises particular difficulties where lifts cannot be used. People with hearing difficulties may require some special arrangement to ensure that they are aware that the alarm has been raised. It is of particular importance that such problems are identified and that appropriate alarm and evacuation arrangements are put in place.

The following guidelines shall apply in relation to safety and evacuation procedures:

. Anyone with a disability who may need particular assistance in the event of an evacuation should make this fact known to the relevant Safety Officer

. Safety Officers who identify staff in their areas with special problems in this respect shall, in consultation with the people concerned, devise means, whether by way of particular equipment or otherwise, by which those problems can best be overcome.

. Staff with disabilities should never be excluded from evacuation drills; rather it should be a priority concern of Safety Officers to ensure that any particular arrangements which may be required for the evacuation of such staff are fully tested and used at each drill.

Implementing this Code

All staff in the civil service have a role in ensuring that the provisions of this Code are adhered to. Special responsibility in this regard attaches to personnel units and, in particular, to Personnel Officers.

In giving effect to the provisions of this Code, Departments are likely to require advice and assistance on a wide range of issues. The Department of Finance will advise on questions concerning the interpretation of this Code. Queries should be directed to the Equality Section of the Department (Mount Street, Dublin 2. Tel.:- 6767571, ext. 5439). On questions which require expert advice (for example, the availability of special equipment in particular circumstances), Departments should, after consulting the person

with the disability, directly approach the organisation dealing with disability where the required expertise is most likely to be found.

The implementation of this Code will be monitored on an on-going basis by a subcommittee of the General Council.

Material from the Department of Justice, Equality and Law Reform

3% Target for the Employment of People with Disabilities in the Public Service

The Department of Justice, Equality and Law Reform has responsibility for chairing the Monitoring Committee in relation to the 3% Target for the employment of people with disabilities in the public service.

The target is a Government-led positive measure to achieve a 3% target level for the employment of people with disabilities in the public service.

The Committee includes representatives of other Government Departments, the social partners and disability interest groups.

A number of initiatives have been implemented by the Department on behalf of the committee to encourage progress by public service employers including

Approval of a draft Code of Practice for use in the public service and exploration of the options for common selection procedures for people with disabilities;

Raising awareness of the 3% target among Chief Executives, Personnel Officers and Disability Equality Officers in the public service through a series of 8 regional seminars, and publication of an information brochure;

Publication of a brochure designed to encourage people with disabilities to consider a career in the public service and promotion of this option at the Public Sector Careers Expo in April, 2001;

Commissioned research on the issues and barriers relating to achievement of the target in six public service organisations. The report, published in November, 2001 and titled "Research Project on the Effective Recruitment of People with Disabilities in the Public Service" provides an insight into some of the issues which hinder progress and includes recommendations to facilitate improvements.

In partnership with the Equality Authority, launch of an Employer Resource Pack on 3 December 2002 to assist public service employers in the recruitment and retention of people with disabilities. (This resource pack is available from the Equality Authority).

A research project covering a wide range of bodies was recently completed. This project will guide future policy development in relation to the 3% target.

The statistics for the public service (other than the Civil Service) at 1 January each year are as follows:

<i>Year</i>	<i>%</i>
<i>1998</i>	<i>1.52%</i>
<i>1999</i>	<i>1.72%</i>
<i>2000</i>	<i>1.89%</i>
<i>2001</i>	<i>2.12%</i>
<i>2002</i>	<i>2.20%</i>
<i>2003</i>	<i>2.65%</i>

The figures given for January 2000, January 2001, January 2002 and January 2003 are provisional figures as returns are outstanding from a number of individual public service bodies. The annual census is currently underway in relation to the position on 1 January 2004.

The Programme for Prosperity and Fairness required every Government Department to take appropriate action to ensure that agencies under their aegis achieve the target at an early date.

"Sustaining Progress" provides that public service employers will implement agreed codes of practice and promote employment opportunities for people with disabilities in line with the 3% target.

Additional information

The Minister for Finance is responsible for the 3% target for the employment of people with disabilities within the Civil Service and more information can be obtained from the Civil Service Equality Unit, Dept. Of Finance, Merrion Street, Dublin 2, website <http://www.finance.gov.ie>

See also the various website links from the Department of Justice, Equality and Law Reform set out in paragraph 15.1.94 above i.e.

Links to various publications/reports/speeches/sectoral plans on disability issues can be accessed on the Department of Justice, Equality and Law Reform website at the following link by typing in the word "disability" in the "search" facility

[http://www.justice.ie/80256DFF005F2D06/\\$\\$Search?OpenForm&Seq=1](http://www.justice.ie/80256DFF005F2D06/$$Search?OpenForm&Seq=1)

Text of ARTICLE 15 PARA. 3 of the Revised European Social Charter

"With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular: to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure."

Note: As this is an entirely new provision of the European Social Charter, (there was no Article 15, Paragraph 3 in the original European Social Charter), we have never reported on this provision before.

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please indicate how national policy promotes the independence, the full integration and participation in the life of the community of persons with disabilities. Please describe in particular how this applies to children with disabilities.

Question B

Please describe:

- a. the measures taken to overcome barriers to communication and mobility;
- b. the measures taken to enable access to transport, housing, cultural activities and leisure for persons with disabilities.

Question C

Please indicate how organisations representing or assisting persons with disabilities are consulted or involved in the formulation and implementation of the social integration policies for persons with disabilities.

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) and Questions for answer by Ireland arising from our 21st Report, submitted in 2003 under the original European Social Charter (1961):

Note: As this is an entirely new provision of the European Social Charter, (there was no Article 15, Paragraph 3 in the original European Social Charter), we have never reported on this provision before.

<http://www.google.ie/search?hl=en&q=technical+aids+for+people+with+disabilities+&btnG=Google+Search&meta=cr%3DcountryIE>

http://www.enableireland.ie/docs/enableireland_annualreport05.pdf

<http://www.fas.ie/disability/Assistive.htm>

Assistive Technology

What is Assistive Technology?

Assistive technology is the broad term used for any device, technical aid, strategy, service and/or practice, with the main objective of improving the quality of life of a person.

Assistive technology comes in two categories:

- general technology which benefits everyone, e.g., passenger lifts, automatic doors, adjustable office chairs, signs that are easy to read, etc. This kind of assistive technology often gets taken for granted after a while. We do not think of them in the context of assistive technology, just as things that are convenient. However, for a person with a disability they make all the difference, as they would be unable to function in an environment without them.

- specific technology which is personalised for the person with a disability. Specific technology may be adapted to meet the precise requirements of an individual with a disability, e.g., wheelchair, or it may be bought off the shelf, e.g., computer software for voice activation.

Not all people with disabilities need assistive technology and not all assistive technology costs a lot of money. For example, research conducted in the United States on making adjustments in the workplace to accommodate employees with disabilities, found that 68% of adjustments were made at no extra cost to the company, 28% were made at less than \$1,000 (£750), and only 3% cost more than \$1,000.

Assistive Technology for People with Physical Disabilities

The effect of a mobility impairment in employment depends on the nature of the disability. Unless the work is of a very physical nature, a mobility impairment is unlikely to present difficulties which cannot be overcome through adaptation to buildings and/or equipment. The accessibility of premises, alone, is the most significant factor for people with a mobility impairment.

There are also a wide variety of technical aids that can help a person with physical impairments. Most of them are simple solutions that compensate for loss of power, reduced ability to reach or impaired hand control. Before turning to technical aid it is always good to think whether different methods could be used rather than aids. For example, the solution may be as easy as relocating the height of the monitor or the keyboard or may in fact involve using a mix and match of completely different ideas. There is no standard solution to suit all needs. The solution focuses on the person's abilities and how the solution may be individualised to match these abilities. The choice ranges from low-tech methods which include natural gesture, facial expression, body language and writing to more high tech solutions including compact and miniature keyboards, on-screen keyboards, joysticks, voice recognition systems and message-mate devices.

The Central Remedial Clinic (CRC) can offer advice and practical assistance in identifying assistive technology that would benefit people with physical disabilities.

Assistive technology for Hearing Disabilities

Some people with a profound hearing loss may be able to hear some speech or sounds when amplification, such as a hearing aid device, is used. However, even with amplification, spoken communication should be supplemented by:

- natural gesture and body language,
- lip or speech reading,
- written information.

While employees with hearing disabilities face many barriers in employment, very few positions will be inaccessible to such people, with or without the use of accommodations or flexibility from employers. In fact, in employing people with hearing loss, employers often find additional benefits, such as improved concentration and productivity levels, due in part perhaps to decreased vulnerability to distraction.

The choice of assistive communication aids ranges from Loop Systems; Radio Aids; Computer Aided Note-taking; Amplified Telephones; Inductive Couplers; Text Telephone; Fax and e-mail to flashing or vibrating signals. Any device which produces sound can be converted to light or made to vibrate to alert deaf people to telephones ringing or fire alarms.

The National Association for the Deaf (NAD) can offer advice and practical assistance to employers in recruiting and employing people who are hearing impaired.

Assistive Technology for People with Dyslexia

While dyslexia cannot be cured, many people have developed coping strategies and fortunately modern technology can provide enormous relief for both trainees and workers.

While many people will not require any specific employment supports, one or a combination of the following may be required in the workplace:

- written instructions - oral instructions to be accompanied by a written version,
- flexibility - extra clerical help or job restructuring may be required where a lot of reading or writing is involved, and in some cases additional time may be needed to complete tasks,
- computer hardware - a range of assistive technologies can assist people with dyslexia with reading and writing tasks including the word processor; scanners, and screen readers,
- computer software - packages with good spell checks (Franklin Spell master, Quicktionary Reading Pen, TextHELP; Mastering memory; and Thinksheet Inspiration) will be extremely useful for people with dyslexia.

Assistive technology for People who Are Blind or Partially Sighted

Research has shown that employers' attitudes represent the most significant barriers to employment for blind or visually impaired people. However, developments in technology have significantly influenced the variety of jobs accessible to people who are blind or visually impaired. With scanning, e-mail and reader services developing rapidly, the

standard level of reading, or computer interface required in a job will not present undue difficulty for a blind or visually impaired employee.

It should also be noted that employers often cite health and safety concerns with regard to employing blind or visually impaired people. Experience suggests that there are no additional health and safety risks as long as the organisation's usual health and safety guides are used appropriately. In fact, it may well lead to the introduction of improved systems because employing a person with a visual impairment can focus attention on issues impacting on everyone, but which are often overlooked, such as ensuring walkways and exits are clear of obstruction.

There are many assistive interventions that a blind or visually impaired person can use in order to access the workplace more readily. Accommodations vary from the very simple such as a dot of silicon on a switch to enable an operator align controls on a machine, or a thick felt tip marker to make files folders readable; to the more complex such as:

- computer software packages such as a voice synthesiser to read out information on the screen;
- a magnification system to enlarge the size of text or graphics on screen, or an electronic Braille display to enable a person to read the screen via a device attached to the computer;
- voice activated computers;
- Closed Circuit Television (CCTV), a technical aid which magnifies images;
- Talking calculator, tape recorders, Braille note-takers.

The National Council for the Blind of Ireland (NCBI) can offer advice and practical assistance to employers in recruiting and employing people who are blind or visually impaired. They can also provide mobility trainers to familiarise blind and visually impaired people with employment location and layout.

Checking for Accessibility

The following provisions should be pursued in the context of providing a genuine opportunity for people with disabilities to participate in the workplace.

They are as follows:

- Accessible Toilets,
- Ramped Access - portable ramps, shallow steps, marked edging on steps, secure handrails,
- Good, suitable lighting adjustable to the needs of some who are visually impaired,

- Clearly sign-posted facilities, with Braille signage,
- Lift access to all floors - voice synthesisers inside the lift and/or Braille signage on lift commands,
- Audio Loops and/or infra-red systems which convert sound through special headsets,
- Evacuation chairs,
- Parking spaces - providing adequate space for mobility impaired persons, and available personal assistance, if necessary,
- Clearly marked accessible doors, low handles - revolving door entrance should also have swing doors,
- Accessible reception areas including chairs, clear signage, induction loop, low reception desk,
- Routes around a building clearly signed,
- Accessible seating - spaces for wheelchairs, range of heights,
- Telephones - low mounted if on walls,
- Alarms and security - light based alarm as well as audio,
- Accessible printed information - large print or tape if requested.

Where May I Obtain Further Information?

The organisations identified below could offer advice and/or solutions to people with disabilities on available equipment and possible adaptations.

Comhairle's new website www.assistireland.ie offers information on

- aids and appliances,
- housing adaptations,
- available support and assessment services.

Further information may also be obtained by contacting:

The National Council for the Blind Ireland (NCBI)
 Technology Department
 Whitworth Road
 Drumcondra
 Dublin 9
 Tel: 01- 8307033
 Email: stuart.lawlor@ncbi.ie
 Web-site: www.ncbi.ie

Central Remedial Clinic (CRC), Client Technical Services, Vernon Avenue, Clontarf,
 Dublin 3.
 Tel: 01- 8057400
 Email: lmccormack@crc.ie

National Association for Deaf People (NADP), Deaftec Department,
35 North Frederick Street, Dublin 1
Tel: 01-8723800
Email: deaftec.nadp.ie
Website: www.iol/~nad

Central Remedial Clinic
<http://www.crc.ie/services/technology/index.htm>

Assistive Technology and Rehabilitation Technology
<http://www.abledata.com>

Assist Ireland
<http://www.assistireland.ie>

Jackson Technology
<http://www.jacksonstechnology.com>

Assistive Technology - A Practical Guide
<http://www.enableireland.ie/at/atguide.html>

Action on Disability

THE WAY FORWARD

The **Enable Ireland Strategic Plan 2006–2008** sets the organizational direction for the next three years and will be reviewed annually.

Strong stakeholder partnerships with service users, families, volunteers and supporters are a priority for Enable Ireland. New stakeholder structures have already been implemented at local level. These will continue to grow during the life of the plan.

Service delivery and support activities will be driven by a quality agenda. The implementation of the *Enable Ireland Strategic Plan 2006–2008* will be supported through the EFQM and Performance Management processes. A working group will be established to oversee the implementation of the plan. The group will report annually to the Board of Directors. All Enable Ireland employees will participate in this implementation through continued commitment to quality work.

While there are challenges in the areas of funding, resources, social awareness, levels of disability and professional capacity, there are also significant opportunities. Enable Ireland builds on solid and tested values. We represent a vision of social inclusion and fulfilment of needs for people with disabilities. Enable Ireland is prepared and able to network and co-operate to advance an agenda around excellence and innovation. We have as much to offer mainstream society as to gain from it – person-centredness, transfer of best international practice, adaptive technologies and service excellence.

Enable Ireland is committed to delivering the nine strategic goals, working in partnership with people with disabilities and statutory funders to ensure that each individual who uses our services

is enabled to achieve optimum independence, choice and inclusion at home, at work and in society.

SUMMARY

32F Rosemount Park Drive
Rosemount Business Park
Ballycoolin Road, Dublin 11
Ireland
Telephone 353 (0) 1 872 7155
Fax 353 (0) 1 866 5222
Email info@enableireland.ie
www.enableireland.ie Charity No: 4908
Strategic Plan 2006–2008

Action on Disability

Enable Ireland's mission is to enable those who use our services to achieve maximum independence service users and in active partnership with them."

Enable Ireland is a leading national provider of services for people with disabilities and their families. We currently deliver services to 3,500 children and adults through a combination of centre-based and outreach services. Our services for children and their families cover all aspects of a child's physical, educational, and social development from early infancy through adolescence. For adults we offer a range of services covering personal development, independent living, employment, and social and leisure activities.

The *Enable Ireland Strategic Plan 2006–2008* is a blueprint for the future, designed to direct our actions for the next three years. Enable Ireland's vision and core values underpin all aspects of our work and highlight our commitment to excellence.

The Board of Enable Ireland is committed to directing the organisation in a manner that ensures person-centred, effective, efficient and safe services. New quality initiatives reflect our commitment to delivering services according to evidence-based best practice.

With its roots in voluntary action, Enable Ireland places central importance on partnerships with service users, their families, volunteers and supporters as well as a growing range of external bodies including Government Departments and the Health Service Executive. It sees this plan as a flexible tool to achieve challenging goals, promote excellence and meet statutory regulations and standards.

Enable Ireland's success relies on the staff who provide the expertise and talent to deliver services and support activities. Staff recruitment, development and retention will be a strategic priority for the organisation. We are committed to providing a work environment that is dynamic and enriching. Enable Ireland will use its resources to provide the facilities, equipment and skills to ensure staff best meet the challenges of dynamic growth.

Our core values commit us to:

The Social Model of Disability

Society must recognise and accommodate individual needs.

A Rights-Based Approach

Enable Ireland recognises that all citizens have equal rights.

Person-Centredness

All individuals have unique and diverse needs. Activities must accommodate this diversity; privacy and confidentiality will always be respected.

Independence

Individuals have a right to self-determination regarding life choices.

Equality

Enable Ireland promotes fairness, in line with equality of opportunity, equal access and legal rights.

Integrity

Enable Ireland is honest, trustworthy and impartial and will stand by its values.

Quality

Enable Ireland is committed to excellence in everything it does.

Transparency

Everything Enable Ireland does is visible, clear and easy to understand.

Accountability

Enable Ireland is responsible to the State and its stakeholders for its actions and decisions.

STRATEGIC GOALS 2006–2008**Children's Services**

Enable Ireland will deliver high quality services to children and families using person centred approaches and in line with evidence-based best practice.

Adult Services

Through a person-centred approach, Enable Ireland will provide access to a wide range of support services in line with evidence-based best practice.

National High Tech Assistive**Technology Training Service**

Through our High Tech AT Training Service, Enable Ireland will continue to develop and deliver high quality training programmes to all stakeholders in order to facilitate opportunities for services users to access and participate in their local communities.

Postural Management Services

Enable Ireland will continue to develop and deliver high quality technical support, training and information on Postural Management to all stakeholders to assist services users to access and participate in their local communities.

Research

Enable Ireland will undertake a systematic review of research within Enable Ireland and make recommendations on the future structure, function and role of research within the organisation.

Human Resources

Enable Ireland will recruit and retain a motivated and proficient staff within a supportive working environment.

Information Technology

Enable Ireland will develop and implement a national IT strategy that will enhance the quality of service delivery and provide a support model to internal and external stakeholders.

Communications

Enable Ireland will adopt a comprehensive communications strategy which will enhance the organisation's reputation, raise its profile, fulfill its corporate advocacy role and disseminate up-to-date information among all stakeholders.

Retail & Fundraising

Enable Ireland will continue to generate income through our retail and fundraising activities in order to provide capital resources and to enhance the services we deliver.

These strategic goals are linked to specific objectives and measurable results for each area. There will be regular monitoring of progress against these targets throughout the life of the plan.

CORE VALUES

The core values of Enable Ireland underpin the way in which we deliver services, interact with people and are held accountable. These values inform all our actions and ensure we achieve the highest standards in everything we do.

The way forward for the next three years will be guided by nine strategic goals. In setting our strategic goals, Enable Ireland is aware of the profound changes occurring in the external environment. The passage of significant new legislation has contributed to a policy framework that emphasises rights rather than traditional charitable models. We increasingly operate in an atmosphere of externally directed standards, quality systems, value for money initiatives and competition from external providers. We must reflect these realities in our thinking, in our practice and in our approach to implementing our strategic goals.

Eire

ARTICLE 18: THE RIGHT TO ENGAGE IN A GAINFUL OCCUPATION IN THE TERRITORY OF OTHER PARTIES

Text of ARTICLE 18 PARA. 1 of the Revised European Social Charter

"With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake: to apply existing regulations in a spirit of liberality;"

=====

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

How is this paragraph observed in your country, both with regard to wage-earners and with regard to others?

Question B

Please indicate the number of permits granted compared with the number of applications made.

Question C

Please state whether your country applies restrictions to the right to engage in a gainful occupation by nationals of other states and if so, please mention the grounds.

=====

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) Articles 7, 8, 11, 14, 17 and 18 and Questions for answer by Ireland arising from our 19th Report, submitted in 2001, under the original European Social Charter (1961):

Article 18 — The right to engage in a gainful occupation in the territory of other Contracting Parties

Paragraph 1 – Applying existing regulations in a spirit of liberality

The Committee takes note of the information contained in the Irish report.

Foreign population and migratory movements

The Committee observes that in 1997, out of a total population of 3,660,000, the number of foreign nationals in Ireland was estimated at 114,000 (i.e. 3.1 % of the total population) of whom 81,000 were nationals of the European Union (i.e. 70 % of the foreign population)¹⁰. It also noted that the share of the foreign population has steadily increased since 1983, in particular among non-EU nationals (whose number grew from 11,000 in 1990 to 22,000 in 1997).

Work permits

There are two systems for issuing work permits in Ireland:

- the general scheme under which work permits valid for renewable periods of up to one year are issued;
- the special scheme, which entered into force in 2000, i.e. outside the reference period, for occupations where there is a labour shortage. This scheme provides for the issue of work authorisations (or working visas in the case of nationals of countries which are not exempt from the requirement to obtain a visa for Ireland), which are valid for two years.

The Committee refers to its conclusion regarding Article 18 para. 3 in relation to the conditions for granting and renewing work permits.

Relevant statistics

The Committee observes that the number of permits issued and renewed increased rapidly between 1989 and 1993, thereafter leveling off at around 4,300. It also notes that the number of such permits has significantly increased since 1999, with 18,006 either issued or renewed in 2000. With regard to nationals of Contracting Parties to the Charter, which are not members of the European Union, i.e., for the present reference period, nationals of Cyprus, Malta, Turkey, Poland and Slovakia, the Committee notes from the report that the percentage of applications from these nationals which are refused is low (between 0 and 5 %).

Question - The Committee asks that the next report contain figures on the number of residence permits issued or renewed.

¹⁰ Employment Observatory, *Trends No. 32*, European Commission.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.



Text of Ireland's Second Report under the Revised European Social Charter in
relation to Article 18, Paragraph 1:

**Note :- Changes which have occurred since the submission of our 19th
Report under the original European Social Charter in 2001, are shown in
red print.**



ARTICLE 18 – THE RIGHT TO ENGAGE IN A GAINFUL OCCUPATION IN THE TERRITORY OF OTHER CONTRACTING PARTIES:

Article 18, Paragraph 1 – Application of Existing Regulations in a Spirit of Liberality :-

Question A – Form for the Reports refers:

18.1.1 Taking into account Ireland's obligations under the Accession Treaty (May 2004) to afford preference to EEA nationals, new work permit applications are now primarily considered for highly skilled and highly paid workers or for non-EEA nationals already legally resident in the State on valid employment permits.

However, this policy aims to be sufficiently flexible to address specific labour market failures where particular circumstances warrant intervention. The EEA is comprised of the 25 EU Member States as well as Norway, Iceland and Liechtenstein.

Question B – Form for the Reports refers:

18.1.2 The Table below details the number of Work Permits issued and the number of refusals for the years 2001 to 2004 inclusive.

Work Permits Issued 2001 - 2005

Year	New Permits	Renewals	Group	Issued	Refused
2001	29542	6475	357	36374	737
2002	23306	16547	431	40284	1072
2003	21930	25013	547	47490	1627
2004	10004	23203	801	34008	1286
2005	7343	18947	812	27102	1133
Total	92125	90185	2948	185258	5855

18.1.3 Statistics on the number of Permits Issued by Nationality (Sorted by amount of permits issued)

Nationality	New Permits	Renewals	Group	Issued	Refused
Philippines	5739	8307	0	14046	284
Latvia	8089	695	0	13656	213
Lithuania	7712	4798	0	12510	200
Poland	7954	4401	0	12355	167
South Africa	5383	3686	0	9069	203
Romania	4158	4695	0	8853	464
Ukraine	4565	3849	0	8414	193
Brazil	2311	3072	0	5383	126
China	2429	2623	0	5052	566
Russian Federation	2116	2443	0	4559	126
Australia	2754	1512	0	4266	46
Malaysia	2001	2058	0	4059	75
Czech Republic	2420	1548	0	3968	69
India	1923	1951	0	3874	181
America	2303	1350	0	3653	46
Belarus	1755	1679	0	3434	88

Bangladesh	1296	2046	0	3342	165
Pakistan	1530	1797	0	3327	456
Estonia	2360	833	0	3193	57
Moldova	1493	1635	0	3128	149
Bulgaria	1475	1385	0	2860	100
New Zealand	1455	911	0	2366	29
Thailand	1226	826	0	2052	96
Turkey	1429	503	0	1932	44
Slovak	1047	524	0	1571	24
Hungary	893	511	0	1404	13
Canada	836	527	0	1363	27
Zimbabwe	409	560	0	969	33
Egypt	372	506	0	878	45
Japan	412	433	0	845	64
Hong Kong	212	532	0	744	17
Croatia	376	291	0	667	25
Yugoslavia	394	255	0	649	1
Morocco	222	254	0	476	15
Sri Lanka	234	240	0	474	12
Algeria	197	186	0	383	22
Nigeria	229	110	0	339	44
Tunisia	156	162	0	318	3
Switzerland	190	118	0	308	3
Argentina	184	112	0	296	11
Vietnam	152	120	0	272	18
Nepal	107	137	0	244	15
Bosnia	105	136	0	241	2
Myanmar	84	124	0	208	3
Albania	112	92	0	204	12
Mexico	98	99	0	197	4
Lativa (Alien)	13	171	0	183	8
Indonesia	103	75	0	178	13
Korea (South)	81	68	0	149	6
Syria	54	88	0	142	11
Kazakhstan	60	79	0	139	5
Iran	63	73	0	136	4
Singapore	59	48	0	107	4
Israel	55	50	0	105	1
Botswana	68	31	0	99	4
Colombia	37	62	0	99	3
Jordan	50	41	0	91	7
Mauritius	42	48	0	90	2
Ghana	33	46	0	79	3
Sudan	62	16	0	78	0
Lebanon	41	36	0	77	11
Tanzania	32	44	0	76	2
Venezuela	39	35	0	74	0

Jamaica	31	41	0	72	6
Trinidad & Tobago	42	29	0	71	0
Chile	40	30	0	70	2
Kosovo	32	37	0	69	2
Malta	50	18	0	68	1
Peru	33	32	0	65	1
Ecuador	32	25	0	57	2
Kenya	29	28	0	57	5
Ethiopia	19	35	0	54	0
Libya	36	18	0	54	3
Iraq	37	13	0	50	1
Cameroon	18	29	0	47	2
Uzbekistan	31	16	0	47	3
Slovenia	31	14	0	45	0
United Arab Emirates	39	3	0	42	0
Macedonia	21	20	0	41	1
Cuba	22	18	0	40	3
Georgia	27	13	0	40	1
Bahrain	25	13	0	38	0
Zambia	19	17	0	36	1
Malawi	13	17	0	30	4
Mauritania	19	10	0	29	0
Paraguay	20	9	0	29	0
Armenia	20	3	0	23	2
Oman	16	6	0	22	0
El Salvador	6	15	0	21	0
Kuwait	15	6	0	21	0
Niger	16	5	0	21	2
Taiwan	10	11	0	21	0
Brunei	18	2	0	20	0
Costa Rica	8	10	0	18	0
Senegal	9	9	0	18	0
Uganda	8	9	0	17	1
Barbados	11	5	0	16	0
Congo	9	7	0	16	0
Kyrgyz Republic	9	7	0	16	4
Ivory Coast	9	6	0	15	2
Estonia (alien)	1	13	0	14	0
Turkmenistan	6	7	0	13	0
Namibia	8	4	0	12	0
Bolivia	6	5	0	11	0
Mongolia	17	14	0	11	4
Suriname	5	6	0	11	0
Gambia	3	7	0	10	1
Guatemala	5	5	0	10	0
Macau	7	3	0	10	1
Palestine	7	3	0	10	0

Sierra Leone	4	6	0	10	0
Azerbaijan	5	4	0	9	1
Korea	4	5	0	9	0
West Indies	3	6	0	9	0
Cyprus	4	4	0	8	0
Eritrea	4	4	0	8	1
Saudi Arabia	6	2	0	8	0
Uruguay	3	5	0	8	1
Antigua & Barbuda	5	2	0	7	0
Fiji	3	3	0	6	1
Honduras	2	4	0	6	0
Madagascar	5	1	0	6	0
Burma	2	3	0	5	0
Republic of Korea	3	2	0	5	0
Bahamas	2	2	0	4	0
Mozambique	1	3	0	4	0
Panama	4	0	0	4	0
Bukina Faso	1	2	0	3	0
Dominican Republic	3	0	0	3	0
Haiti	2	1	0	3	0
Swaziland	1	2	0	3	0
Afghanistan	2	0	0	2	1
Benin	2	0	0	2	0
Bhutan (Kingdom of)	1	1	0	2	0
Burundi	2	0	0	2	1
Cambodia	2	0	0	2	0
Yugoslavia	0	2	0	2	0
Gabonese	2	0	0	2	0
Guyana	2	0	0	2	0
Lesotho	1	1	0	2	2
Maldives	1	1	0	2	0
Seychelles	2	0	0	2	0
South Korea	1	1	0	2	0
Andorra	1	0	0	1	1
Anguilla	1	0	0	1	0
Belize	1	0	0	1	0
Chad	1	0	0	1	0
Equatorial Guinea	1	0	0	1	0
Guinea Republic	0	1	0	1	0
Mali	1	0	0	1	0
Saint Christopher	1	0	0	1	0
Serbia	1	0	0	1	0
Yemen	1	0	0	1	0
Liberia	0	0	0	0	1

Question C – Form for the Reports refers:

18.1.4 Restrictions are applied to persons from outside the EEA, who wish to engage in employment in Ireland. These fall into two categories (a) employees and (b) the self – employed. In regard to the former, their prospective employers are required to obtain Work Permits from the Department of Enterprise, Trade and Employment and in regard to the latter, the individuals concerned require Business Permission from the Department of Justice, Equality and Law Reform.

Government policy is that with the enlargement of the European Union (EU) in May 2004 new work permits are now only considered for highly skilled/paid positions or for non-EEA nationals already legally resident in the State on valid employment permits. All employers must advertise with the State Employment Agency (FÁS), prior to making any Work Permit applications.

This policy was necessary as full freedom of movement was granted to people of the ten new Member States of the EU from the date of their accession on 1 May 2004. Since that time employers are expected to fill the majority of vacancies, including low skilled positions, from this source.

INFORMATION CONCERNING WORKING VISAS FOR

EMPLOYMENT IN IRELAND

18.1.5 The rapid growth of the Irish economy in recent years is resulting in severe shortages of skilled employees in some sectors such as Information and Computing Technologies (ICT's), Construction Professionals and across a broad range of medical, health and social care professions (including Medical Practitioners, Nurses, speech and language therapists, occupational therapists, radiographers, physiotherapists, social workers, psychologists).

18.1.6 Information on skill shortages and job vacancies in Ireland is available from the Internet websites of FÁS, (the State Training and Employment Authority), and Forfás, (the State body which promotes industrial and technological development). The FÁS site is <http://www.fasjobs-ireland.com>

and the Forfás site is <http://www.askireland.com>.

18.1.7 National newspaper websites with information on job vacancies are those of the:

"Irish Examiner" <http://www.examiner.ie>

"Irish Independent" http://www.unison.ie/irish_independent/

"Irish Times" <http://www.ireland.com>

"Sunday Business Post" <http://www.sbpost.ie> and

"Sunday Tribune" <http://www.tribune.ie>

18.1.8 To facilitate the recruitment of suitably qualified people from non-EEA countries for designated sectors of the employment market where skill shortages are particularly acute, a *Working Visa* and *Work Authorisation* scheme was introduced. This makes it possible for prospective employees with job offers from employers in Ireland to obtain immigration and employment clearance in advance from Irish Embassies and Consulates. (Immigration Officers retain discretion in specified circumstances to refuse entry to any non-national.)

*The European Economic Area comprises the EU Member States, Iceland, Liechtenstein and Norway.

18.1.9 Applications for *Working Visas* and *Work Authorisations* are accepted from persons outside the country only.

18.1.10 At present the designated categories are

Information and Computing Professionals:

Information and computing technologies professionals

Information and computing technologies technicians

Construction Professionals:

Architects, including architectural technicians/technologists

Construction engineers, including engineering technicians

Quantity surveyors and Building surveyors

Town planners;

Medical Professionals:

Medical Practitioners

Registered Nurses

Registered Midwives

Dentists, and

The following specified professionals in the **Public Health and Social Care sectors, including voluntary bodies:**

Diagnostic or Therapeutic Radiographer	Audiologist
Dietician	Social Worker
Occupational Therapist	Medical Scientist
Orthoptist	Physiotherapist
Medical Physicist	Hospital Pharmacist
Psychologist	ECG Technician
Speech and Language Therapist	Neuropsychological Measurement Technician
Biochemist	Cardiac Catheterisation Technician
Vascular Technician	GI Function Technicians
Respiratory Technician	

18.1.11 Queries regarding the *Working Visa* and *Work Authorisation*

Schemes should be directed to the Economic Migration Policy/Work Permits Unit, Department of Enterprise, Trade and Employment, Davitt House, 65a Adelaide Road, Dublin 2 Telephone No. 353 1 631333 or 353 1 6313308 (e-mail: workingvisas@entemp.ie); to the Visa Office, Department of Justice, Equality and Law Reform, 13-14 Burgh Quay, Dublin 2 (telephone 353 1 6167700, e-mail: visamail@justice.ie or to any Irish Embassy or Consulate. Application Forms are also available from Irish Embassies and Consulates.

18.1.12 The new Scheme does not replace, but is a faster alternative to, the Work Permit procedures which continue to be available to employers in Ireland. Applications for Work Permits are processed by the Work Permits Section, Department of Enterprise, Trade and Employment, Room 105, Davitt House, 65a Adelaide Road, Dublin 2 (telephone 6313308; www.entemp.ie).

Working Visa

18.1.13 A visa-required national, - that is the holder of the passport of a country not mentioned in sub-paragraph 18.1.23, who has an offer from an employer in Ireland of employment in one of the designated sectors may be given a *Working Visa* by an Irish Embassy or Consulate.

Work Authorisation

18.1.14 The holder of the passport of a country mentioned in sub-paragraph 18.1.23 who has an offer from an employer in Ireland of employment in one of the designated sectors may be given a *Work Authorisation* by an Irish Embassy or Consulate.

Periods of validity

18.1.15 A *Working Visa* or *Work Authorisation* is usually valid for two years – (three months in the case of a candidate registered nurse) - and authorisation to continue to work and reside in the country may be granted to a holder of either of them in Ireland at the end of the first period of their validity. Holders of *Working Visas* and of *Work Authorisations* are allowed to change their employers within the same skills category after arrival in Ireland as long as they continue to have authorisation to work and reside in the country.

Application

18.1.16 An applicant for a *Working Visa* or *Work Authorisation* should present

- A completed application form;
- a job offer **and contract** from an employer in Ireland corresponding to the designated skills category in which he/she claims to be qualified, stating the starting date and pay and quoting the employer's Registered Number for Tax Purposes and the applicant's passport number; **(NB: The employee must be directly employed and salaried by the employer in Ireland. Job offers from recruitment agencies, agents, intermediaries or companies who intend to outsource the employee to another company will not be acceptable under the scheme)**

- a passport valid at least until the expiration date of the relevant *Working Visa* or *Work Authorisation*;
- **two** photographs
- a visa application fee of **€100** or equivalent (not charged in the case of a number of nationalities) or a Work Authorisation application fee of **€100** or equivalent
- **the original copy of the applicants' relevant qualifications. NB: only qualifications that have been awarded by a recognised third level institution will be accepted under the *Work Authorisation* or *Working Visa* scheme.**

18.1.17 Persons with job offers in the Information and Computing Technologies (ICT's) sector

ICT Professionals:

- applicants must have the minimum of a *degree* in the Information and Computing Technology field from a recognized third level institution.

ICT Technicians:

- applicants must have the minimum of a *diploma* in the Information and Computing Technology field from a recognized third level institution.

The following will not be sufficient

- work experience in that field.
- qualifications from bodies such as Microsoft, Cisco, IBM, etc.

**18.1.18 Persons with job offers in the Construction Professional Sector
Construction Professionals:**

Architect:

- applicants require the minimum of a degree in architecture.

Architect Technician/Technologist:

- *Applicants require the minimum of a diploma in Architectural Technology or equivalent*

Construction Engineers:

- this generally relates to civil engineering and applicants require the minimum of a degree in civil engineering.
- *Note:* Applications maybe considered in respect of other engineering categories such as mechanical or electrical engineers only where the job offered is part of a clearly defined construction project.

Engineering Technician:

- applicants require the minimum of a diploma in Civil Engineering Technology or equivalent.

Quantity Surveyor:

- applicants require the minimum of a degree in Quantity Surveying.

Building Surveyor:

- applicants require the minimum of a degree in Building Surveying.

Town Planners:

- applicants require the minimum of a degree in Town Planning.

18.1.19 PERSONS WITH JOB OFFERS IN THE MEDICAL, HEALTH AND SOCIAL CARE SECTOR

Medical Professionals:

- In the case of Medical, Health and Social Care professionals, proof of validation/registration will be required
- Where the applicant has a job offer for a position of **Medical Practitioner**, the employer must be one of the relevant authorised employers set out in *Annex 1* and the candidate must possess a letter of acceptance for temporary or full registration from the Medical Council, or a temporary or full registration certificate from the Medical Council of Ireland. (*see Annex 3*) Upon receipt of an application, the visa-issuing mission will contact the employer in question, who will confirm in writing to the mission the validity of the job offer and their satisfaction regarding the individual's registration status.
- Where the applicant with a job offer for a position of **Dentist**, the employer must be one of the relevant authorised employers set out in *Annex 1* and the candidate must present a letter confirming temporary registration issued to him/her by the Dental Council. (*see Annex 2*) Upon receipt of an application, the visa-issuing mission will contact the employer in question, who will confirm in writing to the mission the validity of the job offer and their satisfaction regarding the individual's registration status.
- Where the applicant with a job offer for a position in one of the **specified range of health and social care professions** (*see pg.2 above*), the employer must be one of the relevant authorised employers set out in *Annex 1* and the candidate must present a letter of validation/certificate of registration issued to her/him by the appropriate designated authority in Ireland. (*see section II*). Upon receipt of an application, the visa-issuing mission will contact the employer in question, who will confirm in writing to the mission the validity of the job offer and their satisfaction regarding the individual's validation/ registration status.

- Where the applicant with a job offer for a position of **Nurse/Midwife**, the candidate must possess a Certificate of Candidate Registration from An Bord Altranais (Irish Nursing Board) (*see Annex 4*)

18.1.20 Validation and Registration Precedures

Temporarily Registered Medical Practitioners

Anyone who wishes to practice medicine in Ireland must be registered on the Register of Medical Practitioners (*see annex 3*)

Temporarily Registered Dental Practitioners

Anyone who wishes to practice dentistry in Ireland must be registered on the Register of Dental Practitioners (*see annex 2*)

Validation and Registration of other Health and Social Care Professional Qualifications

- i) *The Minister for Health and Children is the designated authority with the responsibility for validating non-national qualifications for the following health and social care professions employed within the **public health service, including voluntary bodies**:*

- | | | | |
|-----|---|-----|--|
| (A) | Dietician
Orthoptist
Audiologist
Psychologist
Biochemist
Medical Physicist | (B) | Diagnostic or
Therapeutic Radiographer
Occupational Therapist
Speech and Language Therapist |
|-----|---|-----|--|

Contact details for validation of these professions are as follows:

In order to have qualifications in the professions listed at (A) above assessed contact:

Validation Unit,
Personnel Management and Development,
Department of Health and Children,
Hawkins House, Dublin 2, Ireland
Telephone: 00-353-1-6354041
Fax: 00-353-1-6715141
Email: Validation_unit@health.irlgov.ie

And for those listed at (B) contact:

**Mellany McLoone, HR Department, Northern Area Health Board,
Unit 17. Swords Business Campus,
Balheary Road, Swords, Co. Dublin,
Ireland
Telephone: 00-353-1-8908702
Fax: 00-353-1-8131873
Email: mellany.mcloone@erha.ie**

- ii) The following bodies, acting with the approval of the Minister for Health and Children, are responsible for the validation of non-national qualifications for the professions as indicated below:

Physiotherapist
Irish Society of Chartered Physiotherapists,
Royal College of Surgeons,
St. Stephen's Green, Dublin 2,
Ireland.
Telephone: 00-353-1-4022148
Email: info@iscp.ie

Social Worker
National Social Work Qualifications Board,
8–11 Lower Baggot Street, Dublin 2,
Ireland.
Telephone: 00-353-1-6766281
Fax: 00-353-1-6766289
Email: nswqb@nswqb.ie
Website: <http://www.nswqb.ie>

Medica Scientist
Academy of Medical Laboratory Science,
31 Old Kilmainham Road, Dublin 8,
Ireland.
Telephone: 00-353-1-6775602
Fax: 00-353-1-6775652
Email: mail@amls.ie
Website: <http://www.amls.ie>

- iii) The statutory body with responsibility for the registration of pharmacists is:

The Pharmaceutical Society of Ireland,
18 Shrewsbury Road, Dublin 4,
Ireland.
Telephone: 00-353-1-2184000/2837294
Fax: 00-353-1-2837678
Email: registration@pharmaceuticalsociety.ie
Website: <http://www.pharmaceuticalsociety.ie>

- iv) The non-national qualifications for all other categories of professions covered by the scheme and listed below are approved by the employing authorities (**see Annex 1**)

ECG Technician

Neurophysiological Measurement Technician
Cardiac Catheterisation Technician
Respiratory Technician
Vascular Technician
Gastro Intestinal Technician

Candidate Nurse and / of Midwife Registration

Anyone who wishes to practice nursing in Ireland must be registered with An Bord Altranais (Irish Nursing Board) (*see annex 4*). Following review of an application a nurse and/or midwife may be asked to undertake a Period of Adaptation in an Irish hospital before they will be eligible for full registration. An Bord Altranais issue Certificates of Candidate Registration on the basis of which such nurses/midwives can apply for Working Visas or Work Authorisations, valid for three months. Candidate nurses/midwives who do not qualify for full registration within the initial three month period may be allowed to remain in Ireland for a further three month period if required in exceptional cases. Candidate nurses/midwives would need documentation from An Bord Altranais to allow them to register for further permission to remain in the State with the Garda National Immigration Bureau. At the end of this further permission to remain, Candidate nurses/midwives who do not qualify for full registration will not be allowed to remain in Ireland.

Subject to their having satisfactorily completed their Period of Adaptation and obtaining full registration with An Bord Altranais, nurses and midwives who hold Working Visas and who wish to continue to work and reside in Ireland, and to depart from and return to the State, may obtain from the Visa Office of the Department of Foreign Affairs new Working Visas for multiple re-entries valid for the remaining period i.e. 24 months from original issue date of working visa. Section III of this leaflet deals with the renewal of Working Visas after the initial two-year period.

Subject to their having satisfactorily completed their Period of Adaptation and having obtained full registration with An Bord Altranais, nurses/midwives who hold Work Authorisations and who wish to continue to work and reside in Ireland may apply for permission to do so at any office of a Superintendent of the Garda Síochána (in the case of persons residing outside Dublin) or at the Garda National Immigration Bureau, 13-14 Burgh Quay, Dublin 2 (tel. 6669100; fax 6669141). The period for which such permission may be extended will normally be valid for the remaining period ie 24 months from original issue date of working visa and thereafter two years at a time provided the conditions of the scheme continue to be fulfilled.

18.1.21 Renewing Working Visas/Work Authorisations

Participants in the Working Visa/Work Authorisation scheme may renew their permission to remain beyond the initial two year period subject to their satisfying certain criteria - the most important being that they continue to come within the terms of the scheme and that there are no public policy objections to their remaining in the State.

Persons should attend their local Garda Registration Office (Immigration Registration Office, Garda National Immigration Bureau, 13-14 Burgh Quay, Dublin 2 for persons residing in the Dublin area or the Garda Superintendent's office in the relevant Garda District for persons residing elsewhere in the State) in order to apply for an extension of permission to remain.

When seeking to have permission extended the persons should present (all documents should be originals):

1. A valid passport
2. A valid Garda certificate of registration (In either the 'Green Book' or card format, as appropriate).
3. The person's current P60.
4. A letter from the person's employer certifying the person's employment in the skills category under which they received their original permission to work. The skills category should be specified, and must be one for those covered by the scheme.

Extension of permission to remain, if granted, will be for a further two year period (or the date of expiry of the person's passport if it is due to expire in less than two years) and will be subject to the same conditions as the original authorisation (i.e. employment is authorised in the skill category in question and the employee may change employer without further authorisation provided that the employment remains in the same skill category)

In the case that, after having renewed their right to remain as laid out above, an applicant who is Visa-required wishes to depart from and return to the State, they should make application to the Visa Office of the Department of Foreign Affairs for a re-entry visa to allow them to re-enter the State: the Visa Office, Department of Foreign Affairs, 13-14 Burgh Quay, Dublin 2 (telephone 01 6167700; e-mail: visamail@justice.ie).

18.1.22 Dependants

In general, the holder of a Work Authorisation may be joined by his/her spouse and/or minor dependant children once he/she can show that he/she is in employment. The holder of a Working Visa must have been in Ireland for three months before he/she can be joined by his/her spouse and/or minor dependant children. The holder of a Working Visa or Work Authorisation must be able to support the family members in question without the need for them to have recourse to public funds or paid employment (unless a family member holds a Working Visa, Work Authorisation or Work Permit in his/her own right).

If the spouse of the holder of a Working Visa/Work Authorisation wishes to take up employment in the State, they will require a Work Permit. Work Permits for spouses are applied for under the Spousal Work Permit Scheme. This Scheme gives greater access to employment for spouses of Work Visa/Work Authorisation Holders by:

- Not requiring the employer in question to advertise the job with FÁS in advance of making a work permit application

- Accepting applications for jobs in categories that would otherwise be ineligible for work permits
- Exempting the application from the work permit fee

In order to be deemed an eligible spouse for the purposes of this scheme, the non- EEA national in question must be legally resident in the State with their spouse and the following criteria must be fulfilled:

- The working visa/work authorization holder must hold a valid and current Working Visa/Work Authorisation. The working visa/work authorization holder and eligible spouse must be married, and have a legally recognized marriage certificate.
- The working visa/work authorization holder must still be working within the terms of their working visa/work authorisation. Where the Department is satisfied that a working visa/work authorisation holder is working in a different field to that for which the working visa/work authorization was granted, their spouse will not be eligible to avail of the new arrangements.

In all cases the spouse needs to register with local Garda Registration Office (Immigration Registration Office, Garda National Immigration Bureau, 13-14 Burgh Quay, Dublin 2 for persons residing in the Dublin area, or the Garda Superintendent's office in the relevant Garda District for persons residing elsewhere in the State) to obtain the appropriate permission to remain in the State as an employee. This is important and necessary in order to have the correct immigration status.

Further information on work permits for spouses of Working Visa/Work Authorisations holders is available on the Department of Enterprise, Trade & Employment website at www.entemp.ie "Guide to work permits for spouses of employment permit holders".

18.1.23 Countries whose Passports holders are not required to have visas to travel to Ireland

Andorra	Guyana	Panama
Paraguay	Honduras	Poland
Antigua & Barbuda	Hong Kong (Special Administrative Region)	Portugal
Argentina	Hungary	Saint Kitts & Nevis
Australia	Iceland	Saint Lucia
Austria	Israel	Saint Vincent & the Grenadines
Bahamas	Italy	San Marino
Barbados	Japan	Seychelles
Belgium	Kiribati	Singapore
Belize	Latvia	Slovenia
Bolivia	Lesotho	Solomon Islands
Botswana	Liechtenstein	South Africa
Brazil	Lithuania	South Korea
Brunei	Luxembourg	Spain
		Swaziland

Canada	Macau (Special Administrative Region)	Sweden
Chile	Malawi	Switzerland
Costa Rica	Malaysia	Tonga
Croatia	Maldives	Trinidad & Tobago
Cyprus	Malta	Tuvalu
Czech Republic	Mauritius	United States of America
Denmark	Mexico	United Kingdom & Colonies
Dominica	Monaco	Uruguay
El Salvador	Nauru	Vanuatu
Estonia	Netherlands	Vatican City
Fiji	New Zealand	Venezuela
Finland	Nicaragua	Western Samoa
France	Norway	
Gambia		
Germany		
Greece		
Grenada		
Guatemala		

18.1.24 Special Arrangements for Medical Practitioners

Medical Practitioners who are applicants for temporary registration

Medical Practitioners who have applied to the Medical Council for temporary registration but who must first meet the prescribed standard in examinations as specified by the Medical Council may, if Visa Required, apply to the relevant Irish Embassy (or to the Department of Foreign Affairs in Dublin if there is no Embassy/Consulate in their country of ordinary residence) for a study/exam visa with a view to entering Ireland in order to sit the prescribed exams.

When applying they should supply (all documents should be originals):

1. A completed standard visa application form
2. A passport which is valid for at least 6 months of the proposed date of arrival
3. A letter from the Medical Council confirming that an application has been received for temporary registration
4. Notification from the Medical Council to the applicant of the dates of any examinations which must be sat
5. Evidence from the Medical Council that any examination fees have been paid
- 6. Admission card, with photo I.D., passport number and expiry date, from the Medical Council to those allocated a place to sit the exam**
7. Evidence that the applicant has sufficient funds to maintain him/herself for the period of the proposed stay

(the above is modelled on the standard requirements for a study /exam visa at present)

Non-EEA nationals who are not visa required and who wish to enter for the above purpose should be in a position to satisfy an Immigration Officer upon arrival in the State of the purpose of their visit and should have in their possession the documentation set out at 2 to 7 above for presentation.

Medical Practitioners who are granted temporary registration having arrived on a study/exam visa as described above

Medical practitioners who obtain temporary registration from the Medical Council, having initially arrived on a study/exam visa, should register with their local Garda Registration Office (Garda National Immigration Bureau, 13-14 Burgh Quay, Dublin 2 for persons residing in the Dublin area or the Garda Superintendent's office in the relevant Garda District for persons residing elsewhere in the State).

They should present (all documents should be originals):

1. A valid passport with a valid Irish entry visa
2. A certificate of temporary registration from the Medical Council covering the period of registration
3. A letter from a hospital confirming their employment as a medical practitioner therein

Provided the documentation is in order and there are no public policy objections, the person will be registered and granted permission to remain for two years (or the date of expiry of the passport if it expires in less than two years). This permission to remain entitles them to work as a temporary registered medical practitioner for the period in question provided they continue to hold temporary registration from the Medical Council throughout that period. They may change hospital within the terms of the temporary registration scheme but may not move into other professions without their prospective employer first having obtained a work permit. Their authorisation may be renewed upon application to a Registration Officer and provided they continue to meet the criteria set out above - up to the maximum period permissible under the Temporary Registration Scheme (7 years or 2555 days).

18.1.25 Annex 1 Authorised employers in Ireland for the purposes of this Scheme

A list of authorised employers under this Scheme is compiled by the Department of Health and Children. The current list is available in Annex 1 of the Work Authorisation Leaflet on the Department of Enterprise, Trade and Employment's website at <http://www.entemp.ie/publications/labour/2004/workauthorisation.doc>.

If a **Health or Social Care Professional** (as outlined in Annex 1 of this leaflet) submits an offer of employment from a Public Health Employer that is not included on the above list, the relevant Embassy/Consulate should contact the Department of Health and Children to verify whether or not the employer is an authorised employer for the purposes of this scheme:

Department of Health and Children
Validation Unit
Personnel Management and Development Division
tel: +353 1 6354041
fax: +353 1 6715141
email: Validation_unit@health.irlgov.ie

18.1.26 Annex 2 Information note on the registration of Dentists

Under the Dentists Act 1985, the Dental Council of Ireland is the independent authority charged with responsibility for the registration of Dentists. It was set up to promote high standards of professional education and professional conduct among dentists. It includes amongst its functions the evaluation of dentists for registration. Details of criteria for admission to full registration in the Register of Dentists are specified in rules made by the Council. It is recommended that any person who wishes to apply for registration or requires more information in this regard should contact the Council, as follows:

The Dental Council
57 Merrion Square
Dublin 2.
Ph.: (01) 6762069/6762226 Fax: (01) 6762076
e-mail: info@dentalcouncil.ie

The Dental Council may grant temporary registration in the Register of Dentists. This would apply to dentists, not entitled to full registration, who are in the State for the purpose of employment in the practice of dentistry in a clinic or institution approved of by the Council. In accordance with the provision of the Dentists Act 1985 temporary registration is granted for a maximum aggregate period of five years.

Generally temporary registration is granted for a period of one year in the first instance but is renewable at the discretion of the Council, for further periods of one year up to the five-year limit.

The Council has approved the dental hospitals in Dublin and Cork and the Maxillofacial Unit of St. James's Hospital, Dublin, for the purposes of temporary registration. It also approves Health Board dental units that have a consultant-led service.

Dentists primarily avail of temporary registration in Ireland to partake in further dental training as a prelude to presenting for postgraduate examinations, and again should contact the Council directly. Dentists from countries outside the European Union, who wish to obtain full registration in Ireland, must present for and pass the special Council examination, details of which are available from the Dental Council.

18.1.27 Annex 3 Information note on the registration of Medical Practitioners

Anyone who wishes to practise medicine in Ireland must be registered on the Register of Medical Practitioners. Under the Medical Practitioners Act, 1978, the Medical Council is the independent authority charged with maintaining the Register of Medical Practitioners. Enquiries regarding registration should be addressed to the Medical Council at the following address:

Medical Council,
Lynn House,
Portobello Court,
Lower Rathmines Road,
Dublin 6,
IRELAND

Telephone 353 1 4965588 / Fax 353 1 4965972

e-mail: medicalcouncil@mcirl.ie

The web address of the Medical Council is <http://www.medicalcouncil.ie/> and information regarding registration requirements may be seen on the site.

18.1.28 Annex 4 Requirements for registration by An Bord Altranais (Irish Nursing Board)

The nurse/midwife applicant is required to furnish the following:

1. **Application form with photograph.** The application form must be fully completed and have a passport size photo attached. A resumé (curriculum vitae) will not be accepted in lieu of the completed application form. All professional work experience since initial registration as a nurse or midwife should be noted.

2. **Current nursing licence.** A current nursing licence or certificate to practice in the country of origin is required and must be effective for the period of the application process with An Bord Altranais (Irish Nursing Board).

3. **Official Birth Certificate/Verification of name change(s).** A notarised copy of an official birth certificate must be included. If name(s) are different from those on the birth certificate, documents for verification or name change must be included, that is, marriage certificates or legal documentation of name change(s).

4. As part of the application for registration process the applicant will be required to **arrange to have a Test Report Form issued by the International English Language Testing System (IELTS) submitted directly to An Bord Altranais** by the test centre where the applicant undertook the test. Test Report Forms that have been forwarded by the test centre directly to An Bord Altranais are only accepted. The test must have been undertaken no more than 2 years prior to the date of application or the applicant must provide evidence of having worked as a full time nurse in the English-speaking environment since having completed the test. This will be assessed on an individual basis. Further information on the test may be obtained from www.ielts.org.

5. Application Fee of €126

The nurse/midwife is responsible for arranging for the following to be submitted directly to An Bord Altranais:

1. Veriification of registration/good standing status

Original verification of current nurse/midwife registration and good standing status must be mailed direct from the Registration Authority or State Nursing Board in the country/state where the applicant was educated and registered. In the event that the

applicant holds more than one registration with that Registration Authority details of these must be forwarded also.

In the event that the applicant holds current registration with another Registration Authority verification of this must also be mailed directly from the relevant Registration Authority or State Nursing Board.

2. Transcripts from school of nursing.

When contacting the school of nursing for the official transcripts, enclose form A in the application pack. Official transcript must be mailed direct from the school of nursing accompanied by form A. This form and the official transcript must be received in order to process the application. If the applicant was educated in more than one school, official transcripts must be sent from each school attended. Copies of syllabi/course outlines should be enclosed.

Applicants are required to have clinical experience in areas listed on the form. If the number of hours of clinical and theoretical experience do not satisfy the requirements of An Bord Altranais, and the applicant has more than one nursing qualification, further transcripts may be requested.

Post Registration Qualifications Part 9 on the application form requests details on additional qualifications obtained following primary registration as a nurse or midwife. Photocopies of certificates received should be included for any course listed. If a University Degree is listed, the official schools transcripts must be sent direct from the university to An Bord Altranais (Irish Nursing Board) and a photocopy of the degree awarded should be included with the application.

3. Professional employment reference.

The applicant's current employing authority must verify confirmation of employment. The employing authority must submit the reference directly to An Bord Altranais. It must be completed by the Director of Nursing, Matron or a Nursing Manager.

An Bord Altranais may request any other evidence required to be satisfied that the applicant is eligible for registration.

Further information on registration and application forms can be obtained from:

An Bord Altranais (Irish Nursing Board),
31 Fitzwilliam Square,
Dublin 2.

E-Mail: admin@nursingboard.ie

Website: www.nursingboard.ie

18.1.29 Annex 5 Medical, Health & Social Care Professionals who obtain full Registration/Validation while in the State and Medical, Health & Social Care Professionals who already hold such registration/validation and who are already in legal employment on foot of a valid Work Permit

Medical, Health & Social Care Professionals (see Annex 6) who obtain full registration/validation while in the State as well as those who already hold such registration/validation and who are currently employed on foot of a valid Work Permit can also benefit from these streamlined provisions.

Once in possession of full registration/validation, **and at the completion of any existing permission from the Immigration authorities**, such persons may apply to the relevant Garda Registration Office to be granted permission to remain in accordance with the streamlined provisions.

NB: It must be noted that the applicant's existing permission to remain must have expired before they are eligible to apply for further permission to remain under these streamlined terms

They should present (all documents should be originals):

1. A valid passport
2. A valid Garda Certificate of Registration (either in the 'Green Book' or card format as appropriate)
3. A Certificate of registration/validation from the relevant validating body
4. A letter from their employer stating that they are employed as a professional in the category for which they have been validated
5. A copy of their most recent P60.

(NB: No letter of validation will be required for the last 3 professions on Annex 6, as they have no relevant validating body. In this case, the employer's letter will suffice)

Provided the documentation is in order and there are no public policy objections, permission to remain will be granted for a two-year period (or the date of expiry of the person's passport if it is due to expire in less than two years). This permission to remain will entitle the person to work in their relevant profession without the need to obtain a Work Permit for the period in question and provided their registration/validation remains valid during that time. They may change employers without further authorisation but may not change professions without their prospective employer first having obtained a Work Permit.

This authorisation may be renewed upon application to a Garda Registration Office provided (i) the necessary documentation can be provided (see section entitled "Renewal of Permission to Remain following expiry of initial Working Visa/Work Authorisation") and (ii) that there are no public policy objections.

**18.1.30 ANNEX 6 –MEDICAL, HEALTH AND SOCIAL CARE PROFESSIONS
ELIGIBLE TO BENEFIT FROM THE STREAMLINED PROVISIONS AS
OUTLINED IN ANNEX 5**

Professions	The designated authority responsible for the validation of qualifications
Medical Practitioner	Medical Council of Ireland
Dentist	The Dental Council
Nurse/Midwife	An Bord Altranais
Diagnostic or Therapeutic Radiographer	Minister for Health and Children
Dietician	Minister for Health and Children
Occupational Therapist	Minister for Health and Children
Orthoptist	Minister for Health and Children
Medical Physicist	Minister for Health and Children
Psychologist	Minister for Health and Children
Speech and Language Therapist	Minister for Health and Children
Biochemist	Minister for Health and Children
Audiologist	Minister for Health and Children
Social Worker	National Social Work Qualification Board
Medical Scientist	Academy of Medical Laboratory Sciences
Physiotherapist	Irish Society of Chartered Physiotherapists
Pharmacist	Pharmaceutical Society of Ireland
ECG Technician	<i>N/A –employer’s letter will suffice</i>

Neurophysiological Measurement Technician	<i>N/A –employer’s letter will suffice</i>
Cardiac Catheterisation Technician	<i>N/A –employer’s letter will suffice</i>
Respiratory Technician	<i>N/A –employer’s letter will suffice</i>
Vascular Technician	<i>N/A –employer’s letter will suffice</i>
GI Function Technician	<i>N/A –employer’s letter will suffice</i>

18.1.31 Data for the Working Visa/ Work Authorisation Scheme for the period 1 January 2001–31 December 2004. Data for Working Visas and Work Authorisations Combined:

TOTAL: 8961

1. Information and Computing Technologies (ICT) Sector: (Total to date: 2382)

Year	ICT PROF.	ICT TECH.	TOTAL
2001	1117	130	1247
2002	556	106	662
2003	204	21	225
2004	213	35	248
Total	2090	292	2382

ICT Prof = Information and Computing Technologies Professional

ICT Tech = Information and Computing Technologies Technician

2. Construction Professionals: (Total to date: 1214)

Year	Architect	Construct. Engineer	Quantity Surveyor	Building Surveyor	Town Planner	TOTAL
2001	134	259	42	11	22	468
2002	83	328	18	4	9	442
2003	25	102	6	0	2	135
2004	63	93	10	3	0	169
Total	305	782	76	18	33	1214

Architect includes Architectural Technician/ Technologist.

Construct. Engineer = Construction Engineer. This category includes Engineering Technician.

2. Nurses: (Total to date: 4949)

Year	NURSES TOTAL
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2001	2034
2002	1395
2003	640
2004	880
Total	4949

18.1.32 Working Visa/ Work Authorisation Scheme Statistics for the period 1 January 2001 – 31 December 2004. Material supplied by the Department of Enterprise, Trade and Employment.

Total	3749	2610	1158	1444	8961
Phillipines	1834	1063	343	303	3543
India	410	380	352	651	1793
South Africa	549	493	223	160	1425
Australia	220	133	67	83	503
Nigeria	43	127	34	32	236
USA	76	40	17	34	167
Romania	77	56	10	17	160
New Zealand	68	45	28	15	156
Russia	81	10	10	17	118
Ukrania	64	24	4	2	94
Zimbabwe	21	41	14	16	92
Poland	45	34	2	0	81
Pakistan	14	27	11	13	65
Canada	22	22	7	13	64
China	32	6	2	21	61
Israeli	6	10	10	6	32
Czech	26	4	1	0	31
Moldova	4	25	1	1	31
Argentina	3	14	4	5	26
Malaysia	7	6	0	8	21
Brazil	6	7	1	5	19
Slovakia	18	0	0	0	18
Yugoslavia	12	4	1	1	18
Joardan	14	1	1	0	16
Bulgaria	12	0	0	3	15
Turkey	10	1	1	1	13
Zambia	3	2	3	5	13
Mexico	2	3	1	3	9
Egypt	1	3	0	5	9

Croatia	6	0	2	0	8
Hungary	5	1	2	0	8
South Korean	2	1	0	5	8
Columbia	3	3	1	0	7
Kenya	1	3	2	1	7
Iran	4	1	0	1	6
Japan	4	0	0	2	6
Belarus	3	2	0	1	6
Morocco	4	1	0	0	5
Chile	2	1	0	2	5
Singapore	2	0	1	2	5
Bangladesh	3	0	0	1	4
Peru	2	0	0	2	4
Switzerland	3	0	0	0	3
Thailand	3	0	0	0	3
Sri Lanka	2	1	0	0	3
Lithuania	1	2	0	0	3
Napel	1	2	0	0	3
British (BNO)	2	0	0	0	2
Ivory Coast	2	0	0	0	2
Palestine	2	0	0	0	2
Cameroon	1	1	0	0	2
Ghana	1	0	0	1	2
Tanzania	1	1	0	0	2
Indonesia	0	0	1	1	2
Trinidad	0	1	0	1	2
Azerbaijani	1	0	0	0	1
Guatemala	1	0	0	0	1
Lebanon	1	0	0	0	1
Lesotho	1	0	0	0	1
Mali	1	0	0	0	1
Malta	1	0	0	0	1
Mauritius	1	0	0	0	1
Saudi Arabia	1	0	0	0	1
Senegal	1	0	0	0	1
Botswana	0	1	0	0	1
Ecuador	0	1	0	0	1
Ethiopian	0	0	0	1	1
Iraq	0	1	0	0	1
Kazakhstan	0	1	0	0	1
Malawi	0	0	0	1	1
Rwanda	0	1	0	0	1
St. Vincent & Grenadines	0	0	0	1	1
Sudan	0	0	0	1	1
Swaziland	0	0	1	0	1
Taiwan	0	1	0	0	1
UAE	0	1	0	0	1
Algeria	0	1	0	0	1

Text of ARTICLE 18 PARA. 2 of the Revised European Social Charter

ARTICLE 18 PARA. 2

"With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake: to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;"

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please describe the formalities which must be observed by nationals of the other Contracting Parties and the members of their families or by their employers, with regard to their residence in the country and the exercise of an occupation, whether they are seeking paid employment or wish to engage as self-employed, distinguishing between wage-earners or salaried employees, self-employed traders or craftsmen, heads of agricultural or non-agricultural concerns, various professions.

Please state what derogations have been made to the rules normally applicable and with regard to what categories of persons.

Question B

Please indicate what chancery dues or other charges are payable by foreign workers or their employers.

Question C

Please indicate the steps taken to simplify the formalities described in Question A and to reduce the charges referred to in Question B.

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland)

Articles 7, 8, 11, 14, 17 and 18 and Questions for answer by Ireland arising from our 19th Report, submitted in 2001, under the original European Social Charter (1961).

Paragraph 2 – Simplifying existing formalities and reducing dues and taxes

The Committee takes note of the information contained in the Irish report.

Administrative formalities

Issue of work permits

Any employer wishing to employ a foreign worker who is not a national of the European Union or European Economic Area must obtain a work permit in advance from the Department of Enterprise, Trade and Employment. The application for a work permit, accompanied by two passport size photographs and documentary proof that the employer has made efforts to recruit an Irish or EU national (see also Article 18 para. 3) will be examined by the Department. Where necessary, consultations will take place with other departments and social partners.

The Committee notes that as well as the procedure for issuing permits described above, a fast-track procedure was introduced in 2000 to alleviate the labour shortage in certain sectors (information and computing technologies, architects, construction engineers, quantity surveyors, nurses): this allows prospective employees to obtain the necessary papers (work and residence permits) from Irish consulates and embassies in their country of origin.

Conditions for renewal

The Committee notes that on expiry of the two-year working visa or work authorisation, the papers may be renewed by the competent authorities provided that the conditions of the scheme continue to be fulfilled. In the case of the work permit, the application for renewal must be made by the employer.

Work and residence permits

From the information at its disposal the Committee infers that there is one procedure for work permits and another for residence permits. **Question -It would like the next report to confirm this.**

Time necessary for obtaining work permits

The Committee notes that once the application for a work permit has been registered, it takes approximately four weeks to process the application, after which the permit will either be issued or refused. It observes that, in practice, this processing time has doubled because of the significant rise in the number of applications (see also the conclusion under Article 18 para. 1 on this subject). **Question -The Committee wishes to know what measures have been taken (or**

are planned) to ensure that applications for work permits are processed within a reasonable time.

Chancery dues and other charges

The report states that the fees payable for work permits vary according to the period for which they are issued (from IR£25 for one month to a maximum of IR£125 for one year). The Committee notes that the fee is payable by the employer, not the employee. Fees may be waived, however, if there is a reciprocal agreement or if the employer is a registered charity. The Committee further notes that fees are payable in respect of applications for working visas (IR£40) or work authorisations (IR£29).

Questions -The Committee asks that the next report explain why fees are charged at the application stage. Also, having noted in the report that these fees may be waived in the case of certain nationalities, it asks that the report clarify the position of nationals of Contracting Parties to the Charter in this matter.

Conclusion

Pending the information requested, particularly as to whether there are two separate procedures for the work permit and the residence permit, the Committee defers its conclusion.

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[Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 18, Paragraph 2:](#)

Note: Changes which have occurred since the submission of our 19th Report under the original European Social Charter in 2001, are shown in red print.

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Article 18 – The Right to engage in a Gainful Occupation in the Territory of Other Contracting Parties

Paragraph 2 – Simplifying Existing Formalities and Reducing Dues and Taxes

Response from the Department of Enterprise, Trade and Employment:

Question A, (sub-paragraphs 18.2.1 to 18.2.5 of this Report refer):-

- 18.2.1** A non EEA National may not take up employment in the State unless the employer has received a Work Permit in respect of that Non-National from the Minister for Enterprise, Trade and Employment. There is no distinction between wage earners and salaried workers.
- 18.2.2** Work Permits are not required in respect of nationals of the European Economic Area (EEA) countries (the 25 member States of the European Union plus Norway, Iceland and Liechtenstein who are not members of the EU). Neither are Work Permits required in respect of
- (1) Persons who have been granted refugee status by the Minister for Justice, Equality and Law Reform.
 - (2) Post-Graduate students where the work is an integral part of study being undertaken. (A letter is required from the College stating that they are studying). This also includes Post-Graduate Doctors (temporarily registered with the Irish Medical Council) and Dentists with temporary registration.
 - (3) Persons who have been granted permission to remain in the State on one of the following grounds:-
 - (a) Persons with permission to remain as spouse of an Irish national;
 - (b) Persons with permission to remain in Ireland on the basis of having an Irish-born child;
 - (c) Persons who have been given temporary leave to remain in the State on humanitarian grounds, having been in the asylum process.
 - (4) Persons who are posted on an intra-corporate transfer/secondment for a maximum period of four years to an establishment or undertaking in Ireland which is owned by a company or group which has operations in more than one State. (Immigration Officers will seek appropriate evidence in terms of letter from the company concerned).
- 18.2.3** Each application for a Work Permit is judged on its own merits, but Work Permits are generally granted if the prospective employee:
- is a key employee and a substantial amount of high quality employment for Irish/EEA nationals will arise as a result of his/her employment or

- is a suitably qualified **Health professional** offered a position to be employed in specific circumstances by a Health Board or
- is an entertainer who is coming to Ireland to perform at a specific event or
- is a professional sportsperson and the granting of the Permit should comply with the terms of agreements with the relevant sporting organisation(s);
- is on an Exchange Programme recognised by the Minister for Enterprise, Trade and Employment;
- is entitled to take up employment under the terms of any international Bilateral Agreement ratified by Ireland.

18.2.4 Applications are generally refused where:

- the position could be filled by an Irish or other EEA national;
- the person's status in the State prevents them from entering
- employment i.e. visitors, students or tourists. Such persons are allowed into the State on the basis that they will not be taking up employment;
- the person is in the State illegally or no longer complies with the conditions under which he/she was admitted;
- the Department of Justice, Equality and Law Reform have asked that such person leave the State or
- the employer is a non EEA employer operating in the State without Business Permission from the Minister for Justice, Equality and Law Reform (see sub-paragraphs 18.2.11 to 18.2.15 below).

18.2.5 Work Permits are normally valid for up to one year. If an employer has renewed Work Permits in respect of the same employee for five consecutive years, then a Work Permit without time limit is issued from the sixth year onwards.

Question B, Form for the Reports refers (sub-paragraphs 18.2.6 and 18.2.7 of this Report refer).

18.2.6 A scale of fees ranging from €65 to €500 applies depending on the duration of the permit. They are charged in respect of most work permits approved and are payable by the employer concerned. This is a processing fee and is non-refundable once the work permit has issued. The policy in relation to refunds is that a refund can only be made in the following cases:

- a) **Employer has sent in a written request to withdraw an application prior to a permit being issued.**
- b) **A permit has been refused and no appeal is received within a 4 week timeframe.**
- c) **A fee is accepted in support of an application where a fee does not apply.**

d) A permit is issued for a shorter period of time due to passport expiry date or request from employer.

Fee charges were last fixed in January 2003. (No change since)

Duration	Pre 2002	2002	2003
	£	€	€
One Month	25	50	65
Two Months	50	75	95
Three Months	75	100	125
Four Months	100	125	170
Five Months		150	210
Five Months to One Year	125	400	500

18.2.7 The fees are waived in certain circumstances:

- where the employer is a Registered Charity;
- reciprocal International Agreements ;
- spouses of certain Diplomats;
- spouses of certain skilled non-EEA nationals.

Question C. Form for the Reports refers (sub-paragraphs 18.2.8 to 18.2.15 of this Report refer).

18.2.8 Since January 2006, family members of Working Visa/Work Authorisation holders may be brought to Ireland immediately - rather than having to wait 3 months - and permission to remain is granted for the same period as the worker.

As regards work permit holders, family members may be brought into Ireland:

- o immediately if they are from non-visa required countries or
- o if they are from visa required countries and their work permit is renewed:
 - o after a year (3 months in certain high skilled categories) if the work permit holder's income is above the Family Income Supplement (FIS) eligibility threshold – about €24,000, per annum
 - o After three years if the work permit holder is earning less than the FIS level but is in continuing full-time employment.

Family members of work permit holders who come to Ireland under these arrangements will have access to employment in all sectors without a labour market test and the permit is granted free of charge. This allows dependants to contribute towards the financial sustainability of their families. {Arrangements for the introduction of this scheme are currently being finalised by the Work Permits Section of the Department)

18.2.9 Where a Work Permit is issued without time limit, as explained in sub-paragraph 18.2.5 above, there are no further fees payable.

Response from the Department of Justice, Equality and Law Reform (sub-paragraphs 18.2.10 to 18.2.15 of this Report refer) :-

18.2.10 It should be noted that information concerning Immigration, Asylum and Citizenship may be accessed at the following website
<http://www.justice.ie/80256E01003A21A5/vWeb/pcNPOK5UHFDV-en>

The list of legislation governing Immigration, Asylum and Citizenship may be accessed at the following website

<http://www.justice.ie/80256E010039E882/vWeb/pcNPOK5UUNTU-en>

The Immigration Act 2004 (No. 1 of 2004) may be accessed at the following website :-

<http://www.oireachtas.ie/document/bills28/acts/2004/a104.pdf>

18.2.11 The position in respect of self-employed persons, who are not EEA nationals, is that the permission of the Minister of Justice, Equality and Law Reform is required prior to commencing such activity. The Department of Justice, Equality and Law Reform operates an administrative “Business Permission” Scheme to regulate applications to reside on this basis.

18.2.12 As is the case with the Work Permit Scheme, a number of broad categories of non-EEA nationals are in fact exempt from the requirement to obtain Business Permission.

The categories are as follows:

(a) persons who have been granted refugee status by the Minister for Justice, Equality and Law Reform

(b) dependant relatives of EEA nationals exercising their right to reside in Ireland

(c) persons who have been granted permission to remain in the State on one of the following grounds:-

(i) persons with permission to remain as the spouse of an Irish national

(ii) persons with permission to remain in Ireland on the basis that they are the parent of an Irish born child (an Irish citizen)

(iii) persons who have been given temporary leave to remain in the State on humanitarian grounds, having been in the asylum process.

- 18.2.13** For those non-EEA nationals who are not exempt from the requirement, the criteria for granting of Business Permission are as follows
- (a) The application must result in the transfer to the State of substantial Assets and Capital in the minimum sum of €300,000;
 - (b) The proposed venture must create employment for at least two EEA nationals for a new project or, at the very least, maintain employment in an existing business;
 - (c) The business must add to the commercial activity and competitiveness of the State;
 - (d) The business should, where possible, substitute Irish goods for goods that would otherwise be imported;
 - (e) The business should be a viable trading concern and provide the applicant with sufficient income to provide for himself/herself and any dependants without resorting to public assistance or employment for which a Work Permit would be required;
 - (f) The applicant must be in possession of a valid Passport or national identity document and be of good character (a statement of character from the police authorities of each country in which the person has resided for more than 6 months within the preceding 10 year period is required).

18.2.14 Permission may be granted to persons wishing to operate a business with a lower initial investment in some cases, consistent with the European Council Resolution relating to the Limitations on the Admission of Third-Country Nationals to the territory of the Member States for the purpose of pursuing activities as self-employed persons (1994). In particular, permission may be granted where the person is proposing to add value or contribute significantly to economic activity in Ireland including through the provision of highly specialised services which are in short supply. Account is also taken of the position of artists or craft persons exercising an independent activity of significance. In determining whether to waive some of the criteria set out at 18.2.13 above, the Minister for Justice, Equality and Law Reform may consult external expertise in the relevant business areas.

18.2.15 The Business Permission Scheme is also operated in such a way as to take account of the relevant provisions of each of the Agreements of Association between the European Union and Turkey, Bulgaria and Romania, including by waiving the capital requirement in appropriate cases. A copy of the leaflet published by the Department of Justice, Equality and Law Reform may be accessed on the following website:

[http://www.justice.ie/80256E01003A21A5/vWeb/flJUSQ66FFZJ-en/\\$File/BUSINESS.pdf](http://www.justice.ie/80256E01003A21A5/vWeb/flJUSQ66FFZJ-en/$File/BUSINESS.pdf)

Text of ARTICLE 18 PARA. 3 of the Revised European Social Charter

ARTICLE 18 PARA. 3

"With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake: to liberalise, individually or collectively, regulations governing the employment of foreign workers;"

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter) :-

Question A

Please specify whether, and if so under which conditions, a foreign worker may:

- a. change his place of occupation;*
- b. change his occupation;*
- c. claim the renewal of the permit.*

Question B

Please describe the situation of the holder of a work permit of he loses or gives up his

job while the permit is still valid.

Question C

Please indicate the other steps taken to apply this provision of the Charter.

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) Articles 7, 8, 11, 14, 17 and 18 and Questions for answer by Ireland arising from our 19th Report, submitted in 2001, under the original European Social Charter (1961):

Paragraph 3 – Liberalising regulations

The Committee recalls that in Ireland the legal basis for the right of entry, residence and employment of foreigners is laid down in the Aliens Act of 1935, as subsequently amended by a series of Orders. It also notes that it is planned to replace this Act with a comprehensive immigration code. **Question -The Committee wishes to be informed of any changes that may be made.**

Access to the national labour market

The Committee recalls the main features of Irish regulations with regard to the issue of work permits:

Except for specific occupations (doctor registered with the Irish Medical Council, artists, professional sportspersons), a work permit will be issued only if the employer has been unable, despite all reasonable efforts (advertising, search for job applicants through *FÁS* or other employment agencies), to find an Irish or EEA national to fill the position in question. It also notes that a foreign worker in possession of a work permit can neither change jobs, as the permit is issued to a particular employer on the basis of the employee's unique skills or qualifications, nor change employer.

Persons wishing to work in Ireland on a self-employed basis must submit, prior to entering Ireland, a business plan including proof that they have sufficient financial means. They must further produce a statement of good character issued by the authorities of the country in which they resided for the previous ten years. The Committee holds that the requirement for a statement of good character is too restrictive with a view to the application of Article 18 para. 3 of the Charter.

They also must have 300,000 Irish Pounds (IEP) in capital. The Committee notes, however, that a lower initial investment may be accepted in certain circumstances (compatibility with the Council Resolution of 30 November 1994 relating to the Limitations on the Admission of Third-Country Nationals to the territory of the Member States for the purpose of pursuing activities as self-employed persons¹¹ and specific provisions of the Agreements of Association with the European Union, where applicable).

The Committee has already underlined the restrictive nature of these regulations in its previous conclusions and notes that no steps have been taken to liberalise them. **Question - It therefore asks that when reforming the immigration laws, due account be taken of the need to liberalise the regulations in accordance with Article 18 para. 3.**

The report does not contain any information either about access to public sector jobs. **Question -The Committee accordingly asks that the next report state in detail which jobs are subject to a nationality condition and, in each case, the reasons for excluding non-nationals.**

Exercise of the right to employment

As the work permit is issued to the employer, the foreign worker cannot apply for renewal of the permit; only the employer may make such application. Only when the permit has been renewed for five consecutive years in respect of the same employer, moreover, can a work permit without time limit be issued for the worker in question. The Committee considers that these restrictions are in breach of Ireland's obligation under Article 18 para. 3 of the Charter.

¹¹ Official Journal No. C 274 of 19/9/1994, pp. 7-9.

Consequences of job loss

The report states that should a non-national lose or give up his job, he may remain in Ireland for the term of validity of his residence permit. During this period, another employer may apply for a work permit to employ him, according to the same procedures and on the same conditions as the original work permit (i.e. vacancy cannot be filled by an Irish national, etc.).

Questions - The Committee asks that the next report clarify the position of a foreign worker whose residence permit is due to expire and who has lost his job. It wishes to know in particular whether the residence permit can be extended in order to allow the person sufficient time to find a new job. Likewise, it wishes to know whether the residence permit can be extended pending a court decision in respect of any appeal against dismissal, which might be filed by the person in question.

Conclusion

The Committee concludes that the situation in Ireland is not in conformity with Article 18 para. 3 of the Charter due to the absence of measures to liberalise existing regulations.

Text of Ireland's Second Report under the Revised European Social Charter in
relation to Article 18, Paragraph 3:

**Note: Changes which have occurred since the submission of our 19th
Report under the original European Social Charter in 2001, are shown in
red print.**

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Article 18 – The Right to engage in a Gainful Occupation in the Territory of Other Contracting Parties: - Paragraph 3 – Liberalising Regulations

Response from the Department of Enterprise, Trade and Employment

18.3.1 Please see sub-paragraphs 18.1.5 to 18.1.32 above concerning Working Visas for Employment in Ireland.

Question A, (sub-paragraphs 18.3.2 to 18.3.4 below refer).

18.3.2 A non-national in respect of whom a Work Permit has been issued may not change his/her place of occupation except where the employer changes location.

18.3.3 Work Permits are issued to employers in respect of a named non-national employee to perform a specified task in cases where the employer is unable to recruit readily the required skill from within the EEA. It is not open therefore for the employee to change his/her occupation particularly as the Work Permit is issued to the employer on the basis of the employee's unique skills or qualifications.

18.3.4 **The Employment Permits Act 2006 (No. 16 of 2006) provides that the work permit will now in all cases be issued to the employee, whether the application is made by the employer or the employee. This Act may be accessed at the following website:**

[http://www.ictireland.ie/ibec/ibecdoclib3.nsf/549a3c11fc20dcf980256f24004e9727/2abf9743336d65ee80257030003a4bca/\\$FILE/Employment%20Permits%20Bill.pdf#search=%22Employment%20Permits%20Act%202006%22](http://www.ictireland.ie/ibec/ibecdoclib3.nsf/549a3c11fc20dcf980256f24004e9727/2abf9743336d65ee80257030003a4bca/$FILE/Employment%20Permits%20Bill.pdf#search=%22Employment%20Permits%20Act%202006%22)

Question B - (sub-paragraph 18.3.5 below refers).

18.3.5 When a non-EEA national enters the State as an employee for an employer who has received a Work Permit, that non-national is obliged to register with the Immigration Authorities. Once registered, he/she is legally resident. Should he/she lose or give up his/her job, the employer's Work Permit expires. The non-national is entitled to remain in the State for the term of validity of his/her registration with the Immigration Authorities. During that time, if another employer applies for a Work Permit to employ him/her then it would be possible, therefore, for him/her to become employed again in this way.

Question C, (sub-paragraphs 18.3.6- 18.3. 17 refer).

18.3.6 **The current system for employment permits operates largely on an administrative basis.**

18.3.7 Since 1st May 2004, nationals of the 25 EU member states and the wider European Economic Area and Switzerland are free to come to Ireland to work or reside without restriction or prior permission.

18.3.8 The Employment Permits Act 2003 was enacted to address the labour market position following enlargement of the EU. The Act contains three significant provisions. The legal obligation to obtain an employment permit to work in the State was transferred from secondary to primary legislation, by means of Section 2 of this Act. This is to ensure greater accountability, certainty and transparency.

18.3.9 **The 2003 Act, specifically provides a legislative basis for the Government's decision to allow freedom of movement to nationals of the new Member States of the EU from the date of their accession to the EU on 1 May 2004. The third main provision of the 2003 Act relates to the introduction of offences and penalties against employers and employees who are working in the State without official approval.**

18.3.10 **The Employment Permits Act 2006, which has recently been passed by both Houses of Parliament, puts in place a statutory framework within which to implement an active, managed economic migration policy; and it provides a number of important new protections for migrant workers who are working in Ireland.**

18.3.11 The core of the new system will be a job offer and it will comprise:

- a Green Card for occupations where there are skills shortages, which will be for a restricted list of occupations in the annual salary range from €30,000 to €60,000 and for a more extensive list of occupations in the annual salary range above €60,000; Green Cards will be issued for two years initially, and normally permanent or long-term residence after that. There can be immediate family reunification and spouses will be allowed to work.
- a re-established Intra-Company transfer scheme for temporary trans-national management transfers;
- for other sectors work permits will only be granted for an eligible list of occupations where it can be demonstrated, following a rigorous labour market test, that suitable employees are not available within the EEA.

Protection of Migrant Workers

18.3.12 The Employment Permits Act 2006 provides a number of new important protections for migrant workers who are working in Ireland:

- **Green Card or Work Permit will be granted in all cases to the employee;**
- *Application may be made by either employer or employee (including renewal of permit);*

- **An employment permit shall include or be accompanied by a summary of the principal employment rights of the employee;**
- **The employer is prohibited from making deductions from the employees remuneration for recruitment expenses and from retention of his personal documents.**

- **Any employer who contravenes any of the provisions of the Bill will be guilty of an offence and liable to prosecution.**

18.3.13 The new arrangements which are likely to be in place by year-end 2006 or early 2007, address the requirements of Article 18 Para. 3 of the Charter. The Act shall be brought into force by means of an Order signed by the Minister for Enterprise, Trade and Employment.

Public Sector Jobs Check Public Services Appointments' Commission website
<http://www.cpsa-online.ie/>

18.3.14 The general position is that foreign nationals legally resident in the State, (with permission to work) may access a number of public sector jobs.

18.3.15 Some jobs in the Civil Service have specific nationality requirements. For example, you must be an Irish citizen to apply for the post of Third Secretary in the Department of Foreign Affairs. This job entails representing Ireland abroad -including assisting Irish citizens and providing information on Ireland and briefing the foreign press on Irish affairs and it is considered an appropriate requirement for the position.

18.3.16 Positions such as Executive officer in that Department require you to be an EU citizen.

18.3.17 Applicants for the Irish Police force (An Garda Síochána) must be:

- (a) A national of a European Union Member State, or

(b) A national of an EEA State or the Swiss Confederation, or

(c) Be a refugee under the Refugee Act, 1996, or

(d) Have a period of one year's continuous residence in the State immediately before the 1st September, 2005 and, during the eight years immediately preceding that period, have had a total residence in the State amounting to four years. (Periods of illegal residence or residence as an asylum seeker do not count in the qualifying five year period).

Text of ARTICLE 18 PARA. 4 of the Revised European Social Charter

ARTICLE 18 PARA. 4

"With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake: the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Parties."

Question asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Please indicate whether there are any restrictions or special conditions affecting the right of such persons to leave the country for this reason and, if so, what the regulations are.

Original European Social Charter (1961) – European Committee of Social Rights (ECSR) Addendum to Conclusions XV-2 (Ireland) Articles 7, 8, 11, 14, 17 and 18 and Questions for answer by Ireland arising from our 19th Report, submitted in 2001, under the original European Social Charter (1961): -No questions for answer.

Paragraph 4 – The right of nationals to leave the country

The Committee notes from the Irish report that there have been no changes to the situation, which it has previously considered to be satisfactory.

It therefore concludes that the situation in Ireland is in conformity with Article 18 paragraph. 4 of the Charter.



Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 18, Paragraph 4:

Article 18 – The Right to engage in a Gainful Occupation in the Territory of Other Contracting Parties: Paragraph 4 – The Right of Nationals to leave the Country to engage in Gainful Employment in Other Contracting Parties:

18.4.1 There continue to be no restrictions in this regard.

Ends

ARTICLE 26: THE RIGHT TO DIGNITY AT WORK

Text of ARTICLE 26 PARA. 1 of the Revised European Social Charter

Please indicate how organisations of employers and workers are consulted by the authorities on the measures required to implement each of the paragraphs of Article 26 (procedure and level of consultation, content, and frequency of consultation).

The Second Report by the Government of Ireland to the Council of Europe on our implementation of the provisions of the Revised European Social Charter will be submitted to the representative bodies of employers and workers, namely the Irish Business and Employers' Confederation and the Irish Congress of Trade Unions for their information and comment. Their comments will be forwarded to the Council of Europe.

ARTICLE 26 PARA. 1

"With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations: to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct;"

=====

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please indicate which forms of behaviour are considered as sexual harassment.

Question B

Please indicate what awareness-raising, information and preventive activities to counter sexual harassment at work or in relation to work are carried out (e.g. description, target groups, expenditure, etc.). Please indicate the role of the employer in preventing and combating sexual harassment. Please provide details with regard to training schemes, publications and infrastructures that exist and that employers put into place in order to effectively combat sexually harassing behaviour.

Please indicate any specialised infrastructures to receive and deal with complaints against such behaviour (e.g. ombudsman, counselling, etc.).

Question C

Please describe any protective measures undertaken to prevent sexual harassment

in the workplace and indicate whether any sanctions are provided by law against such behaviour (in particular financial and other compensation).

Please give details on the relevant court procedures, indicating where the burden of proof lies. Please indicate the employers' liabilities in case of recorded sexual harassment at the workplace.

Question D

Please indicate if re-instatement is provided in cases of dismissal or voluntary resignation as a result of sexual harassment at work or in relation to work and in cases where re-instatement is not possible, please indicate the amount of the damages awarded. Please specify the measures provided to combat any form of retaliation following a sexual harassment claim.

Article 26 is a new provision of the Revised Social Charter. Accordingly no previous Irish Report on this provision has been submitted by the Government of Ireland.

Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 26, Paragraph 1:

26.1.1 Question A above refers:

Please indicate which forms of behaviour are considered as sexual harassment.

Section 14A(7) of the Employment Equality Act 1998, as amended by the Equality Act 2004, defines sexual harassment as follows:

“(a)(ii) references to sexual harassment are to any form of unwanted verbal, non-verbal or physical conduct of a sexual nature,

being conduct which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.”

{link to Employment Equality Acts:<http://www.gov.ie/bills28/acts/1998/a2198.pdf>
<http://www.oireachtas.ie/documents/bills28/acts/2004/A2404.pdf>

26.1.2 Question B above refers:

Please indicate what awareness-raising, information and preventive activities to counter sexual harassment at work or in relation to work are carried out (e.g. description, target groups, expenditure, etc.). Please indicate the role of the employer in preventing and combating sexual harassment. Please provide details with regard to training schemes, publications and infrastructures that exist and that

employers put into place in order to effectively combat sexually harassing behaviour.

Please indicate any specialised infrastructures to receive and deal with complaints against such behaviour (e.g. ombudsman, counselling, etc.).

The Employment Equality Act 1998, as amended by the Equality Act 2004, is the main piece of legislation in Ireland for the prevention of harassment and sexual harassment. The Equality Authority is the body responsible for the implementation of this Act, including the provisions relating to sexual harassment. The Equality Authority produced a Code of Practice on Harassment and Sexual Harassment at Work (available at the following link: http://www.equality.ie/getFile.asp?FC_ID=58&docID=342) <http://www.oireachtas.ie/documents/bills28/acts/2004/A2404.pdf>

26.1.3 Question C above refers:

Please describe any protective measures undertaken to prevent sexual harassment in the workplace and indicate whether any sanctions are provided by law against such behaviour (in particular financial and other compensation).

Please give details on the relevant court procedures, indicating where the burden of proof lies. Please indicate the employers' liabilities in case of recorded sexual harassment at the workplace.

The Employment Equality Act 1998 requires employers to act in both a preventative and remedial way in relation to sexual harassment. The redress which may be ordered by the court on finding a case for sexual harassment include an order for compensation, an order for equal treatment and an order for re-instatement or re-engagement, with or without an order for compensation.

The procedure in relation to taking a case is as follows: Forms (which are available from the Equality Tribunal's website www.equalityauthority.ie) are completed and submitted to the Tribunal, within a specified time limit, the equality officers in the tribunal make a decision as to whether there is a case, notify parties, the hearing takes place and a decision is reached. The equality officer can make an order for compensation, if he/she deems it appropriate. After a decision has been issued, each party has 42 days to make an appeal about the decision.

In 2001, Ireland introduced legislation regarding the burden of proof in gender discrimination cases (S.I. 337 of 2001). This statutory instrument provides for the transfer to a respondent of the evidential burden of proof, where a complainant establishes a prima facie case of discrimination. A copy of S.I. No, 337 of 2001 is available at the following website link: <http://www.irishstatutebook.ie/front.html>

26.1.4 Question D above refers:

Please indicate if re-instatement is provided in cases of dismissal or voluntary resignation as a result of sexual harassment at work or in relation to work and in cases where re-instatement is not possible, please indicate the amount of the

damages awarded. Please specify the measures provided to combat any form of retaliation following a sexual harassment claim.

Section 82(1) of the Employment Equality Act 1998, as amended by the Equality Act 2004 allows for the following forms of redress

- (a) an order for compensation in the form of arrears of remuneration (attributable to a failure to provide equal remuneration) in respect of so much of the period of employment as begins not more than 3 years before the date of the referral under *section 77(1)* which led to the decision;**
- (b) an order for equal remuneration from the date referred to in *paragraph (a)*;**
- (c) an order for compensation for the effects of acts of discrimination or victimisation which occurred not earlier than 6 years before the date of the referral of the case under *section 77*;**
- (d) an order for equal treatment in whatever respect is relevant to the case;**
- (e) an order that a person or persons specified in the order take a course of action which is so specified.**

Section 82(4) provides that:

“(4) The maximum amount which may be ordered by the Director or the Labour Court by way of compensation under *subsection (1)(c)* or by that Court under *subsection (2)(b)*, in any case where the complainant was in receipt of remuneration at the date of the reference of the case, or if it was earlier, the date of dismissal, shall be an amount equal to 104 times either—

- (a) the amount of that remuneration, determined on a weekly basis, or**
- (b) where it is greater, the amount, determined on a weekly basis, which the complainant would have received at that date but for the act of discrimination or victimisation in question.”**

As we have not submitted a Report on this provision of the Revised European Social Charter before, there is no previous Report to be updated nor, are there any questions directly asked of Ireland by the ECSR (European Committee of Social Rights) in relation to such a Report.

ARTICLE 26 PARA. 2

Text of ARTICLE 26 PARA. 1 of the Revised European Social Charter

“With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers’ and workers’ organisations: to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct”.

=====

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please indicate which forms of behaviour are considered as reprehensible or distinctly negative and offensive actions directed against individual workers.

Question B

Please indicate any prejudicial actions against workers’ dignity other than sexual harassment, which are recognised and combated through different measures such as legislation, regulations, collective agreements, etc.

Question C

Please answer the questions B to D of paragraph 1 with respect to reprehensible or distinctly negative and offensive actions directed against workers other than sexual harassment.

Article 26 is a new provision of the Revised Social Charter. Accordingly no previous Irish Report has been submitted by the Government of Ireland in respect of this provision of the Revised Charter.

Text of Ireland’s Second Report under the Revised European Social Charter in relation to Article 26, Paragraph 2:

26.2.1 Question A above refers:

Please indicate which forms of behaviour are considered as reprehensible or distinctly negative and offensive actions directed against individual workers.

Harassment that is based on the following grounds –marital status, family status, sexual orientation, religion, age, disability, race, or Traveller community ground - is a form of discrimination in relation to conditions of employment. This form of harassment comes under the scope of, and is prohibited by, the Employment Equality Acts 1998 and 2004. This form of harassment comes under the scope of, and is prohibited by, the Employment Equality Acts 1998 and 2004.

26.2.2 Question B above refers:

Please indicate any prejudicial actions against workers' dignity other than sexual harassment, which are recognised and combated through different measures such as legislation, regulations, collective agreements, etc.

Harassment that is based on the following grounds –marital status, family status, sexual orientation, religion, age, disability, race, or Traveller community ground - is a form of discrimination in relation to conditions of employment. This form of harassment comes under the scope of, and is prohibited by, the Employment Equality Acts 1998 and 2004.

26.2.3 Question C above refers:

Please answer the questions B to D of paragraph 1 with respect to reprehensible or distinctly negative and offensive actions directed against workers other than sexual harassment.

All provisions which apply to sexual harassment also apply to harassment of a non sexual nature.

As we have not submitted a Report on this provision of the Revised European Social Charter before, there is no previous Report to be updated nor, are their any questions directly asked of Ireland by the ECSR (European Committee of Social Rights) in relation to such a Report.

Ends

ARTICLE 27: THE RIGHT OF WORKERS WITH FAMILY RESPONSIBILITIES TO EQUAL OPPORTUNITIES AND EQUAL TREATMENT

Text of ARTICLE 27 PARA. 1 of the Revised European Social Charter

ARTICLE 27 PARA. 1 :

“With a view to ensuring the exercise of the right to equal opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake: to take appropriate measures:

a. to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;

b. to take account of their needs in terms of conditions of employment and social

security;

c. to develop or promote services, public or private in particular child daycare services and other childcare arrangements;”

=====

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Question A

Please describe the measures taken to implement this provision, in particular the measures taken in the field of vocational guidance and training, including retraining.

Question B

Please describe the measures taken to implement this provision, especially measures concerning the length and organisation of working time.

Please indicate the measures taken to allow workers with family responsibilities who so wish to work part-time and to allow them to return to full-time employment. Where appropriate, please describe the rules applying to these different forms of work, their supervision and the applicable social protection (please specify in particular qualifying conditions for social security, the benefits which these workers may claim, etc.). See appendix to Article 27.

Question C

Please indicate the services (public or private, in particular child daycare services and other childcare arrangements) available to workers with family responsibilities, stating their nature and capacity. Please indicate how the quality of these services is assured (approval procedure, supervisory system, staff training, etc.) as well as access (cost and geographical location across the national territory). Please indicate the measures taken to promote access to these services for low-income families.

As we have never submitted a report on this provision of the Revised European Social Charter before, there is no previous report to be updated nor are there any questions directly asked of Ireland by the ECSR (European Committee of Social Rights) in relation to such a report.

Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 27, Paragraph 1 :- Questions A, B and C refer.

Material supplied by the Department of Justice, Equality and Law Reform :-

27.1.1 In relation to the right of workers with family responsibilities to equal opportunities and to equal treatment, the Employment Equality Act 1998 (Act No. 21 of 1998), as amended by the Equality Act 2004, which may be accessed at

website <http://www.irishstatutebook.ie/front.html> or at {link to Employment Equality Acts: <http://www.gov.ie/bills28/acts/1998/a2198.pdf> <http://www.oireachtas.ie/documents/bills28/acts/2004/A2404.pdf> }

discrimination in employment (including access to employment and vocational training) on nine grounds including marital status and family status. The Act also permits positive action measures to promote equal opportunities for women and men, particularly those geared towards removing existing inequalities which affect women's opportunities in access to employment, vocational training and promotion.

27.1.2 In relation to the development and promotion of childcare facilities, the Department of Justice, Equality and Law Reform is responsible for an Equal Opportunities Childcare Programme (EOCP). The Programme is designed primarily to support local communities, who are helping parents with childcare responsibilities to access employment, education and training opportunities. It is targeted primarily at community based projects in disadvantaged areas but also has an equal opportunities dimension to assist women and men generally to meet their labour market child needs.

Further Information on EOCP (Employment Opportunities Childcare Programme) -

27.1.3 Background

The Department of Justice, Equality and Law Reform has lead responsibility for the co-ordination of the Government's National Childcare Policy including the Equal Opportunities Childcare Programme (EOCP). ADM manages the day-to-day operations of the Programme on their behalf.

The EOCP is funded by the Irish Government and part-financed by the European Union Structural Funds under the National Development Plan 2000-2006. The National Development Plan (NDP) is the largest and most ambitious investment plan ever drawn up for Ireland. It provides for investment of over €57 billion of Public, Private and EU Structural & Cohesion Funds over the period 2000-2006.

The Government has made Childcare a priority under the National Development Plan 2000-2006 and funding in excess of €317 million has been allocated specifically to Childcare. Subsequently a further allocation by the Government in the budget of 2000 increased the total funding available up to 2006 to €436 million.

For the purposes of the EOCP, the term childcare is defined as the provision of day-care and sessional facilities and services for pre-school aged children and for school going children out of school hours (e.g. pre-schools, day care centres, Naíonraí, nurseries, crèches, playgroups, individual childminders and after-school groups).

It includes services offering care, educational and socialisation opportunities for children to the benefit of children, parents, employers and the wider community.

27.1.4 Aims/Objectives

The Programme's primary aim is to enable parents to avail of training, education and employment opportunities through the provision of quality childcare supports.

The Guiding Principles of the Programme are:

- The needs and rights of children
- Equal opportunities and equality of access and participation
- Diversity
- Partnership
- Quality

Further details are shown in the appendix 1 to this provision of the Charter :-

The Objectives of the Programme are:

- To improve the quality of childcare in Ireland.
- To increase the number of childcare facilities and childcare places.
- To introduce a co-ordinated approach to the delivery of childcare services.

The Core actions of the Programme are:

A. EOCIP grant schemes – directly to childcare services & strategic organisations

Co-ordinating Structures – national & local



A. EOCIP Grant Schemes

Sub-Measure 1 (Capital)



Capital Grants are available to support:

- Community/not for profit childcare groups to establish/upgrade childcare facilities/services (no grant ceiling applies)

Self-employed childcare providers to establish/upgrade childcare facilities/services (up to a maximum of €50,790 available with matching funding of 35% required) For more

information on Capital and Staffing Grants, including where to obtain application forms and guidelines, please see appendix 2 to this provision of the Revised Charter or [CLICK HERE](#)

*Sub-Measure 2
(Staffing)*



Support for community/not for profit organisations (which demonstrate a focus on disadvantage) to contribute towards staffing costs, with a view to enhancing quality

*Sub-Measure 3
(Quality Improvement)*

- **Operational funding for National Voluntary Childcare Organisations to implement strategic plans which impact on the EOCP objectives**
- **Operational funding for 33 County Childcare Committees to implement strategic plans which impact on the EOCP objectives**
- Operational funding for National/Regional Quality Improvement action projects to implement strategic actions which impact on the EOCP objectives



B. National Co-ordinating Structures

1. **National Co-ordinating Childcare Committee (NCCC)** to oversee the development of a childcare infrastructure in an integrated manner throughout the county.

To assist in its work the Committee has established a number of sub-groups as follows:-

- Certifying Bodies Sub-Group
- Advisory Sub-group (for Children with Special Requirements, Minority Ethnic Groups and Traveller Children)
- Working Group on School Aged Childcare
- Childminding Sub-Group

Please [CLICK HERE](#) for further information about the NCCC sub-groups. That information is also in appendix 3 to this provision of the Revised Charter.

2. **Interdepartmental Policy Committee** for Childcare to bring about cross-departmental and cross agency co-operation/co-ordination in Childcare.

3. County Childcare Committees working at County/City level operating as the key local component in the development of a co-ordinated approach to quality childcare.

Please [CLICK HERE](#) for further information about the County Childcare Committees. That information is also in appendix 4 to this provision of the Revised Charter.

27.1.5 ADM's Role

ADM – Area Development Management Limited, now known as Pobal, is an intermediary company, operating under company law. It was established by the Irish Government in agreement with the European Commission to promote social inclusion reconciliation and equality and to counter disadvantage through local social and economic development. ADM manages programmes on behalf of Government Departments. It manages the day-to-day operations of the Equal Opportunities Childcare Programme (EOCP) 2000-2006 on behalf of and in consultation with the [Department of Justice, Equality and Law Reform](#) (DJELR). See website

<http://www.adm.ie/Pages/programs.htm>

Operational Management

ADM is responsible for the development of effective systems to manage, monitor, support and administer the programme, including: -

- Management and implementation of clear and transparent internal appraisal procedures leading to recommendations to the Programme Appraisal Committee (PAC).
- Management of contractual arrangements with all EOCP beneficiaries in all its forms (including support, development, training, evaluation, finance and monitoring).
- Effective financial management of the Programme and monitoring of expenditure trends and progress.
- Implementation of audit and financial control procedures.
- Implementation of a qualitative and quantitative performance monitoring system in consultation with the DJELR.
- Organisation of seminars and workshops to support the Programme implementation.
- Development of effective reporting systems to the DJELR, Regional Assemblies etc.

Policy Development and Co-ordination

ADM contributes through the following: -

- Assist/input in to the policy elements of the Programme;
- Preparing reports and strategies based on the lessons learnt in consultation with the DJELR.
- Assessing and evaluating County Childcare Strategic Plans with the DJELR and make recommendations to the National Childcare Co-ordinating Committee (NCCC).
- Developing guidelines for County Childcare Committees and liaise with them to support and monitor the implementation of their strategic plans.
- Consulting with relevant bodies to ensure synergy and avoid duplication;.
- Participating in national co-ordination structures; i.e. the NCCC and Inter Departmental Policy Committee.
- Providing technical support to the NCCC.

27.1. 6 EOCP: National Demographic Context

Recent demographic, social and economic changes in Ireland, in particular the rapidly rising female population in the workforce, have resulted in increased demand for childcare services. Labour force participation among women with children rose from 40.8% in the first quarter of 1998 to 49.2% in the first quarter of 2002. A significant increase also took place in the participation rates of mothers with one or more children under the age of 5. Labour force participation among this group increased from 48% to 53% over the same period. The baseline of existing provision has been low compared to other European Countries with less than 3,000 childcare services operating in the state in 1999-2000 of which 75% only provide services for 3.5 hours or less.

Diminishing labour supply to work within childcare services has compounded the lack of availability and growth potential of the childcare sector. Childcare has traditionally been a service operating in the context of low pay, voluntary management and ad hoc planning and development. Changes in unemployment patterns over recent years, with unemployment rates now at 5%, have impacted on the availability of a labour force for the childcare sector, as have such trends as:

- Childcare workers leaving the sector to secure better paid employment elsewhere.
- Women who had previously opted to work as childminders seeking alternative better-paid employment.

27.1.7 Childcare Policy Landscape

The priority given to the childcare issue in the National Development Plan 2000-2006 and the establishment of the national and local structures marks a turning point for childcare in Ireland. The issue of childcare has been on the national agenda for the past two decades and has been marked by the publication of a series of policy documents over that time, most recently:

- National Childcare Strategy, Partnership 2000 Expert Working Group on Childcare (1999) Department of Justice, Equality & Law Reform – please see website
-

- [http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ5Z4FC8-en/\\$File/Childcare1.pdf#search=%22National%20Childcare%20Strategy%22](http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ5Z4FC8-en/$File/Childcare1.pdf#search=%22National%20Childcare%20Strategy%22)
- Report on the Commission of the Family (1998) Department of Social & Family Affairs <http://www.welfare.ie/publications/comfam.html>
- Report on the National Forum for Early Childhood Education (1998) Department of Education & Science – see website http://www.clcc.ie/childcare_policy.asp

National Children's Strategy (2000) Department of Health & Children which may be accessed at websites <http://www.nco.ie/publications/?year=2000> or http://www.nco.ie/upload_documents/Exec_summary_in_English.pdf

Ireland's Second Report to the UN Committee on the Rights of the Child may be accessed at website http://www.nco.ie/upload_documents/final_pdf_UNCRC_Oct_2005.pdf

Whilst the EOCP can be seen as a major influence in dealing with Ireland's childcare situation, it is only one important part of the overall National Children's Strategy. One of the most significant factors in achieving the overall objectives of the Programme will be the effectiveness of the 33 County Childcare Committees' delivery of the County Childcare Strategic Plans.

Outside of the EOCP, the role of other Departments and agencies, Social Partners etc. in contributing to the development of childcare in Ireland cannot be overlooked. One example will be the Department of Health and Children's review of the Pre-School Services Regulations (1996), which commenced in 2002, to further promote and audit quality in the childcare sector.

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As we have never submitted a report on this provision of the Revised European Social Charter before, there is no previous report to be updated nor are there any questions directly asked of Ireland by the ECSR (European Committee of Social Rights) in relation to such a report.

Appendix 1 – Sub-Paragraph 27.1.4 above refers :-

The Guiding Principles of the CCCs are taken from Chapter 5 of the National Childcare Strategy 'Report of the Partnership 2000 Expert Working Group on Childcare' published in January 1999.

*(For a full copy of the National Childcare Strategy, please contact:
The Department of Justice, Equality and Law Reform on Lo-call 1890 20 90 30)*

-
- Chapter 5 Introduction
 - Guiding Principle 5.1: Needs and rights of children
 - Guiding Principle 5.2: Equality of access and participation
 - Guiding Principle 5.3: Diversity
 - Guiding Principle 5.4: Partnership
 - Guiding Principle 5.5: Quality
 - Summary

The National Childcare Strategy: Guiding Principles

This chapter presents a statement of principles agreed by the Expert Working Group which underpin the proposed National Childcare Strategy. The principles have been formulated following a lengthy consultation process involving all the members of the Expert Working Group. It is intended that the principles should guide and inform childcare policy formation and implementation in addition to underpinning the strategy itself. The principles should also guide all childcare services, whether they be family based or centre based, whatever the pattern of service delivery, and whether the services are in the public or private sector. They also provide reference points against which progress and shortfalls can be measured.

The Expert Working Group on Childcare recognises parents as the primary carers and educators of their children. Children learn from birth and parents are their first teachers. Parents should be supported in their role by a variety of different means geared to meeting the needs of both children and parents. Indeed, society should share this responsibility with parents. Any discussion on childcare must consider children within the context of their family and community and society in general. The role of childcare in society is to support a positive quality of life for both children and parents. Amongst the elements which determine quality of life in Irish society, as in most others, are access to resources which provide an adequate standard of living, a manageable stress environment, a sense of achievement, social interaction, progress and development. This is true for both adults and children.

The Expert Working Group has identified 12 principles which have been organised under the following headings:

- Needs and rights of children
- Equality of access and participation
- Diversity
- Partnership
- Quality

5.1 NEEDS AND RIGHTS OF CHILDREN

- | |
|---|
| <ul style="list-style-type: none">• The rights and needs of each child must be the first and primary consideration in the delivery of childcare. |
|---|

The Expert Working Group, while acknowledging that children, parents and community all have needs and rights in relation to childcare, believes that the primary consideration in a National Childcare Strategy is the rights and needs of children.

The basic principle underlying the rights of children is that society has an obligation to meet the fundamental needs of children and to provide assistance to aid the development of the child's personality, talents and abilities. Therefore, a right of access for every child to quality childcare in a safe and secure environment where he/she is respected and accepted, should be guaranteed regardless of the status of the child or of his/her parents.

The Expert Working Group endorses the United Nations Convention on the Rights of the Child. In considering the needs and rights of children in relation to childcare provision, the following seven articles of the Convention are particularly relevant. These seven articles reflect the key components of the guiding principles outlined in this chapter. The full text of these articles is included in Appendix 5.1.

Article 2 enshrines the principle of non-discrimination and equality for all children and requires State parties to ensure that the child is protected from all forms of discrimination.

Article 3 requires that the best interest of the child be a primary consideration in all actions concerning children, recognises rights and duties of parents and others and sets out the need for standards in services and facilities responsible for the care of children.

Article 12 upholds the rights of a child to express an opinion and to have that opinion taken into account in matters affecting the child.

Article 18 sets out the duty of the State to support parents with their child-rearing responsibilities.

Article 23 uphold the rights of the child with a physical or mental disability to effective access to care and education in order that the child will achieve the fullest possible social integration and individual development.

Article 30 upholds the rights of a child who is a member of a minority, whether it is ethnic, religious or linguistic, to enjoy his or her culture, to practise his or her religion, or to use his or her language.

Article 31 recognises the right of the child to engage in play and recreational activities appropriate to the age of the child.

- **All childcare provision should be child-centred in its ethos, policies, practices, curricula, premises, personnel/carer attitudes and environment.**

A child-centred service is one which views the child as the primary client and evaluates itself in terms of the outcomes for individual children. A child-centred ethos also involves a commitment from childcare providers to examine their attitudes and beliefs about children and childhood. Child-centredness involves a holistic approach to children. It requires that individual children's emotional, social, physical, cognitive and cultural needs be addressed. All forms of childcare, therefore, should provide children with a nurturing experience that enhances their development and provides for their well being. A child-centred ethos is one which supports positive techniques of guidance and limit setting in order to encourage socially acceptable behaviour.

A child-centred ethos also requires providers to put processes in place which safeguard children's rights. Under the UN Convention, children have a right to say what they think about anything which affects them and must be listened to carefully (Article 12). Childcare

providers should develop ways of listening to children's views according to the age and maturity of the child and discussing them seriously should be part of the process of developing practice. However, the Expert Working Group acknowledges that a merely intellectual interpretation of what children say must be guarded against.

- **Care and education are inextricably linked elements in a child's holistic development – this reality must be reflected in the ethos and programme of all services.**

Children are learning all the time. The Expert Working Group considers that it is neither possible nor useful to separate out the education and care elements of early childhood services. It is not possible to have quality childcare without having an influence on children's learning opportunities side by side with high quality care.

The Expert Working Group endorses the European Commission Network on Childcare action programme, Quality Targets in Services for Young Children (see introduction), but in particular in this instance, Targets 16, 17 and 18, which refer to the educational element of childcare. These are as follows:

Target 16: *All collective services for young children 0 to 6 years whether in the public or private sector should have coherent values and objectives including a stated and explicit education philosophy.*

Target 17: *The educational philosophy should be drawn up and developed by parents, staff and other interested groups.*

Target 18: *The educational philosophy should be broad and include and promote inter alia:*

- *the child's autonomy and concept of self*
- *convivial social relationships between children and adults*
- *a zest for learning*
- *linguistic and oral skills including linguistic diversity*
- *mathematical, biological, scientific, technical and environmental concepts*
- *musical expression and aesthetic skills*
- *drama, puppetry and mime*
- *muscular co-ordination and bodily control*
- *health, hygiene, food and nutrition*
- *awareness of the local community.*

- **Play is one of the essential experiences of childhood. It is central to all aspects of young children's development and learning. All childcare services, therefore, should provide children with opportunities, materials, time and space (both indoor and outdoor) to play.**

Children's spontaneous play provides opportunities for exploration, experimentation and manipulation, all of which are essential for the construction of knowledge. During play a child learns to deal with feelings, to interact with others, to resolve conflicts and to gain a sense of competence. It is through play that children develop their imagination and creativity. The carer's role in

facilitating play is to provide developmentally appropriate play activities, adequate space, both indoors and outdoors and sufficient time.

5.2 EQUAL OPPORTUNITIES AND EQUALITY OF ACCESS AND PARTICIPATION

- **The provision of quality, affordable and accessible childcare is recognised as a mechanism to achieve equality of opportunity in education, training and employment for men and women.**

The provision of quality, affordable and accessible childcare is also recognised as a mechanism to create a framework where both men and women irrespective of their race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status, can participate equally in society. The role of childcare services in enabling parents, whether at home, in employment or in training, to avail of a childcare service as part of childrearing is also acknowledged.

- **All children should have equality of access to, and participation in, quality childcare.**

All forms of childcare provision as defined in the Introduction, should be “without discrimination of any kind, irrespective of the child’s or his/her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, property, disability, birth or other status” (UN Convention 2.1). Furthermore, the diverse cultural, religious, social and ethnic values of all children, their families and their community must be recognised and incorporated in the planning, delivery and implementation of childcare policy. It is recognised that this is particularly important for the Traveller community and children from other minority cultural groups.

Children with disabilities should have access to specialised assistance in integrated settings as a matter of right.

It is noted by the Expert Working Group that equality of access and participation in childcare requires that adult carers (parents, careworkers) and those who provide a framework, policies and resources to support their care should:

1. Take due account of the impact (both positive and negative) of their beliefs and practices on the type of care they provide and support.
2. Work in consultation with the child’s carers and, where appropriate, with the child in relation to the design, delivery, review and monitoring of childcare.

3. Take extra measures including, where relevant, affirmative actions to ensure that (a) there is an appropriate range and choice of childcare provision for those children who have been discriminated against and excluded and (b) their communities are actively involved in the planning, implementation and delivery of services and, where appropriate, are employed in those services.

Furthermore, it is recognised that in the context of equality of access and participation for all families and children, the National Childcare Strategy will need to facilitate a targeted approach so that the particular needs and interests of marginalised children or children with special needs are taken into account in the policy making process and in the on-going evaluation and implementation of the policy (i.e. the policy needs to be equality proofed and poverty proofed).

It is also recognised that childcare has an important role in combating family stress and social exclusion, particularly within families experiencing poverty and disadvantage. A targeted approach will be essential to facilitate equality of access and participation in disadvantaged communities, in particular for low income families, the unemployed, lone parents and those experiencing poverty, discrimination and social exclusion.

Within rural communities, isolation scattered populations, increased costs and transport facilities inhibit access to childcare services. Development of childcare services in rural communities will require a wide ranging, creative and flexible approach which must be based on local needs led planning.

- **It is essential that a national childcare strategy is sustainable on social, economic and cultural grounds.**

Childcare of the highest quality must be accessible to all parents irrespective of the child's or parent's circumstances. In this regard, the difficulties of providing childcare in socio-economic disadvantaged areas and communities are recognised and need to be addressed. Resources provided for the development of good systems of support for families should be regarded as an investment in the future of children and the country.

5.3 DIVERSITY

- **The provision of childcare in Ireland must acknowledge and appreciate the value of diversity in Irish society.**

The Expert Working Group recognises that there is a growing diversity of family life in Ireland. Childcare services and training must recognise the different family structures to which children can belong and provide for the needs of all families. In this regard, it is important to recognise the position of one-parent families in Ireland and ensure that children from one-parent families receive quality and accessible services. Inadequacies in general provision for all parents become more acute for lone parents and have increased negative consequences for their children.

The childcare environment must reflect a diverse intercultural and anti-discriminatory approach. There should be a wide range of appropriate equipment and images reflecting the background of all children including Travellers and children from other ethnic minority groups. Practices should reflect an approach which does not distinguish between children on the basis of gender. It should also provide an accessible and safe environment for children who could experience discrimination. In this regard, linguistic diversity should also be recognised and respected by facilitating the use of the child's language and that of the child's community in childcare.

The Expert Working Group also recognises that from an equality perspective, there is a great need to support childcare services through the medium of Irish within Gaeltacht areas and outside of them. Parents wishing to access Irish language childcare services for their children also need support. Parents who are raising children through the medium of Irish have a right of access to the highest standard of childcare through Irish Language to support them in their childrearing role.

Target 14 of the European Commission's Network on Childcare Action programme – Quality Targets in Services for Young Children states:

“All services should positively assert the value of diversity and make provision both for children and adults which acknowledges and supports diversity of language, ethnicity, religion, gender and disability, and challenges stereotypes.”

- **Different approaches to quality service development and provision are essential to meet the needs of families with children.**

The Expert Working Group considers it important that, in co-ordinating and developing childcare services, mechanisms are put in place to maintain and facilitate the diversity of provision that already exists within the sector (see Section 2.3 for details)

The European Commission on Childcare Network notes that high quality services accessible to all children can only be achieved within a national policy framework.

while at the same time supporting and improving the quality of such provision in an integrated way.

There is no single childcare service that will meet the needs of all children at different ages and stages of development, those living in different locations or in different circumstances. Children's needs are dynamic rather than static and each child's developmental needs must be provided for in any childcare service he/she receives.

Diversity of service provision will also require diversity of training. The tension between diversity and integration with respect to training must be acknowledged. It is necessary to provide training in environments that are attractive to the

participants, especially those potential participants who have little or no formal education and training and have found mainstream provision inaccessible and inappropriate.

Access to and availability of information on all aspects of childcare is essential if parents are to have options and to be able to make an informed choice in relation to types of childcare available and whether they wish to avail of those services for their children.

5.4 PARTNERSHIP

- **A partnership approach at national and local level is essential to ensure cohesion, co-ordination and effective collaboration at all levels: policy, planning and local implementation.**

Childcare services that are cohesive and integrated offer equal access to flexible, multi-functional and high quality services for all children and their parents. The development of good childcare services depends on the active engagement and the development of long term, co-operative and collaborative relationships between all stakeholders involved, i.e. children, parents, service providers, the non-governmental sector (NGO), employers, unions, and the State.

Co-operation between policy makers at national level must be complemented by local mechanisms that facilitate involvement of all interested parties at the planning stages and at the point of delivery. The establishment and implementation of a comprehensive monitoring mechanism is essential to ensure that equality of access, participation and quality assurance is being achieved through the childcare framework.

The Expert Working Group considers it important that the proposed National Childcare Strategy should build upon and enhance existing successful partnerships.

5.5 QUALITY

- **Achieving high quality childcare services is an integral part of the structure and implementation of the National Childcare Strategy.**

The European Commission Network on Childcare action programme, Quality Targets in Services for Young Children, (1996) states that “defining quality should be seen as a dynamic and continuous process, involving regular review and never reaching a final ‘objective’ statement” (see also Section 6.1). The Network notes that high quality services accessible to all children can only be achieved within a national policy strategy. This is so, however diverse the services and whatever the patterns of delivery, and whether the services are in the public, private or independent sector.

- **A quality childcare service must be regarded as one which provides enhancing experiences for children and positive interaction between adults and children.**

The Expert Working Group regards a quality service as one that:

- offers both care and play based educational opportunities appropriate to individual children’s age and stage of development;
- provides a high quality environment with equipment, materials, activities and interactions appropriate to the age and stage of development of each child being catered for;
- has a high adult/child ratio;
- has carers/personnel who are trained and registered with the lead agency;
- offers children continuity of relationships with adults and other children;
- works in partnership with parents of children attending;
- listens to children and gives due consideration to their wishes;
- provides equal opportunities for all children attending;
- promotes the cultural needs of children;
- provides adequate remuneration and working conditions for carers/personnel in recognition of the importance of their role;

- provides equal opportunities for carers/personnel;
- provides carers/personnel with support and opportunities for inservice training;
- in partnership with parents, links children into other appropriate community activities and services e.g. library, school;
- positively asserts the value of diversity;
- is accessible to all.

It is acknowledged that many rural and disadvantaged communities face a range of obstacles in meeting these quality indicators. Lack of information and training in childcare can hinder constructive development of quality childcare services. This is compounded by low wages for staff and the lack of secure long-term funding which places pressure on such communities to focus on short-term provision. Responding to such obstacles will require a multi-faceted approach to their resolution.

5.6 SUMMARY

Needs and rights of Children

- The rights and needs of each child must be the first and primary consideration in childcare.
- All childcare provision should be child-centred in its ethos, policies, practices, curricula, premises, personnel/carer attitudes and environment.
- Care and education are inextricably linked elements in a child's holistic development – this reality must be reflected in the ethos and programme of all services.
- Play is one of the essential experiences of childhood. It is central to all aspects of young children's development and learning. All childcare services, therefore, should provide children with opportunities and space (both indoor and outdoor) to play.

Equal Opportunities and Equality of Access and Participation

- The provision of quality, affordable and accessible childcare is recognised as a mechanism to achieve equality of opportunity in education, training and employment for men and women.
- All children should have equality of access to, and participation in, quality childcare.

- It is essential that a national childcare strategy is sustainable on social, economic and cultural grounds.

Diversity

- The provision of childcare in Ireland must acknowledge and appreciate the value of diversity in Irish society.
- Different approaches to quality service development and provision are essential to meet the childcare needs of families with children.

Partnership

- A partnership approach at national and local level is essential to ensure cohesion, co-ordination and effective collaboration at all levels: policy, planning and local implementation.

Quality

- Achieving high quality childcare services is an integral part of the structure and implementation of the National Childcare Strategy.
- A quality childcare service must be regarded as one which provides enhancing experiences for children and positive interaction between adults and children.

Appendix 2 – Sub-Paragraph 27.1.4 above refers :-



Equal Opportunities Childcare Programme (EOCP) 2000-2006



Staffing and Capital Grants

The following are EOCP grant schemes that are directly available to childcare providers:-



Capital Grants are available to support community/not for profit childcare groups to establish/upgrade childcare facilities/services (no grant ceiling applies).













Capital grants are available to support self-employed childcare providers to establish /upgrade childcare facilities/services (up to a maximum of €50,790 available with matching funding of 35% required)



Staffing grants are available to support community/not for profit organisations (which demonstrate a focus on disadvantage) to contribute towards staffing costs, with a view to enhancing quality.

? Frequently Asked Questions ?

Below are frequently asked questions about EOCP grants. Click each question for the answer:-

-  [Where can I get EOCP grant application forms and guidelines?](#)
-  [Can you guide me through the EOCP grant application process?](#)
-  [Is there a deadline for submission of applications?](#)
-  [Where can I get assistance in making my application?](#)
-  [What should EOCP grant applications demonstrate?](#)
-  [What criteria are used in assessing EOCP grant applications?](#)
-  [What about monitoring, reporting and supporting of successful applicants?](#)
-  [Does the Freedom of Information Act apply?](#)
-  [Are there any other important guidance notes?](#)
-  [I heard that if I am successful in my grant application I will have to attend beneficiary training can you tell me what is involved?](#)

[Back to Top](#)



Where can I get EOCP grant application forms and guidelines?



Childcare Directorate
Department of Justice, Equality and Law Reform
3rd Floor
72-76 St Stephen's Green
Dublin 2



Lo-call: 1890 20 90 30

E-mail: Childcare_Mail@justice.ie

[Back to Top](#)

? **Is there a deadline for submission of applications?**

The application process is 'rolling' or 'open ended' whereby there will be no closing date for receipt of applications. Therefore, applicants should take their time to prepare their project proposal and only apply when they are ready to do so.

[Back to Top](#)

? **Where can I get assistance in making my application?**

- A County Childcare Committee (CCC) has been established locally to assist childcare facilities in your county/area so you should not hesitate to call them if you require any assistance ([CLICK HERE](#) for further information on CCCs plus their contact details).
- An advice/support service is available from Health Boards to providers who are proposing to commence a new pre-school service and to providers who are proposing to extend an existing service. As part of this service Pre-school Officers will outline the requirements for each category of pre-school service under the Child Care (Pre-school Services) Regulations, 1996. It is strongly recommended that you contact your local Pre-school Officer for advice in the initial stages of planning your project.

[Back to Top](#)

? **What should EOCP grant applications demonstrate?**

General Aims and Objectives

- *Proposals/projects should*
 - Increase the number of childcare facilities and places.
 - Enhance the quality of childcare provision in the locality.
 - Allow parents to avail of educational, training or employment opportunities.
 - Ensure the developments of childcare facilities are co-ordinated at local level where appropriate.

General Eligibility

- *Projects must*
 - Be directly related to the development and provision of childcare facilities.
 - Demonstrate that the project is sustainable and that there are sufficient resources to meet the running and maintenance costs of the project for a reasonable

period after completion.

[Back to Top](#)

? **Does the Freedom of Information Act apply?**

- The Department of Justice, Equality and Law Reform and ADM Ltd wishes to remind applicants that the information supplied in any application form may be made available on request, subject to the Department's and ADM's obligations under law, including the Freedom of Information Act, which came into force on 21 April, 1998.
- You are asked to consider if any of the information supplied by you in applying for funding under this measure should not be disclosed because of sensitivity. If this is the case, you should, when providing the information, identify same and specify the reasons for its sensitivity. The Department and ADM Ltd will consult with you about sensitive information before making a decision on any Freedom of Information request received.
- [CLICK HERE](#) for ADM's Freedom of Information Guidelines

[Back to Top](#)

? **Are there any other important guidance notes?**

- These guidelines are for funding under the Equal Opportunities Childcare Programme 2000-2006 only and may be subject to change from time to time for future funding, including variations to comply with Government or EU requests.
- Applicants are advised that any misleading statements or information (whether deliberate or accidental) given at any stage during the application process, could render the application invalid.
- It is recommended that you keep photocopies of everything you send to the Department of Justice, Equality and Law Reform and/or ADM Ltd.

[Back to Top](#)

? **What about monitoring, reporting and supporting of successful applicants?**

- It is a condition of funding that the group agrees to have its project monitored by the Department of Justice, Equality and Law Reform, ADM Ltd or by its agents and to allow access to its premises and records as necessary for that purpose.
- Projects may be subject to visits by ADM Ltd, the Department of Justice, Equality and Law Reform, their officers and agents, EU representatives, and/or the Regional Operational Programme Administration Unit, either during construction,

implementation or on completion. Monitoring of the projects will be carried out both in financial and progress terms.

- Projects must report to ADM Ltd on financial expenditure and performance related targets on a regular basis. Once expenditure is incurred, successful applicants will be required to provide information on the impact of the funding, for example:
 - the increase in the number of childcare places and improvements to facilities which resulted from the funding
 - the number of parents enabled to avail of educational, training or employment opportunities
 - the increase in space at the facility.
 - the type of childcare development programme used.
 - the increase in the number of staff employed.


[Back to Top](#)




Area Development Management Limited.
Holbrook House,
Holles Street,
Dublin 2,
Ireland.
Telephone: +353-1-2400-700
Facsimile: +353-1-6610411
General e-mail address: enquiries@adm.ie

Appendix 3 – Sub-Paragraph 27.1.4 above refers :-

[Equal Opportunities Childcare Programme \(EOCP\) 2000-2006](#)

Click [HERE](#) to return to the previous page

National Co-ordinating Childcare Committee - Sub-groups	
	The Certifying Bodies Sub-Group
	The Certifying Bodies Sub-Group was established to address issues around childcare qualifications, certification and accreditation on behalf of the NCCC. The sub-group has completed work on a 'Model Framework for Education, Training and Professional Development in the Early Childhood Care & Education Sector (Quality Childcare & Lifelong Learning)' for submission by the NCCC

	to the National Qualifications Authority of Ireland and the awards councils, HETAC and FETAC. The model was published in September 2002 and can be viewed on the Department of Justice, Equality and Law Reform's website under publications.
	The Advisory Sub-group (for Children with Special Requirements, Minority Ethnic Groups and Traveller Children)
	The Advisory Sub-group (for Children with Special Requirements, Minority Ethnic Groups and Traveller Children) was established to examine the work of the NCCC with regard to the childcare needs of children with special requirements, including children from Minority Ethnic Groups and the Travelling community, and to proof the work of the sector on issues such as poverty, equality and diversity. To date this sub-group has produced a set of 'Equality and Diversity Guidelines' for County Childcare Committees.
	The Working Group on School Aged Childcare
	The Working Group on School Aged Childcare whose remit is to review the existing provision of school aged childcare in Ireland and in other jurisdictions, to develop guidelines of quality standards for school aged childcare, and to make proposals for the development of school aged childcare services on a year-round basis, taking into account the diverse forms of such childcare.
	The Childminding Sub-Group
	A Childminding Sub-Group has recently been established and is to include a broad representation. The two preliminary functions of this group will be to develop a code of practice for those childminders who are not (under the current (1996) regulations) required to notify; and following from that to undertake a review of the existing code of practice for childminders who are currently required to notify. The NCCC may assign further tasks to this sub-group over its lifetime.

[Back to Top](#)

Funded by the Irish Government and part-financed by the European Union Structural Funds under the National Development Plan 2000-2006
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<p style="text-align: center;">Area Development Management Limited. Holbrook House, Holles Street, Dublin 2, Ireland.</p> <p style="text-align: center;">Telephone: +353-1-2400-700 Facsimile: +353-1-6610411 General e-mail address: enquiries@adm.ie</p>				

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Appendix 4 – Sub-Paragraph 27.1.4 above refers :-

				
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Equal Opportunities Childcare Programme (EOCP) 2000-2006

Overview of EOCP	County Childcare Committees	Staffing and Capital Grants	Quality Improvement	Case Studies
Approved Grants	Monitoring/ Evaluation	EOCP Publications	NDP/EU Publicity Guidelines	FAQ and What's New

County Childcare Committees (CCCs)

Below are frequently asked questions about CCCs. Click each question for the

answer:-

- [➡➡ What are CCCs?](#)
- [➡➡ Why were CCC's set up in the first place?](#)
- [➡➡ Can you show me diagrammatically how CCCs fit into the other co-ordinating structures?](#)
- [➡➡ How many CCCs have been set up and who is represented?](#)
- [➡➡ How can I contact my local County Childcare Committee and what can they do for me?](#)
- [➡➡ What is the Core Action of the CCCs?](#)
- [➡➡ What are the priority objectives of the CCCs?](#)
- [➡➡ What set of principles guide the CCCs?](#)
- [➡➡ Are CCCs involved in the appraisal process of applications?](#)
- [➡➡ What is the link between CCCs and County Development Boards \(CDBs\)?](#)

[Back to Top](#)

? **What are CCCs?**

A CCCs have been assigned by the Government's National Childcare Policy as the key local component in the development of a co-ordinated approach to quality childcare. Their role is in addition to other existing support and advisory services (Statutory and Non Statutory) and is expected to reinforce, enhance and provide a co-ordination mechanism at county level.

[Back to Top](#)

? **Why were CCC's set up in the first place?**

A The origin of this process dates back to the Report of the Partnership 2000 Expert Working Group on Childcare, the '[National Childcare Strategy](#)' which was published in January 1999. As the report states this group -

"was established under Partnership 2000 to develop a strategy which integrates the different strands of the current arrangements for the development and delivery of childcare and early educational services. The group, chaired by the Department of Justice, Equality and Law Reform had wide ranging terms of reference and over seventy members, representing the relevant Government departments, social partners, statutory bodies, non-governmental organisations and parents."

Within Chapter 8 of the report, the group recommended structures to enable the implementation of a National Childcare Strategy in the context of local needs-led planning involving consultation and participative planning of all stakeholders. The report which was signed off by all members of the working group recommended that "*County Childcare Committees would have independent status and would be legally*

constituted in order to employ staff directly and channel finance.”

[Back to Top](#)

? **How many CCCs have been set up and who is represented?**

A There are 33 CCCs set up around the country and each has a legal status. Each committee has approximately 22 members who are representative of the key stakeholders in each county including:

- Parents
- Childcare Providers
- Farming Organisations
- Employers
- Community and Voluntary Seci
- National Voluntary Childcare Organisations
- Trade Unions
- LDSIP
- Partnerships and Community Groups
- Statutory Bodies/Government Departments
- Other Relevant Stakeholders

[Back to Top](#)

? **How can I contact my local County Childcare Committee and what can they do for me?**

[CLICK HERE](#) to access a contact list of CCCs in each county/city 

A The CCCs can assist and/or advise you on, for example, the completion of your EOCP application forms, networking opportunities in the county, relevant training and information available in the county etc. Why not give them a ring and find out for yourself what services they can offer you.....

[Back to Top](#)

? **What is the Core Action of the CCCs?**

A The main focus of CCCs is to advance the provision of quality childcare facilities and services within the designated local area. To enable this to happen, each CCC developed a County Childcare Strategic Plan (up to 2006) based on a shared vision and analysis of the needs within the county. Each CCC receives funding from the EOCP for the operations of the committee allowing them to employ staff and implement actions contained in their Strategic Plans. CCCs will also lever in other resources from stakeholders to enable them to meet their objectives

[Back to Top](#)

? **What are the priority objectives of the CCCs**

- A
- Maintain and build the local childcare capacity
 - Prioritise initiatives targeted at the support and inclusion of childminders
 - Develop and promote quality standards and targets for the county
 - Enhance and develop co-ordination
 - Enhance and develop information sharing and learning systems

- Leverage/attract additional resources to implement specific actions
- Develop local childcare networks
- Develop targeted support strategy
- Identify training needs

[Back to Top](#)

? **What set of principles guide the CCCs?**

A The five guiding principles of CCCs are taken from the '[National Childcare Strategy](#)', the report of the Partnership 2000 Expert Working Group on Childcare. These are:-

- The needs and rights of children
- Equal opportunities and equality of access and participation
- Diversity
- Partnership
- Quality

Click on [Guiding Principles](#) for further information on the 5 principles stated above

[Back to Top](#)

? **Are CCCs involved in the appraisal process of applications?**

A **Yes**, as part of the applications appraisal process, ADM includes a stage whereby a **consultation** with CCCs will take place on applications submitted to the EOCP for each County. The process of assessment of individual applications is formally the responsibility of ADM on behalf of the Dept JELR. The role of the CCC is to add value to the central procedures.

The CCCs are well placed at a local level to be familiar with the current and future provision of childcare needs in their county. CCCs will do this by providing ADM with strategic information relating to the childcare developments in the county and by cross reference to individual applications presented for consultation.

CCCs have set-up Consultation Sub-committees for this purpose and Sub-committee members are requested to bear in mind the confidentiality of the consultation process.

Údarás na Gaeltachta are represented on CCCs in Gaeltacht areas and have a role in the consultation process for applications for funding from a Gaeltacht area.

[Back to Top](#)

? **What is the link between CCCs and County Development Boards (CDBs)?**

- A** CCCs are working groups of CDBs and the CCC Childcare Strategic Plan forms part of the overall County Development Plan.

To elaborate:

The City/County Childcare Committees are autonomous bodies within the confines of Government policy for the Equal Opportunities Childcare Programme and the strategies of the National Co-ordinating Childcare Committee which give effect to this policy. They have autonomy for the implementation of the County Childcare Strategies and Annual Action Plans, as approved by the National Co-ordinating Childcare Committee and the Programme Appraisal Committee respectively, and agreed by the Minister for the Department of Justice, Equality and Law Reform who has responsibility for the Equal Opportunities Childcare Programme.

The primary relationship of the City/County Childcare Committees is with the Department of Justice, Equality and Law Reform. This involves policy direction, funding, accountability and agreement on strategic and annual work plans and reporting.

There is also a secondary relationship with County Development Boards. This secondary relationship exists in terms of membership of the County Development Board, obligation on the Director of the County Development Board to be a member of the City/County Childcare Committee, consultation with the County Development Board Social Inclusion Co-ordinating Group (SIM) to establish priorities, endorsement by the County Development Board of the Annual Plan, once it has been agreed within the structures of the Equal Opportunities Childcare Programme, and providing reports on progress made annually to the County Development Board.

This secondary relationship is part of existing government policy and applies to all groups which operate at county or sub-county level in social, economic or cultural areas. Its purpose is to provide for a wider co-ordination of services at local government level and as such should strengthen and reinforce the work of City/County Childcare Committees.

[Back to Top](#)

**Area Development Management Limited.
Holbrook House,
Hollis Street,
Dublin 2,
Ireland.
Telephone: +353-1-2400-700
Facsimile: +353-1-6610411
General e-mail address: enquiries@adm.ie**

ARTICLE 27 PARA. 2

Text of ARTICLE 27 PARA. 2 of the Revised European Social Charter

“With a view to ensuring the exercise of the right to equal opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake: to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice;”

=====

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Please indicate the statutory provisions or other provisions that ensure parental leave. Where collective agreements are concerned, please indicate the sectors in which such leave is provided. Please indicate the length of this leave and the practical conditions governing it (eligibility, apportionment, payment). Please provide information on the extent to which men and women take parental leave. Please indicate if the two parents may take parental leave at the same time.

As we have never submitted a report on this provision of the Revised European Social Charter before, there is no previous report to be updated nor are there any questions directly asked of Ireland by the ECSR (European Committee of Social Rights) in relation to such a report.

Text of Ireland's Second Report under the Revised European Social Charter in relation to Article 27, Paragraph 2 :-

27.2.1 The Parental Leave Act 1998, gives effect to the EU Directive on Parental Leave (96 / 34 / EEC) and has been in operation since 3 December 1998. This text of this Act (Act No. 30 of 1998) may be accessed at website <http://www.irishstatutebook.ie/front.html> The Act provides an individual entitlement for both men and women to avail of 14 weeks of unpaid leave from employment to enable them to take care of their young children. This entitlement applies to parents born or adopted on or after 3rd June 1996 and leave must be taken before the child reaches the age of five years. In addition, the Act provides for limited paid leave from employment (force majeure leave) to enable employees to deal with family emergencies resulting from injury or illness of a family member.

ARTICLE 27 PARA. 3

Text of ARTICLE 27 PARA. 3 of the Revised European Social Charter

*“With a view to ensuring the exercise of the right to equal opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:
to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment”.*

=====

Questions asked of all Contracting Parties (member states of the Council of Europe, which have signed and ratified the European Social Charter):

Please indicate the statutory provisions that ensure the application of this provision and provide any relevant decisions delivered by the competent national courts. .Please specify the guarantees provided for a person dismissed because of their family responsibilities.

As we have never submitted a report on this provision of the Revised European Social Charter before, there is no previous report to be updated nor are their any questions directly asked of Ireland by the ECSR (European Committee of Social Rights) in relation to such a report.

Text of Ireland’s Second Report under the Revised European Social Charter in relation to Article 27, Paragraph 3 :-

27.3.1 The Employment Equality Act 1998, as amended by the Equality Act 2004, provides that it shall constitute discrimination on any discriminatory grounds (gender, marital status, sexual orientation, religion, age, disability, race and membership of the traveller community) if an employer does not afford to an employee the same treatment as regards dismissal, as the employer affords to another employee, in circumstances where the employment is not materially different.

27.3.2 The Employment Equality Act 1998, as amended by the Equality Act 2004, [link to Employment Equality Acts: http://www.gov.ie/bills28/acts/1998/a2198.pdf](http://www.gov.ie/bills28/acts/1998/a2198.pdf) } <http://www.oireachtas.ie/documents/bills28/acts/2004/A2404.pdf> prohibits discrimination on nine grounds, namely gender, marital status, family status, sexual orientation, religious belief, race and membership of the traveler community. The legislation covers employees in both the public and private sectors as well for employment and training, who are legally entitled to work in the State.

Ends

ARTICLE 29: THE RIGHT TO INFORMATION AND CONSULTATION IN COLLECTIVE REDUNDANCY PROCEDURES

“With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers’ representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example by recourse to accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.”

Question A

Please state whether, and if so, how collective redundancy is defined in national law.

Question B

Please describe the procedures pertaining to information and consultation of workers’ representatives and indicate in particular:

- a. whether information and consultation should take place prior to collective redundancies and, if so, whether this requirement is respected in practice;
 - b. the types of workers’ representatives (elected representatives and/or union representatives) informed and consulted, specifying what is the situation in enterprises where the number of employees does not attain the minimum requiring the establishment of a representative body of workers;
 - c. the various stages of the information and consultation procedures;
 - d. how consultation contributes to avoiding or reducing collective redundancies or to mitigating their consequences specifying in particular whether it must result in an agreement and what are the obligations of the employer with a view to enabling workers’ representatives to put forward proposals.
- Question C**
Please indicate what are the sanctions provided for in cases where information and consultation procedures are not complied with. Please also indicate the means of appeal available to workers’ representatives in case of default by the employer as well as the possibilities of intervention by the public authorities. Please indicate the courses of action open to workers on an individual basis in cases of breach of the rules relating to collective dismissals, as well as the consequences of such a breach in their regard.

Questions A and B above refer :-

The Protection of Employment Act, 1977 is the Act governing collective redundancies in Ireland. The text of that Act may be found on www.irishstatutebook.ie / front.htm

Herewith, please find the Explanatory Booklet for Employers and Employees in relation to the Protection of Employment Act 1977.

Department of Enterprise Trade & Employment 2002

PROTECTION OF EMPLOYMENT ACT, 1977 EXPLANATORY BOOKLET

Note: This leaflet gives only a brief summary of the Protection of Employment Act, 1977, as amended by the Protection of Employment Order, 1996, the Protection of Employment Act, 1977 (Notification of Proposed Collective Redundancies) Regulations, 1977, and the European Communities (Protection of Employment) Regulations, 2000. It is not, and does not purport to be, a legal interpretation.

For further information, persons should refer to the above named Act, Order and Regulations or contact the Department of Enterprise, Trade and Employment, Davitt House, Adelaide Road, Dublin 2. Telephone 6312121 or fax 6313273.

Website address:- www.entemp.ie.

Other useful telephone numbers:

Employment Appeals Tribunal (01) 6312121 Lo-call 1890 220 222

Labour Relations Commission (01) 6609662 Lo-call 1890 220 227

Rights Commissioner Service (01) 6609662 Lo-call 1890 220 227

Labour Court (01) 6608444 Lo-call 1890 220 228

Note: The Lo-Call numbers may be used by callers from outside the 01 area.

Issued by :

The Department of Enterprise, Trade and Employment,
Davitt House,
Adelaide Road,
Dublin 2.

PROTECTION OF EMPLOYMENT ACT, 1977

1. Purpose of the Act

The Act imposes obligations on employers who are proposing to create collective redundancies. The main obligations are to:

- enter into consultations with the employees' representatives at least 30 days before the redundancies commence,
- notify the Minister for Enterprise, Trade and Employment at least 30 days before the redundancies commence, and
- delay the redundancies until 30 days after the Minister has been notified.

2. What is a Collective Redundancy?

A collective redundancy means dismissals effected by an employer for one or more reasons not related to the individual concerned where in any period of 30 consecutive days the number of such dismissals is -

- (a) at least 5 in an establishment normally employing more than 20 and less than 50 employees,
- (b) at least ten in an establishment normally employing at least 50 but less than 100 employees,

- (c) at least ten per cent of the number of employees in an establishment normally employing at least 100 but less than 300 employees, and
- (d) at least 30 in an establishment normally employing 300 or more employees.

For the purpose of calculating the number of redundancies where the number of dismissals is at least 10 in an establishment normally employing more than 20 and less than 100 employees, terminations of a contract of employment which occur to the individual workers concerned shall be assimilated to redundancies provided there are at least 5 redundancies.

In this section “establishment” means an employer or a company or a subsidiary company or a company within a group of companies which can independently effect redundancies.

3. Definitions

For the purposes of this Act,

(a) “contract of employment” means:

(i) a contract of service or of apprenticeship, and

(ii) any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971 (No. 27 of 1971), and is acting in the course of that business, to do or perform personally any

work or service for a third person (whether or not the third person is a party to the contract), whether the contract is express or implied and, if express, whether it is oral or in writing;

(b) “employee” means a person who has entered into or works under (or, in the case of a contract which has been terminated, worked under) a contract of employment with an employer, whether the contract is for manual labour, clerical work or otherwise, is express or implied, oral or in writing;

(c) “‘employees’ representatives’, in relation to employees who are **affected, or are likely to be affected, by proposed collective redundancies (whether by being selected for redundancy or otherwise)**, means -

(i) a trade union, staff association or excepted body with which it has been the practice of the employer to conduct collective bargaining negotiations, or

(ii) in the absence of such a trade union, staff association or excepted body, a person or persons chosen (under an arrangement put in place by the employer) by such employees from amongst their number to represent them in negotiations with the employer;”,

(d) “employer” means:

the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment, subject to the qualification that the person who, under a contract of employment referred to in paragraph (ii) of the definition of “contract of employment” above, is liable to pay the remuneration of the

individual concerned in respect of the work or service concerned, shall be deemed to be the individual's employer; (e) "excepted body" has the meaning assigned to it by section 6(3) of the Trade Union Act, 1941 (No. 22 of 1941), as amended;".

(f) "The number of persons normally employed" means - the average of the number normally employed in each of the 12 months preceding the date on which the first dismissal takes effect.

4. Who is Covered by the Act?

The Act applies to all persons in employment in an establishment normally employing more than 20 persons. It does **not** apply to:

- employees engaged under a contract for a fixed term or for a specified purpose except where the collective redundancies are effected before the completion of such term or purpose;
- State employees other than designated industrial grades;
- Local Authority officers;
- Seamen.

5. Consultations with Employee's Representatives

The Act provides that employers who propose to create collective redundancies must, with a view to reaching an agreement, consult the employees' representatives at the earliest opportunity and in any event at least 30 days before the first dismissal takes effect. The consultations must cover:

a) the possibility of avoiding the proposed redundancies, reducing the number of employees affected by them or mitigating their consequences by recourse to accompanying social measures aimed, inter alia, at aid for redeploying or retraining employees made redundant.

b) the basis for deciding which particular employees will be made redundant. For the purpose of these consultations the employer must give all relevant information in writing to the employees' representatives, including the following:

- (1) the reasons for the proposed redundancies,
- (2) the number, and descriptions or categories, of employees whom it is proposed to make redundant,
- (3) the number of employees, and description of categories, normally employed, and
- (4) the period during which it is proposed to effect the proposed redundancies,
- (5) the criteria proposed for the selection of the workers to be made redundant, and
- (6) the method for calculating any redundancy payments other than those methods set out in the Redundancy Payments Acts, 1967 to 1991, or any other relevant enactment for the time being in force or, subject thereto, in practice."

6. Where the Employer is Controlled by a Third Party

The notification and consultation procedure shall apply to an employer irrespective of whether the decision regarding collective redundancies is being taken by the employer or by an undertaking which controls the employer and it shall not be a defence on the part of the employer that the necessary information had not been provided to the employer by a controlling party, or parties, which took the decision leading to the collective redundancies.

7. Notification to Minister for Enterprise, Trade and Employment

Where an employer proposes to create collective redundancies, he/she must give the Minister for Enterprise, Trade and Employment written notice of his/her proposals at the earliest opportunity and, in any event, at least 30 days before the first dismissal takes effect.

The proposed collective redundancies shall not take effect before the expiry of the period of 30 days beginning on the date of the notification to the Minister.

The particulars to be specified in this notification must include the following: -

- (1) the name and address of the employer, indicating whether he or she is a sole trader, a partnership or a company ;
- (2) the address of the establishment where the collective redundancies are proposed;
- (3) the total number of persons normally employed at that establishment;
- (4) number and description or categories of employees whom it is proposed to make redundant;
- (5) the period during which the collective redundancies are proposed to be affected;
- (6) the reasons for the proposed redundancies;
- (7) the names and addresses of the employees' representatives consulted about the proposed redundancies;
- (8) the date on which those consultations commenced and the progress achieved to date of notification. The employer must also give the Minister copies of all the written information supplied to the employees' representatives. The employer must also supply a copy of the notification to the Minister to the employees' representatives who may forward their observations to the Minister.

Any written notice which is required to be given by an employer to the Minister shall be sent by registered post addressed to the head office of the Department of Enterprise, Trade and Employment or, where that is not practicable, shall be delivered to that office.

8. Businesses Terminated following Bankruptcy, Liquidation or Court Order

The notification and consultation procedures set out in the Act apply equally to collective redundancies brought about as a result of bankruptcy, all forms of liquidation or by court order. However, in such cases the person responsible for the affairs of the business need notify the Minister only where the Minister so requests and the requirement, that the collective redundancies shall not

take effect before the expiry of the period of 30 days beginning on the date of the notification to the Minister, does not apply .

9. Consultations with Minister for Enterprise, Trade and Employment

In order to seek solutions to the problems posed by the proposed redundancies, the Minister may request the employer concerned to enter into consultations with him or an officer authorised by the Minister for the purpose. The employer shall supply all such relevant information as may reasonably be required.

10. Preservation of Employees' Individual Rights

Employees will have preserved their individual rights to notice of dismissal and other entitlements under any other statutes or under their contracts of employment.

11. Complaints to a Rights Commissioner

An employee, or a trade union, staff association or excepted body on behalf of an employee, may present a complaint to a rights commissioner that an employer has contravened section 9 or 10 of the Act of 1977 in relation to information and consultation of employees.

A complaint to a Rights Commissioner may be made by giving notice of it in writing. The Rights Commissioner Service is located in the Labour Relations Commission, Tom Johnson House, Haddington Road, Dublin 4 (phone 01 - 6609662), Lo-Call 1890 220 227.

The Rights Commissioner, on receipt of a complaint, will send a copy of the notice of complaint to the employer. The Rights Commissioner will then give the parties an opportunity to be heard by him/her and to present any evidence relevant to the complaint. After hearing the parties, the Rights Commissioner will issue a written decision. Proceedings before a Rights Commissioner will be held in private.

12. Rights Commissioner's Decision

The decision of the Rights Commissioner shall do one or more of the following: -

- (a) declare that the complaint was or was not well-founded,
- (b) require the employer to comply with the principal regulations and for that purpose to take a specific course of action,
- (c) order the employer to pay the employee compensation of a maximum of 4 weeks remuneration.

13. Time limit for bringing complaints

The complaint to the rights commissioner must be presented within 6 months of the occurrence of the alleged contravention to which it relates, or where the rights commissioner is satisfied that exceptional circumstances existed which prevented the presentation of the complaint within that period, within a further 6 months.

14. Appeal to Employment Appeals Tribunal From Decision Of Rights Commissioner

A party concerned may appeal to the Employment Appeals Tribunal from a decision of a Rights Commissioner. The appeal must be made within 6 weeks of the date on which the Rights Commissioner communicated the decision to the parties.

An appeal may be made by giving notice of the appeal in writing to the Employment Appeals Tribunal, Davitt House, 65A Adelaide Road, Dublin 2. The Tribunal will copy the notice to the other party concerned. Copies of a notice of appeal form may be obtained from the Department of Enterprise, Trade and Employment, Davitt House, 65A Adelaide Road, Dublin 2.

The Tribunal will give the parties an opportunity to be heard and to present any evidence relevant to the appeal. The Tribunal will then issue a written determination which may affirm, vary or set aside the decision of the Rights Commissioner.

15. Non-Implementation By Employer Of Decision Of Rights Commissioner

Where an employer has neither implemented nor appealed the Rights Commissioner's decision, the employee may complain to the Employment Appeals Tribunal. The employee must notify the Tribunal in writing of the complaint. In such circumstances, the Tribunal is empowered to issue a determination without rehearing the case and, if it upholds the complaint, will confirm the decision in its determination.

16. Non-Co-Operation With Employment Appeals Tribunal

Failure to appear before the Employment Appeals Tribunal where a subpoena is served and/or failure to produce documentation is an offence liable, on summary conviction, to a fine of up to €1,269.74 (IR£1,000).

17. Appeals To High Court

A party to proceedings before the Employment Appeals Tribunal may appeal to the High Court from a determination of the Tribunal on a point of law and the determination of the High Court shall be final and conclusive.

18. Referrals By The Minister To High Court

The Minister, at the request of the Tribunal, may refer a question of law to the High Court for determination.

19. Enforcement of Determinations Of Employment Appeals Tribunal

If an employer fails to carry out in accordance with its terms a determination of the Tribunal in relation to a complaint under the regulations within 6 weeks from the date on which the determination is communicated to the parties, (no appeal having been brought against the

determination, or if so, it having been abandoned) the Circuit Court shall, on application to it in that behalf by -

- (i) the employee concerned,
- (ii) the employee's trade union,
- (iii) the Minister, if the Minister considers it appropriate to make the application having regard to all the circumstances, without hearing the employer or any evidence (other than in relation to the matters aforesaid) make an order directing the employer to carry out the determination in accordance with its terms.

The Circuit Court may, if in all the circumstances it considers it appropriate to do so, where it makes an order in relation to the payment of compensation, direct the employer concerned to pay to the employee concerned, 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 beginning 6 weeks after the date on which the determination of the Tribunal is communicated to the parties and ending on the date of the order.

20. Authorised Officers

Authorised Officers, appointed by the Minister for Enterprise, Trade and Employment, have powers of inspection and investigation for the purpose of ensuring compliance with the Act.

21. Records

An employer is obliged to keep all necessary records to show that the Act is being complied with. The records must be retained for at least three years.

22. Offences

An offence will be committed where an employer fails

- (1) to consult the employees' representatives 30 days before the first redundancy or to supply them with the necessary information;
- (2) to give the Minister for Enterprise, Trade and Employment 30 days prior notice in writing of the proposed collective redundancies;
- (3) to delay the collective redundancies for 30 days following the notification;
- (4) to permit an authorised officer to carry out his or her inspection duties under the Act; or
- (5) to keep the necessary records.

Offences under the Act may be prosecuted by the Minister for Enterprise, Trade and Employment. On conviction by the courts, the maximum fine for the offence at (3) above is €3,809.21 (IR £3,000). For each of the other offences, the maximum fine is €1,904.61 (IR £1,500).

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The summary of collective redundancies is also given in Appendix 7 of the Guide to the Redundancy Payments Scheme, published by the Department of Enterprise, Trade and Employment in 2005. The information on the operation of redundancy payments is also contained in that publication, shown hereunder.

GUIDE TO THE

REDUNDANCY PAYMENTS SCHEME

Redundancy Payments Acts 1967 to 2003

Department of Enterprise, Trade and Employment

www.entemp.ie

Issued2005

Note:

This Guide is available free of charge from the Department of Enterprise, Trade and Employment, Davitt House, Adelaide Road, Dublin 2, at Social Welfare Offices and FÁS Offices. It is also on the Department's Website at www.entemp.ie Forms relating to the Acts are similarly available.

The Department's Website also contains in its Home Page a Redundancy Calculator which will enable you to calculate your statutory redundancy entitlement. Both employers and employees are strongly advised to use this facility.

The Guide does not purport to give a legal interpretation of the Redundancy Payments Acts 1967 to 2003 or of any other employment legislation.

CONTENTS

	Paragraph Numbers
<u>Summary</u>	1
<u>Employees covered – What are the requirements for being entitled to a redundancy lump sum?</u>	2
How much statutory redundancy is an employee entitled to?	3
Redundancy Calculation Facility on the Website of the Department of Enterprise, Trade and Employment	4
What exactly is a redundancy? Definitions of Redundancy	5
What is the situation regarding “Voluntary Redundancy”?	6
How offers or acceptance of other work affect a redundancy lump sum entitlement	7
Lay-off	8
Short-time	9
Employee’s Right to a Redundancy Lump Sum Payment by reason of Lay Off or Short-Time (Form RP9)	10
Employees wishing to leave their employment before their notice of proposed dismissal expires (Form RP6)	11
Important legal changes in the Redundancy Payments Scheme made in the Redundancy Payments Act 2003 regarding redundancies notified/declared from 25th May, 2003 onwards	12
Part-Time Workers	12(a)
Workers on Fixed-Term Contracts	12(b)
Employment Agencies	12(c)
Employees commencing work abroad	12(d)
Minimum Wage	12(e)
Maternity Leave and Additional Maternity Leave for redundancy calculation purposes	12(f)
Parental Leave for redundancy calculation purposes	12(g)
Important further legal changes made in the Redundancy Payments Scheme with respect to redundancies notified/declared on or after 10th April, 2005	13
Giving Notice of Redundancy (Section 7 of the Redundancy Payments Act, 2003 regarding redundancies notified/declared on or after 10th April, 2005)	13(a)

Calculating “excess days” (Section 11 of the Redundancy Payments

Act, 2003) in respect of redundancies notified/declared

on or after 10th April, 2005

.....	13(b)
Non-Reckonable Service (Section 12 of the Redundancy Payments Act, 2003) applicable to all redundancies notified/declared on or after 10th April, 2005	13(c)
Adoptive Leave for redundancy calculation purposes	13(d)
Carer’s Leave for redundancy calculation purposes	13(e)
Career Break type of Leave	13(f)
Strengthening of Continuity of Employment (Section 12 of the	

Redundancy Payments Act, 2003), as applied to redundancies notified/declared on or after 10th April, 2005 13(g)

How to actually make an application to the Department of Enterprise, Trade and Employment (Redundancy Payments Section) for an Employer's Rebate.....	14
How to actually make an application to the Department of Enterprise, Trade and Employment (Redundancy Payments Section) for a redundancy lump sum in situations where the employer is unable or unwilling to pay the amount due to the employee	15
Time limit for the making of claims for Employer Rebates or for statutory redundancy Lump Sums	16
-time limit for Employer's Rebate Claim	16(a)
-time limit for Lump Sum Claim	16(b)
Seasonal workers	17
Effects of change of ownership of a business on a redundancy lump sum payment	18
Death of an employer	19
Death of a redundant employee	20
What are the rights of an apprentice to a redundancy payment? ...	21
How are statutory redundancy lump sums and employer's rebates financed? - The Social Insurance Fund (SIF)	22
Recovery of sums paid from the Social Insurance Fund for statutory redundancy purposes	23
The Employment Appeals Tribunal (EAT)	24
Offences	25
Inspection of records	26

APPENDICES AT BACK OF GUIDE

<u>Appendix 1</u>	<u>Guide to Completing the Redundancy Form RP50</u>
<u>Appendix 2</u>	<u>Definition of Redundancy</u>
<u>Appendix 3</u>	<u>How do you calculate a week's pay for redundancy purposes?</u>
Appendix 4	How do you decide whether or not employment is continuous?
<u>Appendix 5</u>	<u>Reckonable service</u>
Appendix 6	The Minimum Notice and Terms of Employment Acts 1973 to 2001
Appendix 7	Protection of Employment Act 1977 (as amended)
Appendix 8	Sample Redundancy Calculations
Appendix 9	Development of the Social Insurance Fund (SIF) in modern times
<u>Appendix 10</u>	<u>Time Table for Employers and Employees for dealing with Redundancies</u>
Appendix 11	Useful Addresses, Telephone Numbers and Website Addresses
<u>Appendix 12</u>	<u>Glossary of redundancy terms/definitions</u>

1. Summary

Under the Redundancy Payments Scheme all eligible employees are entitled to a statutory redundancy lump sum payment on being made redundant. A redundancy situation arises in general where an employee's job no longer exists and he/she is not replaced. An employee is entitled to **two weeks pay for every year of service, with a bonus week added on, subject to the prevailing maximum ceiling on gross weekly pay (€600 with respect to redundancies notified/declared on or after 1st January, 2005 - €507.90 before that date)**. The Department of Enterprise, Trade and Employment, which administers the Scheme, will then pay the employer a 60% rebate. Where the employer is unable or unwilling to pay the lump sum, the Department steps in and pays the amount from the Social Insurance Fund (SIF).

2. Employees covered - What are the requirements for being entitled to a redundancy lump sum?

- (1) You must have at least two years continuous service (104 weeks).
- (2) You must be in employment which is insurable under the Social Welfare Acts. If you are a full-time employee you must be in employment which is fully insurable for all benefits under the Social Welfare Acts; this does not apply if you are a part-time employee. The question of insurability is decided by the Department of Social and Family Affairs in accordance with the rules and appeals procedures provided for in the Social Welfare Acts. An employee who wishes to appeal such a decision is advised to contact Scope Section of that Department. For their address and telephone number, see Appendix 11.
- (3) You must be between the age of 16 and Old Age Pension age, which at present is 66 years of age.
- (4) You must have been made redundant as a result of a genuine redundancy situation – in general this means that the job no longer exists and the person is not replaced. The emphasis is on the job and not the person, in contrast, for example, to a situation where a person is dismissed for alleged misconduct or where a person voluntarily resigns.

3. How much statutory redundancy is an employee entitled to?

Under the Redundancy Payments Act 2003 an eligible employee is entitled to **two weeks statutory redundancy payment for every year of service, plus a bonus week**. All statutory redundancy payments are **tax-free**. For redundancy purposes, a week's payment is subject to a maximum ceiling called a statutory ceiling which is adjusted upwards every few years. The ceiling currently stands at €600 in respect of all redundancies notified/declared from 1st January, 2005 (€507.90 prior to that date). For example, a gross weekly wage of €610 is treated as €600 per week for statutory redundancy calculation purposes, while a gross weekly wage of €590 is still calculated as €590, as it is below the ceiling.

If the total amount of reckonable service is not an exact number of years, **the "excess" days are credited as a proportion of a year** in respect of redundancies notified/declared on or after 10th April, 2005, being the date of commencement of Section 11 of the Redundancy Payments Act 2003. This simplified the method of calculating the number of "excess" days for redundancy entitlement purposes.

For example, 91 days, which almost amount to a quarter of a year (24.93% to be exact) will therefore give the employee an extra 24.93% of a years service, on top of whatever number of full years they have worked for. Thus, the simple formula used for calculating the proportion of a year to be credited to the employee is 91 divided by 365 = .2493, or in percentage terms = 24.93%. Please note that 365 days is now used for redundancy calculation purposes rather than the figure of 364 days which was previously used.

See **Appendix 8**, which also covers the treatment of "excess" days for redundancy purposes prior to 10th April, 2005.

For details of employment service which is **non-reckonable** for redundancy calculation purposes, see **Section 13(c)** and **Appendix 5**.

PLEASE NOTE THAT non-reckonable service applies only to the **final 3 years ending with the date of termination of employment** in respect of redundancies notified/declared on or after 10th April, 2005 i.e. the date of the coming into operation of Section 12 of the Redundancy

Payments Act, 2003. There is no question of non-reckonable service in respect of redundancies notified/declared **prior to this 3 year period.**

The Weekly Pay used for redundancy purposes is calculated by adding together Gross Weekly Wage, Average Regular Overtime and Benefits-in-Kind.

4. Redundancy Calculation Facility on the Website of the Department of Enterprise, Trade and Employment

You are strongly advised to avail of the Department's Statutory Redundancy calculation facility on the Department's Website. To make such a calculation, you can simply double click on the Redundancy Calculator icon on the Home Page of the Department's Website at www.entemp.ie

(A) Redundancies notified on or after 10th April, 2005

Please note **that in respect of redundancies notified on or after 10th April, 2005**, the calculator will not differentiate between service under and over 41, showing total service, with two weeks statutory redundancy pay per year of service plus a bonus week being shown in the output field.

(B) Redundancies notified between 25th May, 2003 and 9th April, 2005

With respect to redundancies notified/declared between 25th May, 2003 and 9th April, 2005, the redundancy calculator functions as follows –

It shows service under and over 41. **However**, the calculator aggregates all service and **two weeks** statutory redundancy pay per year of service **plus a bonus week** is shown in the output field. So in effect, unlike the old (pre 25th May, 2003) system, the 25th May 2003 – 9th April, 2005 system amounts to **two weeks** redundancy pay for every year of service, plus the bonus week.

(C) Redundancies notified prior to 25th May, 2003 – but see time-limits below at 16 (a) and 16 (b) for making claims for statutory redundancy employer rebates or employee lump sums

Under the redundancy rates applicable to the old system prior to the enactment of the Redundancy Payments Act 2003, employees who were made redundant prior to 25th May, 2003

were entitled to half a weeks pay for every year of service under 41 and one weeks pay for every year of service over 41, together with a bonus week. The redundancy calculator functioned accordingly.

5. What exactly is a redundancy? Definitions of Redundancy

As a general rule, a redundancy situation exists where an employer requires fewer employees to do work of a particular kind, where a company goes into liquidation/receivership, where it is decided to rationalise/reorganise a company or, of course, where a company simply closes down. Other examples would include partial closing down of a company, a decrease in an employer's requirements for workers of a particular kind and skills/qualifications or an employer's requirements for fewer employees due to an economic recession. The full text of the relevant provisions in the Redundancy Payments Acts 1967 to 2003, dealing with grounds for redundancy is given in Appendix 2 at the back of this booklet.

Section 5 of the Redundancy Payments Act 2003 emphasises the objective nature of redundancy as being work related by using the phrase redundancy "for one or more reasons not related to the employee concerned". Thus, an employee who is dismissed for any reason other than redundancy (e.g. misconduct, inefficiency etc.) is not entitled to a redundancy payment. He or she may, of course, have a claim for unfair dismissal under the Unfair Dismissals Acts 1977 to 2001.

This non-entitlement to a statutory redundancy payment also applies to a situation where an employee is **directly replaced in the same job by another employee** except where he/she is replaced by one of the **employer's immediate family**.

It is up to the employer concerned in the first instance to determine whether or not there is in fact a redundancy situation. Disputes in this regard can be referred

to the Employment Appeals Tribunal (EAT) for adjudication – see paragraph 24 of this booklet.

6. What is the situation regarding “Voluntary Redundancy”?

Voluntary redundancy occurs when an employer, faced with a situation where he requires a smaller work force, asks for volunteers for redundancy. The people who then volunteer for redundancy are, if they fulfil the normal conditions, eligible for statutory redundancy. Of course, there must be a genuine redundancy situation in the first place.

7. How offers or acceptance of other work affect a redundancy lump-sum entitlement

Offers of other work or of re-engagement by the employer who declares him redundant **may affect an employee’s position in regard to a redundancy lump-sum payment**. The provisions of the Scheme which apply to the circumstances in which this may happen are as follows:

(a) An employee will **not** be taken to have been dismissed or to be eligible for a redundancy lump-sum payment if his employer renews his contract or re-engages him under a new contract, both with immediate effect, if the provisions of the renewed or

new contract **do not differ from those of the previous contract** and if **the employee accepts;**

(b) an employer may give an offer in writing to an employee to have his contract renewed or to be re-engaged under a new contract on terms which differ from those of the previous contract. If the new or renewed contract **takes effect within four weeks** from the ending of the previous contract **and the employee accepts it**, he will not in these circumstances be taken to have been dismissed or be eligible for redundancy payment;

(c) if an employer gives an offer to an employee to have his contract renewed or to be re-engaged under a new contract on terms which **do not differ from those of the previous contract** and if the renewal or re-engagement would take effect on the date of dismissal and the employee **unreasonably refuses the offer**, he will not be entitled to a redundancy payment;

(d) if an employer gives an offer in writing to an employee to renew his contract or to re-engage him under a new contract and the terms of the contract as renewed or of the new contract **differ**

wholly or in part from those of the previous contract; if the employer's offer constitutes an offer of **suitable employment** in relation to the employee and the new or renewed contract takes effect not later than four weeks after the date of dismissal and the employee **unreasonably refuses** the offer, he will **not** be entitled to a redundancy payment;

(e) if an employee whose job is no longer available and who is offered **alternative work** by his employer takes this work for a **trial period** of not more than four weeks and then refuses the offer, his temporary acceptance shall not prejudice any plea by him that his refusal of the offer was reasonable;

(f) if an employee **temporarily accepts a substantial reduction in his remuneration or his hours of work** and such reduction is **not** to less than half his normal working hours or remuneration e.g. a 3 day week, or a 4 day week, such temporary acceptance for a period **not exceeding 52 weeks** shall not be taken to be an acceptance by him of an offer of suitable employment.

8. Lay-off

This occurs where the services of an employee are not required because of lack of work carried out by that employee, provided of course that the employer gives notice to the employee beforehand that the break in employment is of a temporary nature. Redundancy Form RP9 may be used for this purpose. Where an employer fails to give notice of lay-off, he leaves himself open to claims for statutory redundancy payments.

9. Short-time

This exists where there is a reduction in the amount of work available, leading to a reduction in weekly earnings to less than half the normal weekly earnings or a reduction in the hours worked to less than half the normal weekly working hours. Again the employer must give notice that the short-time is of a temporary nature, with failure to do so leaving him open to claims for redundancy payment.

10. Employee's Right to a Redundancy Lump-Sum Payment by reason of Lay-off or Short-time (Form RP9)

This can arise where an employee has been **laid off** or kept on **short-time** or a **mixture** of both either for **four consecutive weeks or for a broken series of six weeks** where all six weeks occur within a **13 week** period. The employee, if he then wishes to claim redundancy payment must serve a written notice (Form RP9 is available for this purpose) stating that he intends to claim because of lay-off or short-time, or give his employer notice in writing terminating his contract of employment (Form RP9 may be used for this purpose). The employee does not have to serve either of these notices as soon as he has been laid off or kept on short-time for either of the periods mentioned above. He can wait longer, if he chooses, but if the short-time or lay-off stops and if he does decide to claim, he must serve a notice not later than four weeks after the lay-off or short-time ceases. After that, he is debarred from claiming a payment in respect of that particular period of lay-off or short-time.

An employee who claims and receives redundancy payment due to lay off or short time is deemed to have voluntarily left his or her employment and therefore not entitled to notice under the Minimum Notice and Terms of Employment Acts 1973 to 2001.

Employer's Right to give Counter Notice

In all these situations, the employer also has seven days from the service of notice to give a counter notice to the employee concerned by offering that employee **not less than thirteen weeks unbroken employment** starting within 4 weeks of the employee serving notice and therefore indicating that he will contest any claim for a redundancy payment. Again, Redundancy Form RP9 may be used for this purpose. This counter notice must be given within seven days of receipt of the employee's notice. If however, an unsatisfactory situation from the employee's point of view persists **after** the employer has given counter notice, with **four more** consecutive weeks of short-time or lay-off from his/her date of notice to claim redundancy, then that employee becomes eligible for redundancy.

11. Employees wishing to leave their employment before their notice of proposed dismissal expires (Form RP6)

Where an employee wants to leave before his/her notice expires, he should give his employer notice in writing of his wish to terminate his contract of employment on an earlier date than that specified in the Notice of Dismissal (included in comprehensive Redundancy Form RP50). Form RP6 may be used for this purpose (Part 1 of Form). It is open to the employer to give the employee a counter-notice requesting him/her to withdraw their notice of desire to leave and to continue in employment until the original date of notice expires. Again, Form RP6 may be used by the employer for this purpose (Part 2 of Form). If the employee unreasonably refuses to comply with this counter-notice, the employer can then contest liability to pay a redundancy payment. Disputes in this regard can be dealt with by the Employment Appeals Tribunal.

If the employer does in fact agree to the employee's request to leave early, he can indicate his consent by using Part 3 of Form RP6. This involves the employer giving the employee consent to alter his proposed date of termination of employment so as to bring that new date within what is referred to as "the obligatory period of notice" (Section 10 of the Redundancy Payments Act 1967 and Section 9 of the Redundancy Payments Act 1979). The date of dismissal then becomes the date on which the employee's notice expires.

The term "obligatory period of notice" means either the **statutory minimum notice** (at least two weeks and, depending on service, up to eight weeks) **or** the period of notice specified in **the contract of employment**, whichever is the **longer**. In this situation, the employer therefore agrees in writing (usually by means of Part 3 of Form RP6) for an alteration of the original termination date so as to bring that date within the obligatory period of notice as above and thereby facilitate the employee's request to leave early. This clears the way for payment of statutory redundancy based on service up to the new date of departure.

12. Important legal changes in the Redundancy Payments Scheme made in the Redundancy Payments Act 2003, regarding redundancies notified/declared from 25th May, 2003 onwards

12 (a) Part-Time Workers

The Redundancy Payments Act 2003 has secured the rights of part-time workers to a statutory redundancy payment through amending insurability requirements for redundancy to bring them into line with the Social Welfare Acts and the Protection of Employees (Part-Time Work) Act 2001. This is in line with the provision of the 2001 Act that part-time employees cannot be treated in a less favourable manner than comparable full-time employees in relation to conditions of employment. In particular, there is recognition for the rights of workers to statutory redundancy in –

“**casual employment**” – see Paragraph 2 of Part 2 of the First Schedule to the Social Welfare (Consolidation) Act 1993.

“**subsidiary employment**” - where a person depends on another employment for his/her livelihood – see Paragraph 4 of Part 2 of the First Schedule to the Social Welfare (Consolidation) Act 1993.

“**employment of inconsiderable extent**” i.e. very low wage – see Paragraph 5 of Part 2 of the First Schedule of the Social Welfare (Consolidation) Act 1993.

EXTRA NOTE FOR INFORMATION – CALCULATION OF WAGES OF PART-TIME WORKERS FOR REDUNDANCY ENTITLEMENT PURPOSES

(1) Treatment of Short-time Wages (i.e. working for less than half a week or earning less than half a week's wages e.g. a 2 day week) for Redundancy calculation purposes

It has long been the view of the Employment Appeals Tribunal, even before the enactment of the Redundancy Payments Act, 2003, that when a person is put on **short-time** i.e. working less than half the number of hours they are normally expected to work in any week or earning less than half their normal weekly earnings, e.g. a 2 day week, the gross wage for the calculation of a redundancy lump sum is based on a **full week's pay**.

(2) Treatment of *Job Sharers*

Where a person decides to go job-sharing, their job-sharing pay rather than their previous full-time pay is used for redundancy calculation purposes.

(3) Treatment of employees on reduced working hours

When a person is put on **reduced working hours** by their employer e.g. a three day week or a 4 day week, (as opposed to a 2 day week as per (1) above – short-time) the redundancy entitlement is calculated on the basis of a full week, provided the employee was put on reduced hours **within one year (52 weeks) before being made redundant**. If they were made redundant **after the first year** of reduced working hours and if it is clear that the employee **fully accepted** the reduced working hours as being his/her normal working week, never requesting a return to a full time week, then the employee is deemed to have accepted the reduced hours as his normal week. In this situation the gross pay for redundancy purposes **is based on the reduced working hours**.

On the other hand, if the employee never accepted the reduced working hours as his “normal” hours and was constantly seeking to be put back on full time working, he could then be deemed not to have accepted his reduced hours as normal. In these circumstances his redundancy entitlement should be calculated at his full-time rate of pay.

Where an employee himself makes a request to be placed on reduced working hours, for his own reasons, and the employer agrees, then the redundancy entitlement is based on the reduced hours.

12 (b) Workers on Fixed-Purpose Contracts

The Redundancy Payments Act 2003 safeguards the right to redundancy of a worker employed under a “fixed-purpose” contract, where the exact duration of the contract was incapable of being determined at the beginning. If the contract is not renewed following the fulfilling of the purpose, i.e. the fixed purpose contract ceases, a redundancy situation can arise.

12 (c) Employment Agencies

Under the Redundancy Payments Act 2003, employees employed through Employment Agencies are covered for redundancy. Where the Employment Agency pays the wages of the employee, it is responsible for making the statutory redundancy payment.

12 (d) Employees commencing work abroad

Under the Redundancy Payments Act 2003 employees who start work in a company abroad, work there for some time and are then transferred to the company or an associated company in the Republic of Ireland and work here for at least two years before being made redundant, will have *all* of their service counted in calculating their statutory redundancy entitlements. This extends to workers who commence their employment abroad and are then posted to this country **the same redundancy entitlements** which have always been enjoyed by employees **in the reverse situation** i.e. employees who start work here, are posted abroad, return to Ireland and are subsequently made redundant, with full credit being given for all their service for redundancy purposes.

12 (e) Minimum Wage

The minimum rates of pay laid down in the National Minimum Wage Act 2000 as updated, should always be taken into account when calculating a statutory redundancy lump sum. The Department of Enterprise, Trade and Employment insists on evidence of payment of the full statutory redundancy entitlement to the employee, in accordance with the prevailing minimum rates of pay, before paying the 60% employer rebate. Thus, the Redundancy Payments Act 2003 ensures that the rate of pay used for redundancy calculation purposes will always be at least as high as the current National Minimum Wage.

12 (f) Maternity Leave and Additional Maternity Leave for redundancy calculation purposes

An employee cannot be given Notice of Redundancy while on maternity leave or additional maternity leave. Under the Maternity Protection Act 1994 and the Maternity Protection (Amendment) Act 2004, the date of an employee's dismissal or termination of employment in a redundancy situation under the Redundancy Payments Acts 1967 to 2003 is deemed to be the date of her expected return to work as notified to her employer (or his/her successor) under the maternity

protection legislation above. **Maternity leave, which at present is 18 weeks, has always been fully reckonable for redundancy calculation purposes.**

Additional maternity leave of 8 weeks, protective leave or natal care absence within the meaning of the Maternity Protection Act 1994 and the Maternity Protection (Amendment) 2004 are all reckonable for redundancy calculation purposes in respect of redundancies notified/declared since 10th April, 2005, being the date of the coming into operation of Section 12 of the Redundancy Payments Act 2003.

Regarding employees declared redundant on or after 10th April, 2005, there is no question of any maternity leave or additional maternity leave being non-reckonable in the period **prior to the last 3 years** of service, ending on the date of termination of employment. Thus, **all periods of absence** due to maternity or additional maternity leave arising before the last 3 years of employment are fully reckonable for such employees.

12 (g) Parental Leave for redundancy calculation purposes

For statutory redundancy calculation purposes, parental leave, which at present is 14 weeks, is already fully reckonable under the Parental Leave Act 1998. This has been reinforced under Section 12 of the Redundancy Payments Act 2003 in respect of redundancies notified/declared since 10th April, 2005, with specific provision being made whereby parental leave and *force majeure* leave within the meaning of the Parental Leave Act 1998 are fully reckonable for statutory redundancy purposes.

FOR FURTHER INFORMATION ON MATERNITY LEAVE AND PARENTAL LEAVE etc

Detailed enquiries concerning maternity leave, parental leave or other equality issues can be made to the Equality Authority at 2 Clonmel Street, Dublin 2. Their telephone number is (01) 4173333, Lo-Call 1890 245545. All their publications

and information on the equality legislation can be accessed at their website at www.equality.ie

13 Important further legal changes made in the Redundancy Payments Scheme with respect to redundancies notified/declared on or after 10th April, 2005.

13 (a) Giving Notice of Redundancy (Section 7 of the Redundancy Payments Act, 2003) regarding redundancies notified/declared on or after 10th April, 2005

The employer must still give the employee notice of dismissal for redundancy. He/she can do so by giving **Part A (Notification of Redundancy) of Form RP50** to the employee. **The employer does not have to notify the Minister for Enterprise, Trade and Employment in advance of the date of termination of employment**, as was hitherto the case prior to 10th April, 2005.

However, when claiming the rebate, the employer must complete and submit the **new Form RP50**, which incorporates the old redundancy notice form RP1, as well as the old RP2, RP3 and RP14 forms.

13(b) Calculating “excess days” (Section 11 of the Redundancy Payments Act, 2003) in respect of redundancies notified/declared as and from 10th April, 2005

As mentioned in paragraph 3, “How much statutory redundancy is an employee entitled to?” **all such “excess” days** are credited as a proportion of a year. For example, 91 days give the employee an extra 24.93% of a year’s service, on top of whatever number of full years they have worked for. The simple formula to be used in this situation for calculating the proportion of a year to be credited to the employee is 91 divided by 365 = .2493, or in percentage terms = 24.93%. It might be noted that 365 days is now used for redundancy calculation purposes rather than the figure of 364 days which was previously used.

13(c) Non-Reckonable Service (Section 12 of the Redundancy Payments Act, 2003) applicable to all redundancies notified/declared on or after 10th April, 2005.

This is the biggest single legal change in 2005, and **greatly simplifies** the method/rules for calculating statutory redundancy entitlements. The whole idea of non-reckonable service for redundancy calculation purposes in respect of all redundancies from 10th April, 2005 now applies

only to the last 3 years of service. Before that, there is no such thing as non-reckonable service. The exact words used in Section 12 could not be clearer on this point –

“During, and only during, the 3 year period ending with the date of termination of employment, none of the following absences shall be allowable as reckonable service -

Regarding redundancies declared from 10th April, 2005 onwards, there is no need to record any non-reckonable service outside of the 3 year period ending on the date of termination of employment. So if a person has been employed, for example, for 20 years, there will be no non-reckonable service in respect of the first 17 years – **any non-reckonable service will only be factored in/included in respect of the last 3 years.**

13 (d) Adoptive Leave for redundancy calculation purposes

Since 19th November, 2004, **16 weeks** of absence due to Adoptive Leave has been fully reckonable for redundancy calculation purposes, up from 14 weeks before that date. Of course, with respect to redundancies notified on or after 10th April, 2005, any adoptive leave taken **before the last 3 years** of employment will be **fully reckonable** – the 3 year rule therefore applies.

13(e) Carer’s Leave for redundancy calculation purposes

Under the Carer’s Leave Act, 2001, there is a maximum period of reckonable service of 65 weeks in respect of any one care-recipient. Again, regarding all redundancies notified since 10th April 2005, the 3 year rule of confining any non-reckonable service to the 3 years ending on the date of termination also applies to Carer’s Leave. Before that 3 year period, all Carer’s Leave is fully reckonable.

13 (f) Career Break type of leave

Under Section 12 (b) of the Redundancy Payments Act, 2003, any absences outside of the usual type of absences due to maternity leave, additional maternity leave, adoptive leave, parental leave, carer’s leave etc “but authorised by the employer” is always fully reckonable, even during the last 3 years of employment. The most common form of this type of leave would be a career break. Regarding such absences occurring before 10th April, 2005, the position was that the first 13 weeks in any 52 week period were reckonable.

13 (g) Strengthening of Continuity of Employment (Section 12 of the Redundancy Payments Act, 2003), as applied to redundancies notified/declared on or after 10th April, 2005

Under Schedule 3 to the Redundancy Payments Act, 1967 and Section 10(a) of the Redundancy Payments Act 1971, there has always been what is sometimes referred

to a “presumption of continuity of employment”. This has been greatly strengthened by Section 12 of the Redundancy Payments Act 2003 in respect of redundancies notified/declared on or after 10th April, 2005. Section 12 (a) refers to a whole range of interruptions to an employee’s service due to the following - sickness, lay-off, holidays, service in the Reserve Defence Force, leave authorised by the employer, adoptive leave, additional maternity leave (maternity leave is already covered under existing maternity protection legislation), parental leave, adoptive leave, carer’s leave, and lock out by an employer or participation in a strike by an employee.
Section

12 (a) goes on to state that continuity of employment is not broken by the matters referred to in this list of interruptions in employment. No reference is made to any time limit on periods of sick leave absence or absence due to lay-off for continuity of employment purposes, or indeed any other absences.

14. How to actually make an application to the Department of Enterprise, Trade and Employment (Redundancy Payments Section) for an Employer’s Rebate

To make a claim to the Department for a 60% rebate following payment of a statutory redundancy lump sum, an employer should, within six months of such payment, submit the comprehensive redundancy form **RP50**, incorporating Redundancy Notification (old Form RP1), Redundancy Certificate (old Form RP2), as in Paragraph 15 below in respect of each employee, and finally **Employer’s Application for a Rebate** – (old Form RP3), now Part B of Form RP50. From 30th May, 2005, this form can be submitted electronically at the Department’s website at: <http://www.entemp.ie> and is downloadable at that address. Although a signed hardcopy version of Form RP50 must also be submitted for verification purposes, it is still the case that an electronic application is by its very nature capable of being processed faster than a hardcopy-only application since an electronic application means that the required data is instantaneously transmitted onto the Department’s database, with any errors being immediately returned for electronic correction.

PLEASE NOTE: For the reasons given above, on-line applications are definitely recommended. Form RP50 is also available in hardcopy from

Employment Rights Information Section of the Department - tel. (01) 6313131
Lo-Call 1890 201 615. E-Mail: erinfo@entemp.ie

Where Form RP50 indicates that the employee received less than the full statutory redundancy lump sum, the Department then requests the employer to pay the shortfall before processing the rebate form. **This delays payment of the rebate**, so an avoidance of underpayments to employees in the first instance facilitates **the more rapid paying of the rebate by the Department**. It is also **strongly recommended** that the **website calculator** on the Home Page of the Department's Website at www.entemp.ie be used to **calculate statutory redundancy entitlements**.

Note to Employers re Notification of redundancy – Where an employer intends making an employee with at least two years service redundant, he must give him or her notice in writing at least two weeks before the date of termination. **Form RP50 (Part A)** may be used for this purpose. Failure to comply with these requirements leaves an employer open to a fine of up to €3,000.

Where an employee accepts payment in lieu of notice, the date of termination is deemed to be the date on which notice, if it had been given, would have expired, and this date should be inserted as the termination date on RP50 (Part B).

For information on the notice requirements of the Minimum Notice and Terms of Employment Acts 1973 to 2001 and the Protection of Employment Act 1977 (as amended) see Appendices 6 and 7.

Note for employers and employees re Redundancy Certificate (incorporated in comprehensive Form RP50 – Part B)

An employer who makes an employee redundant must supply that employee with a redundancy certificate on the prescribed Form RP50 (Part B) not later than the date of termination of employment. An employee entitled to a statutory

redundancy payment by reason of lay-off or short-time should also receive a Redundancy Certificate in this prescribed Form.

Form RP50 **confirms the employee's right to the correct statutory redundancy payment**, giving the necessary data e.g. gross weekly pay and length of service used in calculating that amount and containing the signatures of both employer and employee certifying that the correct statutory redundancy payment was made by the employer and received by the employee. The employee **should not sign this receipt until he or she actually receives payment**, except in the situation outlined in paragraph 15 below where the employer is unable to pay the amount due to the employee and payment is sought from the Social Insurance Fund instead, in which case the employee signs "nil" for the amount received, and the employer signs "nil" for the amount paid.

Time-off to look for work

An employee is entitled, during the two weeks of redundancy notice period, to reasonable, paid time-off to look for new employment or to make arrangements for training for future employment. The employer may request the employee to furnish him with evidence of arrangements made for these purposes and the employee must furnish such evidence provided it is not prejudicial to the employee's interest.

15. How to actually make an application to the Department of Enterprise, Trade and Employment (Redundancy Payments Section) for a redundancy lump sum in situations where the employer is unable or unwilling to pay the amount due to the employee

In this situation, the Department steps in and pays the money from the Social Insurance Fund. The right of the employee to the payment must first be established either by a completed Redundancy Certificate (RP50 – Part B) or, in the absence of that, a Decision of the Employment Appeals Tribunal (EAT) following an appeal from the employee. The following comprehensive all-in-one

form must be submitted to the Department, either by the Liquidator/Receiver on behalf of the employees in a liquidation/receivership situation or otherwise by the employees themselves –

RP50, incorporating –

- **Notification of Redundancy (Part A)** – this should be submitted if available.
- **Redundancy Certificate (Part B)** - with both employer (or liquidator/receiver in a liquidation/receivership situation) and employee giving written confirmation that **no** redundancy was paid, although it was owed to the employee; or, failing this, copy of an EAT Decision in the employee's favour. See **Note on Form RP77** below.
- **Employee Lump Sum Claim from the Social Insurance Fund (also in Part B)**

As mentioned in Paragraph 14 above (How to make an application to the Department for an Employer's Rebate), from 30th May, 2005, Form RP50 can be submitted electronically at the Department's website at: <http://www.entemp.ie> and is downloadable at that address.

PLEASE NOTE: Although, as with the case of an employer rebate, a signed hardcopy version of Form RP50 must also be submitted for verification purposes, it remains the case that an electronic application is capable of being processed faster than a hard-copy only version and is accordingly recommended to anybody making an application.

Form RP50 can also be downloaded from the Department's Website at: <http://www.entemp.ie> It is also available from the Employment Rights Information Section of the Department, which can also answer general enquiries on redundancy matters which people may have.

Note on Form RP77: Before formally applying for a statutory redundancy lump sum, an employee should first have taken all reasonable steps short of actual legal proceedings to secure payment from the employer. This includes a written application to the employer – **Form RP77** can be used for this purpose. This form can be accessed from the Department's website at <http://www.entemp.ie> It

can also be obtained in hardcopy from Employment Rights Information Section of the Department at Davitt House, Adelaide Road, Dublin 2. Tel: (01) 6313131 Lo-Call 1890 201 615.

In the event of a dispute between the employer and the employee concerning the employee's right to a lump sum, the employee may decide to bring the matter to the Employment Appeals Tribunal (EAT) for adjudication. The Tribunal, with its headquarters at Davitt House, Adelaide Road, Dublin 2 holds sittings in various locations throughout the country and is an informal, inexpensive and efficient avenue for adjudicating on disputes regarding statutory redundancy entitlements.

If the Tribunal rules in favour of an employee, and if the employer continues to refuse to pay the amount due, the employee should then send a copy of the EAT Decision, together with the RP50 form to the Department for payment of the lump sum from the Social Insurance Fund.

16. Time Limit for the making of claims for Employer Rebates or for statutory redundancy Lump Sums

16 (a) Employer's Rebate

The time limit for making an employer's rebate claim to the Department of Enterprise, Trade and Employment is six months from the date of payment of the redundancy lump sum by the employer to the employee.

16 (b) Lump Sums

The time limit for making such claims is 52 weeks after the date of termination of employment. Thus there are 52 weeks for a redundancy payment to be agreed on and paid **or** for the employee to give a written claim for redundancy to his employer **or** for a referral to the Employment Appeals Tribunal of the question of the right of the employee to a redundancy payment.

The Tribunal has a discretion **to extend the 52 week time-limit to 104 weeks**, provided that it receives the necessary claim within 104 weeks of the date of dismissal and is satisfied that the delay by the employee in making his claim arose through reasonable cause. It should be stressed, however, that the period of 52 weeks is the period which will normally apply.

In very rare circumstances the following situation may apply. Where an employee is transferred from one employer to another **without realising that the transfer involves his dismissal by one employer and his re-engagement by the other**, and is subsequently made redundant, he has of course the usual period for applying for his redundancy entitlement in respect of the period spent working for the employer who made him redundant, and in respect of his pre-transfer employment. However, the Employment Appeals Tribunal may fix the date from which the time limit shall run for applying for redundancy to his previous employer, where his failure to apply was due to his **not having received from such previous employer notice of dismissal or a redundancy certificate**.

17. Seasonal workers

In the case of workers who are laid off for an average period of more than twelve weeks per year prior to redundancy, the provisions relating to lay-off in the Scheme will not apply until the end of that average period. In the case of a seasonal worker, therefore, **there will normally be no question of redundancy until the usual commencement time of his seasonal work**. If he is not then re-employed, the question of redundancy arises, but not until then.

18. Effects of change of ownership of a business on a Redundancy Lump-Sum Payment

The provisions regarding redundancy payments in circumstances arising from a change in the ownership of a business are as follows:

- (i) where there is a change in the ownership but the employee by arrangement **continues to work for the new owner with no break in employment**, the employee is not entitled to redundancy payment at the time of change of ownership but his continuity

of employment is preserved for the purpose of redundancy payments in the event of his dismissal on redundancy by the new employer at any future date;

(ii) the employee is not entitled to redundancy payment if he **unreasonably refuses** an offer of employment from the new owner as follows:-

(a) on the same terms as before without a break in employment, or

(b) on different terms which would rank as **suitable employment** in relation to the employee either with or without a break, provided the break does not exceed four weeks. The fact of change of ownership of the business will not, in itself, be regarded as a good and sufficient reason for the refusal by the employee of an offer of employment from the new owner.

(iii) if the new owner merely buys the property on which the employee was employed, this will not constitute a change of ownership of the business and the former employer will be liable to pay any redundancy lump sum which might be due to the employee for loss of his job;

(iv) where there is a transfer of an agency, franchise, tenancy, etc., if an employee of the transferor accepts before, on or within four weeks after the transfer, an offer by the transferee of employment in the same place and on terms which are either the same as or are not materially less advantageous to him than his existing terms of employment, the employee is not entitled to a redundancy payment but his continuity of employment is preserved.

19. Death of an employer

The effects as far as redundancy lump-sum payments are concerned in various circumstances which might arise on the death of an employer are as follows:

(i) if an employee's contract is terminated by reason of his employer's death, he will **not** be regarded as having been dismissed **if his contract is renewed or if he is re-engaged** by the personal representative of the deceased employer within eight weeks after the death of the employer;

(ii) an employee will not be entitled to a redundancy lump-sum payment if he unreasonably refuses written offers of employment from the deceased employer's personal representative either

(a)

on the same terms as before without a break in employment, or

(b)

on different terms which would rank as **suitable employment** in relation to the employee, either with or without a break, provided the break does not exceed eight weeks

(iii) if an employee has been laid off or kept on short-time immediately before his employer's death and if he is again laid off or put on short-time when re-engaged by the deceased employer's personal representative, he can count all the weeks together including any interval before the re-engagement for the purpose of claiming a payment;

(iv) if an employee has served notice of intention to claim a redundancy payment because of lay-off or short-time (Form RP9 as above) and his employer dies within four weeks after the notice is served, the employee will be entitled to claim a payment if he is laid off or kept on short-time or not re-engaged by the employer's personal representative during the four consecutive weeks following the service of notice;

(v) if an employee, who has been laid off or kept on short-time for one or more weeks during the four weeks after the service of notice of intention to claim, has his contract renewed or is re-engaged under a new contract within these four weeks by the deceased employer's personal representative and is laid off or kept on short-time for the week or for the next two or more weeks following the renewal or re-engagement, all the weeks of lay-off or short-time will be regarded as consecutive weeks for the purpose of entitlement to redundancy payment.

Any disputes which may arise in connection with these provisions will be decided by the Employment Appeals Tribunal.

(20) Death of a redundant employee

Where an employee dies **before the expiration date of his dismissal notice** and before receiving a redundancy payment which is due to him **the payment will still be due** and will be based on his service up to the time of his death. Should an employee die **without** having either accepted or refused an offer of renewal or re-engagement by his employer made before the termination of his contract of employment and that offer has not been withdrawn before the employee's death, **no redundancy entitlement arises**. Neither will there be any entitlement to redundancy if an employee who has given to his employer notice of intention to claim by reason of lay-off and/or short-time (RP9 Form) dies within 7 days of giving such notice.

Any dispute concerning the liability of an employer to pay a redundancy payment to the personal representative of a deceased employee will be decided by the Employment Appeals Tribunal.

21. Apprentices - What are the rights of an apprentice to a redundancy payment?

Redundancy Payments will **not** be payable in any case where an employee is dismissed **within one month after the end of his/her apprenticeship**. If, however, an employer retains the services of an employee for more than a month after the completion of his/her apprenticeship, the period of apprenticeship will count in calculating any redundancy payments in respect of that employee in the future.

An apprentice whose employment terminates by reason of redundancy **during the period of his/her apprenticeship will qualify** for a redundancy lump sum payment if he or she meets the usual requirements for entitlement i.e. be between the ages of 16 and 66 and have at least two years service etc.

22. How are statutory redundancy lump sums and employer's rebates financed?

The Social Insurance Fund (SIF)

In the first instance it is up to the employer to pay the statutory redundancy lump sum to all eligible employees. The Social Insurance Fund (SIF) finances the 60%

redundancy rebate payment to employers who pay their eligible employees their full statutory redundancy entitlements. However, where the employer is unable to pay or refuses or fails to pay, the Department steps in and makes a payment from the (SIF).

23. Recovery of sums paid from the Social Insurance Fund for statutory redundancy purposes.

Sections 42 and 43 of the Redundancy Payments Act 1967 and Section 14 of the Redundancy Payments Act 1971 and Section 14 of the Redundancy Payments Act

1979 contain specific terms of reference for the Minister for Enterprise, Trade & Employment in dealing with redundancies arising from liquidations, bankruptcies etc.

Section 14(7) of the 1971 Act defines insolvency. Where a liquidator or receiver has been appointed and the question of insolvency does not arise, the Minister will reasonably expect a liquidator or receiver to discharge lump sum payments.

In a situation where a business concern provides the Minister with concrete evidence of its inability to pay its employees their statutory redundancy entitlements e.g. audited accounts/bank statements, the Minister will make the payment from the Social Insurance Fund and will subsequently seek repayment of the amount concerned, less the 60% rebate which the company would have been entitled to if it had been in a position to make the payment in the first place.

In the case of an employer simply refusing to pay a redundancy lump sum, the Minister will have the payment made from the Fund and will then endeavour to recover the full amount from the employer. Under Section 43 of the Redundancy Payments Act 1967 such amounts owing to the Fund are recoverable as debts due to the State and, without prejudice to any other remedy, may be recovered by the Minister as a debt under statute in any court of competent jurisdiction.

In a **Liquidation, Receivership, Examinership or Bankruptcy** situation, the Minister is obliged to pay the correct lump sum to all eligible employees. The Minister then seeks to recover the amount from the employer concerned, less any rebate which would have been payable had the employer originally made the payment. Amounts which are recovered are then paid back into the Social Insurance Fund. For this purpose, the Minister's claim has preferential status under Section 42 of the Redundancy Payments Act 1967, which has been amended by Section 14 of the Redundancy Payments Act 1979. Under the 1979 Act, a redundancy lump sum (or part thereof) is made a priority debt under Section 285 of the Companies Act 1963, in cases of winding up, and a priority debt under Section 4 of the Preferential Payments in Bankruptcy Ireland Act 1889, in cases of a bankrupt or arranging debtor.

24. The Employment Appeals Tribunal (EAT)

The Tribunal is an independent body bound to act judicially and was set up to provide a speedy, fair, inexpensive and informal means for individuals to seek remedies for alleged infringements of their statutory rights. The Tribunal was originally set up in 1968 under Section 39 of the Redundancy Payments Act 1967 for the purpose of resolving disputes relating to redundancy matters and has since expanded to cover many other areas of employment rights legislation including unfair dismissals, minimum notice etc.

The Tribunal consists of a legally qualified Chairman, a number of vice-Chairmen and ordinary members. The ordinary members as well as the Chairman and vice-Chairmen are appointed by the Minister for Enterprise Trade & Employment - half of the ordinary members being persons nominated by the organisation representative of trade unions and half being from among persons nominated by bodies representative of employers. The Chairman may direct that the Tribunal act by division. A division consists of either the Chairman or a Vice-Chairman and two ordinary members (of whom one shall be a trade union representative and one an employer's representative). The Tribunal may require persons to attend before it and to give evidence. It has the power to take evidence on oath.

The decision of the Tribunal on any dispute is final and conclusive except that a person dissatisfied with its decision may appeal to the High Court on a question of law. Employers and employees who wish to appeal to the Tribunal should ask the Department of Enterprise, Trade & Employment, the nearest Social Welfare Office or the local FÁS Office for the necessary form (Form T1A or RP51B). The following are among the redundancy matters on which disputes are referable to the Employment Appeals Tribunal:

- (a) lump-sum payments to workers and rebates to employers;
- (b) decisions given by Deciding Officers
- (c) what constitutes continuous employment, whether dismissals were due to redundancy, or whether offers of alternative employment were reasonable;
- (d) compliance with notices required under the Act;
- (e) matters arising from the deaths of either employees or employers.

Disputes concerning the insurability of employees

Questions relating to the insurability of employees under the Social Welfare Acts are **not** referable to the Employment Appeals Tribunal. Such questions must be decided in accordance with the decisions and appeals procedures provided for in the **Social Welfare Acts, as administered by the Department of Social and Family Affairs**. Where an employee is dissatisfied with a decision as to his insurability under these Acts he or she may **appeal this decision to the Social Welfare Appeals Board**.

The Employment Appeals Tribunal also deals with disputes relating to the Minimum Notice and Terms of Employment Acts 1973 to 2001, the Unfair Dismissals Acts 1977 to 2001, the Maternity Protection Acts 1994 to 2004, the Protection of Employees (Employers' Insolvency) Acts 1984 to 2004, the Protection of Employees (Part-Time Work) Act 2001, the Payment of Wages Act 1991, the Terms of Employment (Information) Act 1994, the Adoptive Leave Act 1995 (as amended), the Protection of Young Persons (Employment) Act 1996, the Organisation of Working Time Act 1997 (in certain circumstances), the Parental Leave Act 1998, the Protection for Persons Reporting Child Abuse Act 1998, the Carer's Leave Act 2001 and the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003.

A separate explanatory leaflet on the Employment Appeals Tribunal is available from the Department. A general "Guide to Labour Law" covering the above range of labour legislation is also available from the Department and can be accessed on our website address at www.entemp.ie

25. Offences

Under Section 13 of the Redundancy Payments Act 2003 it is an offence punishable by a fine of up to €3,000 to furnish false information on Form RP50 (incorporating Notification of Redundancy, Redundancy Certificate and Employer's Claim for a Rebate from the Social Insurance Fund).

26. Inspection of records

The Minister for Enterprise, Trade & Employment has power conferred on him/her by the Redundancy (Inspection of Records) Regulations 1968 (S.I. No. 12 of 1968) to enter premises, inspect records and procure information for the purpose of ensuring the effective operation of the Redundancy Payments Acts.

APPENDIX 1

Guide to Completing the Redundancy Form RP50

Fields marked with * are mandatory fields and must be completed before submitting to the Department.

When do I complete Part A?	When you wish to notify an employee of your intention to terminate their employment for reasons as stated in the Redundancy Payments Acts.
When do I complete Part B?	When the employee is leaving and receiving their lump sum payment from you.
Why should I apply on-line?	Online applications are a speedier method of applying for Rebate or Lump sum payments and are processed quicker.
IMPORTANT NOTE: To establish a right to a Redundancy Payment, it may be necessary to refer to information from the Revenue Commissioners or other Government Departments. By signing this form, consent is given to the disclosure of such information for Redundancy purposes only. By signing, it is also certified that no other claim has been made in respect of the said employment details and that the claim is <u>not</u> awaiting a Decision from the Employment Appeals Tribunal.	

OPERATION OF THE REDUNDANCY PAYMENTS

SCHEME & ENTITLEMENTS

What is Statutory Redundancy?	Statutory Redundancy is the minimum Lump Sum payment which an employer is obliged by law to pay all eligible redundant employees under the Redundancy Payments Acts 1967 to 2003.
What are the allowable Reasons for Redundancy?	Closure or relocation of Business, Rationalisation, (Fewer people required to do the work etc.), Re-organisation of business, (Fewer people required due to reduced product demand, Technological changes) Liquidation, Receivership, Bankruptcy, Death of Employer, Insolvency, End of Contract, Sale of Business. See our website at http://www.entemp.ie for complete list of reasons.
Who is eligible for Statutory Redundancy?	All employees must be between 16 and 66 years of age (Pension age), with at least two years (104 weeks) continuous service. If full time, must be in fully insurable employment. A genuine redundancy situation must exist.
What Notice is required?	A minimum of two weeks notice is required. For service of between 2 and five years – two weeks notice, 5 and 10 years – 4 weeks notice, 10 and 15 years – 6 weeks notice, over 15 years – 8 weeks notice.
How are Statutory Redundancy Entitlements calculated?	Two weeks pay for every year of service, together with a bonus week. Weekly pay is subject to a ceiling which is €600. The on-line redundancy calculator can be found at: http://www.entemp.ie

Who can claim a Rebate ?	Any employer who pays the correct Statutory Redundancy Lump Sum Entitlement to an eligible employee.
What steps are required to claim a Rebate?	The composite redundancy form RP50 must be fully completed, signed by the Employer and Employee, and submitted. It should cover Notice of Redundancy, Confirmation of Receipt of Statutory Redundancy Payment and Application for Employers Rebate and submitted within 6 months of the employee receiving their Lump Sum. Rebate Claims can be submitted on-line at http://www.entemp.ie
Who can claim a Lump Sum?	All eligible employees as above , where the employer fails to pay.
What steps are required to claim a Lump Sum?	The composite Redundancy Form RP50 must be completed, signed by the Employer, Employee, and where appropriate, the Administrator and submitted within one year of the Redundancy. If the Employer fails to pay, a case may be taken to the Employment Appeals Tribunal to establish entitlement to Statutory Redundancy. Lump Sum Claims can be submitted on-line at http://www.entemp.ie
What if the Employer is Insolvent?	If appointed, an administrator may apply to the Department on behalf of the Employee on-line at http://www.entemp.ie . If no appointment was made, an employee can make an application for Lump Sum payment directly to the Department by completing the Redundancy Form RP50 as above.
How do I calculate the Weekly Wage figure?	The Weekly Wage figure is calculated as the Gross Weekly Wage at date of Declaration of Redundancy, together with average regular overtime, Bonuses and Benefit in Kind.
What happens if I have irregular / part-time work?	Total pay over a 26 week period, ending on 13 weeks before the date of Declaration of Redundancy is divided by total hours worked in that period to get an average hourly rate of pay which is then multiplied by the normal weekly working hours.
What is meant by Breaks in Service?	All lay-off, absences in excess of 26 weeks due to ordinary illness, 52 weeks due to occupational injury or disease. Periods of Strike, etc. All reasons apply only to the last 3 years prior to redundancy. For a full list, please see our website at http://www.entemp.ie
When do I need to supply Supplementary Information with this Claim?	When there is an Employment Appeals Tribunal Decision in favour of paying Statutory Redundancy.
Where can I get more information?	From Employment Rights Information Section, Department of Enterprise Trade & Employment, Davitt House, 65A Adelaide Road, Dublin 2. Tel 631 3131. Lo-call (if outside 01 area) 1890 201 615, Redundancy Payments Section, Davitt House, or our website at http://www.entemp.ie

APPENDIX 2

Definition of Redundancy

Extract from Section 7 of the Redundancy Payments Act 1967, as amended by

Section 4 of the Redundancy Payments Act 1971 and Section 5 of the Redundancy Payments Act 2003

“.....an employee who is dismissed shall be taken to be dismissed by reason of redundancy if for one or more reasons not related to the employee concerned the dismissal is attributable wholly or mainly to:

- (a) the fact that his employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him or has ceased or intends to cease, to carry on that business in the place where the employee was so employed, or
- (b) the fact that the requirements of that business for employees to carry out work of a particular kind in the place where he was so employed have ceased or diminished or are expected to cease or diminish, or
- (c) the fact that his employer has decided to carry on the business with fewer or no employees, whether by requiring the work for which the employee had been employed (or had been doing before his dismissal) to be done by other employees or otherwise, or
- (d) the fact that his employer has decided that the work for which the employee had been employed (or had been doing before his dismissal) should henceforward be done in a different manner for which the employee is not sufficiently qualified or trained, or
- (e) the fact that his employer has decided that the work for which the employee had been employed (or had been doing before his dismissal) should henceforward be done by a person who is also capable of doing other work for which the employee is not sufficiently qualified or trained”.

APPENDIX 3

How do you calculate a week's pay for redundancy purposes?

The basic formula is as follows –

Gross Weekly Wage **plus** Average Regular Overtime **plus** Benefits-in Kind.

The total figure is then taken to be the weekly pay for redundancy calculation purposes. There are two basic patterns of work involved i.e. **time workers** whose pay does not vary in relation to the amount of work they do and **piece workers** whose pay does depend on the amount of work they do e.g. sales persons on commissions.

(1) How is the weekly pay of a *time- worker (fixed wage or salary)* calculated?

This is the work pattern in most cases i.e. a fixed wage or salary. In this case, the employee's wages do not vary in relation to the amount of work he or she does e.g. if he/she is paid by an hourly time rate or by a fixed wage or salary. A week's pay means his earnings for his normal weekly working hours **at the date he was declared redundant** i.e. the date on which notice of proposed dismissal was given. This figure includes any **regular** bonus or allowance which does not vary in relation to the amount of work done. In calculating the amount of a week's pay for redundancy purposes, any benefits-in-kind normally received by the employee e.g. free accommodation, free meals etc., must be taken into account. The exact value of these "fringe-benefits" should be agreed between the employer and employee.

Where redundancy is claimed on the basis of lay-off or short-time (Form RP9), the date of termination of employment is taken to be the date that the employee applies for redundancy.

If a worker receives overtime pay for working more than a fixed number of hours, the fixed number of hours will be taken to be his normal working hours but if his contract requires him to work for more than that fixed number of hours, the higher number of hours required by the contract will be taken as his normal weekly working hours.

In the case of an employee who is normally expected to work overtime, his/her **average weekly overtime earnings** will be taken into account in determining his week's pay for redundancy purposes. The formula for calculating this amount is simply to establish the total amount of overtime earnings in the period of 26 weeks ending 13 weeks before the date he was declared redundant and dividing that amount by 26.

(2) How is the weekly pay of a piece-worker calculated?

A piece worker is defined as an employee whose pay depends on the amount of work he/she carries out i.e. he is paid wholly or partly by piece rates, bonuses or commissions etc related to his output. There is a special formula for calculating this amount, based on his normal weekly working hours, as follows –

- (a) The total number of hours worked by the employee in the **26-week period ending 13 weeks before the date of being declared redundant** is calculated first. Weeks worked

with different employers will be taken into account if the change of employer did not affect the continuity of employment. Any week or weeks during the 26-week period, in which the employee did not work will not be taken into account and the most recent week or weeks counting backwards, before the 26 week period, will be taken into account instead.

- (b) You then add up all the pay earned in this 26-week period and adjust it to take into account **any late changes in rates of pay** which came into operation in the **13 weeks** before the employee was declared redundant.

- (c) The employee's **average hourly rate of pay** is then calculated by simply dividing the total pay as at (b) above by the total number of hours as at (a) above. You then finally establish **the weekly pay by multiplying this average hourly rate by the number of normal weekly working hours** of the employee at the date on which he was declared redundant (i.e. date of being given notice of redundancy).

(3) Employees with *no normal working hours*

In a case where an employee has no normal working hours his average weekly pay will be taken to be his average weekly pay including any bonus, pay allowance or commission over the period of 52 weeks during which he was working before the date on which he was declared redundant.

(4) *Shift workers*

An employee who is employed on **shift-work** and whose pay varies according to the shift on which he works will be taken to be an employee who is paid wholly or partly **by piece-rates**. This also applies in the case of an employee whose pay varies in relation to the day of the week or time of the day at which he works.

NOTE (A) -

When calculating a week's pay regard should be had to the **ceiling for the time being in force** on normal weekly remuneration. Regarding redundancies **notified/declared** from **1st January, 2005**, the ceiling is **€600 per week** or €31,200 per annum (€507.90 per week or €26,411 per annum prior to that date).

Account must not be taken of any sums paid to an employee by way of recoupment of expenses necessarily incurred by him in the proper discharge of the duties of his employment.

NOTE (B) -

Treatment of *Short-time Wages, Job-sharing Wages and Reduced Working Hours* for Redundancy calculation purposes

(1) Treatment of Short-time Wages, (working for less than half a week, or earning less than half a week's wages) for Redundancy calculation purposes

It has been the view of the Employment Appeals Tribunal (EAT) that when a person is put on **short-time** i.e. working less than half the number of hours they are normally expected to work in any week, or earning less than half their normal weekly earnings, e.g. a 2 day week, the gross wage for the calculation of a redundancy lump sum is based on a **full week's pay**.

(2) Treatment of Job Sharers

Where a person himself/herself decides to go job-sharing, their job-sharing pay rather than their previous full-time pay is used for redundancy calculation purposes. The decision to go job-sharing in this case was taken by the employee, rather than being an employer decision in the context of, for example, a temporary reduction in work for the employee concerned.

(3) Treatment of employees on reduced working hours

When a person is put on **reduced working hours** by their employer e.g. a three day week, the redundancy entitlement is calculated on the basis of a full week, provided the employee was put on reduced hours **within one year (52 weeks) before being made redundant**. If they were made redundant **after the first year** of reduced working hours and if it is clear that the employee **fully accepted** the reduced working hours as being his/her normal working week, never requesting a return to a full time week, then the employee is deemed to have accepted the reduced hours as his normal week. In this situation the gross pay for redundancy purposes is **based on the reduced working hours**.

On the other hand, if the employee never accepted the reduced working hours as his "normal" hours and was constantly seeking to be put back on full time working, he could then be deemed not to have accepted his reduced hours as normal. In these circumstances his redundancy entitlement should be calculated at his full-time rate of pay.

Where an employee himself makes a request to be placed on reduced working hours, for his own reasons, and the employer agrees, then the redundancy entitlement is based on the reduced hours.

APPENDIX 4

How do you decide whether or not employment is continuous?

As a general rule employment will be regarded as continuous unless it has been terminated by dismissal or the employee leaves his or her employment voluntarily. The Employment Appeals Tribunal normally presumes that a person's employment was continuous unless the contrary is proved.

Where a redundant employee **receives a redundancy lump sum payment, his/her continuity of employment is broken.**

Regarding redundancies notified/declared on or after 10th April, 2005, **this presumption of continuity of employment has been further strengthened, save in obvious situations like dismissal or resignation.** It is explicitly stated that continuity of employment is preserved in all periods of -

- (1) sickness,
- (2) lay-off,
- (3) holidays,
- (4) service in the Reserve Defence Forces of the State,
- (5) leave (not voluntary leaving of the employment by the employee) and not mentioned in (1) to (4) above, **but authorised by the employer (e.g. career break),**
- (6) Adoptive leave,
- (7) leave under Maternity Protection legislation,

- (8) Parental leave,
- (9) *force majeure* leave,
- (10) Carer's Leave,
- (11) Absence from work because of a lock-out by the employer or because of participation by the employee in a strike.

The presumption of continuity of employment is safeguarded as per the following rules for calculating continuous employment -

(i) Employment will be taken to be continuous unless it has been terminated by dismissal or the employee leaves his employment voluntarily.

(ii) The Employment Appeals Tribunal, in any case which comes before it, shall presume that a person's employment was continuous unless the contrary is proved.

(iii) When a redundant employee receives a redundancy lump-sum payment, his continuity of employment is broken, except in the case referred to at (viii).

(iv) If an employee is dismissed for redundancy before attaining 104 weeks' continuous service and resumes employment with the same employer within 26 weeks, his employment will be treated as continuous.

(v) Continuity of employment will not be broken through an employee being involved in a strike or lock-out.

(vi) Where an employee is re-engaged by a company which is an associated company of the company that formerly employed him, continuity of employment will not be broken if the re-engagement takes place within four weeks of his dismissal. For the purpose of this provision, two companies shall be taken to be associated companies if one is a subsidiary of the other or both are subsidiaries of a third.

(vii) Where an employee voluntarily transfers from one employer to another and both employers and the employee agree that all the employee's service will be regarded as

continuous employment with the second employer, the transfer will not break continuity. In a case of this kind, the first employer will not be liable for redundancy payment.

(viii) Continuity of service is preserved (whether or not a redundancy lump sum has been paid), where redress by way of re-instatement or re-engagement is obtained under the Unfair Dismissals Acts 1977 to 2001.

APPENDIX 5

Reckonable and Non-Reckonable Service

During, and only during the 3 year period ending with the date of termination of employment, the following are all **non-reckonable** for redundancy calculation purposes in respect of redundancies **notified/declared on or after 10th April, 2005** –

NON-RECKONABLE ABSENCES WITHIN THE LAST 3 YEARS OF EMPLOYMENT (POST 10th April, 2005)

- (a) absence **in excess of 52 consecutive weeks** by reason of an occupational accident or disease within the meaning of the Social Welfare (Consolidation) Act 1993 – the first 52 weeks are therefore fully reckonable,
- (b) absence **in excess of 26 consecutive weeks** by reason of any illness not referred to in subparagraph (a) – the first 26 weeks are therefore fully reckonable,
- (c) absence by reason of lay-off by the employer,
- (d) absence from work by reason of a strike in the business or industry in which the employee concerned is employed.

PLEASE NOTE: Non-reckonable service in respect of redundancies notified/declared on or after 10th April, 2005 is applicable **only to the final 3 years of service**, ending on the date of termination of employment. Thus, if an employee was working in a company for a total of 20 years, the non-reckonable service referred to in (a) to (d) above **only applies to the last 3 years** – all such absences referred to are fully reckonable in respect of the first 17 years of employment.

This 3 year rule does **not** apply to redundancies notified **before the above date of 10th April, 2005**. In the case of such previous redundancies therefore, such non-reckonable periods of employment as above (a) to (d) are applicable to the entire employment history of the employee.

The following **allowable absences** are specifically referred to in Section 12 of the Redundancy Payments Act, 2003, which came into operation on 10th April 2005 with respect to redundancies notified/declared as and from that date (Maternity Leave, Adoptive Leave, Parental leave and Carer's Leave were, of course, already reckonable before that date) -

- (a) absence from work while on adoptive leave under the Adoptive Leave Act 1995 (as amended) – increased from 14 weeks to 16 weeks from 19th November, 2004,
- (b) absence from work while on **additional** maternity leave for **8 weeks (maternity leave of 18 weeks under the Maternity Protection Act 1994 was itself already allowable in the pre-10th April, 2005 period and, of course, continues to be allowable)**, protective leave or natal care absence within the meaning of the Maternity Protection Act 1994 (since amended by the Maternity Protection (Amendment) Act 2004),
- (c) absence from work while on parental leave (14 weeks) or *force majeure* leave within the meaning of the Parental Leave Act 1998,

- (d) absence from work while on carer's leave (subject to a maximum of 65 weeks in respect of any one care recipient) within the meaning of the Carer's Leave Act, 2001,
- (e) any absences not mentioned under (a) to (d) above but authorised by the employer e.g. a career break. In respect of redundancies notified/declared **before 10th April, 2005**, there was a **13 weeks limit** within a period of **52 weeks** in respect of such absences.

NOTE – While lay-off within the 3 year period referred to above (ending on the date of termination of employment), is non-reckonable, absence due to short-time working is fully reckonable. Short-time working can be defined as a situation where due to a reduced demand for work an employee's earnings are less than half his/her normal weekly earnings or his/her hours worked are less than half his/her normal weekly working hours.

More detailed guidelines on arrangements for reckonable and non-reckonable service

The following is always regarded as reckonable service

- (i) A week falling within a period of continuous employment during any part of which an employee is actually at work **or**
- (ii) absence from work due to sickness, holidays or with his employer's permission (subject to the 52 weeks and 26 weeks rule re "excess" sick leave at the start of this Appendix above) **or**
- (iii) absence from work because of a lock-out **or**
- (iv) periods of service where continuity is preserved in any case of redress by way of re-instatement or re-engagement under the Unfair Dismissals Acts 1977 to 2001.

APPENDIX 6

The Minimum Notice and Terms of Employment Acts 1973 to 2001

The period of notice prescribed under this legislation varies **according to the length of service** as follows:

<u>Length of Service</u>	<u>Minimum Notice</u>
Thirteen weeks to two years	One week
Two years to five years	Two weeks
Five years to ten years	Four weeks
Ten years to fifteen years	Six weeks
More than fifteen years	Eight weeks

Notice under this Act need not be in writing.

A separate leaflet is available giving more exact details of the terms of the Acts.

Provisions regarding the actual giving of notice:

(i) Where an employer is giving notice to an employee, the notice must be given to the employee or left for him at his last-known place of residence or posted to him at that address.

(ii) Where an employee is giving notice to an employer the notice must be given to the employer by the employee himself or by a person authorised by him or left for the employer or a person designated by the employer, at the employee's place of employment or posted to the employer at that address.

(iii) Where a notice is left for a person at a particular place, it will be presumed to have been received by him on the day on which it was left there unless the contrary can be proved.

APPENDIX 7

Protection of Employment Act 1977 (as amended)

When an employer proposes to create collective redundancies he must, under the Protection of Employment Act 1977 (as amended), give the Minister for Enterprise, Trade & Employment written notice of his proposals at the earliest opportunity and at least 30 days before the first dismissal takes effect.

The Act also provides that an employer contemplating collective redundancies must, with a view to reaching an agreement, similarly consult the representatives of the employees affected.

A collective redundancy means the dismissal for redundancy reasons over any period of 30 consecutive days of at least:

(a) five persons in an establishment normally employing more than 20 and less than 50 employees.

(b) ten persons in an establishment normally employing at least 50 but less than 100 employees.

(c) ten per cent of the number of employees in an establishment normally employing at least 100 but less than 300 employees.

(d) thirty persons in an establishment normally employing 300 or more employees.

The Act was amended by the European Communities (Protection of Employment) Regulations 2000, providing for matters such as the following - consultation with employees in the absence of a trade union, staff association etc., right of complaint to a Rights Commissioner where an employer fails to consult employees.

A separate comprehensive, up to date booklet is available giving further details of the provisions of the Act. This booklet is available on the Department's website at www.entemp.ie

APPENDIX 8

Sample Redundancy Calculations

How are fractions of a year calculated for redundancy purposes? e.g. 10 years and 50 days or 20 years and 200 days

REDUNDANCY CALCULATOR

An easy-to-use calculation facility is available on the Home Page of the Department's Website at www.entemp.ie BOTH EMPLOYERS AND EMPLOYEES ARE STRONGLY ADVISED TO USE THIS FACILITY, IN PARTICULAR TO ENSURE ACCURACY AND EASE OF CALCULATION.

ALSO, ON-LINE CLAIMS ARE PROCESSED QUICKER AS THEY ARE AUTOMATICALLY VALIDATED AND RECORDED ON OUR SYSTEM

For the purpose of calculating a lump sum, 365 days count as one year. An extra day is given in each Leap Year (366 days).

Regarding all redundancies **notified/declared on or after 10th April, 2005** with the coming into operation of Section 11 of the Redundancy Payments Act, 2003 on that date, the following should be noted when calculating the statutory redundancy lump sum entitlement -

If the total amount of reckonable service is not an exact number of years, the “excess” days shall be credited as a proportion of a year.

For example, 91 days, which almost amount to a quarter of a year (24.93% to be exact) will therefore give the employee an extra 24.93% of a years service, on top of whatever number of full years they have worked for. Thus, the simple formula used for calculating the proportion of a year to be credited to the employee is 91 divided by 365 = .2493, or in percentage terms = 24.93%. Please note that the figure of 365 days is now used for redundancy calculation purposes rather than the figure of 364 days which was previously used.

The pre- 10th April, 2005 rule was as follows - when the total number of 364 day years of service was ascertained, any remaining number of days, if such number came to **182 days (26 weeks) or more, was regarded as an extra year**. This rule no longer applies in respect of redundancies notified on or after that date.

SAMPLE CALCULATION USING THE CURRENT RULES (REDUNDANCIES NOTIFIED/DECLARED ON OR AFTER 10th April, 2005)

Employment Details

Date of Birth	18/01/1956
Date of Commencement of Employment	01/02/1998
Date of Notice of Redundancy	06/07/2005
Date of Termination of Employment	31/08/2005
Period of Lay Off	06/06/2005 to 10/06/2005
Gross Weekly Pay	€800
Wage ceiling prevailing at the time	€600

Calculation of Service

Years	7
Days	207

Weeks	15.14
Break in Service 1	Start Date: 06/06/2005 End Date: 10/06/2005 Reason: LAY OFF Days Reckonable: 0 Days Non Reckonable: 5
Plus Bonus Week	1
Total Weeks	16.14

Redundancy Entitlements

Lump Sum due to Employee	16.14 x €600.00 = €9,684.00
Rebate due to Employer	€9,684.00 x 60.0% = €5,810.40

SAMPLE CALCULATION BASED ON THE PRE- 10th April, 2005
METHOD OF CALCULATION

BASIC DATA required for calculation

Date of Birth: 18/01/1956
Date of Commencement: 22/08/1979
Date of Notice of Redundancy: **06/06/2003**
Date of Termination: 01/08/2003
Gross Weekly Pay: €800
Wage Ceiling prevailing at the time €507.90 (€600 from 1st January, 2005)
Non-Reckonable Period due to Lay-Off 25/09/2001 to 20/12/2002

CALCULATION of Service

Years	Days	Reckonable Years	Weeks
22	286	22 plus 1 = 23*	46**
		Bonus Week:	1
		Total Weeks:	47

* The extra year arises because the number of remaining days over and above the basic 22 years (i.e. 286) exceeds the benchmark number of 182 days (26 weeks), thereby creating entitlement to another year.

** Two weeks per reckonable year. A bonus week is then added.

LUMP SUM

REBATE

€507.90 x 47 = €23,871.30

€23,871.30 x .6 = €14,322.78

Note: The employee had more than two years service and was less than 66 years of age at the date of termination.

PLEASE NOTE:

Those declared redundant prior to 25th May, 2003 had a different redundancy entitlement. Please see Paragraph 4 (C) at the start of this booklet (“Redundancy Calculation Facility on the Website of the Department of Enterprise, Trade and Employment”).

The redundancy calculator on the Department’s Website will show the correct entitlement based on the date of notice, for

- (1) those who were declared redundant prior to 25th May, 2003,
- (2) those declared redundant between 25th May, 2003 and 9th April, 2005
- (3) those declared redundant on or after 10th April, 2005

APPENDIX 9

Development of the Social Insurance Fund (SIF) in modern times

The redundancy payments referred to above were originally made from the Redundancy and Employers' Insolvency Fund which was financed by redundancy contributions from employers. These contributions were pay related and were collected by the Revenue Commissioners together with PAYE by reference to the same definition of earnings and subject to the same earnings ceiling as social insurance contributions.

With effect from 1st May, 1990 the Redundancy and Employers' Insolvency Fund was amalgamated with the Occupational Injuries Fund and the Social Insurance Fund to form **an enlarged Social Insurance Fund**. With effect from 6th April, 1991 the employer's redundancy contribution was amalgamated with the employer's occupational injuries contribution and the employer's social insurance contribution to form **one overall employer's social insurance contribution**.

With effect from 25th May, 2003, there is now legislative provision under Section 2 of the Redundancy Payments Act 2003 whereby the Social Insurance Fund may cover some or all of the administration costs of the Redundancy Payments and Insolvency Payments Schemes.

APPENDIX 10

Time Table for Employers and Employees for dealing with Redundancies

When action is needed	Action to be taken by employer	Relevant Paragraphs of this guide
At least 14 days before the date of dismissal	Give notice in writing of the proposed dismissal to the employee.	14
Before date of dismissal	Calculate amount of lump-sum due to each employee or Offer in writing of re-engagement on the same, or different terms.	3,4 7
On date of dismissal	Make lump-sum payments to employees concerned and give them Redundancy Certificate (part of Form RP50 must be used for this purpose).	13
Within 6 months after date of dismissal/payment of lump sum	Send claim for rebate, (Form RP50 is also used for this purpose) with the Redundancy Certificate (part of Form RP50) bearing original signatures to the Department of Enterprise, Trade and Employment, Davitt House, 65A Adelaide Road, Dublin 2.	14, 16
When action is needed	Action to be taken by employee	Relevant Paragraph/s of this guide

Appendix 11

Useful Addresses, Telephone Numbers and Website Addresses

Employment Rights Information Section – for all general enquiries on entitlements to statutory redundancy lump sum and rebate payments, as well as other aspects of employment rights legislation

Department of Enterprise, Trade and Employment,

Davitt House,
65A Adelaide Road,
Dublin 2.
Tel: (01) 6313131 Lo-Call: 1890 201 615
E-Mail Address: erinfo@entemp.ie
Website Address : www.entemp.ie/erir/empl2-info.htm

Redundancy Payments Section – for enquiries concerning specific redundancy payment lump sum or rebate applications

Department of Enterprise, Trade and Employment,

Davitt House,
65A Adelaide Road,
Dublin 2.
Tel: (01) 6312121 Lo-Call: 1890 220 222
Fax Number: (01) 6313217
Website Address: www.entemp.ie/erir/red2.htm

Insolvency Section

Department of Enterprise, Trade and Employment,
Davitt House,
65A Adelaide Road,
Dublin 2.
Tel: (01) 6312121 Lo-Call 1890 220 222
Website Address: www.entemp.ie/erir/insolvpay.htm

Employment Appeals Tribunal,

Davitt House,
65A Adelaide Road,

Dublin 2.
Tel: (01) 6313006 – (01) 6313009 – (01) 6313013
Lo-Call 1890 220 222
Website Address: www.entemp.ie/erir/empl_appeal.htm

Scope Section

Department of Social & Family Affairs

Floor 3,
Oisín House,
Pearse Street,
Dublin 2.
Tel: (01) 6732585/6732558

Revenue Commissioners

Central Telephone Enquiry Office

(for telephone enquiries on taxation implications of extra statutory/ex-gratia redundancy payments
– statutory redundancy payments themselves being tax-free)
- 1890 60 50 90

Labour Court

Tom Johnson House,
Haddington Road,
Dublin 4.
Tel: (01) 6136666
Lo-Call: 1890 220 228
Website Address: www.labourcourt.ie

Labour Relations Commission

Tom Johnson House,
Haddington Road,
Dublin 4.
Tel: (01) 6136700
Lo-Call: 1890 220 227
Website Address: www.lrc.ie

Rights Commissioners

Tom Johnson House,
Haddington Road,
Dublin 4.
Tel: (01) 6136700
Lo-Call: 1890 220 227
Website Address: www.lrc.ie

Equality Authority

2 Clonmel Street,
Dublin 2.
Tel (01) 4173333
Lo-Call 1890 24 55 45
Website Address: www.equality.ie

Appendix 12

Glossary of redundancy terms/definitions

Reckonable Service Service to be taken into account in calculating statutory redundancy entitlement

Non-Reckonable Service Service to be excluded in calculating statutory redundancy entitlement

Note – in respect of redundancies notified/declared **on or after 10th April, 2005**, non-reckonable service **applies only to the last 3 years of employment**. Any service before that 3 year period is fully reckonable.

Lay-off A temporary absence from employment where the services of an employee are not required because of lack of work

Short-time A temporary reduction in weekly earnings to less than half the normal weekly earnings or a reduction in the hours worked to less than half the normal weekly working hours e.g. a 2 day week

Reduced Working Hours A temporary reduction in working hours to at least half the working week e.g. a 3 day week or a 4 day week.

Employee Lump Sum The statutory redundancy lump sum owed to an employee – where the employer fails to pay, the Department pays it from the Social Insurance Fund and endeavours to recover the amount from the employer

Employer Rebate The 60% rebate due to the employer who pays the employee their correct statutory redundancy lump sum

Continuity of Employment Employment must be continuous for redundancy entitlement purposes e.g. if an employee himself/herself resigns from the job, they are breaking their own service.

Ex-Gratia Payment Also known as extra-statutory redundancy. This is payment above and beyond the minimum statutory redundancy lump sum entitlement. The employer is not legally bound to pay this extra-statutory amount under the Redundancy Payments Acts, 1967 to 2003.

Time-Worker A worker on a fixed wage or salary. This is the work pattern in most cases.

Piece-Worker A worker whose pay depends on the amount of work he or she carries out i.e. paid wholly or partly by piece rates, bonuses or commissions related to his/her output. **See formula in Appendix 3 (2) (a) – (c)** above for calculating the weekly wage of a piece worker for redundancy purposes.

<i>Shift-Worker</i>	A worker who is employed on shift work and whose pay varies according to the shift on which he works will be taken to be an employee who is paid wholly or partly by piece-rates – See Piece-Worker above.
<i>Employees with no normal working hours</i>	Basically, employees other than the three categories above. Where such an employee has no normal working hours, his average weekly pay will be this pay including any bonus, pay allowance or commission over the period of 52 weeks during which he/she was working before the date of declaration of redundancy.
<i>Overtime</i>	Where an employee is normally expected to work overtime, his average weekly overtime earnings will be taken into account in determining his normal weeks pay. The formula for calculating this amount is simply to establish the total amount of overtime earnings in the period of 26 weeks ending 13 weeks before the date he was declared redundant and dividing that amount by 26.
<i>“Ceiling” on wages</i>	The upper limit on earnings which are taken into account for redundancy calculation purposes. The ceiling has been set at €600 per week for redundancies notified/declared on or after 1 st January, 2005 (€507.90 per week before that date).
<i>Employment Appeals Tribunal (EAT)</i>	An independent body set up in 1968 to provide a speedy fair, inexpensive means for resolving disputes relating to redundancy matters. It has since expanded to cover many other areas of employment rights such as unfair dismissals, minimum notice etc.