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REVISED EUROPEAN SOCIAL CHARTER

9th National Report on the implementation of
the Revised European Social Charter

submitted by

THE GOVERNMENT OF IRELAND

(Articles 1, 9, 10, 15, 18, 20, 24 and 25
for the period 01/01/2007 – 31/12/2010)

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CYCLE 2012

ÉIRE / IRELAND

NINTH REPORT

ON THE IMPLEMENTATION

OF THE

REVISED EUROPEAN SOCIAL CHARTER

OF THE

COUNCIL OF EUROPE

SUBMITTED BY

THE GOVERNMENT OF IRELAND

IN RESPECT OF

THE ACCEPTED PROVISIONS OF

ARTICLES 1, 9, 10, 15, 18, 20, 24 and 25

FOR THE PERIOD

FROM 1st JANUARY 2007

TO 31st DECEMBER 2010

TABLE OF CONTENTS

ARTICLE	PAGE
Article 1	3
Article 9	13
Article 10	19
Article 15	32
Article 18	56
Article 20	63
Article 24	80
Article 25	92

CONFIRMATION OF COMMUNICATION OF COPIES

1. Copies of this report have been communicated to the:

Irish Congress of Trade Unions (ICTU)

and

Irish Business and Employers' Confederation (IBEC)

It is not yet known whether they will make any comments on the report or request that such are relayed to the Secretary-General.

Article 1 – The right to work

With a view to ensuring the effective exercise of the right to work, the Parties undertake:

1. to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;
2. to protect effectively the right of the worker to earn his living in an occupation freely entered upon;
3. to establish or maintain free employment services for all workers;
4. to provide or promote appropriate vocational guidance, training and rehabilitation.

Information to be submitted

Article 1§1

- (i) Please describe national employment policy and the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- (ii) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- (iii) Please provide pertinent figures, statistics (for example Eurostat data) or any other relevant information, in particular: the GDP growth rate; trends in employment covering all sectors of the economy: employment rate (persons in employment as a percentage of the population aged 15-64 years), youth employment rate; activity rate (total labour force as a percentage of the population aged 15 years and over); unemployment rate, long-term unemployment rate, youth unemployment rate; employment status (employed, self-employed); all figures should be broken down by gender; employment policy expenditure as a share of GDP, including the relative shares of 'active' (job creation, training, etc.) and 'passive' (financial compensation, etc.) measures.

1.1.1 In line with other countries Ireland, under the Europe 2020 Strategy has adopted a target range for employment for 2020, with a commitment to review its level of ambition in 2014. Under Ireland's National Reform Programme (NRP) our headline target is to raise to 69 -71% the employment rate for women and men aged 20-64, including through the greater participation of young people, older workers and low-skilled workers, and the better integration of legal migrants, and to review the target level of ambition in 2014, in the context of a proposed mid-term review of the Europe 2020 Strategy.

Details of this employment target and other key indicators are provided in Ireland's NRP, 2011 which may be accessed at:

http://www.taoiseach.gov.ie/eng/Publications/Publications_2011/National_Reform_Programme1.pdf

1.1.2 Ireland is adjusting to a severe economic recession which has resulted in a significant contraction in the economy and the numbers of people in employment. The economy contracted for the third consecutive year in 2010, leaving real GDP and GNP around 12% and 15% respectively below 2007 levels. The employment rate for those aged 15-64 decreased by nearly ten percentage points from a rate of 68.9% in quarter 4 2007 to the current employment rate of 59.4%. The seasonally adjusted unemployment rate has climbed more than threefold to 14.7%, with around half of this total now accounted for by long-term unemployment.

1.1.3 Given the current economic circumstances there are significant labour market bottlenecks in Ireland. The Irish Government believes that the bottlenecks in the Irish labour market include:

- (i) weak labour market demand, particularly in domestic services - without a return to growth in these sectors labour market demand will remain subdued;
- (ii) long-term and structural elements of unemployment - long-term unemployment now accounts for 51.5% of total unemployment, and many of the jobs lost in the recession are in sectors where substantial numbers of jobs are unlikely to return in the short-term;
- (iii) access to opportunities for upskilling and reskilling, especially in the case of those who were employed until recently in sectors that have been most affected by the impact of the recession;
- (iv) the challenge - in the face of tight fiscal conditions - of targeting cost-effective activation programmes to those most at risk of losing contact with the labour market and drifting into long-term unemployment, and of increasing labour market participation of those cohorts with lower than average participation rates, including lone parents and people on illness/disability payments, and to reintegrate into the labour market the group of women who have interrupted their careers for child rearing; and
- (v) developing a more effective and streamlined response to the needs of the unemployed and removing disincentives to participation in training, education and employment opportunities.

Addressing labour market bottlenecks will have a significant impact on reducing the number of individuals who are long-term and very long-term unemployed as increased employment is generated through economic growth. Structural unemployment is now a pervasive feature of those that are unemployed, and this is a particular issue in rural areas. Those affected will be assisted to re-skill to other sectors/occupations to secure employment in line with the National Skills Strategy and the skills and occupational trends identified by the Expert Group on Future Skills Needs.

1.1.4 Guiding Ireland's national employment policy is the *National Employment Action Plan* (NEAP). The NEAP supports activation measures for jobseekers and provides for a systematic engagement of the employment services with unemployed people. It has been in

operation since 1998 and is being re-invigorated to ensure deeper engagement with those at risk of long-term unemployment.

In addition, Ireland has also identified four priority cohorts of the unemployed which are to receive priority access to the State's activation supports. These cohorts have been identified as they are deemed to be most at risk of drifting into very long term unemployment without special attention. The four cohorts are as follows:

- People with low skills or education levels, i.e. unemployed people who do not have a Leaving Certificate qualification or equivalent;
- People who are on the Live Register (i.e. registered claimants) for long periods (over one year);
- People who are under 35 years of age;
- People who were previously employed in sectors that have been most affected by restructuring.

1.1.5 Initiatives outlined in Ireland's *National Recovery Plan*, which was submitted to the EU as part of the EU2020 strategy in relation to activation policies include:

- A rationalisation of the NEAP towards greater capacity and efficiency;
- More frequent and intense intervention with priority cohorts;
- The development of a Profiling and Case Management system in 2011;
- Sanctions in the case of unemployed persons on the Live Register unreasonably refusing to co-operate with the plan and/or with appropriate training, education and employment interventions;

1.1.6 Since 2010 a re-configuration of Government Departments has taken effect to develop a more comprehensive and effective activation strategy that will strengthen the links between getting benefits, searching for a job and participating in employment and training programmes. The merger of the FÁS public employment service and the benefits agency under the Department of Social Protection is a structural reform in line with recommendations made in an OECD study. The Government has recently approved of the establishment of a new education and training authority, which will be called SOLAS. The new body will replace FÁS, which is to be disbanded.

1.1.7 The implementation of a transformation programme to achieve the full integration of unemployment and income support services will require legal as well as institutional change and will take time to become fully operational. The development of a National Employment and Entitlements Service (NEES) integrating all work-related benefit and support services – a key commitment of the Programme for Government – is designed to improve the targeting of the resources applied to work placement, training and education for the unemployed. Strengthened activation requirements will entail early and regular interaction for the unemployed and improved follow-up, with stricter conditionality so that a jobseeker's payments are reduced where the individual does not engage with the activation processes.

Measures for the Unemployed

1.1.8 In line with the objectives of the *National Employment Action Plan* Ireland has substantially increased the supports and services to the unemployed. In May 2011, the Irish Government committed to introducing a range of measure to assist in employment generation and provide opportunities for those who have lost their jobs. Details of these measures are available at:

<http://www.finance.gov.ie/documents/pressreleases/2011/mn018jobsinit.pdf>

Among the other supports in place are:

- **Job Search Supports**

Job search supports are provided by FÁS, the National Training and Employment Authority, and the Local Employment Service. The total number of people completing FÁS training during the year amounted to 89,500 (compared to 72,700 in 2009 and 40,300 persons in 2008). Within this total, full-time training programmes for unemployed people and jobseekers were completed by over 36,650 persons in 2010.

- **Training and education measures**

In 2011 there are approximately 276,000 training and further education places available for the unemployed to access. These include 90,000 training places to be provided by FÁS, 8,000 places delivered by Skillnets, an enterprise-led initiative and 10,500 places delivered under the Labour Market Activation Fund. The remaining 168,000 will be provided by the Further Education sector and will be primarily delivered through the Vocational Education Committees. These places are in addition to the employment activation places that are delivered through community and voluntary organisations.

- **Higher Education Places**

An estimated 162,000 learners, including those unemployed, will benefit from full-time education places. In the Higher Education sector, a new €20 million multi-annual higher education labour market fund to enable unemployed people access innovative part-time higher education opportunities from certificate to post graduate levels.

Almost 1,800 unemployed people were supported to embark on part-time undergraduate and postgraduate programmes from September 2009 in areas that support the goals of the ‘Smart Economy’. Over 70% were between 6-12 months on the Live Register and 55% indicated that their motivation for undertaking the programme was to enhance their career prospects.

Statistical Information

1.1.9 Ireland’s Gross Domestic Product (GDP) fell by 0.4 per cent in constant prices between 2009 and 2010.

In terms of employment, in Q4 2010 employment totalled 1.823m, down 3.4% (-65,000) on Q4 2009; this compares with a year-on-year fall of 3.7% in Q3 2010. The decline in employment was entirely in full-time employment (-68,000); part-time employment was up marginally by 3,600 to 423,100. On a seasonally-adjusted basis, employment showed a quarter-on-quarter decline of 0.9% (-16,200) in Q4 2010. The employment rate¹ fell from

¹The employment rate is the percentage of the population aged 15-64 who are in employment.

61.1% in Q4 2009 to 59.4% in Q4 2010 (the lowest it has been since the QNHS began in Q4 1997). Overall, employment in Q4 was down 318,000 from its seasonally adjusted peak of 2,139,000 in Q4 2007. The largest decrease was recorded for the 20-24 year age group (-28,400 or -18.2%) while a similar decrease of 26,100 (-4.6%) was recorded for those aged 25-34. These two age groups combined accounted for close to 85% of the total fall in employment.

The employment rate of 59.4% in Q 4 2010 represents a drop of nearly ten percentage points from a rate of 68.9% recorded in the fourth quarters of 2006 and 2007. The male employment rate fell to 63.1% from 65.3% a year earlier and levels of 77% and above during 2006 and 2007. In the series of employment rate estimates available back to 1985, the only previous period to have a male employment rate below 64% was in 1993 when the rate was 63.8%. Among females the employment rate fell to 55.7% in Q4 2010 from 57.0% in Q4 2009. The female employment rate in Q4 2007 had been 60.8% and this has declined in a relatively steady manner through 2008, 2009 and 2010. This 5 percentage point decline in the female employment rate over the 3 year period compares with a 14 percentage point decline in the male employment rate.

Figure 1 shows how unemployment has risen since 2007:

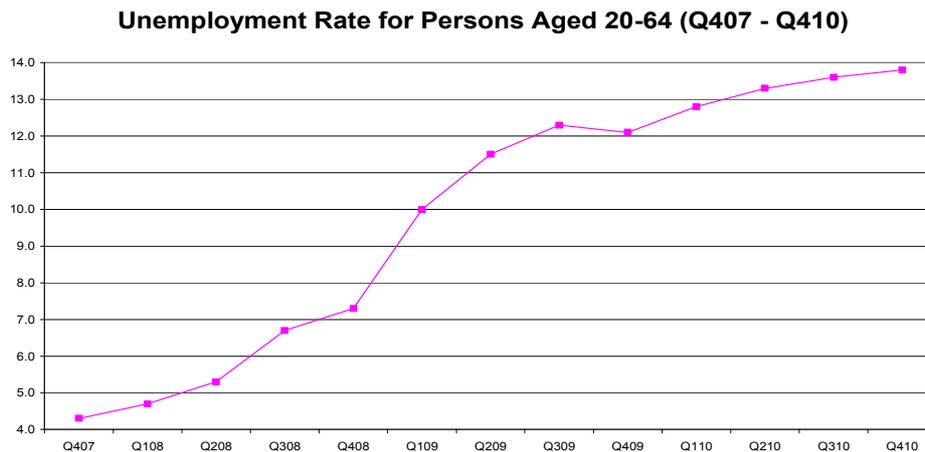
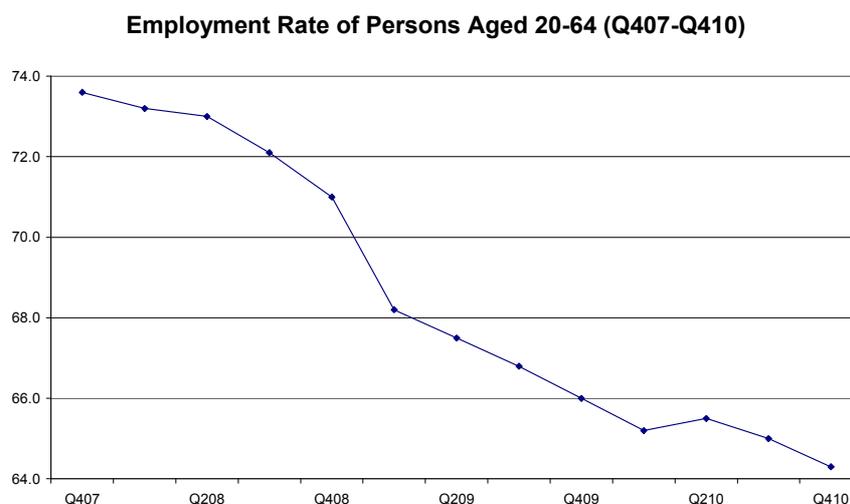


Figure 1:

Source: Central Statistics Office

Figure 2: shows rate of employment since 2007:



Source: Central Statistics Office

Unemployment

1.1.10 The seasonally adjusted unemployment estimate rose quarter-on-quarter by 9% from 290,000 in Q3 2010 to 315,000 in Q4 2010 with the corresponding seasonally-adjusted unemployment rate rising from 13.7% to 14.7%. On an unadjusted basis, unemployment rose by 19,000 between Q4 2009 and Q4 2010 from 267,000 to 299,000, with the unemployment rate rising from 12.4% to 14.1% over the same period, while the long-term unemployment rate rose from 4.1% to 7.3%. Male unemployment increased by 14,400 (+7.6%) to 203,500 and female unemployment increased by 17,200 (+21.9%) to 95,600. The male unemployment rate was 17.3% and the female unemployment rate was 10.1% in Q4 2010 up from 15.7% and 8.3% respectively a year earlier.

Youth

1.1.11 For all age groups for males, current employment rates are lower than both peak levels which were seen in 2006/2007 and longer term levels since the quarterly series started in 1998. The decline, however, has been most significant among younger age groups where for example the employment rate among males aged 20-24 was as high as 76% in Q4 2006 and has continuously declined since the end of 2007 to a current level of 45.4%. However, the pace of decline has been slowing with a decrease of 2.9 percentage points being recorded for this age group in the last year compared with a decline of 14.1 percentage points in the year to Q4 2009. In the fourth quarter of 2010 the unemployment rate among persons aged 15-19 was 37.1% while for persons aged 20-24 a rate of 26.6% was recorded. This compares with 33.2% for 15-19 year olds and 24.1% for 20-24 year olds in Q4 2009. Despite the overall rise in unemployment, the number of unemployed under 25s actually fell by 3,000 to 64,000 between Q4 2009 and Q4 2010, while number of unemployed aged 35 or over rose by 24,000 to 147,000 over the period.

1.1.12 Forfas, the policy advisory Board for enterprise and science, undertook a review in 2010 on Labour Market Programmes. In the review the National Employment Service,

training and employment programmes for the unemployed, apprenticeship and training for the employed are analysed for effectiveness and efficiency in the 2007/8 period. A summary of the key performance metrics across labour market programmes are outlined in the Report together with other pertinent employment statistics. The Review may be accessed on the following link:

<http://www.forfas.ie/media/100319forfas-labour-market-review-report.pdf>

Article 1§2

- (i) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- (ii) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- (iii) Please provide pertinent figures, statistics or any other relevant information, if appropriate

1.2.1 Ireland has a substantial legal framework to protect against discrimination in employment. Article 20 of this Report details the legislative and administrative framework fostering equality and prohibiting discrimination in employment. Please also refer to Ireland's Third Report under the Revised European Social Charter, including paragraphs 1.2.5 to 1.2.11 and paragraphs 1.2.16 and 1.2.17 of that Report. Recent amendments to this framework are summarised in paragraphs 16.24 of Ireland's Eighth Report, and in the paragraphs below.

1.2.2 The Employment Equality Act 1998 provides for a review of its operation with a view to assessing whether there is need to add to the discriminatory grounds set out in the Act. Operation of the Act continues to be reviewed on an ongoing basis.

1.2.3 The ceiling for compensation that may be awarded in employment equality cases (other than on the ground of gender) was increased by the Civil Law (Miscellaneous Provisions) Act 2011 to provide for greater redress in situations of low-paid employment. The maximum amount that may be awarded by the Equality Tribunal in such cases is now 2 years remuneration or € 40,000, whichever is the greater.

1.2.4 Commencing in 2007, the Equality Authority has set up a specialist Equality Mainstreaming Unit, as one of the initiatives set up under the [Human Capital Investment Operational Programme](#) (HCI-OP) 2007-2013. The HCI-OP is a €1.36 billion plan funded by the European Social Fund that addresses Ireland's labour market and human capital development needs for the period 2007-2013. The main objective of the Equality Mainstreaming Unit is to contribute to addressing labour market gaps in Ireland for specific groups that are experiencing barriers in accessing and participating in the labour market, including those created by gender inequality and wider inequalities. The programme consists of a set of measures that seek to improve labour market access and participation of groups experiencing inequality across the nine grounds covered by the equality legislation in Ireland. (Further information concerning the Equality Mainstreaming Unit is available on the website of the Equality Authority, www.equality.ie).

The Equality Tribunal is the main forum to hear or mediate complaints of alleged discrimination under equality legislation.

A data base of the decisions of the Equality Tribunal may be accessed at the following website:

<http://www.equalitytribunal.ie/Database-of-Decisions/>.

In addition, the Equality Tribunal Annual Legal Reviews may be accessed at:

<http://www.equalitytribunal.ie/Publications/Annual-Legal-Reviews/>

Forced or Compulsory Labour

1.2.5 No form of forced or compulsory labour as defined in the ILO Convention No 29 on Forced Labour is authorised in Ireland.

1.2.6 There has been no change in the regulatory framework in relation to the need of commissioned officers of the Permanent Defence Force to obtain permission of the Minister of Defence to resign their commissions in advance of the expiry of the full term of their careers as officers. The Department of Defence can confirm that no officer of the Permanent Defence Force has, since 1992 to date, had an application to retire refused by the Minister.

Article 1§3

(i) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

(ii) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

(iii) Please provide indicators, estimated if necessary, on the functioning and the performance of the employment services in practice, including the number of vacancies registered by employment services; placement rate (placements made by the employment services as a share of notified vacancies).

1.3.1 There has been no change since the previous Report, FAS employment services to help unemployed re-integrate into the labour market are provided free of charge to job seekers.

1.3.2 Reflecting reduced inflows into unemployment, the number of completely new registrants with FAS' Employment Service fell from 116,000 in 2009 to 97,000 in 2010. At the same time, increased interviewing capacity put in place over the last year allowed the number of client referrals by the Department of Social Protection (DSP) under the National Employment Action Plan (NEAP), at just over 118,000, to rise by 15% over the level achieved in 2009.

Article 1§4²

(i) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

(ii) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

(iii) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

1.4.1 There has been no change to the general legal framework in Ireland since the last Report. As regards administrative reforms and re-allocation of responsibility for vocational training for the unemployed and other disadvantaged groups, please refer to paragraphs 1.1.6 and 1.1.7 above. A recent initiative in this regard includes the proposed establishment of SOLAS (see also para 1.1.6 above)

1.4.2 FÁS focused much of its activity in 2010 supporting unemployed people to help them to position themselves for the recovery when it begins. Please refer also to Articles 9 and 10 of this Report for details on vocational guidance and training. The total number of people completing FÁS training during the year amounted to 89,452 (compared to 72,706 in 2009 and 40,287 persons in 2008). Within this total; full-time training programmes for unemployed people and jobseekers were completed by over 36,650 persons in 2010 - 20,618 people completed Specific Skills Training courses, (up from 15,935 in 2009) and 4,371 completed Traineeships (2,664 in 2009). Among the other beneficiaries of full-time training programmes were 2,118 people who completed training for early school leavers in Community Training Centres, 3,791 people from disadvantaged backgrounds completed Local Training Initiative programmes and 1,334 people with a disability completed Specialist Training Provider vocational training.

Employment and Training Initiatives for Travellers

1.4.3 Developing successful employment initiatives is a vital element in supporting Travellers who are trying to break out of cycles of dependency and poverty. Opening up mainstream employment also helps create new role models for young Travellers and it demonstrates the practical value of educational achievement. Public service organisations have taken the lead and, working with Traveller representatives, have successfully provided a range of new employment opportunities. A further benefit of this work is that it has highlighted the common ground for work between state agencies and Traveller representatives. Details of a number of employment initiatives involving Government departments and local authorities, as well as training and enterprise initiatives are given below. These measures have required a great deal of collaborative effort, flexibility and innovation. There has been a strong emphasis on mentoring and continuing support, before and after entry into relevant employment.

Some of the principal initiatives include:

(i) FAS initiated Special Initiatives on Employment for Travellers which ran during 2005 and 2006. Over 50 employment and enterprise positions were provided and over 150 training positions. FAS have evaluated this work and are continuing with further initiatives including a grant scheme to support employment and enterprise projects. The amounts provided under this scheme have been €1m annually since 2005.

(ii) Under the Strategy FÁS Employment Services and the Local Employment Services (LES) are responsible for strengthening guidance provision for travellers. Travellers continue to be a priority target group for the LES and are specified as such in annual contracts.

(iii) The FÁS Special Initiative for Travellers is an active labour market initiative which aims to deliver practical approaches to redressing the imbalance in traveller unemployment, supports travellers already engaged in the traveller economy, and provides a special training fund to address the training needs of adult travellers. The funding is used exclusively to support projects emerging from the County Development Boards (CDBs) Inter Agency Strategies for members of the travelling community, by seeking to enhance local implementation and delivery of employment support to travellers.

(iv) In 2011, the focus will be on mainstreaming key aspects of the work. There will be a need for capacity building and commitment of existing agencies to long term support. The long term aim is progression of Travellers from "segregated" provision into mainline provision.

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."

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply any relevant statistics or other information on public spending on vocational guidance services, their geographical distribution and the institutions that provide them, their staffing levels and the qualifications of those staff, and the number of persons served and their characteristics, in terms of age, sex, educational level and occupation.

9.1.1 The public sector plays the dominant role in the provision of career information, guidance and counseling services in Ireland which have a clear legislative basis in both the education and labour areas.

Vocational guidance in Ireland spans 3 distinct areas of the education and training sector:

- Post Primary Schools (including Post Leaving Certificate, PLC),
- Further Education and Training (includes Vocational education Committees (VEC) Further Education and FÁS Training) and
- Higher Education (Universities and Institutes of Technology)

(This Article should be read in conjunction with Article 10 of this Report on the Right to Vocational Training.)

Post Primary and Post Leaving Certificate (PLC)

9.1.2 Section 9 (c) of the Education Act 1998 requires schools to ensure that “students have access to appropriate guidance to assist them in their educational and career choices”. The Department of Education and Skills (DES) gives schools an allocation that is equivalent to one Guidance Counsellor to every 500 students, with part time allocations for schools with smaller enrolments. 672 whole-time equivalent staff are employed for this purpose, funded by the DES. These are qualified teachers who have obtained a post-graduate Diploma in Guidance and Counselling. The service is free and is provided for all students.

The DES has published Guidelines for Schools on their role in providing guidance under the Act. The guidance programme in schools includes providing information on subject and

programme choices and their career implications, enabling students to make an objective assessment of their own interests and aptitudes and relate these to further education and training and career areas, promoting study and self management skills, career investigation, job search and interview skills, as well as using the ICT tools available to support guidance. Schools develop a range of linkages with further and higher education and training institutions, encourage visiting speakers and work experience programmes, and provide opportunities for students to attend events such as college open days, career exhibitions, employment fairs and visits to employers.

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 modules that help 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. Guidance and work experience is also generally included in the curriculum of the Transition Year (i.e. between lower and upper secondary school).

The school guidance service also applies to students following PLC courses – integrated vocational training, general education and work experience in the further education sector.

The work of guidance counsellors in schools is supported by the National Centre for Guidance in Education which provides advice and resources to schools and training in whole school guidance planning (www.ncge.ie). In addition professional development is provided through the Institute of Guidance Counsellors (www.igc.ie) and a professional supervision service is funded by The DES to support staff in their counselling role.

Schools also have access to a National Educational Psychological Service, and to an advisory service provided by Special Educational Needs Organisers employed by the National Council for Special Education.

Major resources and tools which support the guidance function in schools are

- www.qualifax.ie - a database of courses across the further and higher education and training sectors. This gives details of the level of the qualification, the providers, the main content areas, entry requirements, and funding and student support information
- www.careersportal.ie – this is a private sector development, a portal which searches the qualifax database, and also provides extensive information on occupational profiles, role models and trends in different careers. It is available free and is widely used as a guidance tool in schools and adult learning settings.
- www.careerdirections.ie – this has been developed by FAS, the National Training Authority. It provides information on a wide range of careers, with links to FAS training programmes and the FAS Jobs database in the selected areas.

Additional supports are provided for students with disabilities depending on need, in the form of extra teaching support, special needs assistance, adaptive technology, and links with relevant organisations, as well as necessary accommodation arrangements in examinations. A Disability Access Route to Higher Education offers placement in higher education programmes at a reduced entry threshold for students.

9.1.3 There were no specific new initiatives in school guidance in the period 2007-2010. The report of the National Guidance Forum “*Guidance for Life: An integrated Framework for Lifelong Guidance in Ireland*” was published in October 2007. It focuses on guidance over a lifetime at key points of transition between education, training, the labour market and the wider community, based on extensive consultation with stakeholders. The forum also developed a quality assurance framework for guidance agreeing standards across the education and labour market sectors, and a comprehensive competency framework for practitioners to give a sound underpinning to their professional practice. www.nationalguidanceforum.ie.

The National Centre for Guidance in Education acted as a national information centre and contact point for educational guidance and participated as an observer in the European Lifelong Guidance Policy Network over the period to the end of 2010. The Centre is a full participant in the network since 2011 and is actively engaged in developments relating to the Quality Assurance Work Package.

Higher Education

9.1.4 All Irish universities and institutes of technology provide career advisory services, which are specialist services that are separate from the counselling and other student services offered in institutions. Whilst the Higher Education Authority (HEA) has issued guidelines on the provision of careers advisory services, the qualifications and training of those who staff them are determined by the institutions themselves. Approximately 100 staff—including careers advisers, placement officers, related support staff, and information officers—are currently employed in the careers services of these institutions.

In the light of the recent deterioration in the labour market, careers guidance services in the higher education sector are increasingly important. There is also now an enhanced focus on ensuring the ‘work readiness’ of students as the higher education sector seeks to become more responsive to the evolving skills needs of the labour market. As envisioned in the National Strategy for Higher Education to 2030, in the coming years there will be an expansion in the work placement and service learning opportunities offered to undergraduate students as an accredited component of their course across a range of disciplines.

As well as providing students with experience of the practical application of their skills in workplace and community settings, these placements will assist students in making informed career choices.

Adult Education Guidance Initiatives

9.1.5 The Adult Education Guidance Initiative (AEGI) commenced in 2000 with 10 pilot projects designed to support the objectives for lifelong learning set out in the *White Paper on Adult Education: Learning for Life 2000*. There are currently 40 projects nationwide, with all but one managed by the local VEC. The initiative is funded through annual grants, administered quarterly. The free service is designed to support access to Adult Literacy, Vocational Training Opportunities Scheme (VTOS), BTEI and other adult and community education programmes in the Further Education Sector.

The service includes personal, educational and career guidance and covers the pre-entry, entry, ongoing and pre-exit stages. It aims to provide a comprehensive information service on adult learning opportunities in an accessible manner. Approximately 100 qualified Guidance personnel offer information, advice and guidance on a one to one and group basis to help people make the best and most informed choices for learning. The service is also available to survivors of residential abuse and their families.

The service is co-ordinated by the National Centre for Guidance in Education (NCGE), an agency of the DES and overseen by the National Advisory Group (NAG), comprising all stakeholders. The NCGE also provides support and training for AEGI staff. Further information is available at www.ncge.ie

National Employment Services

9.1.6 Vocational Guidance for adults in the labour market in Ireland is delivered through the National Employment Services (NES). The NES consists of two strands:

- FÁS Employment Services (ES) which operates through a regional network
- Local Employment Services (LES) which operates through a network of offices and outreach centres

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. Through a regional network of 66 offices and 20 training centres, FÁS operates training and employment programmes; provides a recruitment service to jobseekers and employers, an advisory service for industry, and supports community-based enterprises.

Employment Services

9.1.7 The objective of the FÁS Employment Services (ES) is the development and delivery of a vocational guidance and placement service. FÁS ES act as a gateway to all FÁS and other relevant labour market services, including training and provides a national 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. The day-to-day work of front-line FÁS ES and Local Employment Service (LES) Mediation staff combine a guidance and a job placement function in which, together with support staff, they provide information, guidance and counselling services. A large proportion of this concerns career guidance and information provision in respect of clients of FÁS who are case-loaded and targeted under the National Employment Action Plan (EAP) and who receive a more in-depth guidance and counselling service. In addition to mainstream provision of services by the NES, special programmes are targeted at vulnerable groups e.g. older workers, early school-leavers and lone parents. Further details are available on the FÁS website: www.fas.ie

In recent years, a significant number of those seeking guidance, training or employment have been from abroad. In response to the increased demand for FÁS services from the immigrant population, FÁS introduced a telephone interpretation service available in all its offices. This service is available in over 150 languages, including the languages of the Contracting Parties.

This is supplemented by the availability of a range of published information and advice in several other languages. The selection of languages is based on the numbers of immigrants who use those languages.

Local Employment Service

9.1.8 The LES was established in 1995 as a separate service to tackle pockets of persistent unemployment through smaller offices whose staff work to mobilise the long-term unemployed and those not in the labour force back to work or study or training. It assists those most distanced from the labour market to obtain employment through the provision of intensive support and locally responsive services. Disadvantaged groups to whom the LES may offer services include people who are long-term unemployed or who are in danger of becoming long-term unemployed, people with disabilities, lone parents, ex-prisoners, travellers, ethnic minorities, etc. These services include intensive guidance, education/training, employment supports and mediation. Further details are available at <http://www.localemploymentservices.ie>

Disability

9.1.9 Persons with a disability may call into a FÁS Employment Service Office or Local Employment Service Office to meet with an Employment Services Officer or Mediator who will provide them with full information, advice and guidance in relation to training and employment. People with a disability, who meet the entry criteria, are able to participate in the full range of FÁS Programmes and services, including mainline training provision, Community Employment etc.

While people with disabilities are encouraged to avail of FÁS mainline training and are classified as priority clients should they choose to do so; in situations where clients require intensive support, FÁS contracts with 22 Specialist Training Providers (STPs) locations across the country to deliver training to people with disabilities.

Statistical Information

Post Primary and PLC

9.1.10 There are an estimated 672 Guidance Counsellor posts. This costs an estimated €40 million per annum.

The Department of Education and Science (DES) education statistics 2009/10 indicated that in the academic year 2009/2010 there were 312,159 students in the post-primary sector, 38,528 students enrolled on PLC courses and 730 post-primary schools. In Higher Level institutions, funded by DES, there were 156,973 full time and 32,806 part time students in 2009/2010.

Further Education and Training

Adult Education Guidance Initiative (AEGI) expenditure

2007	2008	2009	2010
6,574,230	6,810,129	6,854,000	6,854,000

AEGI beneficiaries

Year	One-to-one	Group	General Queries	Overall Total
2007	12,124	15,628	10,036	37,788
2008	14,406	19,112	14,020	47,538
2009	16,244	20,378	22,515	59,137
2010	15,719	22,256	22,729	60,704

Employment Support Services

9.1.11 The annual capacity of FÁS job search support services for the unemployed has almost doubled to 147,000 places. The former Department of Enterprise, Trade and Employment provided approximately 147,000 training and work experience places for the unemployed, mainly through FAS in 2010. This was a significant increase compared to the 66,000 places delivered in 2008 and the 130,000 delivered in 2009. 11,600 of those who completed FAS full time training programmes in 2009 came from the under 25-age group. This represents 36% of all those who completed FÁS full time training programmes in 2009.

There is limited information and data available about the extent of career guidance provided by the private sector in Ireland, although there are indications that members of the Institute of Guidance Counsellors are employed in recruitment firms and management consultants. The private sector does play a role in producing and disseminating careers information, which includes private firms, professional organisations and industry associations who produce information in printed and electronic format and distribute it to schools and other educational institutions.

Article 10 – Everyone has the right to appropriate facilities for vocational training.

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

1. 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;
2. to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments;
3. 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;
4. to provide or promote, as necessary, special measures for the retraining and reintegration of the long-term unemployed;
5. 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.

Information to be submitted

Article 10§1

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are: the total amount of public expenditure devoted to vocational training; the number of vocational and technical training institutions and types of education and training provided; number of teachers and pupils.

10.1.1 As the national policy maker, the Department of Education and Skills sets out strategic goals for the various Education and Training services within its remit.

As set out in the Department's Statement of Strategy 2008-10 the following strategies/actions are applicable to Further Education:

- Review and develop policies to support high-quality further education provision
- Support providers to continuously improve the quality of provision
- Support providers in the development and delivery of a suite of Further Education programmes to meet the needs of early school leavers and adults requiring second chance education
- Support the work of the National Centre for Guidance in Education (NCGE) in providing adult education guidance services
- Support learners participating in further education programmes

10.1.2 The current Irish education and training system is described in detail on the website of the Department of Education and Skills <http://www.education.ie/>

Vocational Education and Training provision in Ireland is underpinned by the following legislation:

- Vocational Education Act (1930)
- The Industrial Training Act (1967)
- The Labour Services Act (1987)
- The Regional Technical Colleges Act (1992)
- The Dublin Institute of Technology Act (1992)
- Protection of Young Persons (Employment) Act 1996
- The Universities Act (1997)
- The Education Act (1998)
- The Qualifications (Education and Training) Act (1999)
- The National Training Fund Act (2000)
- The Education Welfare Act (2000)
- The White Paper on Adult Education (2000)

10.1.3 In relation to Further Education, the Vocational Education Act (1930), which established Vocational Education Committees (VECs) throughout the country, gave responsibility to those committees to develop programmes for adults. The VECs have traditionally been the main providers of Further Education in Ireland. In recent years, however, some Community and Comprehensive Schools and Voluntary Secondary Schools have also provided an extensive educational service for adults in their localities.

Within a lifelong learning policy approach, the production of the White Paper, Learning for Life (2000), the establishment of the National Qualifications Authority of Ireland (NQAI) 2001, and the Report of the Task Force on Lifelong Learning (2002) are strategic documents in the area of Further Education.

The Further Education and Training Awards Council (FETAC) was set up as a statutory body in 2001 under the Qualifications (Education and Training) Act, 1999. As the national awarding body for further education and training in Ireland, the Further Education and Training Awards Council gives people the opportunity to gain recognition for learning in

education or training centres, in the work place in the community. FETAC's functions include:

- making and promoting awards
- validating programmes
- monitoring and ensuring the quality of programmes
- determining standards

National Skills Strategy

10.1.4 The National Skills Strategy was launched in March 2007 jointly by the then Minister for Enterprise, Trade and Employment and the then Minister for Education and Science. This Strategy, prepared by the Expert Group on Future Skills Needs (EGFSN), identified Ireland's current skills profile, provided a strategic vision and specific objectives for Ireland's future skills requirements, and set out a road map for how the vision and objectives can be achieved.

For the first time the Strategy set out clear long-term objectives for our education and training requirements to develop Ireland as a knowledge-based, innovation-driven, participative and inclusive economy with a highly skilled workforce by 2020. A key strategic objective is that by 2020 an additional 500,000 individuals will need to progress by at least one level on the National Framework of Qualifications (NFQ).

A report update of the National Skills Strategy progress June 2010 concluded that significant progress had been made towards meeting the strategy's objectives:

- The percentage of those in the labour force with Higher Education qualifications (NFQ Levels 6-10) has increased from 33% in 2005 to 39% in 2009, compared with the target of 48% by 2020.
- The percentage of the labour force with NFQ educational Levels 4 and 5 (Upper Secondary including Leaving Certificate) between 2005 and 2009 remained at 40%, compared to a target by 2020 of 45%
- The percentage of the labour force at NFQ Levels 1-3 (Junior Certificate and below) fell from 27% to 20%, compared to a target by 2020 of 7%. The most significant challenge for the period to 2020 is upskilling those at Levels 1-3 to Levels 4 and 5.

Further Education

10.1.5 The Department of Education and Skills allocates funding to VECs and some post primary schools to provide a range of full-time and part time programmes.

There are 33 VECs, covering the whole country, providing further education programmes from National Framework of Qualifications (NFQ) Levels 1 to 6.

The principal objectives of the measures and programmes funded by the Department of Education and Skills in the area of Further Education are:

- To meet the needs of young early school-leavers
- To provide second-chance education for people who did not complete upper second level, and
- To provide vocational preparation and training for labour market entrants and re-entrants

The full-time programmes provided are:

- Youthreach, for early school leavers between 15-20 years of age;
- Vocational Training Opportunities Scheme (VTOS) for unemployed adults over 21 years of age;
- Senior Traveller Training Centres (STTCs) for Travellers over 18 years of age;
- Post Leaving Certificate (PLC) for learners over 16 years of age who have completed the Leaving Certificate (LC) or who are adults returning to education.

Part-time programmes are provided under:

- The Back to Education Initiative (BTEI), free for adults with a less than upper second level education;
- Adult Literacy (AL) for adults with specific needs in basic skills areas and includes English as a Second Language (ESOL) provision;
- Community Education (CE) providing informal and non-formal education for hard-to-reach adults;
- Self-financing education (evening classes) accessed by adults who pay a fee.

Supports provided for Further Education learners include;

- The Adult Education Guidance Initiative (AEGI) which provides nationwide guidance for learners before, during and after they participate in BTEI, Adult Literacy, Community Education or VTOS programmes;
- Eligibility for participants in Youthreach, VTOS, STTC, or BTEI for free childcare under the Childcare in Education and Training Scheme (CETS), operated by the Office of the Minister for Children and Youth Affairs (OMCYA).

10.1.6 A brief description of the Further Education programmes is outlined below.

Youthreach

The Youthreach programme provides two years integrated education, training and work experience for unemployed early school leavers without any qualifications or vocational training who are between 15 and 20 years of age.

There are almost 6,000 places available nationwide under the Youthreach umbrella. The programme is funded by the Department of Education and Skills. Almost 3,700 of these places are provided by VECs in Youthreach centres. The majority of the remainder of places are provided by FÁS in Community Training Centres.

Vocational Training for Unemployed

All Further Education programmes are open to the unemployed and there are specific programmes targeted at the unemployed. Vocational Training Opportunities Scheme (VTOS) in particular is targeted at the unemployed over 21 years of age. The scheme is delivered by Vocational Education Committees (VECs). There are currently 5,000 places available nationwide. Its primary target groups are the longer term unemployed, the low-skilled and disadvantaged. Post Leaving Certificate (PLC) programmes are specifically designed to enhance participant's employability. Participants receive a training allowance in lieu of their Social Welfare payment as well as travel and meal allowances and can access

childcare and guidance supports. Tuition, books and material are provided free of charge.

In 2010, 4,529 VTOS learners achieved certification and of those completing, 14% progressed to employment and 45% progressed to further education and training.

Some relevant statistics from the 2010 Survey of VTOS learners indicate that the majority of learners (4,251) were in receipt of Jobseekers Allowance/Benefit and of these, 2,682 or 63% had been unemployed for 12 months or more.

Additional places have also been allocated, to be prioritized for the unemployed as set out above. Overall, there are over 138,000 part-time further education participants and almost 48,000 full-time participants.

An extra €32 million was provided from the National Training Fund (NTF) in 2010 for the Labour Market Activation Fund, which caters for innovative proposals over and above mainstream provision for the unemployed. The Fund ceased in June 2011 and it is estimated that there were about 12,000 participants.

Data on Vocational Training for Unemployed

10.1.7 While all Further Education programmes (detailed above) are open to unemployed people, the main programme targeted at the unemployed is the VTOS programme.

The latest statistics for Further Education programmes in 2010 are as follows:

- 74% (4,251) of VTOS learners were unemployed.
- 16% (568) of Youthreach learners were unemployed. The majority of Youthreach learners had entered the programme after leaving school early.
- 23% (167) of STTC learners were unemployed.
- 34% (9,424) of BTEI learners were unemployed.
- 41% (22,496) of Adult Literacy learners were unemployed.
- 12% (6,714) of Community Education learners were unemployed.

Senior Traveller Training Centres (STTCs)

10.1.8 Senior Traveller Training Centres provide an integrated education, training and work experience programme for Travellers over 18 years of age with low or no educational qualifications, with a specific emphasis on catering for the cultural needs of the Traveller Community. Learners are entitled to payment of a training allowance and meal and travel allowances.

In line with the Traveller Education Strategy and the 2008 Value for Money (VFM) Review of Youthreach and STTCs, it was announced in Budget 2011 that an integrated further education provision for Travellers will be implemented through the phasing out of STTCs by June 2012 and replacement places, prioritized for Travellers, being provided under the Back to Education Initiative (BTEI). This means there will be no new enrolments in STTCs from 1 January 2011.

Travellers are free to access all the mainstream integrated Further Education programmes.

Non Nationals

10.1.9 Refugees are entitled to the same access to education and training as Irish nationals. Asylum seekers with the right to work have access under the same conditions as Irish nationals to active labour market programmes, such as VTOS, Youthreach and to PLC courses. Asylum seekers without an entitlement to work are entitled to free access to Adult Literacy, English language and mother culture supports.

Post Leaving Certificate (PLC)

10.1.10 The PLC programme is in place for learners over 16 years of age who have completed their Leaving Certificate and for adults returning to education. PLC courses are provided predominantly in the VEC sector, but some Community and Comprehensive schools and Secondary schools also offer courses. The PLC programme provides successful participants with specific vocational skills to enhance their prospects of securing lasting, full-time employment, or progression to other studies. With effect from September 2011, there are 32,688 approved PLC places available nationwide.

Providers of PLC programmes must demonstrate a labour market justification for their programmes. Therefore programme content must be relevant to labour market needs and/or progression to further studies.

The PLC programme components and recommended % time is as follows:

- Vocational Studies 50-60% of the course time
- General Studies 20-30% of the course time and
- Preparation for Work/Work Experience 20-30% of the course time.

Back To Education Initiative (BTEI)

10.1.11 BTEI provides a range of part-time options across the full suite of Further Education programmes and it is free for adults with less than upper second level education. Target groups include adults with disabilities, lone parents, early school leavers, unemployed, Travellers, ex-offenders, homeless and people with literacy difficulties. In 2010, there were 27,959 BTEI participants. An additional 3,000 BTEI places were announced recently as part of the Government's Jobs Initiative.

Adult Literacy

10.1.12 Adult Literacy programmes involve the provision of basic education, including reading, writing, spelling and numeracy skills, to adults whose skills are inadequate for functional participation in everyday life. Programmes also covered include personal development, learning to learn and IT skills.

Since 1997 investment in adult literacy provision has increased from €1m to €30m in 2011. This has enabled the number of participants to increase annually from 5,400 to over 54,000 over the same period. Tuition is provided flexibly to groups of one-to-one in a variety of modes.

Community Education

10.1.13 Community Education refers to education and learning, generally outside the formal education sector, with the aims of enhancing learning, empowerment and contributing to civic society. It is firmly community-based, with local groups taking responsibility for, and playing a key role in, organizing courses and deciding on programme-content.

It enables disadvantaged adults to avail of community education at minimal or no cost. This is usually allocated through the provision of teaching hours, or small grants, to a range of community and voluntary groups for educational activities. There were almost 56,000 Community Education participants in 2010.

In the period 2007 – 2010 additional funding has been provided for Further Education programmes such as;

- 400 new Youthreach places provided in 2007
- 1,500 new PLC places provided in 2009 and an additional 1,000 places in May 2011
- BTEI places increased to 9,000 up to 2008 and an additional 3,000 in May 2011
- Additional funding provided for Adult Literacy

Data on Further Education

Total Expenditure 2007-2010

10.1.14 The total expenditure on Further Education programmes over the period 2007 – 2010 was:

Year	€M
2007	402.3
2008	414.5
2009	433.8
2010	436.7

Number of Schools/Centres providing Further Education programmes

10.1.15 Further Education programmes are delivered in a large number of centres across the VECs.

There are 193 approved PLC centres, 115 VTOS centres, 105 Youthreachcentres and 33 STT centres. Some centres provide more than one programme.

There are no figures available for the number of centres delivering the Further Education part-time programmes.

Staff working on the Further Education programmes

10.1.16 The number of staff working in the various Further Education programmes is estimated at:

- 1,864 Teachers working in the PLC programme. This is based on 31,688 PLC places and a Pupil: Teacher ratio of 17:1 and
- 1,265 whole time equivalent staff works in the VTOS, Youthreach and STTC programmes.

Number of learners attending Further Education programmes

10.1.17 The number of full-time places and part-time participants in Further Education programmes in 2010 were:

Programme	No. of learners in 2010
<i>Full-time programmes:</i>	<i>Places</i>
PLC	31,688
VTOS	5,000
Youthreach	3,692
STTC	684
<i>Part-time programmes:</i>	<i>Participants</i>
BTEI	27,959
Adult Literacy	54,741
Community Education	55,953
Total	179,717

Article 10§2

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are: the existence of apprenticeship and other training arrangements for young people; the number of young persons benefiting from training systems; how the arrangements for vocational training are divided between the various types of vocational activity; length of the apprenticeship; the total public spending (and private spending, if possible) on these types of training and the availability of places for all those seeking them; equality of access to apprenticeship training for all those interested, including national of the other States party.

Vocational Training for Unemployed, apprentices and adult workers

10.2.1 FÁS, the National Training and Employment Authority 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.

Through a regional network of 66 offices and 20 training centres, FÁS operates training and employment programmes; provides a recruitment service to jobseekers and employers, an advisory service for industry, and supports community-based enterprises

Increased job search capacity in 2010

10.2.2 The annual capacity of FÁS job search support services for the unemployed has almost doubled to 147,000 places.

Training and work experience places for the unemployed in 2010

10.2.3 The former Department of Enterprise, Trade and Employment provided approximately 147,000 training and work experience places for the unemployed, mainly through FAS in 2010. This was a significant increase compared to the 66,000 places delivered in 2008 and the 130,000 delivered in 2009. 11,600 of those who completed FAS full time training programmes in 2009 came from the under 25-age group. This represents 36% of all those who completed FÁS full time training programmes in 2009

The following are examples of FAS Training Programmes:

Bridging Foundation Training

These programmes are aimed at giving clients with lower level skills the foundation necessary to allow them enter the labour market or to prepare them to progress to specific skills development. These courses can include a confidence-building or literacy component. The duration of the training is 13-18 weeks.

Specific Skills Training

These courses allow job seekers or job changers the opportunity to acquire specific job related skills and formal vocational qualifications to facilitate re-entry to the workforce. The courses lead to FETAC Major Awards at levels 4, 5 and 6 on the National Framework of Qualifications and/ or industry recognised certification. The duration of the training is 4-26 weeks

Blended Learning

These courses are designed to give a flexible response to the specific skills needs of job ready individuals who require training interventions with certification to assist them to re-enter the labour market. Blended Learning Courses offer a range of online training with enhanced learner supports including telephone, email, E-tutor and instructor led workshops.

Traineeships

The FÁS National Traineeship programme is an occupational skills development programme which combines formal training with FÁS and workplace coaching with an employer. The training content and occupational standards for traineeships are developed in consultation with employers, trade union, regulatory bodies and interest groups. The programme is aimed at clients who will enter occupations that entail significant skills requirements which are best acquired through a combination of alternating periods of on and off the job training. The duration of the training is 10-48 weeks

Specialist Training Providers (STP)

Special training is provided for people with disabilities by specialist training agencies such as the National Learning Network (NLN). Where appropriate FÁS directs clients with disabilities to mainstream training provision. The duration of the training is 12-24 months

Evening Courses

These courses are designed to give a flexible response to the specific skills needs of job ready individuals who require training interventions with certification to assist them to re-enter the labour market. Evening courses are available to fee paying clients who are employed and wish to upskill for personal and professional development and also to unemployed clients through the local FÁS. The duration of the training is 30-60 hours

Online Learning

These courses are designed to give a flexible response to the specific skills needs of job ready individuals who require training interventions with certification to assist them to re-enter the labour market. Online courses are available free of charge to unemployed clients. Courses are also available, for a fee, to employed persons who wish to update their skills. The duration of the training is 10-20 weeks

Redundant Apprenticeship Placement Scheme

10.2.4 The Redundant Apprentice Placement Scheme 2010 was introduced to provide assistance to eligible redundant apprentices to complete the on-the-job training phases 3, 5 and 7 of their apprenticeship.

The scheme was developed by FÁS based on discussions with representatives of trade unions and employers represented on the National Apprenticeship Advisory Committee.

Redundant apprentices

10.2.5 Since 2008 the former Department of Enterprise, Trade and Employment and FÁS have enacted various measures that will allow redundant apprentices to progress their apprenticeship. These include the following measures:

- The rules for off-the-job training have been amended by FÁS to permit redundant apprentices to progress to their next off-the-job training at phases 2, 4 and 6.
- FÁS are providing a facility for redundant apprentices who have reached the minimum-qualifying standard to make an application for consideration under Recognition of Prior Learning for the Award of an Advanced Craft Certificate.
- The Employer Based Redundant Apprentice Rotation Scheme provides financial assistance to employers to take on a redundant apprentice when their own apprentice has been released to go on an off-the-job training phase.
- Léargas, the national agency for international exchange and co-operation in education, vocational education and training, is providing funding under the EU Lifelong Learning Programme, Leonardo Da Vinci Mobility Programme to support the placement of almost 100 redundant apprentices with overseas employers to complete their phase 7 on-the-job training with assessments.
- ESB Networks are providing on-the-job training to 400 eligible redundant electrical and motor apprentices at phase 5 and phase 7.
- In the higher education sector the Institutes of Technology are providing an 11-week certified training programme for those redundant apprentices in the construction, electrical and engineering areas who have completed their phase 4 training.

The number of people entering **apprenticeship** in 2009 was 1,535, which was 59% less than the 2008 level of registrations and 77% less than the level in 2007. This reduced level of registrations arose mainly in the construction-related trades, but reductions were also

recorded in the electrical, engineering and motor trades which reflects the lower level of activity across the wider economy.

During 2009, the level of redundant apprentices notified to FÁS by employers increased by 3,275 across all trades. To assist redundant apprentices, FÁS amended the Apprenticeship Rules to permit redundant apprentices to progress to their next off-the-job phase of their apprenticeship and more than 2,000 redundant apprentices attended FÁS and the Institutes of Technology under these revised rules during 2009.

FÁS also introduced a temporary measure, the **Employer-Based Redundant Apprentice Rotation Scheme**, to provide on-the-job training for redundant apprentices with the support of employers. Approximately 460 redundant apprentices were provided with training and assessments in the electrical, carpentry & joinery, plumbing, plastering, brick & stone-laying, painting & decorating, floor & wall tiling, cabinet-making and wood machining trades.

During the course of 2009, the Electricity Supply Board (ESB) Networks provided 240 on-the-job places for redundant apprentices from the electrical, motor mechanics and mechanical automation & maintenance fitting trades.

FÁS, with the support of Léargas under the Leonardo Da Vinci programme, provided opportunities for redundant apprentices to complete their Phase 7 training with employers in Germany and Finland.

In 2009, 3,900 apprentices completed training at Phase 2 in the FÁS Training Centre network and 11,000 completed training at Phase 4 and Phase 6 in the Institutes of Technology and Colleges of Further Education.

The Advanced Certificate – Craft, FETAC Level 6 was awarded to over 4,000 apprentices who had completed their apprenticeship and reached the qualifying standard.

Youth Unemployment

10.2.6 The main specific provision to tackle youth unemployment continues to be training at Community Training Centres (CTC) and Voluntary Education Committees (VECs) under the Youthreach Programme. There are currently 6,000 places available nationwide under the Youthreach umbrella with CTC's accounting for 2,000 places and VEC's 4,000 places.

The programme is directed at unemployed young early school leavers aged 15-20. The programme provides basic skills and work experience and facilitates early school leavers with opportunities to acquire certification and progress to further training or employment.

Article 10§3

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are: the

existence of facilities for training and retraining of adult workers, in particular the arrangements for retraining redundant workers and workers affected by economic and technological change; the approximate number of adult workers who have participated in training or retraining measures; the activation rate – i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures; equal treatment of non-nationals with respect to access to continuing vocational training.

See paras 10.2.3 and 10.2.6 above

Article 10§4

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are: types of training and retraining measures available; the number of persons in this type of training and the impact of the measures on reducing long-term unemployment; equal treatment of non-nationals with respect to access to training and retraining for long-term unemployed persons.

10.4.1 FAS has a number of programmes which address the needs of the long term unemployed. Details of these programmes are provided at paras 10.2.1 – 10.2.6 above.

Labour Market Activation Fund

10.4.2 Announced in Budget 2010 the aim of the Labour Market Activation Fund is to provide at least 12,500 places for the unemployed. The Fund targeted the low skilled and those in structural unemployment such as those formerly employed in the construction, retail and manufacturing sectors. It will also focus on young people and those who are out of work for more than one year.

Article 10§5

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply statistics or any other relevant information to show how this provision is applied in practice. The main indicators of compliance with this provision are: whether the vocation training is provided free of charge or that fees are reduced; existing system for providing financial assistance (allowances, grants, loans, etc.); measures taken to include time spent on training taken by workers in the normal working hours; supervision and evaluation measures taken in consultation with social partners to ensure the efficiency of apprenticeship for young workers.

10.5.1 FAS does not charge fees in respect of vocational training. Apart from the PLC programme (outlined above), learners can access all Further Education programmes free of charge.

Details of the various allowances that are available in respect of training programmes can be accessed on the following FAS weblinks:

<http://www.fas.ie/en/Allowances+and+Grants/Travel+Allowances.htm>

<http://www.fas.ie/en/Allowances+and+Grants/Training+Allowances/default.htm>

<http://www.fas.ie/en/Allowances+and+Grants/Apprentice+Wages.htm>

10.5.2 In Budget 2011, the Government announced the introduction of a €200 annual PLC programme participant contribution. Schools/Colleges must collect the participant contribution from all eligible participants. However, certain categories of learners will be exempted from the contribution;

- those in receipt of the Back to Education Allowance/VTOS allowances
- those who are eligible under the student grant scheme
- medical card holders.

Learners on the PLC programme can apply for a Student Grant.

Article 15 – The right of persons with disabilities to independence, social integration and participation in the life of the community

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:

1. 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;
2. 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;
3. 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.

Information to be submitted

Article 15§1

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information to demonstrate effective access to education and vocational training for persons with disabilities (total number of persons with disabilities, number of persons with disabilities of 0-18 years of age, number of persons with disabilities in mainstreaming and special education and vocational training, including higher education; number of integrated classes and special education institutions, basic and in-service training for teachers).

Context

15.1.1 Ireland's National Disability Strategy (NDS), launched by the Irish Government in September 2004, underpins the participation of people with disabilities in Irish society by building on existing legislation, such as the Equal Status Act 2000 and the Equality Act 2004, and the policy of mainstreaming. The NDS has been endorsed in the social partnership agreement - *Towards 2016*³ - concluded between government, employers and trade unions, in 2006. *Towards 2016* provides a new framework, the life cycle approach, which adopts the perspective of the person as the centrepiece of social policy development; one of the key life

³ http://www.taoiseach.gov.ie/attached_files/Pdf%20files/Towards2016PartnershipAgreement.pdf

cycle stages is People with Disabilities. Further details of the vision, objectives and long-term goals in respect of people with disabilities are underpinned by the provisions of the Disability Act 2005⁴.

15.1.2 The Government's commitment in the area of disability is consistent as demonstrated by the €1.5 billion (being labour intensive, over 80% of disability spending relates to pay costs) provided annually for disability programmes (residential, day care, respite, assessments and rehabilitation services). This sum was supplemented by the significant additional resources provided for services and supports in this area under the Multi-Annual Investment Programme (MAIP) 2006 – 2009 (€256.8m), as part of the National Disability Strategy. Additional funding of €7.2 million for disability was also provided in Budget 2009 for the provision of 90 additional therapy posts (speech and language therapists, occupational therapists, physiotherapists and social workers) targeted at children with disabilities of school-going age.

15.1.3 As part of the Government's policy of mainstreaming services to persons with disabilities, responsibility for the vocational training and employment of people with disabilities transferred to the then Department of Enterprise, Trade and Employment in 2000. On May 1st, 2010 this responsibility transferred to the Department of Education & Skills. Following on from the passing of the first piece of legislation was the further transfer of responsibility for employment and community services to the Department of Social Protection from October 1st 2010. The latter Department will be responsible for a new National Employment & Entitlements Service whereas the Department of Education & Skills will be responsible for a new training and skills agency to be called Solas. Responsibility for rehabilitative training remained with the Health Service Executive (HSE) under the Department of Health and Children. Policy in regard to the provision of vocational training is being developed through a three-dimensional approach:

- to develop the skills of the people with disabilities for employment;
- to stimulate awareness amongst employers of the contribution which people with disabilities can make to their business;
- to provide a range of employment supports for people with disabilities and employers.

15.1.4 The Sectoral Plan of the former Department of Enterprise, Trade and Employment <http://www.entemp.ie/labour/strategy/sectoralplan.htm> contains proposals for providing fully accessible services and promoting equal opportunities for people with disabilities in the labour market, by the Department and its agencies, over the period 2006 –2010. This includes the development of a Comprehensive Employment Strategy for people with disabilities to include those currently outside the workforce, and job retention for those following the onset of a disability while working. The key pillars underpinning the development of the comprehensive strategy includes:

⁴According to the Disability Act 2005, "disability", in relation to a person, means a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment.

- Enhancing the effectiveness of employment and vocational training programmes for people with disabilities
- Further developing supports to the employment of people with disabilities.

15.1.5 The Sectoral Plan contained an employment target of 7,000 job placements over the period 2006-2010 for people with disabilities who do not have a difficulty in holding a job. A review of progress under the target indicated total placements of 6,707 over the period 2006 – 2009. The longer-term goal is to raise the employment rate of people with disabilities from 37% to 45% by 2016 as measured by the Quarterly National Household Survey (QNHS). The overall participation in education, training and employment will be increased to 50% by 2016.

15.1.6 The restructuring of employment and training services for people with disabilities in 2000 under the Government’s mainstreaming policy was to ensure that such services for people with disabilities can be provided in a more integrated way, offering more choice and options than were previously available. This reflected a shift in policy from the medical model of disability, where people are viewed through their physical or medical condition or impairment, to a social model that focuses on the barriers that are placed in the way of people with disabilities, and which recognises the contribution that people with disabilities can make to society and the economy general. Such an approach underpinned the recommendations contained in the Report of the Commission on the Status of People with Disabilities, which was published in 1998. The more recent changes in responsibility for employment and training services in Ireland are part of the public sector transformation policy to deliver better services to citizens.

15.1.7 Further evidence of this approach is evident from the database being developed by the Department of Health and Children. With regard to the World Health Organisation’s International Classification Functioning, Disability and Health (ICF), the National Physical and Sensory Disability Database includes a Measure of Activity and Participation (MAP), development of which was guided strongly by the ICF. The MAP includes three sections:

- Barriers and Challenges
- Participation
- WHODAS II (World Health Organisation’s Disability Assessment Schedule II).

MAP was introduced into the National Physical Sensory Disability Database in 2004 following pilot of these questions. It allows for a more holistic picture of disability to be captured. It also enables a link between service interventions and participation to be explored.

15.1.8 Based on the Census of Population 2006⁵, 9.3% of the population have a disability⁶. The following is a breakdown of figures for persons under, and over, 18 years of age:

Age	No of persons with Disabilities
0-18	44,845
18+	348,940

A further breakdown by Principal Economic Status (PES) shows that 222,000 persons with disabilities were aged 16 to 64 of whom 75,000 are at work, 16,000 are unemployed and 131,000 are economically inactive.

Education and Training

15.1.9 *The White Paper - Learning for Life (2000)*, states that all education and training providers need to make specific provision to ensure that people with Disabilities/Special Educational Needs (SEN) can access mainstream services. It specifically recommends that “*people with disabilities should be targeted by every Adult Education programme so that they may avail of integrated mainstream options on an equal basis.*”

15.1.10 The education of children with special education needs is provided through a number of support mechanisms depending on the child’s assessed special educational need. Section 2 of the Education for Persons with Special Educational Needs Act, 2004 (EPSEN Act)⁷ requires that:

“A child with special educational needs shall be educated in an inclusive environment with children who do not have such needs unless the nature or degree of those needs of the child is such that to do so would be inconsistent with:

- The best interests of the child as determined in accordance with any assessment carried out under this Act
- The effective provision of education for children with whom the child is to be educated.”

The nature and level of educational response is based on the professionally assessed needs of each individual child. Government policy is to achieve as much integration as possible and also to take account of the views of the parents. Where placement in an integrated setting is considered to be the appropriate response, provision will normally take the form of resource teacher or special needs assistant support, or both, depending on the level of need involved.

⁵<http://beyond2020.cso.ie/Census/TableViewer/tableView.aspx?ReportId=15970>.

⁶ Information provided by the Department of Education and Science.

⁷<http://oireachtas.ie/documents/bills28/acts/2004/A3004.pdf>

15.1.11 While policy is to ensure the maximum possible integration of children with special needs into ordinary mainstream schools, students 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. Each such facility is dedicated to a particular disability group and each operates at a specially reduced pupil teacher ratio. Pupils attending these facilities attract special rates of capitation funding and are entitled to avail of the special school transport service and the school bus escort service.

15.1.12 Following the enactment of Section 2 of the Education for Persons with Special Educational Needs Act, 2004 (EPSEN Act), the National Council for Special Education (NCSE) took over responsibility, with effect from January 2005, for processing resource applications for children with disabilities who have special educational needs. The Council, through the local Special Educational Needs Organiser (SENO) process individual applications for resources at primary and post primary level and inform the school of the outcome. There are approximately 80 SENOs employed by the Council, who have been deployed on a nationwide basis. They are charged with facilitating access to, and co-ordinating education services for children with special needs in their areas. In addition to processing requests for resources, the Council co-ordinates the provision of education and related support services with health authorities, schools and other relevant bodies.

The National School Annual Census (2011) has detailed that for the 2009/2010 school year there were 6,905 pupils enrolled in Special Schools for children with special educational needs and 9,083 pupils enrolled in Special Classes in Mainstream National Schools.

The National Council for Special Education (NCSE) have detailed that for the same period, Dec 2010, there were 73 special classes attached to post-primary schools to which 369 pupils were enrolled.

15.1.13 Not all pupils with disabilities or special educational needs attend special schools or classes. The majority of such pupils attend mainstream schools and classes supported by additional resources. The NCSE Implementation Report: 'Plan for the phased Implementation of the EPSEN Act 2004' estimated that 18% of children have special educational needs, and thereby estimated that approximately 89,837 primary school pupils and 63,124 post primary school pupils have special educational needs.

At Primary school level, since 2005, primary schools no longer have had to apply for individual teaching supports for pupils with 'high incidence' (less complex) special needs e.g. mild general learning disability or specific learning disability, as additional learning support/resource teaching posts have been built-in to their permanent staff to cater for such pupils through the General Allocation Model (GAM).

15.1.14 At Primary level, children with low incidence special needs such as moderate, severe, or profound general learning disabilities, severe emotional disturbance, autism receive additional individual hours of resource teaching support which are allocated by the NCSE based on children meeting disability categories as evidenced by medical assessment.

15.1.15 At Post Primary level, schools have a learning support teacher service. Additional teaching resource hours are allocated by the NCSE for students requiring additional support

based on assessed levels of high or low incidence special educational need and based on disability categorisation.

Approximately 9,950 learning support/resource teacher posts, including those provided under the General Allocation model, are being provided in 2011 in primary and post primary schools in order to provide additional teaching support to pupils with special educational needs.

15.1.16 In addition, 10,575 whole time equivalent (wte) Special Needs Assistant (SNA) posts are being provided for primary, post-primary and special schools for the coming school year in order to support the care needs of pupils with disabilities. Enhanced levels of school capitation are payable to most special schools and special classes and special School Transport arrangements and assistive technology support is provided for pupils with disabilities.

Early educational intervention is provided for children with autism from 2½ years of age. There are now 56 early intervention classes for children with autism attached to mainstream schools that are funded by the Department. Funding is also provided through the home tuition programme for children with autism aged from 2 ½ years to 5 who are unable to access an early intervention class. An extended school year is also currently available for pupils who have either a severe/profound general learning disability or who have autism.

Teacher Education

15.1.17 With regard to the education of teachers to teach children with special educational needs, in relation to Primary Initial Teacher Education Courses, at present, the courses run in the State that allow for appointment to a permanent post in a primary school are the Bachelor of Education degree and the 18 month Postgraduate Diploma in primary teaching. Both of these courses are run in the Colleges of Education, which specialise in the training of primary teachers. An online Postgraduate Diploma is also run by Hibernia, a private college.

The Colleges of Education (for primary teaching) aim to prepare their student teachers to meet the diverse needs of all their pupils. Student teachers are instructed how to assess pupils' strengths, learning styles, and needs and on how to adapt curricular subjects for children of different abilities and those with special educational needs. As well as mandatory focussed lectures, instruction on how to adapt curricular subjects for children of different abilities/with special educational needs is permeated throughout the initial teacher education programmes for primary teaching. There are also optional electives in some of the Colleges.

15.1.18 In relation to Post Primary Initial Teacher Education, the most common post primary teacher-training qualification in Ireland is the Postgraduate Diploma in Education - PGDE (previously the Higher Diploma in Education) and is awarded on successful completion of one-year full-time courses. There are also a number of concurrent programmes (degree) leading to qualification as a post primary teacher.

Through the taught components of the programmes, students are introduced to conceptual frameworks and relevant issues within the disciplines and professional studies of education and to a variety of teaching strategies. The programmes include modules on the Psychology of Teaching and Learning including Special Educational Needs.

The Department of Education and Skills (DES) is committed to providing for a comprehensive programme of continuing professional development (CPD) to assist teachers in meeting the learning and teaching needs of pupils with special educational needs.

15.1.19 The Teacher Education Section of the DES established the Special Education Support Service (SESS) in September 2003. The service consolidates, co-ordinates, develops and delivers a range of professional development initiatives and support structures for school personnel working with students with special educational needs in a variety of educational settings. These settings include mainstream primary and post-primary schools, special schools and special classes. All teachers are encouraged to seek assistance from the SESS to pursue specialised CPD in relation to the learning and teaching of students with a wide range of special educational needs.

15.1.20 Currently places are provided in third-level institutions for teachers who wish to pursue post-graduate qualifications in special education. The following are among the CPD programmes being provided for by the DES:

- Combined Post-Graduate Diploma Programme of Continuing Professional Development for Teachers involved in Learning Support & Special Education - The aim of the programme is to provide substantial theoretical and practical continuing professional development for teachers working with students with SEN and for teachers working in recognised mainstream and other educational settings with those students requiring learning support teaching. This programme is available in seven third-level colleges/universities.
- Graduate Certificate in the Education of Pupils with Autistic Spectrum Disorders - The aim of the programme is to provide substantial theoretical and practical training for teachers working with pupils who have autistic spectrum disorders.
- Post-Graduate Certificate/Diploma Programme of Continuing Professional Development in Special Educational Needs (Autistic Spectrum Disorders) for Teachers. The aim of the programme is to develop teachers' knowledge, understanding and skills in working with students with autistic spectrum disorders.

15.1.21 As the professional body for teaching in Ireland, the Teaching Council has a range of functions relating to teacher education. The Teaching Council has published regulations which will bring greater uniformity to the requirements for entry to the teaching profession at primary, post-primary and further education levels. Regulations two, four and five prescribe the standards of entry in the primary, post-primary and further education sectors respectively, while regulation three sets out the entry requirements for teachers with appropriate specialist qualifications such as those required for teaching learners who have Special Educational Needs.

The Teaching Council, has initiated reviews of a range of initial teacher education programmes, both primary and post-primary, and will consider all course content in this context.

15.1.22 Policies and measures are also in place to promote opportunities for adults, in particular adults who as children did not avail of or benefit from education in schools, to avail of educational opportunities through adult and continuing education. Within this framework,

a range of full-time (i.e. Youthreach, Vocational Training Opportunities Scheme (VTOS), Senior Traveller Training and Post Leaving Certificate courses), and part-time (community education, literacy and numeracy, Back to Education initiative) programmes are delivered. Voluntary bodies also provide education/training services for adults with disabilities. In many instances, these services are delivered in co-operation with local Vocational Education Committees (VECs), of which there are 33 in Ireland, either in day centres, community settings or in VEC colleges. The courses taught are, for the most part, accredited by an external body such as Further Education, Training and Awards Council (FETAC) as is rehabilitative training.

15.1.23 Organisations such as the Association for Higher Education Access and Disability (AHEAD) provide support for disabled students and teachers of students with disabilities in the Higher Education setting - see <http://www.aheadweb.org>. Additionally, VECs are co-operating with local service providers in the delivery of Further Education (FE) to persons with disabilities, either on the service providers' premises or in local VEC colleges during school hours. VECs are also supporting community education programmes that include persons with general learning disabilities and other types and levels of disabilities.

15.1.24 An overall participation rate for persons with disabilities in DES (Department of Education and Science) funded services is unavailable due to different settings being surveyed at different times. The definition of 'disability' used in each of the individual surveys is unclear and we cannot be certain whether or not the figures include persons with general disability, specific learning disability, sensory/emotional/physical disabilities or specific syndromes and disorders. The individual surveys do not indicate whether the participants are recent school leavers or have returned to education after an absence.

15.1.25 Some key features of specialist vocational training include:

- Additional training duration;
- Adapted equipment;
- Enhanced programme content;
- Trainer to learner ratio;
- Specialist qualifications of staff;
- Additional opportunities for assessment; and
- An individualised approach.

15.1.26 In general, there are 3 broad types of [Special Training Needs](#), which are addressed and met through Specialist Training Providers, namely needs relating to access; needs relating to training content and duration; and non-occupational training-related needs.

(i) Special Training Needs

These are needs, which are to do with getting the potential learner into an appropriate training situation, from which s/he may participate in, and benefit from, essentially the same training provision as a non-disabled peer. Specialist training centres remove or overcome barriers, which in other training environments, learners with disabilities encounter disproportionately. The removal of access barriers may involve physical support, or the provision of special aids or adaptations for people with disabilities. It would also include a supportive environment which maximises opportunities for learners to learn through their strengths.

Alternatively, access-related needs, might involve preliminary or extra training to put the learner with a disability in the same 'starting position' as others. This might include:

- Longer duration in training;
- Numeracy and/or literacy training for learners with an intellectual disability;
- Low vision training, mobility and Braille training for learners who are partially sighted or blind;
- Sign language provision for learners who are deaf.

(ii) Needs relating to Training Content and Duration

These are needs, requiring support, which are such that a learner would be unable to benefit fully from training on the same basis as their non-disabled peers, even if appropriate physical support is made available. These supports include:

- Additional assistance during training for people with emotional and/or behavioural difficulties;
- The provision of trainers who are trained to meet the needs of people with disabilities;
- The need for a longer period of training;
- An individualised approach to the training curricula;
- Additional support modules, e.g. personal effectiveness, managing disability, self-advocacy etc.;
- Work preparation, including extra or different training in job-search skills, personal presentation, etc.

(iii) Non-Occupational Training-Related Needs

These are needs, in the absence of which, the learner may be unable to benefit. For example, additional help for a person with mental health difficulties in managing his/her medications or learning to manage personal finance for a person with an intellectual disability. Other non-occupational training-related needs might include travel training and/or learning to reside in rented accommodation.

Vocational Training and Employment

15.1.27 FÁS, the National Training and Employment Authority, offers comprehensive vocational training and employment supports for disabled people, consistent with current mainstreaming policy. Disabled persons, who meet the entry criteria, are able to participate in a full range of FÁS mainstream programmes and services, including mainline training provision, back-to-education and work-experience programmes such as Community Employment.

The guiding principles for the work of the *Commission on the Status of People with Disabilities* in 1996 were (1) equality, (2) maximising participation, and (3) enabling independence and choice. These principles also inform all FÁS policies in pursuing the mainstreaming agenda for disabled people. These fundamental principles underpin the implementation of the FÁS Vocational Training Strategy as completed in April 2006, and as set out in the Sectoral Plan of the former Department of Enterprise, Trade and Employment. This ensures that the focus of the mainstreaming policy must be on recognising the diversity of disabled people, and the need for an individualised approach to their training needs.

In those case where persons with particular disabilities may require enhanced supports, a range of positive-action measures to assist such disabled peoples' entry into employment are also available. These include Specialist Training Providers, additional training duration, adaptive equipment, enhanced programme content and/or reduced trainer-to-trainee ratios, staff specially qualified in training people with disabilities. The nature of the disability determines the measure offered. Currently, FÁS contracts with 20 Specialist Training Providers, such as the National Learning Network (NLN), in 55 centres, to deliver vocational training to disabled people who require more intensive support than would be available in the mainline options. Training providers, such as NLN, are required to meet minimum standards in relation to the design and delivery of training programmes and all these programmes lead to nationally recognised certification.

15.1.28 Significant new initiatives for people with disabilities include:

- Increasing the participation rates of people with disabilities in FÁS programmes.
- Ensuring that all FÁS Services are open to People with Disabilities.
- Providing a Disability Manual for all FÁS Staff.
- Funding of Workway to produce the Workway Disability and Employment Guidelines for employers and employees
- Funding Ready Willing and Able – An employers guide to hiring people with Disabilities
- Co-funding the O2 Ability Awards since inception until 2010.
- Funding the "Just Ask" and CuirCeist – Employment and Mental Health – A Handbook for Employers and Employees.
- Guidelines for Supporting People with Dyslexia
- FÁS Vocational Training Strategy for People with Disabilities.
- Launching and developing of the FÁS Supported Employment Programme.
- FÁS Protocol for Supporting Learners with Mental Health Issues
- Demystifying Disability in the Workplace – Practical Guidelines for Managers & Supervisors
- Launching the FÁS "Reasonable Accommodation Fund" for Employers and Employees.
- Rolling out Wage Subsidy Scheme as a permanent programme
- Funding the GET AHEAD programme to prepare graduates with disabilities and potential employers for the world of work through seminars, training and the awareness raising
- Funding the WAM (Willing Able Mentoring) Programme which is a mentored work placement programme, which encourages and supports employers to hire graduates with disabilities. It is endorsed by the National Disability Authority and is run by the Association for Higher Education Access and Delivery (AHEAD)
- Funding the Irish Congress of Trade Unions' "Disability Champions" programme.

15.1.29 In 2009, 1,296 disabled people completed courses in mainline training in comparison to 1,495 in specialist training provision. In 2010, 1,231 disabled people completed training in mainline provision whereas 743 disabled people completed specialist training programmes. The total throughput on FÁS training programmes (excluding

apprenticeships) in 2010 was 52,130, of which 1,974 had been in receipt of a disability payment, representing 4% of the total. Of the 1,974 people in receipt of a disability payment, 743 completed training programmes with Specialist Training Providers, representing 38% of people in receipt of a disability payment who completed training programmes.

Overall, since 2003, the numbers of people with disabilities who completed training and employment programmes has increased (6,735 in 2003; 8,941 in 2009 and 7,595 in 2010) but the percentage in specialist training has remained constant as there are a maximum of approx 2100 places available in FÁS Specialist Training Provision.

15.1.30 FÁS collects employment data following the completion of each training course and at various intervals following course completion when data is made available by contracted trainers and occasionally by participants themselves. Data on post-programme outcomes for FÁS trainees are collected by means of a large follow-up survey carried out every 2 to 3 years. Two such surveys have been carried out in recent years.

The most recent survey was carried out in the last quarter of 2009, and covered outcomes for trainees who completed training just over a year earlier, during the period June to September 2008.

The survey identifies the proportion of trainees in various programmes who have entered employment, or gone on to further education or training during the year since they completed courses. On the assumption that the survey period figures are representative of all leavers for the year concerned, the following estimates can be made for persons who completed training provided by FÁS Specialist Training Providers for persons with disabilities in 2008:-

FÁS Trainee Outcomes 2008					
Programme	Number completing in 2008	Survey-based estimate for trainees who found employment within approx 12 months		Survey-based estimate for trainees who entered further training/education within approx 12 months	
		%	Number	%	Number
Specialist Training Providers	1660	19	310	46	760

One fifth of trainees had found employment, and almost half had engaged in further training/education, within the year since they completed training.

This most recent survey covered a period when unemployment was rising rapidly – from about 7% at the time the trainees completed their courses to almost 13% at the date of the survey.

The immediately-prior survey, covering leavers from late 2005, was carried out in late 2006. Again, on the assumption that the survey-period figures are representative of all leavers for

the year concerned, the following estimates can be made for persons who completed training provided by FÁS Specialist Training Providers for persons with disabilities in 2005:-

FÁS Trainee Outcomes 2005					
Programme	Number completing in 2005	Survey-based estimate for trainees who found employment within approx 12 months		Survey-based estimate for trainees who entered further training/education within approx 12 months	
		%	Number	%	Number
Specialist Training Providers	1630	37	600	37	600

Almost two fifths of the trainees had found employment, and a similar proportion had engaged in further training/education, within the year since they completed training.

This earlier survey was carried out at a time when unemployment was much lower and falling – from 4.6% at the time the trainees completed their courses to 4% at the date of the survey.

Vocational Education Committees (VEC) also co-operate with FÁS in the delivery of the Return to Education (RE) initiative. This initiative aims to give participants on Community Employment programmes an opportunity to attend a basic reading and writing skills course for nine hours per week. There are currently 46 FÁS/VEC operated RE programmes in all eight FÁS regions. The RE programme is being extended to all local authority areas, in co-operation with LANPAG(the Local Authority National Partnership Board). Data is not available on the participation of persons with disabilities in these programmes.

15.1.31 Information on FAS training allowances and other supports (e.g. travel allowances) which apply to persons in the 16 to 65 age group can be obtained from the FAS website which provides details on course participant training allowances and conditions specific to persons with disabilities at:

<http://www.fas.ie/en/Allowances+and+Grants/default.htm>.

Rehabilitative Training

15.1.32 TheHealth Service Executive (HSE) provides advice, guidance and services in relation to rehabilitative-type foundation and life-skills training which is pre-vocational in nature, and community workshops or other sheltered or supported work options. Rehabilitative Training is provided through HSE funded training for adults with disabilities/SEN. Rehabilitative Training programmes are designed to equip participants with foundation level personal, social and work-related skills that will enable them to attain greater levels of independence and integration. Courses/programmes may be centre or community based.

All agencies delivering Rehabilitative Training must submit a Training Programme Specification (TPS) to the Guidance Service of the HSE for approval. All TPSs are required to include nationally-certified modules. In practice, these are usually FETAC modules. Target trainees are those who will benefit from the programmes and will progress to further training/education, supported/open employment or sheltered occupational services, or will make progress in the area of social/personal development. The Guidance Service also approves all applications by or on behalf of trainees. Guidance Advisors are responsible for monitoring the delivering of training in their areas.

Programmes are normally of three years duration. An extension of training may be granted by the HSE when there is clear evidence that an extension of less than twelve months will facilitate the successful completion of the programme or when the circumstances of the trainee have changed and a new Individual Training Specification (ITS) is required.

Guidance

15.1.33 Please see Article 9 of this Report for details of mainstream guidance provision in Ireland. Persons with disabilities may call into a FÁS Employment Service Office to meet with an Employment Services Officer who will provide them with full information, advice and guidance in relation to training and access to employment and labour market measures. Such guidance takes account of the needs of the labour market as well as the wishes and abilities of the persons in counselling. The HSE, in the context of delivery of rehabilitative measures and programmes, also provides guidance to disabled persons.

The Adult Educational Guidance Initiative consists of 38 guidance projects throughout the country with the aim of providing a quality adult educational guidance service to participants in VTOS, literacy and other adult and community education programmes nationwide. Persons with a disability are integrated into the main provisions for Guidance under the Adult/Continuing education guidance scheme.

Article 15§2

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information on the number of persons with disabilities in working age, in ordinary employment and in sheltered employment (estimated, if necessary). Please, also indicate whether the basic provisions of labour law applies to persons working in sheltered employment where production is the main activity.

Labour Market

15.2.1 Labour market measures to encourage the employment of occupationally-disabled jobseekers in the open labour market are an important part of active labour market measures in Ireland. Services for people with disabilities are mainstreamed within this context. Article 10 of this Report provides details of the employment support programmes in place to assist the most vulnerable groups to access employment. Disabled persons, on meeting the entry

criteria, participate in the full range of FAS programmes and services, including employment support measures, wage subsidy schemes and work experience programmes, such as Community Employment. Programmes for disabled people are ‘demand-led’ in that take up of same is voluntary and there is no element of penalty involved for those who do not wish to engage, for whatever reason. It should be noted that in 2011, FÁS, as an organisation, will be superseded by a Training and Skills Agency (to be called Solas) under the Department of Education and Skills and a National Employment & Entitlements Service reporting to the Department of Social Protection, in order to provide a more focused approach under the Government’s structural reform of the general Public Service.

15.2.2 The following paragraphs illustrate the range of such measures/programmes for persons with disabilities. Many such measures are linked to continuing welfare supports and supporting enactments and regulation concerned with non-discrimination.

Employment Access/Retention Programmes

The Supported Employment Programme (SEP) is an open labour market initiative providing disabled people, who are ‘job-ready’, with supports to help them access the open labour market. It is implemented by 23 sponsor organisations contracted on behalf of FÁS who employ Job Coaches to provide a range of supports tailored to the individual needs of a jobseeker. Individuals who participate on this programme must achieve a minimum 8 hours work per week, by 6 months into the Programme. Supports are provided for a maximum of 18 months and may be extended in appropriate circumstances. Approx 900 persons with disabilities are “In Employment” as part of the programme although approx 2,700 persons would be engaged on the different phases of the programme at any one time.

The Wage Subsidy Scheme (WSS) The WSS provides financial incentives to employers, outside the public sector, to employ disabled people who work more than 20 hours per week. A person on the WSS is subject to the same conditions of employment as other employees. These conditions include PRSI contributions, annual leave, tax deductions and the going rate for the job. The Scheme is structured in three strands. The employer can benefit from one or all, simultaneously:

- Strand I subsidy - is a general subsidy for any perceived productivity shortfall in excess of 20% for a disabled person, in comparison to a non disabled peer. An employee must work a minimum of 21 hours per week up to a maximum of 39 hours per week. The rate of subsidy is €5.30 per hour and is based on the number of hours worked, giving a total annual subsidy available of €10,748 per annum based on 39 hour week.
- Strand II - is based on the total number of disabled employees in a company, an employer can apply for a grant to cover additional costs ranging from an additional 10% for 3-6 employees to a maximum of 50% of the wage subsidy for 23+ disabled employees.
- Strand III - is where 30 or more disabled people are employed, employers can avail of a grant of €30,000 per annum to assist with the cost of employing an Employment Assistance Officer.

The Community Employment programme is a temporary employment measure intended to provide work experience and training to disadvantaged persons. At the end of 2009 there were 5,386 disabled participants, or nearly 23 % of total participants on CE, who had joined the programme from having a disability payment.

In 2010 the numbers decreased to 4,327 or 19% of total participants on CE. Participation rates for such people with disabilities have varied between 20% and 25% over the period of the Sectoral Plan of the Department of Jobs, Enterprise and Innovation, relating to 2006-2010.

15.2.3 Employers are responsible for ensuring that the workplace is adapted for disabled employees based on the terms of various enactments.⁸ Supports are available to employers to assist in adaptation for employees with reduced capacity to work. For example, the Employee Retention Grant Scheme is available to private sector employers when an employee acquires a disability, whether occupational or not. It provides funding to identify accommodation or training to enable the employee to remain in their current position or to re-train them to take up another position within the organisation. There are two stages to the scheme:

- Assessment, 90% of the costs of developing a retention strategy can be funded to a maximum of €2,500.
- Implementation, 90% of eligible programme costs can be funded to a maximum of €12,500.

Another relevant example is the Work Equipment Adaptation Grant which is available to employers in the private sector who need to adapt equipment or the workplace to accommodate a disabled employee. The maximum grant provided is €6350 and covers minor building modifications such as ramps or accessible toilets, assistive technology, amplifiers for telephones etc.

Employment Supports and Employer Awareness Initiatives

15.2.4 A further range of supports is available as follows to encourage and facilitate entry to the labour market including:

Job Interview/Induction Interpreter Grant is available to cover the costs of an interpreter up to a maximum of €152 for a half day period for interview and induction purposes where an interviewee or new staff member is deaf, hard of hearing or has a speech impediment.

Personal Reader Grant is available for the blind or visually impaired who require assistance with job-related reading. This is a grant to permit the employment of a personal reader. FÁS will pay a fee per hour for this service, in line with minimum wage for a maximum of 640 hours per annum.

Disability Awareness Support Scheme assists the integration of disabled people into the workplace and helps to eliminate mistaken perceptions about them. It is available to all companies in the private sector who are interested in employing, retaining or relating to disabled people. Funding of up to 90% of costs is available in the first year and up to 80% of costs in subsequent years with an annual limit of €20,000 payable to an organisation. To avail of this funding, however, disability awareness interventions must be carried out by a FÁS approved provider.

⁸The Employment Equality Acts 1998 and 2004, the Equal Status Acts 2000, and 2004 and the Disability Act 2005.

15.2.5 In the public sector there is a statutory target, currently set at 3%, for the employment of people with disabilities⁹. It provides a framework for monitoring the employment target in all public bodies by committees under the aegis of relevant Ministers of the Government. Under the Act, public bodies are required, by 31 March each year, to submit reports to monitoring committees on their compliance with the target; the monitoring committees are required to report on such compliance by 30 June each year to the relevant Minister and the National Disability Authority (NDA). The Department of Finance is responsible for monitoring the target in relation to all Government Departments and public bodies whose staff are civil servants. In the case of other public bodies the target is monitored by the parent Department. The NDA has an overall monitoring and reporting role under the Act.

15.2.6 The first statutory report on 2006 data¹⁰ on the compliance by the public service with the employment target of people with disabilities was published on 4 January 2008. Following the first year of reporting under the Act the process has been reviewed by the National Disability Authority (NDA) in consultation with Government Departments, and revised reporting formats have been agreed and are currently being used to gather 2007 data. For further information, please see the Department of Finance website at:

<http://finance.gov.ie/Viewtxt.asp?fn=/documents/equality/equaldisab.htm&StartDate=1+January+2006>

Sheltered Employment

15.2.7 Rehabilitative training and therapeutic work programmes are the responsibility of the Department of Health and Children (DoHC) and Health Service Executive (HSE). The number of persons with disabilities who received rehabilitative training during 2010 was 2,865. The target outturn for 2011 is 2,915.

15.2.8 Sheltered employment in the Irish context is employment in an enterprise established specifically for the employment of people with disabilities and which is in receipt of designated funding from the Health Service Executive (HSE). It refers to employment under sheltered conditions where workers have a contract of employment, are covered by employment legislation and are in receipt of the minimum wage. A recent survey (unpublished) by the HSE established that the number of people in this type of employment is small, and totals less than 200 participants.

Equality

15.2.8 Ireland now has in place a broad-based anti-discrimination regime in the areas of employment and in the access to and provision of goods and services whether by the private or public sector, including the provision of education and access to accommodation. The Acts prohibit discrimination on nine grounds against those in employment, seeking access to employment or participating in vocational training, and those seeking goods and services. These grounds are gender, marital status, family status, sexual orientation, religious belief, age, disability, race and membership of the Traveller community. The Acts also outlaw victimisation, that is, discrimination against an individual because he or she has taken a case or is giving evidence under the equality legislation, or has opposed by lawful means discrimination which is prohibited under this legislation. Complaints may be taken to

⁹Part 5 of the Disability Act 2005, which came into operation in December 2005.

¹⁰ <http://www.nda.ie/cntmgmtnew.nsf/0/60DD74656B72013F802573B5005CD6C7?OpenDocument>

Equality Authority, and can subsequently be referred to the Equality Tribunal. Case law precedent is available.

15.2.9 There is no restriction on any citizen whether disabled or not acceding to any other profession compatible with their situation. The Equality Acts and Equal Status Acts mandate this and the Equality Tribunal is available for recourse, if necessary.

15.2.10 Employers are responsible for ensuring that the workplace is adapted for disabled employees based on the terms of various enactments. Orders may issue if an employer fails to make the necessary adaptations based on these enactments and related regulations. The employer's duty to adaptation is wide but not absolute. It takes into account such factors as an overall evaluation of the undertaking's character, size and area of the economy etc. is weighted against consideration of the employee's condition. An employer's duty (of adaptation) is not in relation to the creation of a new position, but extends to a duty to offer the disabled employee a suitable position if one becomes vacant.

Article 15§3

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information on persons with disabilities' access to housing, transport, telecommunications and cultural and leisure activities.

Housing

15.3.1 The Department of the Environment, Community and Local Government's (DECLG) Sectoral Plan outlines actions to ensure that people with a disability have the resources and opportunities to live life with dignity and have access to the quality public services that underpin life chances and experiences. The Plan outlines the steps to be taken in relation to the improved provision of services to people with a disability by the Department and local authorities and sets out national objectives and guidelines for access to services and built facilities. The Plan includes measures to be taken in the areas of the building and planning codes, heritage sites and public bodies under the Department's aegis.

The key objectives of the Sectoral Plan are:

- To promote universal access to public spaces, buildings and services owned and operated by local authorities and those owned and operated by the Department and bodies under the aegis of the Department;
- To promote universal access to new developments and heritage sites;
- To ensure access to information on local authority services for persons with disabilities and similar access to information on services provided by the Department and bodies under its aegis;

- To update standards set out in Part M (Access for People with Disabilities) of the national Building Regulations; and provide for more effective enforcement of these standards;
- To promote and ensure participation by persons with disabilities in decision-making;
- To ensure a high level of awareness among all staff in regard to the requirements of persons with disabilities;
- To encourage and facilitate access to appropriate housing and accommodation for persons with disabilities;
- To improve access of persons with disabilities to streets, pavements, footpaths, and street crossings, and access from public roads to passenger transport vehicles, through promoting an accessible barrier free pedestrian environment;
- To ensure co-operation and coordination in relation to cross-cutting issues under the National Disability Strategy between the Department, bodies under its aegis and local authorities, with other Government Departments and public bodies;
- To promote co-ordination between service providers at local level through the County and City Development Boards.

15.3.2 The core objective of the Government's housing policy is to enable every household to have available an affordable dwelling of good quality, suited to its needs, in a good environment and, as far as possible, at the tenure of its choice. The housing policy statement - Delivering Homes, Sustaining Communities, which was published in February 2007, outlines an overarching vision to guide the development of the Irish housing sector over the next ten years, by delivering more and better quality housing responses in a more strategic way, focused on the building of sustainable communities.

In addition to the government housing policy statement '*Delivering Homes Sustaining Communities*' the Department of the Environment, Community and Local Government also produced best practice guidelines '*Quality Housing for Sustainable Communities*'.

The main points of relevance in '*Quality Housing for Sustainable Communities*' are:

- Section 4.6 Accessibility - It mentions requirements of Part M of the Building Regulations but says that the underlying philosophy is that housing should be accessible by everyone including those with disabilities and designers should have regard to the philosophy of universal access.
- Section 5.2 Flexibility & Adaptability - It asks designers not just to consider immediate needs of the intended users of a building but also the Lifetime needs.
- Section 5.8 Sanitary Facilities & Bathroom Provision - In relation to bathrooms & Sanitary facilities it refers to National Disability Authority publication '*Buildings for Everyone: Inclusion, Action & Use.*'

Planning

15.3.3 Section 28 of the Planning and Development Acts 2000 – 2010 provide that the Minister may, from time to time, issue guidelines to planning authorities regarding any of their functions under the Acts. Planning authorities shall have regard to such guidelines in the performance of their functions.

Under section 28, Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) were issued in May 2009. The aim of the guidelines is to ensure the creation of high quality residential developments that deliver a good quality of life for residents and visitors in terms of amenity, safety and convenience, provide a good range of community and support facilities, where and when they are needed and that are easily accessible, and promote social integration and provide accommodation for a diverse range of household types and age groups.

The Guidelines provide that the provision of sustainable neighbourhoods should be guided by the principle of universal design, whereby the urban environment is designed so that it can be accessed, understood and used by all people regardless of their age, size, ability and disability. The need for street design to incorporate the needs of people with disabilities is also highlighted. In planning for the foregoing, and for ensuring general accessibility and inclusivity for the disabled in the community, the Guidelines recommend that planning authorities consult the National Disability Authority's guidance on universal design of the built and external environment.

Assessment of households for social housing support

15.3.4 The Housing (Miscellaneous Provisions) Act, 2009, provides a legislative framework for the social housing reform agenda. The Act is being implemented progressively. A new standardised system of assessment for social housing support came into effect in all housing authorities on 1 April 2011. This assessment of need examines the household's current accommodation, including that accommodation's suitability for any person with a physical, sensory, mental health and or intellectual disability within the household. New standardised eligibility criteria and maximum income limits have been introduced in all local authorities.

Allocation of social housing support

15.3.5 The modernisation and reform of the allocation practices of local authorities aims to provide a better fit between needs and resources and to respond, as far as possible, to the expressed preferences of individual households. The progressive implementation of the *Housing (Miscellaneous Provisions) Act 2009* will continue to make changes in the way housing authorities prioritise households and allocate housing supports. This will ensure greater equity and transparency in authorities' allocation schemes and will include a more standardised and strategic targeting of allocations to address areas of particular need. As a first step, new allocation schemes, including some standard provisions, were put in place in housing authorities by June 2011. Further changes and moves towards standardisation in certain policies will be implemented gradually in coming months and years to allow a flexible transition from the current allocation schemes.

Specifically in the area of special needs housing, including persons and children with a disability, the framework provides for specific actions to address the wide range of special housing needs, including through:

- the reflection of specific strategies in Housing Strategies and Housing Action Plans for different special needs categories, developed with inter-agency cooperation;
- the introduction of a revised framework of grant aid to assist people with a disability with their accommodation needs.

15.3.6 Work on the development of *The National Housing Strategy for People with a Disability 2011-2016* has been completed. The Strategy, which sets out a framework for the delivery of housing for people with disabilities through mainstream housing policy, was approved by Government in July 2011 and launched by the Minister for Housing and Planning on 6th October 2011.

Inter-Agency Protocols: Protocols have been developed to deal with cooperation between the Health Service Executive (HSE) and housing authorities to provide a strategic framework for inter-agency cooperation at local level where there is a care and accommodation aspect to meeting needs.

A protocol governing liaison arrangements between the housing authorities and the HSE in relation to the assessment of housing needs of children aged under 5 years who have been assessed under Part 2 of the Disability Act, and likely to require a housing support, has been developed and is being implemented by the housing authorities and the HSE since July 2007.

Another protocol governing the co-ordination of revenue funding for health-service-related support costs, for projects provided by Approved Housing Bodies, for people with a disability, was adopted for implementation on the 8th March, 2011.

A further protocol setting out arrangements for co-operation and co-ordination between housing authorities and the HSE in addressing the housing and related support needs that arise as a result of a mental health disability was also adopted for implementation on the 8th March, 2011.

Access to Information

15.3.7 A key objective of the Department of DECLG's Sectoral Plan is to ensure access to information on local authority services for people with a disability and similar access to information on services provided by the Department and bodies under its aegis. Each local authority has appointed a designated Disability Liaison Officer, Access Officer and complaints Inquiry Officer. The Disability Liaison Officer deals primarily with internal staff matters while the Access Officer and the complaints Inquiry Officer deal with members of the public. The role of the Access Officer is to provide for, or arrange for, and coordinate the provision of, assistance and guidance to people with a disability in accessing local services. A local authority network of Equality Officers, under the Local Government Management Services Board, meets regularly and provides a forum to discuss common issues (including certain disability issues) in relation to relevant policies or legislation in force or due to come into force.

Effective liaison is maintained by local authorities, primarily through the City and County Managers Association structures, with the Department of the Environment, Community and Local Government and with other relevant Government Departments in relation to national issues. Local authorities also liaise with bodies such as the Health Service Executive at national and local level and local transport providers to achieve the aim of effective inter agency co-operation to facilitate access by people with disabilities to the services provided by such bodies.

Each local authority is required under the Plan to carry out an accessibility audit of all public libraries, roads and streets, pavements and pedestrian crossings, public buildings, public

parks, amenities and open spaces, heritage sites and harbours within its control and to identify the remedial action necessary to make these buildings and facilities accessible for people with a disability. The accessibility audit must also address access to services and information. Following the completion of the accessibility audits, local authorities are required to draw up implementation plans setting out programmes to give effect to the commitments and objectives contained in the Disability Act 2005 and the Department's related Sectoral Plan. Each implementation plan will be published and placed on the authority's website.

Most local authorities have submitted their plans to the Department while the remainder have indicated that they are at an advanced stage in the preparation of their plans and expect to complete and publish them shortly. A local authority good practice in accessibility website (www.la-accessibility.ie) was developed and launched in March 2007. The site showcases good practice, provides practical answers to common queries, hosts a discussion forum and provides links to relevant publications, including guidance, legislation, etc.

Additional resources have been provided since 2005, as part of the National Disability Strategy multi-annual funding programme, to support work on accessibility audits and implementation undertaken by local authorities. The Department provided over €21.7m over the period 2005-2010 to local authorities to help meet their obligations under the Disability Act 2005 and the Department's Sectoral Plan. The majority of expenditure was directed towards providing new or improved access to and within public buildings, parks, playgrounds and other amenities, streetscapes, etc including electronic equipment and adaptations and on staff training, accessibility audit work, and improved access to information services, software, etc.

Strategic Response to Housing Needs for Disabled

15.3.8 The Government's strategic approach to housing is multi-dimensional reflecting the broad spectrum of housing needs from those who require some assistance to purchase their own homes - affordable housing - to social housing and housing for those with special needs. Significant progress has been made as part of an overall strategic response to meeting the specific housing needs of people with a disability, including, inter alia:

Assessment of Need: the development of a new means of assessment of housing need to provide an improved basis for policy development and service delivery to ensure that all people can live with maximum independence within their community. The key components of this new approach include, inter alia, the identification of special needs. It is envisaged that this approach will involve two stages, a preliminary assessment to identify those with a short-term need and those for whom income support of short-term duration is the most appropriate response. The second stage of the assessment will examine longer term housing need.

An important new component will be the incorporation of the life cycle approach into the assessment of need, reflecting the fact that different households may experience a need for different types of housing supports at various stages of the life cycle. The new means of assessment will be supported by legislation, which is currently being drafted.

Review of Part M: Part M of the Building Regulation sets the minimum standards for accessibility for buildings both domestic and non-domestic. Part M was amended in 2010 and has been re-titled 'Access and Use,' reflecting an overall aim to foster a more inclusive

approach to the design and construction of the built environment to facilitate the needs of all people regardless of age, size or disability. It generally comes into force with effect from 1 January 2012.

The Regulations require that:

- all new buildings, other than dwellings, are accessible and useable;
- extensions to existing buildings, other than dwellings, are where practicable accessible and useable;
- material alterations to existing buildings, other than dwellings, increase the accessibility and usability of existing buildings where practicable;
- certain material changes of use to existing buildings, other than dwellings, increase the accessibility and usability of existing buildings where practicable, and
- new dwellings are visitable

Disability Access Certificates (DAC)

The Building Control Regulations 1997-2009 through S.I. No. 351 of 2009 inter alia, introduced the requirement for a Disability Access Certificate (DAC), in order to improve compliance of buildings with Part M of the Building Regulations. A DAC confirms that, if the building (or works) is constructed in accordance with the plans, calculations, specifications and particulars submitted, it would comply with the current requirements of Part M. A DAC is granted by a Building Control Authority and is required for new buildings other than dwellings (but including apartment buildings) and certain works to which the Requirements of Part M apply, which commence or take place on or after 1 January 2010.

Universal Design

A [Centre of Excellence in Universal Design](#)¹¹ was established in 2007 in the NDA (Part 6 of the Act). ‘Universal design’ refers to the design and composition of an environment so that it can be accessed, understood and used to the greatest extent possible by people regardless of their age, size or disability, and the mission of the centre is to enable the creation of an environment, products and services derived from universal design.

Housing Adaptation Grants Schemes for Older people and People with a Disability

15.3.9 In order to facilitate the continued independent occupancy of their own homes by people with a disability, the Department of ECLG implemented a revised framework of grant aid, in November 2007, to assist with adaptation works to meet the specific needs of people with a disability. The framework targets the available resources to those in most need, streamlines operational and administrative procedures and improves equity and consistency throughout the country.

The Department of ECLG operates a number of grant schemes to assist older people and people with a disability with their accommodation needs as follows:

- The Housing Adaptation Grant Scheme for Older People and People with a Disability assists with the provision/adaptation of accommodation to meet the needs of older people and people with a disability. The types of works grant aided include the provision of access ramps, downstairs toilet facilities, stair-lifts, accessible showers,

¹¹ <http://www.nda.ie/cntmgmtnew.nsf/0/F804770E295AC797802572CF003D69EB?OpenDocument>

adaptations to facilitate wheelchair access, extensions, and any other works which are reasonably necessary for the purposes of rendering a house more suitable for the accommodation of a person with a disability. The maximum grant available is €30,000, which may cover up to 95% of the cost of works.

- A Mobility Aids Housing Grant Scheme provides grants to cover a basic suite of works to address mobility problems, primarily but not exclusively, associated with ageing. The types of works which are grant aided include the provision of grab-rails, access ramps, level access showers, stair-lifts and other minor works which are deemed necessary to facilitate the mobility needs of a member of a household. Grant aid is available to people with annual household incomes of up to €30,000. The maximum grant available is €6,000, which may cover 100% of the cost of works.
- The Housing Aid for Older People Scheme provides targeted support to improve conditions in the existing housing of older people, many of whom would have disabilities or mobility issues. The types of works which may be grant aided include structural repairs or improvements, re-wiring, repairs to/replacement of windows and doors, the provision of water, sanitary services, heating, cleaning, painting etc. The maximum grant available is €10,500, which may cover 100% of the cost of works.

On foot of a Government Decision, taken in February 2006, it was decided to transfer the administration of the Special Housing Aid for the Elderly Scheme from the HSE to the housing authorities. The Scheme had been funded through a Taskforce under the aegis of the Department of the Environment, Community and Local Government. It was agreed between the Department and the HSE that the Special Housing Aid for the Elderly Scheme would be discontinued from 1 August 2008 with all claims on hand at that date to be processed by the HSE. The Department provided €14.7 million to the HSE in 2008 for the operation of the Scheme and a further €3.5 million was provided to the HSE in 2009 to wind down the scheme and pay the balance of claims on hand. All new applications for home repairs and improvements with effect from 1 August 2008 were directed to the local authorities under the provisions of the Housing Aid for Older People Scheme.

Expenditure under these grant schemes has been accelerating year on year with expenditure increasing from some €13million in 1997 to €98 million in 2010 with 110,000 grants paid. This represents 110,000 people who have been maintained in their own homes and communities for as long as possible and in many cases preventing premature entry into residential care or various forms of sheltered or group housing.

Following the implementation of the revised framework of grant aid in November 2007, the Department committed to undertake an independent evaluation of the new schemes following the first year of full implementation. This evaluation, which was undertaken by the centre for housing research in consultation with stakeholders, including the local authorities, representative organisations for older people and disabled people and with a cross section of grant applicants, will assist in ensuring that the new framework targets the available resources to those in most need and provides a more seamless set of responses to the housing needs of people with a disability and older people.

New Housing Policy Statement, June 2011

15.3.10 A new Housing Policy Statement was launched in June 2011 which placed greater emphasis on choice, equity across housing tenures and delivering quality outcomes for the resources invested in mainstream housing solutions. The statement also set out the Government's approach to regulation of the wider housing market, including the voluntary and cooperative housing associations, maximising the delivery of social housing supports within the resources available, reform of the private rented sector and the delivery of housing supports for households with special needs. The overall strategic objective will be to enable all households access good quality housing appropriate to household circumstances and in their particular community of choice.

Transport

15.3.11 The Department of Transport's Sectoral Plan has been developed in accordance with the provisions of the Disability Act 2005 and addresses the accessibility needs of people with mobility, sensory and cognitive impairments across the transport modes. This Sectoral Plan titled "Transport Access for All" is currently being reviewed. It was last published in 2009.

The current Plan sets out targets for accessible public transport across all modes – actions to make trains, buses, taxi and hackney services, as well as air and marine transport, accessible to people with mobility, sensory and cognitive impairments. It also covers parking facilities for motorists with disabilities and includes a section on Roads Policy. In general, the timescales for the various elements of the Plan are expected to be completed by 2015.

The purpose of the review is to:

- take stock of progress in delivering the commitments set out in the current Plan;
- consider the changes or additions needed to deliver the goal of accessible transport in the next Plan in order to maximise its effects in improving the quality of life for people with disabilities/mobility issues;
- consider any changes or additions needed having regard to the Minister's current responsibility for improving access for people with disabilities/mobility issues.

The Plan requires that accessibility is a central part of transport services. Details of the Sectoral plan can be accessed on the following Departmental link:

<http://www.transport.ie/>

Communication

15.3.12 The Sectoral Plan of the Department of Communications, Energy and Natural Resources, under the National Disability Act 2005, sets targets for improving the range of accessible services in the sectors (Broadcasting, Communications, Energy and Marine) under its aegis. The Plan is reviewed every three years and amended and updated as necessary. Details of the Plan can be accessed on the following link:

<http://www.dcenr.gov.ie/Corporate+Units/Sectorial+Plan+2000-2009/>

Culture

15.3.13 The Arts Council has paid particular attention to Arts and Health, Arts and Disability and Cultural Diversity as part of a renewed emphasis on arts participation in recent years. For further information please see:

http://www.artscouncil.ie/Publications/Arts_and_disability_pack.pdf

Article 18 – The right to engage in a gainful occupation in the territory of other Parties

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:

1. to apply existing regulations in a spirit of liberality;
2. to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;
3. to liberalise, individually or collectively, regulations governing the employment of foreign workers; and recognise:
4. the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Parties

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms

18.1.1 As a member of the European Union, no restrictions apply in Ireland in respect of nationals from EEA countries who are free to work in Ireland, with the exception of workers from Bulgaria and Romania who, in certain circumstances, may require a work permit. Employers in Ireland are expected to satisfy their labour market requirements from within the European Economic Area (EEA) in the first instance and, if this is not possible, they must give preference to Bulgarian and Romanian nationals ahead of non-EEA nationals. Moreover, current restrictions do not apply universally to all immigrants from these two countries. Bulgarian and Romanian nationals who are in the State on a valid employment permit for an uninterrupted period of 12 months or longer are not required to renew their employment permit in order to remain in the workplace. Those who are self-employed, or registered students, or who held a valid employment permit for the twelve months prior to 1 January 2007, are exempt from the work permit requirement. A list of the exempt categories can be accessed through documents available on the following link:

<http://www.djei.ie/labour/workpermits/bulgariaromania.htm>

However, under Irish legislation an employment permit must be obtained in advance in respect of a non-EEA national who is to be employed in the State (except Swiss Nationals in accordance with the terms of the European Communities and Swiss Confederation Act, 2001). The EEA (European Economic Area) comprises the Member States of the European Union plus Norway, Iceland and Liechtenstein. The policy in this area is to ensure that, as far as possible, job opportunities that arise in the State are filled by Irish or other EEA nationals.

Economic migration policy for nationals from outside the EEA are vacancy-driven rather than based on quotas or points, which means that the core of the policy is the offer of a job. The legal requirements and the issuing of employment permits are governed by the Employment Permits Act 2003 and 2006, which, set out in legislation the criteria in relation to the policies, the application, the grant and the refusal of employment permits.

The Employment Permit Acts gave expression to a new more responsive economic migration policy under which employment permits are considered for:

- highly skilled and/or highly paid positions
- non-EEA nationals already legally resident in the State, with valid employment permits,
- occupations where there is an officially recognised scarcity of workers with a particular type of qualification or skills set.

The various schemes that give effect to such policies were introduced under the Employment Permits Act, 2006. Unlike the terms of the schemes that operated prior to 2007, the current schemes provided for under the Employment Permits Acts 2006, gave immigrants greater freedom, autonomy and control over their own employment and domicile choices by:

- enabling workers for the first time to apply and re-apply for their own permit
- formalising, for the first time, the ability of workers to change their employer and move to another employment in order to take advantage of better conditions or career opportunities
- in the case of Green Cards, rewarding migrants' commitment and contribution to their destination country by fast tracking the process to long-term residency and the rights and entitlements associated with such residency status.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

18.1.2 This policy was given effect through the following employment permit schemes, which became operational on 1 February 2007:

Green Card

The Green Card scheme replaced the Work Visa/Work Authorisation Scheme, which was discontinued. Green Cards are available in respect of non-EEA nationals for occupations where there are high-level skills shortages in strategically important sectors of the Irish economy. Green Cards are granted to the employee for a period of 2 years after which they are eligible to apply for immigration permission to work in the State without the requirement for an employment permit. This administrative change was introduced with effect from early 2009. The benefit package includes priority family reunification, and immediate access to employment for legally resident spouses and dependants, by means of a Spousal/Dependant work permit. The Green Card also allows a pathway to long-term residency in Ireland after the initial two-year period. The key features of the Green Card scheme are:

Firstly, where the annual salary - excluding bonuses - on offer is in excess of €60,000, the Green Card is available for an extensive list of occupations.

Secondly, Green Cards are also available in the annual salary range from €30,000 to €60,000, for a restricted number of strategically important occupations where there are skills shortages, particularly in the information technology, financial services, engineering and health services sectors. These occupations have been identified on the advice of the [Expert Group on Future Skills Needs](#), and are reviewed on a regular basis.

No labour market needs test is required. The scheme is demand-led and can be adjusted to respond quickly to changing skills needs. A detailed guide to the Scheme, including listings of the eligible occupations can be accessed through the link at:

<http://www.djei.ie/publications/labour/2011/Guidelines-GreenCards-June11.pdf>

Work Permit

18.1.3 Work permits are granted to the employee, initially for a period of 2 years, and may be renewed for a further period of up to 3 years. They are required for

- those occupations in the annual salary range from €30,000 to €60,000 for which Green Cards will not be issued, and
- in very exceptional cases for occupations below an annual salary of €30,000 where there are significant labour shortages; these occupations have been identified on the advice of the Expert Group on Future Skills Needs.

The employer must show that the position could not be filled from within the EEA, as required by Ireland's EU 'Community preference' obligations - the job vacancy must first have been subject to a labour market test, involving it being advertised with [FAS](#)¹²/EURES and in the national and local media, and for which there were no suitable EEA candidate(s).

There are a number of categories of less-skilled employment for which work permits will not be considered because job vacancies in these occupational categories can be filled from within the EEA labour force. More detailed information on the work permits scheme, including details of eligible and ineligible job categories can be accessed through the following link:

<http://www.djei.ie/publications/labour/2011/guidelines-workpermits-june11.pdf>

Intra-Company Transfer (ICT) Permit

18.1.4 ICT permits are issued to host companies to facilitate the transfer of senior management, key personnel or trainees who are non-EEA nationals from an overseas branch of a multinational

¹²Ireland's Employment and Training Authority.

corporation to its Irish branch. They are limited to senior management, key personnel or those undergoing a training programme who earn a minimum annual salary of €40,000, and who have been working for a minimum period of 12 months with the overseas company prior to transfer. The duration of an Intra Company Transfer Permit is for a defined period depending on the reason for transfer. Applications may be granted for a maximum period of up to 24 months in the first instance and, on application, may be extended to a maximum stay of five years.

More detailed information on the ICT permit scheme can be accessed through the following link:

<http://www.djei.ie/publications/labour/2011/guidelines-ict-june11.pdf>

Work Permits for Spouses and Dependents of Employment Permit Holders

18.1.5 This scheme is available, in respect of any occupation, to the legally resident spouse or dependant (under 18 years of age) of a holder of a current valid Green Card permit. It also applies to the legally resident spouse or dependant of the holder of a Work Permit, working visa or work authorisation, or Intra-company Transfer Permit, in cases where the holders first permit was issued prior to 1st June 2009. The holder of the existing permit must be still working within the terms of their employment permit.

This Scheme was introduced to give greater ease of access to employment for spouses who have been admitted to the State under Family Reunification by:

- Not requiring the employer in question to advertise the job with FÁS, the National Training and Employment Authority, in advance of making a work permit application,
- Accepting applications for jobs in categories that would otherwise be ineligible for work permits, and
- Exempting the application from the work permit fee.

Any spousal permit granted will be issued to the employee and will allow their employment in the State by the employer and in the occupation specified on the permit. The spousal/dependant permit will normally be issued for the period up to the expiry date of the permit of the existing employment permit holder.

More detailed information on the scheme can be accessed through the following link:

<http://www.djei.ie/publications/labour/2011/guidelines-spousals-june11.pdf>

Third Level Graduate Scheme

18.1.6 The purpose of this Scheme is to allow legally resident non-EEA third level graduates to remain in Ireland for the purpose of seeking employment and applying for a Green Card or Work Permit. From 1 January 2011 the period within which graduates at honours primary degree level and above can remain in Ireland while seeking employment post graduation was increased from 6 months to 12 months. Qualifying applicants are granted

one non-renewable extension to their current student permission (Stamp 2) for a twelve-month or six-month period (depending on level of course undertaken) starting when the applicant receives their exam results. During this twelve-month or six-month period the graduate is allowed to work for up to 40 hours per week without an employment permit.

3) Please supply any relevant statistics or other information, if appropriate, on the rate of refusals to issue work permits in response to requests from nationals of other States party, broken down by country and whether these are first time requests or applications for renewal.

18.1.7 The following table gives a breakdown of permits issued and refused over the period in question:

Year	New	Renewal	Total	Refused
2010	3576	3966	7542	993
2009	3731	3792	7523	1781
2008	8371	4961	13332	2225
2007	9910	13178	23088	2126

More detailed statistics broken down by nationality can be found on the Department's website at <http://www.djei.ie/labour/workpermits/statistics.htm>.

Article 18.2

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

18.2.1 The Employment Permits Act 2006 comprehensively sets out in legislation the criteria in relation to the application, grant and refusal of employment permits. Under this Act either the employer or the employee can be the applicant for an employment permit and the fee must be paid by the applicant. This Act allows for the fees in respect of employment permit to be prescribed by the Minister.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

18.2.2. A scale of fees ranging from €500 to €2,250 currently applies depending on the duration of the employment permit, whether new or renewal or whether first permit was issued after the 1st June 2009. The full range of fees are published on the Department's website at <http://www.djei.ie/publications/labour/2011/guidelines-fees-June11.pdf>.

A full refund of fees is given where an application is refused or where the applicant withdraws it before the permit issues.

The following categories have been exempted from the requirement to pay fees:

- permit applications under the Spousal/Dependant scheme,
- applications in respect of spouses of EU nationals,
- applications for unlimited permits, and
- applications from charities granted tax exemptions by the Revenue Commissioners.

3) Please supply any relevant statistics or other information on chancery dues and other charges payable by foreign workers or their employers for work and/or residence permits and on the average time taken to issue these permits.

18.2.3 The following table gives the total net amount for fees payable to the Department in respect of employment permits issued for the years in question:

2007	€10.6m
2008	€15.5m
2009	€5.9m
2010	€4.6m

The Department's business target is to process all correctly completed applications within 15 working days.

Article 18.3

1) Please describe the general legal framework.

18.3.1 The Employment Permits Act 2006 provides for regular review of Ireland's economic migration policies and these policies are kept under review on an on-going basis.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

18.3.2 Following the introduction of the Employment Permits Act 2006, new permits are now issued for a period of two years and can be renewed for a period of three years. Prior to this, new and renewal permits were only issued for period of one year.

18.3.3 In 2009, the Department revised their policy in relation to employment permit holders who have been made redundant. The revised policy recognises the need for a humane approach where redundancies are occurring - a permit holder made redundant will continue to have up to six months from the date of redundancy to seek alternative employment and longer if their immigration status will allow.

18.3.4 In 2009, the Department, in conjunction with the Department of Justice and Equality, announced that it will not be necessary for those who have been working lawfully and who have held an employment permit for 5 consecutive years to have an employment permit to remain in employment. In those circumstances, the Department of Justice and Equality will give immigration permission to reside in Ireland and to work without the need for an employment permit.

18.3.5 Ireland participates in Council Directive 2005/71/EC (OJ L 289, 3.11.2005) on a specific procedure for admitting third-country nationals for the purposes of scientific research. This Directive is aimed at facilitating the entry of scientific researchers to EU Member States. Researchers must be engaged with an accredited hosting organisation such as a university or corporate entity with a research capacity. The Administrative arrangements were put in place in November 2007 for the operation of the scheme in Ireland. To date over 1000 researchers have benefited from this scheme.

Article 18.4

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

18.4.1 There continues to be no restrictions.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

18.4.2 Please see response to Question 18.4.1 above

Article 20 – The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields:

- a. access to employment, protection against dismissal and occupational reintegration;
- b. vocational guidance, training, retraining and rehabilitation;
- c. terms of employment and working conditions, including remuneration;
- d. career development, including promotion.

Appendix to Article 20

1. It is understood that social security matters, as well as other provisions relating to unemployment benefit, old age benefit and survivor's benefit, may be excluded from the scope of this article.
2. Provisions concerning the protection of women, particularly as regards pregnancy, confinement and the post-natal period, shall not be deemed to be discrimination as referred to in this article.
3. This article shall not prevent the adoption of specific measures aimed at removing *de facto* inequalities.
4. Occupational activities which, by reason of their nature or the context in which they are carried out, can be entrusted only to persons of a particular sex may be excluded from the scope of this article or some of its provisions. This provision is not to be interpreted as requiring the Parties to embody in laws or regulations a list of occupations which, by reason of their nature or the context in which they are carried out, may be reserved to persons of a particular sex.

Information to be submitted¹³

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, in particular on employment and unemployment rates by sex and percentage differences in earnings.

Legal Framework

20.1 Legislation

Ireland has a comprehensive legislative base to underpin the strategic and policy approach which aims at fostering equal opportunities and equal treatment in matters of employment and occupation without discrimination on grounds of gender. The legal framework providing for promotion of equal opportunities and equal treatment in employment is composed of the Employment Equality Act 1998, as amended by the Equality Act 2004, the Maternity Protection Act 1994, the Maternity Protection (Amendment) Act 2004, the Adoptive Leave Act 1995, as amended by the Adoptive Leave Act 2005, and the Parental Leave Act 1998, as amended by the Parental Leave (Amendment) Act 2006.

The Employment Equality Act 1998, which came into operation on 18th October 1999, repealed and replaced the Employment Equality Act 1977 and the Anti-Discrimination (Pay) Act 1974. The 1998 Act (as amended) prohibits discrimination in relation to employment on nine grounds, namely gender, marital status, family status, disability, race, age, religious belief, sexual orientation and membership of the Traveller Community. The Act is comprehensive and deals with all areas relevant to employment, including access to employment, conditions of employment, remuneration, promotion and vocational training. The Employment Equality Act 1998 and Equal Status Act 2000 were amended by the Equality Act 2004 to give full effect in national law to EU equality Directives, namely Directive 2000/43/EC (Race Directive), Directive 2000/78/EC (Framework Employment Directive) and Directive 2002/73/EC (Gender Equal Treatment in Employment Amendment Directive). These provisions came into effect on 18 July 2004.

With respect to the gender ground, the principal amendments were:

- a revised definition of indirect discrimination (to take account of the definition in Directive 2002/73/EC),

¹³States party that have accepted Article 20 of the European Social Charter (revised) do not have to reply to questions concerning Article 4§3, but must take account of these questions in their answers on Article 20.

- a new common approach to harassment and sexual harassment (similar to that taken in the Directives), and
- changes to the positive action provision to bring it more in line with the Framework Employment Directive.

The text of the Equality Act 2004, may be accessed at:

<http://www.oireachtas.ie/documents/bills28/acts/2004/A2404.pdf>

20.2 Equality Tribunal

The Office of the Director of Equality Investigations - renamed the Equality Tribunal in 2004 - was set up under the Employment Equality Act 1998 as the quasi-judicial forum for redress for discrimination on any of the nine prohibited grounds in relation to employment, including gender. Its functions were extended in the Equal Status Act 2000 to provide a forum for redress for discrimination on the same nine grounds in relation to goods and services. Several technical improvements were made in the Equality Act 2004, mainly to streamline and enhance the Equality Tribunal's procedures.

The Equality Tribunal is the main forum to hear or mediate complaints of alleged discrimination under equality legislation. Where discrimination is found to have occurred, redress will be awarded – the redress available includes compensation and an order for equal pay/ equal treatment and / or the direction of a specific course of action. In awarding redress, the Tribunal has the power to direct that the practices shown to be discriminatory should cease. Decisions of the Equality Tribunal are binding and enforceable in law but may be appealed to the Labour Court (Employment Equality) or to the Circuit Court (Equal Status).

20.2.1 Redress:-General Cases:

All cases under the Employment Equality Acts, other than those involving gender discrimination, must be referred in the first instance to the Director of the Equality Tribunal. (Gender discrimination claims have the option of going to the Circuit Court). The Director will investigate each case (except those resolved at mediation) submitted to him/her and will issue a decision. The decision is binding and enforceable through the Circuit Court. All decisions may be appealed to the Labour Court within 42 days of issue. Where the Director finds that there has been discrimination, he/she may order:

- in an equal pay case:- an order for equal pay and arrears in respect of a period not exceeding three years preceding the reference year of the case;
- in other cases :- an order for equal treatment and compensation of up to a maximum of two years pay (or €12,697 where the person is not an employee);
- in discriminatory dismissal cases – an order for re-instatement or re-engagement, either with or without compensation;

- in addition, the Director may order any person to take a specified course of action to avoid future discrimination.

20.2.2 Redress – Mediation:

The Director may refer the case for mediation if it appears possible to resolve it that way. A case will not be sent for mediation if either party to the claim objects to the case being dealt with in that way. If a claim is sent for mediation and is not resolved or where either party objects to mediation, the complainant may seek an investigation and a decision in the case by the Equality Tribunal Equality Officer.

20.2.3 Redress – Enforcement by the Circuit Court:

A decision of the Director or a mediation settlement, which has not been complied with, may be enforced through the Circuit Court after the period for appeal has elapsed.

20.2.4 Redress- Gender Cases:

As an alternative to the procedures described above, a person who considers that he/she has been discriminated against on the gender ground may apply directly to the Circuit Court for redress. In proceedings of this nature, the Circuit Court may require the Director of the Equality Tribunal to have a report prepared for the Court by an Equality Officer. In such a case, the normal ceiling on awards of the Circuit Court will not apply and it may order compensation as appropriate in the case. There will be a right of appeal in accordance with the Rules of the Court. This option is provided for to ensure compliance with the requirements of the European Court of Justice judgement (Marshall No. 2 Case).

20.2.5 Equality Tribunal Statistics

Through improved case management and efficient resource allocation, the Equality Tribunal has progressively increased its throughput of cases over the past few years. A 24 per cent increase was achieved in its case closure rate in 2010 over the previous year. The number of decisions issued alone was increased by 30 percent. The Tribunal closes over 50 percent of lead cases under the Equal Status Acts within two years. At present, the average waiting time for closure of equal status cases is 18 months, with cases referred in 2009 now being scheduled for hearing. The corresponding average waiting time for closure of the more numerous employment equality cases is approximately three years, with cases referred in 2008 now being scheduled for hearing. The Tribunal has resolved 27 per cent of the employment cases referred within one year, while 59 per cent are closed within three years. It should be noted that only a minority of cases progress to a full investigation and a hearing. The average time to closure is significantly less in respect to complaints in which parties agree to mediation, which is an option available to all. Initiatives being taken by the Equality Tribunal this year are expected to see the number of lead cases closed in the year increase to 1,200. This level of throughput, maintained to end 2013, would see the current backlog of 1,745 lead cases on hand at 1 January 2011 reduce to 845 on hand by 31 January 2013. By the end of 2013, therefore, and assuming no significant change in the rate of new referrals,

the Tribunal aims to have reduced the average time from receipt to closing a case to 12 months.

All decisions of the Equality Tribunal are published. In addition, the Tribunal publishes annual overviews of the legal issues arising in the Decisions issued, such as on interpretation of the concepts of indirect discrimination and of age discrimination, as part of the Tribunal's overall policy of making its Decisions as accessible and as transparent as possible to the general public.

Please see data base of the decisions of the Equality Tribunal at the following website:

<http://www.equalitytribunal.ie/Database-of-Decisions/>,

as well as the Equality Tribunal Annual Legal Reviews at the website: -

<http://www.equalitytribunal.ie/Publications/Annual-Legal-Reviews/>

20.3 Equality Authority

The Equality Authority (which is a separate body to the Equality Tribunal) was established in 1999 under the Employment Equality Act 1998. Its functions and powers were amended under the Equal Status Act 2000, the Equality Act 2004 and the Civil Law (Miscellaneous Provisions) Act 2008. It is also accorded a number of functions under the Intoxicating Liquor Act 2003.

The Equality Authority seeks to achieve positive change in the situation and experience of those groups and individuals experiencing inequality by stimulating and supporting a commitment to equality.

The general functions of the Equality Authority include:

- To work towards the elimination of discrimination in relation to the areas covered by the Employment Equality Acts 1998 to 2008 and the Equal Status Acts 2000 to 2008.
- To promote equality of opportunity in relation to employment and vocational training and in relation to the provision of goods and services, accommodation and education.
- To provide information to the public on the working of the Employment Equality Acts 1998 to 2008, the Equal Status Acts 2000 to 2008, the Maternity Protection Acts 1994 and 2004 and Adoptive Leave Acts 1995 to 2005. The Parental Leave Acts 1998 to 2006 also accords the Equality Authority an information role on the provisions of the legislation
- To keep under review the workings of the Employment Equality Acts 1998 to 2008, the Equal Status Acts 2000 to 2008, the Maternity Protection Acts 1994 and 2004 and the Adoptive Leave Acts 1995 to 2005 and to make recommendations for necessary change to the Minister for Justice, Equality and Law Reform.

The equality legislation provides the Equality Authority with a range of powers to implement these functions. These include:

- to provide assistance at its discretion to those who consider that they have been discriminated against if there is an important point of principle involved or if it is unreasonable to expect the person to represent themselves;
- to prepare Codes of Practice for submission to the Minister for Justice, Equality and Law Reform which, if approved, can be relied on in relevant court proceedings;
- to undertake or sponsor research;
- to conduct an inquiry for any purpose connected with its functions and to recommend actions on foot of this inquiry;
- to undertake or sponsor activities related to the dissemination of information;
- to invite a business to carry out an equality review and prepare and implement an equality action plan or, where appropriate and where the business does not have less than fifty employees, to carry out such a review and prepare such an action plan on its own initiative;
- to take cases on its own initiative in certain defined circumstances.

20.4 Equality Mainstreaming Unit

Commencing in 2007, the Equality Authority set up a specialist Equality Mainstreaming Unit, as one of the initiatives set up under the [Human Capital Investment Operational Programme](#) (HCI-OP) 2007-2013. The HCI-OP is a €1.360 billion plan funded by the European Social Fund that addresses Ireland's labour market and human capital development needs for the period 2007-2013. The main objective of the Equality Mainstreaming Unit is to contribute to addressing labour market gaps in Ireland for specific groups that are experiencing barriers in accessing and participating in the labour market, including those created by gender inequality and wider inequalities. The programme consists of a set of measures that seek to improve labour market access and participation of groups experiencing inequality across the nine grounds covered by the equality legislation in Ireland. (Further information concerning the Equality Mainstreaming Unit is available on the website of the Equality Authority, www.equality.ie).

A link to the Equality Authority's website is as follows: www.equality.ie

A link to the Strategic Plan for the Authority for 2009-2011 is as follows:
<http://www.equality.ie/index.asp?locID=106&docID=778>

20.5 Protection against Penalisation for making a complaint about discrimination

The Employment Equality Acts also specifically protect a person against being penalised in any way by their employer because they have done any of the following:

- made a complaint about possible discrimination under the Equality legislation,
- represented or supported a complainant,
- were named as a comparator
- or indicated an intention to do any of the above.

Penalising a person for any of these reasons is defined as victimisation. The Acts provide for complaints about victimisation to be made to the Equality Tribunal, in the same way as for complaints of discrimination, and with the same provision for redress. It is not necessary that a victimised complainant was successful in their original complaint, only that he or she acted in good faith.

20.6 Prevention of discriminatory provisions in Employment Contracts or Collective Agreements

Section 9 of the Employment Equality Act 1998 renders provisions in collective agreements which discriminate based on any of the discriminatory grounds (including gender) to be null and void. A person who is affected by such an agreement can refer a complaint to the Equality Tribunal. Under section 86 of the Employment Equality Acts, the Tribunal may refer a complaint of this kind to mediation, if the parties do not object, or can investigate and issue a decision. The statutory remedy provided is that a provision in which is found to be discriminatory shall be declared null and void, and consequently no longer possesses legal effect. The Tribunal may, if it thinks appropriate, advise on how a non-discriminatory replacement provision could be framed.

Also, Section 21 of the Employment Equality Act 1998 provides for the insertion into an employee's contract of a gender equality clause.

20.7 Prevention of Discrimination during Pregnancy and the post-natal period

The following provisions in legislation are aimed at preventing discrimination against pregnant women:

- Section 22 of the Maternity Protection Act 1994 provides that where an employee is absent from work on, inter alia, maternity leave and additional leave, her job is protected during her absence. Section 38 of the Act deems the dismissal of an employee, solely or mainly from the exercise of any rights under the Act, to be an unfair dismissal for the purposes of the Unfair Dismissals Acts 1977-2007. In addition, the dismissal of an employee, from the beginning of her pregnancy to the end of her maternity leave, is deemed to be an unfair dismissal if it results from her pregnancy, from having recently given birth or from breastfeeding (or matters connected therewith). Similar protections are afforded to employees while on adoptive leave or unpaid adoptive leave or while on parental leave.
- Section 14 of the Maternity Protection (Amendment) Act 2004, which was commenced on 18 October, 2004, amended section 22 of the 1994 Act to provide that an employee's absence on unpaid additional maternity leave or father's additional leave or further leave (both unpaid) shall be treated as if he or she had not been absent so that all employment rights and obligations such as annual leave, seniority etc. (except the right to remuneration or superannuation benefits) are unaffected during such leave. It also adds the new rights to attend ante-natal classes or to breastfeed to the list of absences in Section 22 of the 1994 Act for which the employee shall be treated as if he or she were not absent from work.
- Section 18 of the 2004 Act amends section 26 of the 1994 Act to provide that on return to work an employee is entitled to benefit from any improvement to the terms or conditions of employment to which s/he would have been entitled had s/he not been absent from work on protective leave.
- Section 19 of the 2004 Act amends section 27(2) of the 1994 Act and ensures compliance with Directive 2002/73/EC by providing that in the event of an employee who returns to work on the expiration of protective leave but resumption of the same work is not practicable and suitable alternative work is offered, the terms or conditions of such employment shall not be less favourable to the employee than those of her contract of employment immediately before protective leave. It also provides that such terms or conditions shall incorporate any improvement to which the employee would have been entitled had she or he not been absent from work on such leave.
- Section 23 of the Maternity Protection (Amendment) Act 2004 amended section 38 of the 1994 Act to incorporate the new rights to time off to attend ante-natal classes and in respect of breastfeeding into the relevant sections of the Unfair Dismissals Act 1977.
- Section 6(2) of the Employment Equality Act 1998 as amended by section 4(b) of Equality Act 2004, states that discrimination on the gender ground shall be taken to have occurred where on a ground related to her pregnancy or maternity leave a women employee is treated less favourably.

The text of the Maternity Protection Act 1994 can be accessed at the following website link:
<http://acts2.oireachtas.ie/zza34y1994.1.html>

The text of the Maternity Protection (Amendment) Act 2004 can be accessed at the following website link:

<http://www.oireachtas.ie/documents/bills28/acts/2004/a2804.pdf>

20.8 Burden of Proof

Statutory Instrument (S.I.) No. 337 of 2001 entitled *European Communities (Burden of Proof in Gender Discrimination Cases) Regulations* gave effect to Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex. The effect of the Regulations was (i) to provide for a shift in the evidential burden of proof from the complainant to the respondent in gender discrimination cases when the complainant establishes a prima facie case of discrimination, and (ii) to amend the definition of indirect discrimination on grounds of gender in the Employment Equality Act 1998 (as amended). Section 38 of the Equality Act 2004 amended the Employment Equality Act 1998 by inserting a new section 85A (burden of proof) into the 1998 Act, the effect of which was to incorporate into the Act of 1998 the provisions of S.I. No. 337 of 2001 and also extended these provisions across all of the discriminatory grounds. This takes account of Article 8 of EU Directive 2000/43/EC and Article 10 of EU Directive 2000/78/EC.

20.9 Gender and Certain Occupational Requirements

Under the Employment Equality Acts, difference in treatment is allowed which is based on a characteristic related to any of the nine discriminatory grounds in respect of access to employment, but only to the extent that the characteristic constitutes a genuine and determining occupational requirement and the objective is legitimate and the requirement proportionate.

However, the gender provisions of the Employment Equality Acts do not contain a general exemption where gender is an occupational requirement. All the exemptions within the gender provisions (section 25, 26(2) and 27) contained in the Employment Equality Act 1998 were revisited and some were revised by the Equality Act 2004. Section 16 of the Equality Act 2004 amended section 25 of the Employment Equality Act 1998 by narrowing the exemption to access to employment. Gender must “*constitute a genuine and determining occupational requirement and the objective must be legitimate and the requirement proportionate*”. The specific exclusion in respect of personal services contained in section 26(2) of the 1998 was removed by section 17 of the 2004 Act. The specific exemption for privacy, decency and security reasons in respect of the Garda Síochána (Police Force) and the Prison Service remain.

20.10 Comparison of pay and jobs extending outside company directly concerned

The Employment Equality Acts allow, in certain circumstances, for comparisons of pay and jobs to extend outside the company directly concerned. Section 2 (2) of the Acts refers to

“associated companies” which is defined as follows: *"For the purposes of this Act, two employers shall be taken to be associated if one is a body corporate of which the other (whether directly or indirectly) has control or if both are bodies corporate of which a third person (whether directly or indirectly) has control."* Additionally, Section 19 of the Acts, which deals with the entitlement to equal remuneration for women and men, refers to where someone is *"employed to do like work by the same or an associated employer"*. Under Section 29 of the Acts, a similar provision pertaining to equality on a number of other grounds, which include marital status and family status, also refers to employment *"to do like work by the same or an associated employer"*.

20.11 Further reforms to the legislation

Further amendments have been made to the equality legislation since 2004, as follows:-

- The Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 amended Section 17 of the Employment Equality Act 1998, to ensure that, in relation to discrimination on the age ground, nothing in that Act would render unlawful any act done in compliance with the Protection of Young Persons (Employment) Act 1996, or the National Minimum Wage Act 2000.
- The Civil Law (Miscellaneous Provisions) Act 2008 amended both the Employment Equality Act 1998 - to extend the membership of the Equality Authority - and the Equal Status Act 2000 - to complete the transposition into national law of the EU Gender Goods and Services Directive, 2004/113/EC, by restricting the range of financial and insurance products and services for which gender differentiation is permitted in pricing and benefits, and to provide the option of referral of complaints on the gender ground to the Circuit Court.
- The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 amended both the Employment Equality Act 1998 and the Equal Status Act 2000, to rename the ground of marital status to civil status, and extend the protection against discrimination on the ground of marital status to present and former civil partners.

Copies of this legislation are available on the website of the Oireachtas, at the following link, categorised by year of enactment:

<http://www.oireachtas.ie/ViewDoc.asp?DocId=-1&CatID=87&m=a>

Measures to promote Equal Opportunities and Equal Treatment

20.12 Equality for Women Measure 2008-2013 in National Development Plan

The Department of Justice and Equality has delivered a programme of positive actions to support gender equality since 2000. The first ‘Equality for Women’ Measure covered the period 2000 – 2007 and formed part of the National Development Plan 2000-2006. The Measure was part funded by the European Social Fund. Following the successful 2000–2007 Measure, a new Measure was launched in 2008. The 2008–2013 ‘Equality for Women’ Measure is a programme of positive-action measures aimed at enhancing women’s skills, and

fostering the engagement and advancement of women in areas of Irish society and decision-making where they are under-represented. The Measure, which is co funded by the European Social fund under the Human Capital Investment Operational Programme, focuses on four main strands:

1. Access to Employment
2. Developing Female Entrepreneurship
3. Career Development for Women in Employment
4. Fostering Women as Decision-Makers

These objectives link with EU employment policy and with EU and national gender equality policies, including the Irish Government's National Women's Strategy 2007 - 2016. Since 2009, the Equality for Women Measure has provided training to over 4,700 women through the funding of 76 projects. A significant proportion of the participants are from vulnerable groups.

In 2011 under Strands 1 to 3, the Measure is funding about 40 projects, at an annual cost over €2m. A further strand of funding may be made available later in 2011 to support women in decision-making. The projects funded will enable a mix of community groups and national bodies to provide developmental support and training for women currently outside the labour market with a view to helping them return to work; or to support female entrepreneurs or to help advance the development of women already in the workforce. This funding may be renewed for one or more years.

The Measure also makes funding available to National Women's Enterprise Day, an annual developmental event for women entrepreneurs.

20.13 Positive Action measures

It should also be noted that employers and service providers are permitted under equality legislation to employ positive action measures. Section 24 of the Employment Equality Act 1998 (as amended by the Equality Act 2004) allows for positive action measures to promote equal opportunities for men and women in accordance with Article 3 of EU Directive 2006/54/EC. Therefore, the Employment Equality Acts 1998 to 2008 permit the taking of measures with a view to ensuring full equality in practice between employees, to prevent or compensate for disadvantages linked to any of the discriminatory grounds or to create or maintain facilities for safeguarding or promoting the integration of such persons into the working environment. Similarly, the Equal Status Acts 2000 to 2008, the scope of which covers access to and the supply of goods and services, including education, permit preferential treatment or the taking of positive measures which are bona fide intended to promote equality of opportunity for persons who are, in relation to other persons, disadvantaged, or who have been or are likely to be unable to avail themselves of the same opportunities as those other persons. Such measures are also permitted to cater for the special needs of persons, or of a category of persons who, because of their circumstances, may require facilities, arrangements, services or assistance not required by persons who do not have those special needs.

20.14 Gender Equality Impact Statement

Public policy making requires the consideration of the impact of a policy proposal on each sex at the development, implementation and evaluation stages. All documents, including legislative proposals, being submitted to Government for approval must include a gender equality impact statement to include the likely effects of the policy on both men and women and, if necessary, to identify any actions necessary to ensure that the policy promotes gender equality.

20.15 Initiatives to assist in economic independence

The Department of Social Protection also operates a number of initiatives which aim to assist persons to become economically independent. The Activation and Family Support Programme was restructured in January 2008 to assist individuals and families to enhance their employability through education, training and personal development opportunities and to improve their quality of life. It targets people who find it most difficult to access employment and the means to achieving improved quality of life. In the period 2004 – 2009 over 120 projects costing over €2 million catered specifically for women.

http://www.cso.ie/releasespublications/documents/other_releases/2010/womenandmen2010.pdf

20.16 Income during maternity/adoptive leave

The increased participation of women in the work force has been accompanied by improvements to maternity and adoptive leave provisions as well as the introduction of parental and carer's leave. The current provision of maternity leave makes 26 weeks of consecutive paid leave available to Irish mothers, of which at least two weeks must be taken before the birth. Under Social Welfare Benefit, eighty per cent of earnings (calculated by dividing gross earnings in the relevant tax year by the number of weeks worked), subject to a minimum of €217.80 per week and up to a ceiling of €262.00 a week for 26 weeks. The majority of public sector employees may draw their full salary during periods of maternity leave. Mothers may also take a period of up to 16 weeks of consecutive unpaid maternity leave. Parental leave arrangements were amended in 2006. Unpaid parental leave of up to 14 weeks may now be taken for each child in the period before the child reaches 8 years of age (16 years in the case of a child with a disability). *Force majeure* leave is available for a period of three days over a 12 month period, subject to not more than five days over a 36 month period.

20.17 Training of Women in and for Employment

FÁS is the national training authority. The primary focus of the FÁS 'Expanding the Workforce' Programme is to improve women's access to, and participation in, the labour market and to progress women, or returnees, into employment as quickly as possible. The target group for the ETW programme is women who: have been out of the workforce for a period of 12 months or more, are not in receipt of Jobseeker Allowance or Jobseeker Benefit, are identified as wishing to return to work and need assistance/development to take the next

step back to work. The FÁS ‘Return to Work’ Programme is suitable for people who may have been out of paid employment for a long time and who are interested in returning to the labour market. The programme is mainly for mature adults who have good basic skills i.e. literacy, numeracy and communication skills.

Women make up the majority of people completing ‘Return to Work’ Programmes with 489 women completing —Return to Work programmes in 2009, accounting for 80% of the total participants.

20.18 Childcare to support women in employment and training

The Equal Opportunities Childcare Programme 2000–2006 made a significant investment in the development of child day-care services. It received support from the European Union and led to the creation of 39,550 new childcare places and supported a further 26,900 existing places. This represented a doubling of centre-based childcare places over a seven year period. A successor programme, the National Childcare Investment Programme 2006-2010, was introduced and is expected to create a further 25,000 new childcare places. In addition a system of subsidies is in place to support the cost of childcare for disadvantaged families who may be in employment or and who would otherwise be unable to afford childcare or remain in work, and to enable those who are engaged in certain education and training programmes to access childcare facilities for the duration of their course. As part of the April 2009 Budget, a new scheme to provide for a free Pre-School Year in Early Childhood Care and Education (ECCE), without charge to parents, was announced by the Government.

20.19 National Women’s Strategy

Ireland’s National Women’s Strategy (NWS) 2007-2016 was launched in 2007. It is the Government’s statement of priorities in relation to the advancement of women in Irish society. The NWS is a ten year all-of-Government Strategy with three themes of

- (1) equalising socio-economic opportunity for women,
- (2) ensuring the wellbeing of women and
- (3) engaging women as equal and active citizens.

20.20 Gender Pay Gap

One of the main objectives under the first Theme is “To decrease the gender pay gap” and there are eight Actions listed under this Objective. Regular progress reports on the National Women’s Strategy (NWS) are presented to Government. The NWS report on progress for 2009 states:

“As indicated in the National Women’s Strategy, the measurement of the gender pay gap is subject to different interpretations, resulting in wide variations in statistics. While the European Commission and Eurostat published data drawn from the EU Survey on Income and Living Conditions (EU-SILC) for some years, there were reservations about these data. For Ireland it showed a gender pay gap of 9 per cent in

recent years. One of the weaknesses of this data source was the fact that it included part-time workers working fewer than 15 hours per week. It was likely, given employment trends, that most of these workers would be female and the data would therefore be skewed.

In its most recent Report on Equality between Women and Men, the European Commission has revised its methodology and has published data based on men's and women's average gross hourly earnings. Table 6 below is drawn from the data published recently by the European Commission.

TABLE 6
GENDER PAY GAP (UNADJUSTED) 2007 – EU

Top Four		IRELAND/EU AVERAGE		Bottom Four	
Italy	5.1	IRELAND (13TH)	17.1	Netherlands	23.6
Malta	5.2			Slovakia	23.6
Poland	7.5	EU – 27	17.4	Austria	25.5
Portugal	8.3			Estonia	30.3

Source: European Commission: Report on Equality between Women and Men 2010

The table shows that Ireland is ranked in 13th place in terms of the Gender Pay Gap, marginally better than the EU average. Italy and Malta are the best performers on this indicator while Estonia and Austria have the widest gender pay gap.

Issues affecting the gender pay gap are also complex and a wide number of factors are considered to impact upon it. For example, the introduction of a minimum wage and the greater availability of childcare following implementation of the Equal Opportunities Childcare Programme and its successor National Childcare Investment Programme, are likely to have impacted positively on the gender pay gap in Ireland. However extensive statistical research based on gender disaggregated data is required before valid conclusions can be reached.

20.21 Equality Authority – Study by ESRI

In 2009, the Economic and Social Research Institute (ESRI) and the Equality Authority published an analysis of the *Gender Wage Gap in Ireland: Evidence from the National Employment Survey 2003*". This dataset¹⁴ enabled the authors to identify:

- the size of the gender pay gap for all employees

¹⁴Source: ESRI Press Release September 2009

- the nature of the gap in the full-time and part-time labour markets
- the importance of various policy-related factors, such as collective bargaining and family friendly policies, on the wage gap
- the factors that contributed to the gender pay gap within both occupations and industries.

The key findings from the research were as follows:

- The observed or "raw" gap between men's and women's hourly wages was about 22 per cent for all employees. About two-thirds of the observed gap was due to differences in observable characteristics between men and women, such as different levels of education and labour market experience, job and firm characteristics, etc. When account is taken of such factors, the remaining adjusted (or unexplained) wage gap was close to 8 per cent.
- For full-time employees, the raw gap was about 18 per cent and the adjusted gap was just under 7 per cent. For part-time employees the observed wage gap was around 6 per cent, but the adjusted gap was higher, at 10 per cent. This suggests that part-time female workers are, on the whole, more qualified and experienced than their male counterparts.
- The difference in the labour market experience levels of men and women - which widened the gap by 3 percentage points, equivalent to 14 per cent of the raw gap - was the largest single influence in explaining the gender wage gap. Higher levels of educational attainment among women did help to reduce the wage gap, but this factor alone was not sufficient to compensate for the effects of labour market experience on the gap.
- Many other factors - such as a higher incidence of supervisory responsibility, longer tenure and higher trade union membership among men, and a higher incidence of part-time work among women - also widened the gap.
- Centralised wage bargaining, specifically the implementation of the national wage agreement, benefited women within both the full-time and part-time labour markets.
- The study found that the existence of some family-friendly policies within firms, specifically career-breaks, helped to reduce the gender wage gap. However, this result was only evident within the full-time labour market. Working flexitime had a neutral impact on the pay gap, while the greater concentration of women in part-time work, the most common form of flexible employment, was found to widen the gender wage gap by almost 2 percentage points.
- In relation to the occupational analysis, the authors found that the raw wage gaps across the eight occupations examined were broadly similar. However, much larger variations occurred in terms of the adjusted gap, which reflected substantial differences in the role of observable characteristics (e.g. education, experience, family structure and organisational) across occupations. The adjusted wage gap varied from about 2 per cent in Clerical occupations to 21 per cent for Plant and machine operatives.

- Regarding the sectoral analysis, the raw gender wage gap was widely distributed, ranging from 13 per cent in the Hotel sector to 46 per cent in the Education sector. The adjusted wage gap was somewhat more uniformly distributed: ranging from under 1 per cent in the Transport and Communications sector to 20 per cent in Construction.

In terms of policy implications, the ESRI/Equality Authority researchers comment that this research provides evidence that expanding the availability of career-breaks for full-time females would improve their relative pay. The research also demonstrates that social partnership arrangements, through the implementation of the national wage agreement, have helped to standardise wages both within and across firms and sectors, and this in turn has improved the relative position of women across all labour markets.”

20.22 Further Information

The following links to relevant websites expand in detail on aspects of the strategy and policy approach for the National Women’s Strategy 2007-2016 and the Equality for Women Measure 2008-2013 outlined above:

- | |
|---|
| <ul style="list-style-type: none"> • Equality for Women Measure 2008-2013 • Ireland's CEDAW Reports • National Women’s Strategy 2007-2016 • Gender Balance on State Boards • UN Commission on the Status of Women • EU GenderInitiatives • LegislativeFramework • Beijing Platform for Action • Council of Europe Committee for Equality between Women and Men |
|---|

20.23 Since the previous national Report on this Article, legislative developments include the enactment of the Adoptive Leave Act 2005, and the Parental Leave (Amendment) Act 2006. The following link provides access to the 2006 Act:

<http://www.irishstatutebook.ie/2006/en/act/pub/0013/index.html>. Improvements to maternity leave and adoptive leave were introduced by way of secondary legislation – Statutory Instrument No. 51 of 2006 and No. 52 of 2006. The following links provide access to this legislation:

20.24 Pertinent Statistics

A number of data sets can be accessed to provide information on the position of gender equality in Ireland. The Central Statistics Office (CSO) is the primary source of national statistics. Eurostat and the European Commission also gather statistics on gender related issues on a regular basis. Apart from the publications which focus specifically on gender issues, the CSO also endeavours to present gender disaggregated data for all its key publications.

In ‘*Women and Men in Ireland 2010*’ published in February 2011, the Central Statistics Office gives the following information:

- The employment rate for women in Ireland in 2010 was 56.4%.
- The employment rate for men in Ireland in 2010 was 64.5%.
- The unemployment rate for women in Ireland in 2010 was 9.8%.
- The unemployment rate for men in Ireland in 2010 was 16.7%.

Chapter 2.2 of this CSO Report (from pages 16 – 26) includes data on employment and unemployment, broken down by gender, with some of the relevant tables as follows:

2.1 – Table on Employment Rates in both Ireland and the EU27 from 2000-2010

2.5 - Labour Force Participation Rates by age group in 2010

2.7 – Employment by occupation in 2005 and 2010

2.8 – Employment by economic sector in 2009

2.9 – Employment by usual hours worked in 2005 and 2010

2.13–2.17 - Statistics on Unemployment

The Report and a Press Release outlining the main findings of the Report may be accessed at the following link:

http://www.cso.ie/releasespublications/women_and_men_in_ireland_2010.htm

20.25 Please see also information provided in this national report, in respect of employment and unemployment , in respect of Article 1 of the Charter.

Article 24 – Right of workers to protection in cases of termination of employment

With a view to ensuring the effective exercise of the right of workers to protection in cases of termination of employment, the Parties undertake to recognise:

- a. the right of all workers not to have their employment terminated without valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;
- b. the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief.

To this end the Parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason shall have the right to appeal to an impartial body.

Appendix to Article 24

1. It is understood that for the purposes of this article the terms "termination of employment" and "terminated" mean termination of employment at the initiative of the employer.
2. It is understood that this article covers all workers but that a Party may exclude from some or all of its protection the following categories of employed persons:
 - a. workers engaged under a contract of employment for a specified period of time or a specified task;
 - b. workers undergoing a period of probation or a qualifying period of employment, provided that this is determined in advance and is of a reasonable duration;
 - c. workers engaged on a casual basis for a short period.
3. For the purpose of this article the following, in particular, shall not constitute valid reasons for termination of employment:
 - a. trade union membership or participation in union activities outside working hours, or, with the consent of the employer, within working hours;
 - b. seeking office as, acting or having acted in the capacity of a workers' representative;

- | |
|--|
| <p>c. the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;</p> <p>d. race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;</p> <p>e. maternity or parental leave;</p> <p>f. temporary absence from work due to illness or injury.</p> <p>4. It is understood that compensation or other appropriate relief in case of termination of employment without valid reasons shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions.</p> |
|--|

Information to be submitted

- 1) Please describe the general legal framework, including decisions by courts and other judicial bodies, if possible. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Grounds for termination in national legislation

24.1 Section 6(4) of the Unfair Dismissals Act 1977 (as amended) sets out potentially fair reasons why a dismissal may occur. These reasons are related to the following:

- the capability, competence or qualifications of the employee;
- the conduct of the employee,
- the redundancy of the employee,
- if continuance of the employment would result in a breach of other legislation;
- other substantial grounds.

However, Section 6(6) of the legislation provides that, in determining whether the dismissal of an employee was an unfair dismissal or not, it shall be for the employer to show that the dismissal resulted wholly or mainly from one or more of the matters specified above or that there were other substantial grounds justifying the dismissal.

Prohibition of certain cases of termination

24.2 Section 6(1) of the Unfair Dismissals Act 1977 provides that, in general, all dismissals are deemed to be unfair unless, having regard to all the circumstances, the employer can show that there were substantial grounds justifying the dismissal.

In addition, Sections 6(2) and 6(3) of the Act provide that certain dismissals are deemed to be unfair where it is shown that they resulted wholly or mainly from any of the following:

- an employee's trade union membership or activities, either where those activities take place outside working hours or at those times during working hours when permitted by the employer,
- the religious or political opinions of the employee,
- legal proceedings against an employer where an employee is a party or a witness
- the race or colour of the employee
- the sexual orientation of the employee,
- the age of the employee,
- the employee's membership of the travelling community,
- any matters connected with pregnancy or giving birth;
- the exercise or proposed exercise by the employee of rights under legislation such as the National Minimum Wage Act 2000, Maternity Protection Acts 1994 and 2004, Adoptive Leave Acts 1995 and 2005, Parental Leave Acts 1998 and 2006, or Carer's Leave Act 2001;
- the unfair selection of the employee for redundancy

Prohibition of "Selective" Dismissal following strike or industrial action

24.3 Section 5(2) of the Unfair Dismissals Act 1977 provides that in a situation where only some of the employees involved in a strike or other industrial action were re-engaged but other employees involved in the industrial action were not re-engaged (i.e. "selective" dismissal), those employees who were not re-engaged would be deemed to have been unfairly dismissed.

Protections against “Non-selective” Dismissals in Strike Situations

24.4 In order to provide more certainty on the position regarding dismissals in industrial dispute situations, the Government agreed, during the Social Partnership negotiations in 2006, to amend the Unfair Dismissals Acts to bring more clarification to situations where all the employees involved in a strike or industrial dispute have been dismissed and none have been re-engaged (i.e. “non-selective” dismissal). This commitment, with agreed wording for the amendment, was contained in Section 19 of Part Two of the Social Partnership Agreement “Towards 2016”.

The commitment in the Social Partnership Agreement was enacted (with some technical re-wording) in Section 26 of the *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* which inserted a new sub-section 5(2A) into the Unfair Dismissals Act 1977 as follows:

*“5(2A) Without prejudice to the applicability of any of the provisions of *section 6 to the case, where—*

(a) an employee—

(i) is deemed by subsection (1) to have been dismissed by reason of a lock-out, or

(ii) is dismissed for taking part in a strike or other industrial action,

and

(b) none of those who were locked out, or took part in the strike or industrial action, were re-engaged, in determining whether, in those circumstances, the dismissal is an unfair dismissal, the rights commissioner, the Tribunal or the Circuit Court, as the case may be, shall have regard, for that purpose only, to—

(i) the reasonableness or otherwise of the conduct (whether by act or omission) of the employer or employee in relation to the dismissal,

(ii) the extent (if any) of the compliance or failure to comply by the employer with the procedure referred to in section 14(1),

(iii) the extent (if any) of the compliance or failure to comply by the employer or the employee with provisions of any code of practice referred to in section 7(2)(d), and

(iv) whether the parties have adhered to any agreed grievance procedures applicable to the employment in question at the time of the lock-out, strike or industrial action.”.

*[*Section 6 of the Unfair Dismissals Act 1977 provides that, generally, a dismissal shall be deemed to be unfair unless an employer can prove that there were substantial grounds justifying the dismissal. Section 6 also outlines certain criteria on which dismissals may be adjudicated as either fair or unfair. In addition, section 6 describes certain dismissal situations which are automatically deemed to be unfair.]*

The new sub-section 5(2A) removes any uncertainty regarding the application of the 1977 Act to situations where all the employees in an industrial dispute have been dismissed and

also sets out the criteria on which the fairness or otherwise of the dismissals may be adjudicated on, while also retaining the fundamental protection provided by Section 6 of the Act.

Discriminatory Dismissal under Employment Equality Legislation

24.5 The Employment Equality Acts 1998 and 2004 also provide redress for situations where an employee has been dismissed and the reason for the dismissal was related to one of the nine grounds of discrimination under employment equality legislation (i.e. (1) gender, (2) marital status, (3) family status, (4) sexual orientation, (5) religious belief, (6) age, (7) disability, (8) race, or (9) membership of the traveller community). In these circumstances, an employee can choose to take a case either under the Employment Equality legislation or under the Unfair Dismissals Acts but cannot obtain redress under both. There is no minimum service requirement when taking a discriminatory dismissal case under the Employment Equality legislation but there is generally a minimum one-year service requirement under the Unfair Dismissals Acts (with some exceptions as outlined below).

24.6 Sick absences and the definition of “disability”

The definition of “disability” under the Employment Equality legislation has been interpreted to include a wide range of medical conditions. In some cases, dismissal of employees who were absent from work due to illness was deemed by the Tribunal to be a discriminatory dismissal.

Notification of reasons for dismissal

24.7 Section 14(4) of the Unfair Dismissals Act 1977 provides that where an employee is dismissed, the employer shall, if requested, furnish to the employee within 14 days of the request, particulars in writing of the principal grounds for dismissal.

Unilateral amendments of conditions of employment by employer

24.8 Where an employer makes a unilateral amendment to the substantive conditions of the employment contract, and where the amendment is unfavourable to the employee, the employee could resign and make a claim for “constructive” dismissal under the Unfair Dismissals legislation. However, when making a claim for “constructive” dismissal, the burden of proof is on the employee rather than the employer to show that the dismissal was unfair. This is the opposite to the situation in other types of dismissal cases where the burden of proof is generally on the employer to show that the dismissal was fair. Also, in a “constructive” dismissal case, the employee will generally be required to demonstrate that they have invoked the grievance procedure in the workplace before resigning, unless there were exceptional circumstances involved.

Provision for “constructive” dismissal in the Unfair Dismissals Acts

24.9 One of the definitions of “dismissal” in the Unfair Dismissals legislation is as follows:

“the termination by the employee of his contract of employment with his employer, whether prior notice of the termination was or was not given to the employer, in circumstances in

which, because of the conduct of the employer, the employee was or would have been entitled, or it was or would have been reasonable for the employee, to terminate the contract of employment without giving prior notice of the termination to the employer”

The above definition of “dismissal” provides for circumstances where an employee resigns due to the conduct of the employer. This definition means that an employee could take a “constructive” dismissal claim under the Unfair Dismissals Acts.

Alternatively, it is open to individuals to seek legal advice on the remedies available at common law in relation to possible breach of contract or “wrongful dismissal”. However, an individual is not entitled to both recover damages at common law for “wrongful dismissal” and obtain redress under the Unfair Dismissals Acts for “unfair dismissal”.

Appeal from dismissal

24.10 If an employee considers that he or she has been unfairly dismissed, the employee may submit a claim for redress under the Unfair Dismissals Acts 1977 to 2007 to either the Rights Commissioners’ Service of the Labour Relations Commission or to the Employment Appeals Tribunal. Under the Acts, if either of the parties (i.e. the employee or the employer) objects to the hearing of the case in the first instance by a Rights Commissioner, the case can be heard by the Employment Appeals Tribunal in the first instance. For example, an employee can request that the case be heard in the first instance by the Employment Appeals Tribunal by indicating in the relevant section of the application form that he or she objects to the hearing of the case by a Rights Commissioner. Where a case is heard in the first instance by the Rights Commissioners’ Service, the case may be appealed by either of the parties to the Employment Appeals Tribunal. Where a claim or appeal is heard by the Employment Appeals Tribunal, the Tribunal will issue a determination and there is a further right of appeal by either party to the Circuit Court from a determination of the Tribunal. To qualify under the Unfair Dismissals Acts, an employee is normally expected to have at least one year’s continuous service with the employer, with some exceptions.

Requirement for one year’s continuous service and exceptions

24.11 In general, an employee must have been in the same employment for at least a year in order to bring a claim for unfair dismissal. However there are important exceptions to this general rule. If an employee has less than 12 months' continuous service, the employee could still bring a claim for unfair dismissal if the dismissal resulted from any of the following:

- Trade union membership or activity;
- any matters connected with pregnancy or birth;
- the employee availing of rights under the Maternity Protection Acts 1994 and 2004, the Adoptive Leave Acts 1995 and 2005, the National Minimum Wage Act 2000, the Parental Leave Acts 1998 and 2006 and the Carer's Leave Act 2001.

Also, when determining if an employee has the necessary service to qualify under the Acts, the relevant adjudicative body may consider whether the employment of a person on a series of two or more contracts of employment, between which there was less than a 26-week break,

was wholly or partly for or connected with the avoidance of liability by the employer under the Acts. Where it is so found, the length of the various contracts may be added together to assess the length of service of an employee for eligibility under the Acts.

Time Limit

24.12 A claim by an employee for redress under the Unfair Dismissal legislation must be submitted to the relevant adjudicative body within 6 months of the date of dismissal. However, if a Rights Commissioner or the Employment Appeals Tribunal is satisfied that exceptional circumstances prevented the claim from being lodged within the normal time limit of 6 months, the time limit may be extended for a further 6-month period.

Burden of Proof

24.13 Section 6(1) of the Unfair Dismissals Act 1977 provides that the dismissal of an employee shall be deemed to be an unfair dismissal unless, having regard to all the circumstances, there were substantial grounds justifying the dismissal. Therefore, in most situations where a dismissal has occurred, the burden of proof lies with the employer to prove that the dismissal was fair. However, in circumstances where an employee takes a “constructive dismissal” case, i.e. where the employee has resigned and has claimed that their resignation was due to the behaviour of the employer, the burden of proof lies with the employee in these particular circumstances.

Redress/Compensation for Unfair Dismissal

24.14 Redress/compensation for unfair dismissal, if awarded, may take the form of either of the following three forms of redress:

- (1) re-instatement,
- (2) re-engagement, or
- (3) financial compensation

Redress applies to all enterprises, regardless of their size. The type of redress awarded will depend on which form the relevant adjudicative body considers appropriate, having regard to all the circumstances.

(1) Re-instatement

Re-instatement means re-employment of the employee in the position held immediately before the dismissal and on the same terms and conditions which were in place immediately before the dismissal together with a term that the re-instatement shall be backdated to the date of dismissal;

(2) Re-engagement

Re-engagement means re-employment of the employee from a specified date after the dismissal either in the position held immediately before the dismissal or in a different position which would be reasonably suitable for the employee;

(3) Financial Compensation

The level of financial compensation depends on the amount of financial loss which has been incurred by the employee, if any. Also, the amount of financial compensation may be reduced in circumstances where the adjudicative body considers that the employee was partly responsible for the dismissal. If the adjudicative body determines that financial compensation is the most appropriate form of redress, and if the employee can demonstrate that financial loss has occurred as a result of the dismissal, financial compensation of up to a maximum of two year's salary may be awarded. In circumstances where no financial loss was incurred – for example, where an employee obtained new employment immediately after the dismissal - the employee may only be awarded financial compensation of up to a maximum of four weeks' salary.

- a. the monetary and other remedies for unfair dismissal apply to all enterprises, regardless of their size;
- b. there is no minimum level of financial compensation but there is a maximum award of financial compensation of two years' salary in cases where financial loss has occurred, and a maximum of four weeks' salary where no financial loss has occurred;
- c. the choice of redress is at the discretion of the relevant adjudicative body who will consider which type of the three forms of redress is the most appropriate having regard to all the circumstances of the case. [However, Section 8(1A) of the Unfair Dismissals Act 1977 (as amended) provides that the decision of the adjudicative body should include a statement of the reasons why it favoured the particular form of redress chosen.]

Employees excluded from the protection of the Unfair Dismissals legislation

24.15 The following employees are not covered by the Unfair Dismissals legislation:

- (a) an employee with less than one year's continuous service (with some exceptions as outlined earlier)
- (b) an employee who had reached the normal retiring age in that particular workplace or who, on that date of dismissal, had not reached the age of 16 years;
- (c) employees working for a close relative in a private house or farm, provided both also live in the same house or farm;
- (d) members of the Garda Síochána (police force) and the Defence Forces;
- (e) persons undergoing training by the National Training and Employment Authority (FÁS) or persons who are employed under a contract of apprenticeship by FÁS. [However, persons who are employed by FÁS under a contract of employment are covered by the legislation]

- (f) Managers of local authorities (i.e. Managers of City and County Councils)
- (g) Officers of Vocational Educational Committees and the Chief Executive Officer of the Health Service Executive.

Exclusion of employees undergoing a period of probation

24.16 The legislation does not cover employees on probation or undergoing training of up to one year. In order for the exclusion to apply, a written employment contract must be in place and the duration of the probation or training must be one year or less and be specified in the employment contract.

Exclusion of employees undergoing professional training

24.17 The legislation does not cover employees who are undergoing training for the purpose of becoming qualified or registered as a nurse, pharmacist, health inspector, medical laboratory technician, occupational therapist, physiotherapist, speech therapist, radiographer or social worker.

Exclusion of persons employed under a statutory apprenticeship

24.18 The legislation does not apply to persons employed under a statutory apprenticeship if the dismissal takes place within 6 months after the commencement of the apprenticeship or within one month after the completion of the apprenticeship.

Exclusion of employees on Fixed-Term and Fixed-Purpose contracts

24.19 Generally, the Unfair Dismissals Acts do not apply where a fixed-term contract has reached the expiry date of the contract or where a fixed-purpose contract has expired.

However, Section 2(2)(b) of the Unfair Dismissals Acts 1977 provides that the exclusion of fixed-term contracts from protection will only apply in circumstances where:

- a written contract is in place;
- where a clause has been inserted into the fixed-term contract noting that the Unfair Dismissals Acts do not apply in circumstances where the term of the contract has expired or where the purpose in a fixed-purpose contract has ceased;
- the contract has been signed by both the employer and employee.

Where the above conditions are not present in a contract, an individual may be able to make a claim under the Unfair Dismissals Acts in circumstances where the reason for the claim related to the non-renewal of a fixed-term contract.

There is also a clause in section 2(2A) of the Unfair Dismissals Act 1977 (as amended) which allows the adjudicating bodies to examine successive fixed-term contracts to ascertain whether the fixed nature of the contracts was in any way connected with an intention to avoid liability under the Unfair Dismissals Acts. Where the adjudicating bodies take a view that an

employer entered into a second or subsequent fixed-term contract (and where there was no more than a 3-month interval between contracts) for the purpose of avoiding liability under the Unfair Dismissals Acts, then the Unfair Dismissals Acts will apply in the event of the employee being dismissed at the expiry of the second or subsequent contract. In these circumstances, the length of service of each of the contracts can be added together to ascertain the period of service and can be deemed to be continuous service.

Definition of Fixed-Term Contract

24.20 Section 2(2)(b) of the Unfair Dismissals Act 1977 (as amended) describes a fixed-term contract as the following:

“...a contract of employment for a fixed term or for a specified purpose (being a purpose of such a kind that the duration of the contract was limited but was, at the time of its making, incapable of precise ascertainment)...”

Also, the *Protection of Employees (Fixed-Term Work) Act 2003* provides a definition of a fixed-term employee as follows:

“fixed-term employee” means a person having a contract of employment entered into directly with an employer where the end of the contract of employment concerned is determined by an objective condition such as arriving at a specific date, completing a specific task or the occurrence of a specific event but does not include—

(a) employees in initial vocational training relationships or apprenticeship schemes, or

(b) employees with a contract of employment which has been concluded within the framework of a specific public or publicly-supported training, integration or vocational retraining programme;”

The *Protection of Employees (Fixed-Term Work) Act 2003* provides in relation to an employee who entered into a fixed-term contract before the commencement of the Act (on 14 July 2003) that if that employee is employed on such a contract for three continuous years, the contract can only be renewed one more time on a fixed-term basis for up to one year and, if it is renewed again after that, it is deemed to be a contract of indefinite duration, unless the employer has objective grounds for renewing the contract again on a fixed-term basis.

In addition, the 2003 Act provides, in relation to an employee who enters a fixed-term contract of employment after the commencement of the Act (i.e. after 14 July 2003), that if the employee is employed on two or more such contracts for four continuous years and if the contract is renewed again after that, then the contract is deemed to be one of indefinite duration, unless the employer has objective grounds for renewing the contract again on a fixed-term basis.

Protection against penalisation or victimisation for reporting wrongdoing in the workplace

24.21 Following a Government decision in March 2006, legislative policy has been to include provisions in any new relevant legislation to protect employees against penalisation for reporting concerns of wrongdoing in the workplace. This “sectoral” approach was considered more appropriate than one all-encompassing piece of legislation to cover all sectors. Since 2006, “anti-penalisation” clauses have been included in several pieces of legislation relating to various types of issues which may arise in the workplace: for example, Section 26 of the Chemicals Act 2008 contains provisions against the penalisation of an employee for reporting concerns about breaches of the Chemicals Act. Other examples of legislation containing anti-penalisation clauses include the Health Act 2007 and the Prevention of Corruption (Amendment) Act 2010.

Statistics on Unfair Dismissal cases referred to the Rights Commissioners Service

24.22 The Rights Commissioners Service have not published a breakdown of cases referred under the various pieces of employment rights legislation for the years 2009-2010. However, figures for unfair dismissals referrals are available for 2008 and 2007.

	Rights Commissioners Service			
Legislation	2007	2008	2009	2010
Unfair Dismissals Acts	1,038	1,566	Not available	Not available

Statistics on Unfair Dismissal cases in the Employment Appeals Tribunal
for 2009-2010

Employment Appeals Tribunal				
	Cases Referred		Cases disposed of	
Legislation	2009	2010	2009	2010
Unfair Dismissals Acts	2,489	2,157	1,182	1,210

Article 25 – The right of workers to the protection of their claims in the event of the insolvency of their employer

With a view to ensuring the effective exercise of the right of workers to the protection of their claims in the event of the insolvency of their employer, the Parties undertake to provide that workers' claims arising from contracts of employment or employment relationships be guaranteed by a guarantee institution or by any other effective form of protection.

Appendix to Article 25

1. It is understood that the competent national authority may, by way of exemption and after consulting organisations of employers and workers, exclude certain categories of workers from the protection provided in this provision by reason of the special nature of their employment relationship.
2. It is understood that the definition of the term “insolvency” must be determined by national law and practice.
3. The workers' claims covered by this provision shall include at least:
 - a. the workers' claims for wages relating to a prescribed period, which shall not be less than three months under a privilege system and eight weeks under a guarantee system, prior to the insolvency or to the termination of employment;
 - b. the workers' claims for holiday pay due as a result of work performed during the year in which the insolvency or the termination of employment occurred;
 - c. the workers' claims for amounts due in respect of other types of paid absence relating to a prescribed period, which shall not be less than three months under a privilege system and eight weeks under a guarantee system, prior to the insolvency or the termination of the employment.
4. National laws or regulations may limit the protection of workers' claims to a prescribed amount, which shall be of a socially acceptable level.

Information to be submitted

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply any relevant statistics or other information where possible on the amount of such claims, whether there is a ceiling on payments, the time taken between presentation of claims and payment of the amounts due and the overall percentage of employees' claims that are honoured by a guarantee institution and/or because those concerned are privileged creditors.

25.1.1 The purpose of the Insolvency Payments Scheme, which operates under the Protection of Employees (Employers' Insolvency) Act 1984 (Act No. 21 of 1984) which, in turn, derives from EU Council Directive 80/987/EEC, is to protect certain outstanding pay-related entitlements due to employees in the event of the insolvency of their employer. These entitlements include arrears of wages, holiday pay, sick pay, pay in lieu of statutory notice and certain unpaid pension contributions. Also included are certain employment rights-related awards, such as those made under unfair dismissals, equality, maternity and adoptive/parental leave legislation. Payments calculated on the basis of wages are limited to 8 weeks and to a ceiling of €600 per week in most cases. (This limit is the same as that applied to Redundancy Payments.) The Minister becomes a creditor against the assets of the insolvent employer on the winding-up of the business in place of the employee in respect of payments made under the Scheme.

25.1.2 Following recent changes in Departmental responsibilities the implementation of the Insolvency legislation is now the responsibility of the Department of Social Protection.

The following entitlements are protected in the case of the insolvency of the employer:

1. Arrears of wages.
2. Deductions such as union dues, health insurance, etc., made from wages by agreement but not paid to the relevant body.
3. Arrears of sick pay due under an occupational sick pay scheme (limited to the difference between any disability or injury benefit in addition to any pay-related benefit payable under the Social Welfare Acts and normal weekly remuneration).
4. Holiday pay.
5. Pay in lieu of the statutory notice entitlement set out in the Minimum Notice and Terms of Employment Act 1973, or payment of an award by the Employment Appeals Tribunal under that Act.
6. An amount which an employer is required to pay under an Employment Regulation Order within Part IV of the Industrial Relations Act 1946 where proceedings have been instituted.
7. An amount which an employer is required to pay by order of the Labour Court under a Registered Employment Agreement within Part III of the Industrial Relations Act 1946, or in respect of which proceedings have been instituted.
8. An amount which an employer is required to pay under a determination, decision, order, award, recommendation or mediated settlement (as appropriate) under the following legislation:

- Unfair Dismissals Act 1977 or damages at common law for wrongful dismissal
- Employment Equality Act 1998
- Maternity Protection Act 1994
- Adoptive Leave Act 1995
- Parental Leave Act 1998
- National Minimum Wage Act 2000
- Carer's Leave Act 2001
- Payment of Wages Act 1991
- Terms of Employment (Information) Act 1994
- Protection of Young Persons (Employment) Act 1996
- Organisation of Working Time Act 1997
- Protections for Persons Reporting Child Abuse Act 1998
- European Communities (Protection of Employment) Regulations 2000
- Protection of Employees (Part -Time Work) Act 2001
- Competition Act 2002
- Protection of Employees (Fixed -Term Work) Act 2003
- European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003
- Industrial Relations (Miscellaneous Provisions) Act 2004 – award by a Rights Commissioner concerning victimisation
- Employment Permits Act 2006 – award by a Rights Commissioner concerning penalisation of an employee.

The full text of the Protection of Employees (Employers' Insolvency) Act 1984 may be accessed at <http://www.irishstatutebook.ie/1984/en/act/pub/0021/index.html>.

A guide to the Insolvency Payments Scheme is available at:

<http://www.welfare.ie/EN/Schemes/RedundancyandInsolvency/insolvency/Pages/Index.aspx>

Relevant Statistics

25.1.3 New Insolvency Claims Received

Month and Year	No. of new claims received	Month and Year	No. of new claims received	Month and Year	No. of new claims received
Jan 2009	1485	Jan 2010	2523	Jan 2011	2275
Feb 2009	1215	Feb 2010	2031	Feb 2011	1784
Mar 2009	2484	Mar 2010	2509	Mar 2011	1774
April 2009	1662	April 2010	2121	April 2011	1851
May 2009	2663	May 2010	2479	May 2011	2728

June 2009	2452	June2010	1474	June 2011	1003
July 2009	3136	July 2010	1625	July 2011	Up to 18/7 1182 +1900 arrears to be inputted
Aug 2009	1504	Aug 2010	2201		
Sept 2009	1332	Sept 2010	2068		
Oct 2009	999	Oct 2010	1600		
Nov 2009	1295	Nov 2010	1882		
Dec 2009	1184	Dec 2010	750		
Total new claims received in 2009	21411	Total new claimsreceived in 2010	23263	Total new claimsreceived to date in 2011	14,497

25.1.4 The amounts paid out on Insolvency from 2005-2010 are as follows:

Year	Insolvency Amount Paid Out	Insolvency Amount Recovered
2005	€4,563,272	€1,586,012
2006	€4,307,725	€553,539
2007	€5,727,236	€924,212
2008	€10,068,119	€934,287
2009	€19,958,050	€2,626,337
2010 (provisional)	€23,585,348	€440,642
Total	€68,209,750	€7,065,029