

Meeting with Joint Committee on Justice and Equality 24th January 2018

Equality (Miscellaneous Provisions) Bill 2017

Equality and Rights Alliance Opening Statement

The Equality and Rights Alliance welcomes the Equality (Miscellaneous Provisions) Bill 2017. It promises a timely, simple, and important evolution of our equality legislation.

This is a development that holds a potential to underpin and strengthen the links now created between equality and human rights in the establishment of the Irish Human Rights and Equality Commission. It can take advantage of the integrated multi-ground equality, diversity and non-discrimination systems adopted by public and private organisations since the enactment of our multi-ground legislation, such that it is not an added burden on these organisations. It can serve as a valuable and necessary complement to social policy in this field.

This Bill evolves our equality legislation in a manner that has long been sought.

- ✓ The 1998 Employment Equality Act contained a review clause requiring the Minister to assess, within two years, the need to add further grounds.
- ✓ In 2002 the former Equality Authority proposed the introduction of a socio-economic status ground, highlighting high levels of socio-economic discrimination in the labour market.
- ✓ A 2004 report commissioned by the Department of Justice Equality and Law Reform suggested that a socio-economic status ground would serve the objectives underpinning equality legislation, and enable a more sophisticated intersectional approach to its implementation.
- ✓ The Equality (Miscellaneous Provisions) Act 2015 introduced “housing assistance” as a new ground into the Equal Status Act 2000 so that people in receipt of housing assistance and social welfare payments, such as HAP and Rent Supplement, could not be discriminated against in the provision of accommodation or related services.
- ✓ The Irish Human Rights and Equality Commission, in a 2015 submission to the UN Committee on Economic, Social and Cultural Rights recommended the prohibition of discrimination on the basis of socio-economic status in equality legislation. The UN Committee noted its regret that Irish legislation does not provide protection against discrimination on all grounds of discrimination prohibited by ICESCR.

The case for the enactment of the Equality (Miscellaneous Provisions) Bill has been well made. The CSO’s regular QNHS equality module has highlighted the significant lack of comprehensiveness in the coverage of our equality legislation. Developments across Europe where provision for such a ground is increasingly evident in equality legislation and where casework on this ground has evolved significantly further underpin this case.

- ✓ The analysis of the 2014 QNHS equality module published by the ESRI and IHREC identified that:

- 12% of the population aged over 18 reported experiencing some form of discrimination in the previous two years. Discrimination rates were highest in relation to seeking work (7%), followed by the workplace (5%), private services (5%), and public services (3%). 29.6% of those who reported discrimination stated that it was on grounds other than those covered by the current equality legislation. In the work domain, this figure was 22.7%. In the provision of services domain, this figure was 34.5%
- ✓ The 2010 QNHS equality module identified similar figures. The 2012 analysis of this module, published by the ESRI and the Equality Authority identified that:
 - Compared to those who report discrimination on the basis of an equality ground, those who report discrimination on the 'Other' ground are more likely to have low levels of education, to live in rented accommodation from a Local Authority and to be from the Border/Midlands/West region.
 - Some of the 'Other' ground may be income-related, and some related to location or address.
- ✓ Equality and Rights Alliance research noted that, in 2015, the European Network of Legal Experts of the European Commission had identified that equality legislation provides protection against discrimination on the ground of socio-economic status in 20 of the 35 European countries they cover.
- ✓ The Equality and Rights Alliance noted research by Equinet, the European network of equality bodies, that found it took time for this ground to become embedded and understood but that it has shown its value with increased and more comprehensive casework. These cases cover the fields of employment, social services, public and private housing, healthcare and social protection.

The definition of a socio-economic status ground does present challenges. This is not unique to this ground. It has also been faced in defining the grounds of 'race' and of 'disability' in the past and was not an impediment to their introduction and effective application. Equality legislation has never worked on the basis of large numbers of cases coming forward, rather it functions on the basis of a small number of strong successful cases serving to generate a culture of compliance. The definition needs to be broad enough to encompass those who experience the discrimination, it needs to be specific enough to allow for action to prevent such discrimination and enable cases to be brought forward. The definition provided in the Bill matches proposals put forward in the past and current practice across the EU.

- ✓ The Equality Authority's suggested using a number of indicators to establish socio-economic status, including family background, geographical location, home ownership, educational background, and economic situation.
- ✓ The 2004 report of the Department of Justice, Equality and Law Reform noted the use of the following indicators in defining the ground of socio-economic status: Level of education; Level of literacy; Homelessness; Geographical

location; Source of income; Level of income; Type of work or profession; and Employment status.

- ✓ The Equality and Rights Alliance noted four clusters in provisions on this ground in equality legislation across Europe:
 - Social origin – included in Belgium, Croatia and Hungary.
 - Social status, social position, social condition or social class – included Bulgaria, Croatia, and a proposal before parliament in France for a ground of ‘social vulnerability’.
 - Wealth, income, property, economic situation, or financial status – included in Belgium, Bulgaria, Croatia, and Hungary.
 - Education – included in Bulgaria.

The most effective approaches to resolving the definitional issues involve a situation specific analysis and asymmetrical protection focused on those in a disadvantaged socio-economic situation and this, usefully, is the approach followed in the Bill.