

PQ Digest | 29.01.18 – 02.02.18

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30th January 2018

Equality Legislation

262. Deputy Ruth Coppinger asked the **Minister for Education and Skills** further to Parliamentary Question Nos. 149 to 151, inclusive, of 14 November 2017, if he has received further clarity from the bodies involved regarding possible religious discrimination in a job interview. **[4602/18]**

Minister for Education and Skills (Deputy Richard Bruton): The Equality (Miscellaneous Provisions) Act 2015, which commenced on 1 January 2016, provided for certain changes in the exclusion of discrimination on particular grounds in certain employments (i.e. educational or medical institutions maintained, in whole or in part, by monies provided by the Oireachtas) by amending Section 37 of the Employment Equality Act, 1998.

The amended Section 37 imposes a higher burden of proof on relevant employers in that it obliges them to show that, for example, any favourable treatment of an employee or prospective employee is limited to the religion ground, that the treatment does not constitute discrimination on any of the other discriminatory grounds (gender, civil status, family status, sexual orientation, age, disability, race and membership of the Traveller community). More favourable treatment on the religion ground shall be taken to be discrimination unless by reason of the nature of the institution's activities or the context in which the activities are being carried out, the religion or belief of the employee or prospective employee constitutes a genuine, legitimate and justified occupational requirement having regard to the institution's ethos, that the action taken against a person must be objectively justified by reference to that institution's aim of protecting its religious ethos and that the means of achieving that aim are appropriate and necessary.

My Department has received correspondence in relation to the matter raised by the Deputy. Whilst the interviews referred to in the correspondence took place prior to the commencement of the Equality (Miscellaneous Provisions) Act 2015 my Department takes these matters most seriously and has written again to the bodies involved seeking further clarity on the issues raised.

Citizenship Applications

266. Deputy Carol Nolan asked the **Minister for Justice and Equality** his plans to reduce the fee for citizenship for all persons who have been ordinarily resident here for more than ten years and that are married to or a parent of a full Irish citizen. **[4108/18]**

267. Deputy Carol Nolan asked the **Minister for Justice and Equality** if the fee for citizenship will be waived for holders of a means-tested medical card; and if he will make a statement on the matter. **[4109/18]**

Minister for Justice and Equality (Deputy Charles Flanagan): I propose to take Questions Nos. 266 and 267 together.

It is open to any individual who may wish to become an Irish citizen to lodge an application for citizenship through naturalisation if and when they are in a position to meet the statutory conditions as prescribed in the Irish Nationality and Citizenship Act 1956, as amended. Detailed information on Irish citizenship and naturalisation, as well as the relevant application forms, is available on the INIS website at www.inis.gov.ie.

The fees to be paid by an applicant for a certificate of naturalisation are governed by the provisions of the Irish Nationality and Citizenship Regulations 2011 (S.I. No. 569 of 2011). The application fee, stipulated at €175, is payable on application for a certificate of naturalisation and a certification fee is payable on the issue of a certificate of naturalisation. The standard certification fee is set at €950, while a reduced fee of €200 applies in the case of an application made on behalf of a minor or in certain cases where the application is made by a widow, widower or surviving civil partner of an Irish citizen. In the case of recognised refugees and stateless persons the certification fee is nil.

There is no provision in the Regulations for the discretionary waiver or reduction of fees based on length of residency in the State or in the circumstances as outlined by the Deputy. All of the fees payable under the Irish Nationality and Citizenship Act are kept under on-going review by my Department; however, there are no current plans to amend the fees.

The standard fees payable by an applicant are designed to reflect the effort and cost involved in processing applications for a certificate of naturalisation. The Deputy will be aware that formal citizenship ceremonies have been introduced at no extra cost to applicants. These have been universally well received by participants as the ceremonies provide a sense of dignity and occasion that serves to underscore the importance to both the State and the applicant of the granting of Irish citizenship.

Family Reunification Applications

269. Deputy Mick Wallace asked the **Minister for Justice and Equality** the number of persons who arrived here as unaccompanied or separated children who had successful applications for family reunification in each of the years 2015 to 2017. **[4665/18]**

270. Deputy Mick Wallace asked the **Minister for Justice and Equality** the number of persons that arrived here as unaccompanied or separated children that did not have successful applications for family reunification in each of the years 2015 to 2017. **[4666/18]**

312. Deputy Clare Daly asked the **Minister for Justice and Equality** the number of persons that arrived here as unaccompanied or separated children that had successful applications for family reunification in each of the years 2015 to 2017. **[4357/18]**

313. Deputy Clare Daly asked the **Minister for Justice and Equality** the number of persons that arrived here as unaccompanied or separated children that did not have successful applications for family reunification in each of the years 2015 to 2017. **[4358/18]**

Minister for Justice and Equality (Deputy Charles Flanagan): I propose to take Questions Nos. 269, 270, 312 and 313 together.

I am advised by the Irish Naturalisation and Immigration Service (INIS) of my Department that statistics are not maintained in a way which identifies unaccompanied or separated children in family reunification application outcomes. As the Deputies will appreciate it would take a disproportionate amount of resources to manually compile the figures thus diverting staff from the core task of application processing.

However, I can say that all aspects of applications for family reunification are fully taken into account including the age and circumstances of the applicants seeking reunification of their families abroad.

I might mention that, in the interests of separated or unaccompanied minors who arrive in the State, Section 14 of the International Protection Act 2015 provides that, where it appears that a person seeking to make an application for international protection, or who is the subject of a preliminary interview, has not attained the age of 18 years and is not accompanied by an adult who is taking responsibility for the care and protection of the person, the Officer shall, as soon as practicable, notify the Child and Family Agency of that fact.

The Separated Children's Unit in Tusla, the Child and Family Agency are responsible for the care and welfare of unaccompanied minors. They provide for the immediate and ongoing needs of separated children. The responsibilities of TUSLA include accommodation, medical and social needs.

Asylum Support Services (Working Rights & EU Reception Directive 2013/33/EU)

271. Deputy Catherine Connolly asked the **Minister for Justice and Equality** if the fees for work permits under the Employment Permits Act 2003 will be waived for IPO applicants in advance of transposition of the Reception Directive 2013/33/EU of 26 June 2013; and if he will make a statement on the matter. [3925/18]

272. Deputy Catherine Connolly asked the **Minister for Justice and Equality** if persons applying to the International Protection Office will be permitted to seek work in advance of transposition of the Reception Directive 2013/33/EU of June 2013; and if he will make a statement on the matter. [3926/18]

273. Deputy Catherine Connolly asked the **Minister for Justice and Equality** when Ireland will transpose the Reception Directive 2013/33/EU of June 2013; and if he will make a statement on the matter. [3927/18]

277. Deputy Catherine Connolly asked the **Minister for Justice and Equality** the recourse available to a person awaiting a decision from the International Protection Office for longer than nine months; and if he will make a statement on the matter. [3931/18]

281. Deputy Catherine Connolly asked the **Minister for Justice and Equality** if asylum seekers may enter employment if the value of the offer is less than €30,000 per annum; if not, the threshold at which asylum seekers may enter employment; and if he will make a statement on the matter. [4035/18]

282. Deputy Catherine Connolly asked the **Minister for Justice and Equality** if asylum seekers will be excluded from the job categories that exist under the Employment Permits Act 2003 and relevant regulations; and if he will make a statement on the matter. [4036/18]

283. Deputy Catherine Connolly asked the **Minister for Justice and Equality** the criteria that will apply to grant permission to asylum seekers to enter self employment; and if he will make a statement on the matter. [4037/18]

284. Deputy Catherine Connolly asked the **Minister for Justice and Equality** the protections that will be introduced to ensure asylum seekers are protected from exploitation incorrectly categorised as self employed in view of the vulnerable position of many asylum applicants; and if he will make a statement on the matter. [4038/18]

285. Deputy Catherine Connolly asked the **Minister for Justice and Equality** if he is satisfied that €21.60 per week respects the dignity of asylum seekers as required under the reception directive; and if he will make a statement on the matter. [4039/18]

286. Deputy Catherine Connolly asked the **Minister for Justice and Equality** the analysis that has been conducted to evaluate the range and extent of changes needed to ensure Ireland complies with the reception directive; if a copy of such analysis will be provided; and if he will make a statement on the matter. [4040/18]

302. Deputy Jim O'Callaghan asked the **Minister for Justice and Equality** if the interim right to work for asylum seekers that he proposes to introduce prior to the State's opt-in to the EU reception directive is consistent with the decision of the Supreme Court delivered in May 2017 on the constitutional right of asylum seekers to seek asylum. [4195/18]

303. Deputy Jim O'Callaghan asked the **Minister for Justice and Equality** if he is satisfied that the use of the Employment Permits Act 2003 (as amended) to facilitate asylum seekers in seeking work prior to Ireland opting into the EU reception directive is consistent with the decision of the Supreme Court in May 2017 that asylum seekers have a freedom to seek employment under the Constitution which can be subject to restrictions by the Oireachtas, but not by the Minister. [4196/18]

308. Deputy Thomas Pringle asked the **Minister for Justice and Equality** the implications of the interim scenario for opting in to the Recast Reception Conditions Directive (2013/33/EU) for asylum seekers applying for a work permit; if his attention has been drawn to the restrictive and exclusionary nature of the list of highly skilled and ineligible categories that applies to work permit applicants; and if he will make a statement on the matter. [4268/18]

309. Deputy Thomas Pringle asked the **Minister for Justice and Equality** his plans to ensure that the interim measure introduced until Ireland fully opts in to the Recast Reception Conditions Directive (2013/33/EU) will not become the permanent provision for asylum seekers accessing employment in view of the fact that the criteria is restrictive and exclusionary; the details of the permanent provisions for the types of work asylum seekers will be eligible for; the salary constraints; if these will be applied in a balanced and effective approach; and if he will make a statement on the matter. [4269/18]

Minister for Justice and Equality (Deputy Charles Flanagan): I propose to take Questions Nos. 271 to 273, inclusive, 277, 281 to 286, inclusive, 302, 303, 308 and 309 together.

During the course of the debate in the Joint Oireachtas Committee on Justice & Equality, and last week in the Seanad and the Dáil I outlined the proposal and rationale for opting into the EU (recast) Reception Conditions Directive under the terms of Protocol 21, annexed to the EU Treaties. I also outlined the

process involved with the EU Commission which will take four months to complete as well as the need for interim arrangements between 9th of February and the completion of the opt-in process in order to comply with the decision of the Supreme Court of 30th November last. I am pleased that the Oireachtas has approved the decision of the Government to opt-in thus enabling formal discussions to commence with the EU Commission – a process which as I have said is expected to take 4 months to complete.

The interim arrangements for the short period prior to opt-in will enable those seeking international protection to access the labour market through the Employment Permits Acts 2003- 2014. The same rules as currently applies to any non-EEA national seeking access to the labour place will apply to those seeking international protection. I might add that generally, any fees accompanying such access is paid by the employer.

In addition, I have decided to use my discretionary powers to introduce, on an administrative basis, for applicants who are 9 months or more without a first instance recommendation to allow access to self-employment for eligible applicants. The full details of this administrative scheme are currently being finalised and will be published prior to the 9th February. Any person entering the workforce are subject to Irish employment laws and International Protection applicants will be no different in this regard.

As outlined, these are interim measures until the opt-in process is complete. Once this happens, access to the labour market will be underpinned by EU law.

The implementation group, chaired by my Department and with representatives from all relevant Departments and Agencies, is currently working through the details, which will include less restrictive access to different categories of work than the employment permits regime which will apply in the interim period. Widening access to the labour market is a complex issue needing to take account of a range of factors such as maintaining the integrity of the Common Travel Area, potential impacts of Brexit and any impacts on the existing employment permits regime for non-EEA nationals.

These considerations will be balanced with meeting the Directive's requirement of granting effective access to the labour market, being cognisant of current labour market shortages, the skill set of applicants and employment opportunities available in both urban and rural communities. The arrangements will be subject to review.

The group will also be engaged with the European Commission to ensure compliance with each aspect of the Directive – a process that could only formally commence once the Oireachtas approved the opt-in on 23rd January and the Commission and European Council have been formally notified. It must be stressed that the Directive covers a number of areas other than labour market access, including important provisions in relation to children's rights - including for unaccompanied minors, healthcare and education provision.

The Directive also defines the required material reception conditions for applicants, which includes housing, food, clothing and a daily expenses allowance. Compliance with all of these aspects will be discussed in detail with the EU Commission in the coming period.

Participation in the Directive will, for the first time, place the provision of these material reception conditions for applicants, which are currently provided for under the executive system of Direct Provision, on a statutory basis, underpinned by EU law.

Opting into this Directive will align that process fully with EU norms and standards. This is an important and major development and one which has been requested by a number of NGOs.

Asylum Applications

274. Deputy Catherine Connolly asked the **Minister for Justice and Equality** the number of applications in the single procedure application system under the International Protection Act 2015; the number of applications that have been processed within the six month target; the waiting times experienced by those persons beyond six months; the length of time to process such applications; and if he will make a statement on the matter. [3928/18]

275. Deputy Catherine Connolly asked the **Minister for Justice and Equality** the number of persons awaiting decisions on asylum applications that applied before the provisions of the International Protection Act 2015 came into force; the length of time those persons have been waiting; the length of time to process such applications; and if he will make a statement on the matter. [3929/18]

276. Deputy Catherine Connolly asked the **Minister for Justice and Equality** if he is satisfied that the International Protection Office has adequate resources to fulfil its obligations; and if he will make a statement on the matter. [3930/18]

Minister for Justice and Equality (Deputy Charles Flanagan): I propose to take Questions Nos. 274 to 276, inclusive, together.

As the Deputy will be aware, the International Protection Act 2015 was commenced on 31 December 2016. Every effort is being made to process applications efficiently and in a timely manner, in the context of implementing new processes and procedures and dealing with the transitional arrangements under the new Act. Added to this is the demand led nature of applications which has meant a specific processing time limit has not been set by Government as suggested by the Deputy. However, the objective remains that the single application procedure will lead to improvements in case processing times and more timely outcomes for applicants, and work continues towards that objective.

The 2015 Act introduced a single procedure that enables all grounds for seeking international protection (refugee status and subsidiary protection) or permission to remain in the State for other reasons to be examined and determined in one process.

At the end of 2017, there were some 5,100 applications awaiting processing in the International Protection Office (IPO). Some 2,800 of these applications were made before the commencement of the 2015 Act but were not finalised by the former Office of the Refugee Applications Commissioner (ORAC) and the former Refugee Appeals Tribunal (RAT) by that date. These applications reverted to be processed by the IPO under the transitional provisions of the 2015 Act. Various categories of cases reverted to the IPO including asylum appeals transferred from the former Refugee Appeals Tribunal and asylum and subsidiary protection cases transferred from the former ORAC. This has added significantly to the IPO's

caseload, but has freed up the restructured and resourced Appeals Tribunal process considerably.

Considerable efforts were required by the IPO in getting the new single procedure processes up and running in the first part of 2017. Notwithstanding, in a consequential shorter processing year, the IPO scheduled over 2,400 single procedure interviews (including in respect of EU relocation cases) once the process was up and running in 2017. Some 1,780 recommendations/decisions in respect of international protection and permission to remain have also been made by the IPO. This includes some 750 recommendations in respect of the grant of international protection.

In relation to the scheduling of interviews and the processing of cases in the IPO, I am also advised that the prioritisation of international protection applications is provided for in the International Protection Act 2015 subject to the need for fairness and efficiency. When the Application for International Protection Questionnaire (IPO 2) and other supporting documentation is returned by applicants, the IPO is scheduling applications for interview primarily on the basis of date of application (oldest cases first). However, certain categories of applicant are also being prioritised such as those who arrive under the Irish refugee Protection Programme (IRPP), from refugee generating countries (such as Syria) and unaccompanied minors. The IPO's approach to prioritisation has been agreed with the UNHCR, explained to NGOs at the IPO Customer Service Panel and is available on its website: www.ipo.gov.ie.

In respect of a non-prioritised application for International Protection made today, it is estimated it will take approximately 19 months to the date of the interview. Prioritised cases can expect to be scheduled more quickly for interview and most cases under the IRPP are being processed in 8-12 weeks. At the present time, it is not possible to calculate an accurate current median processing time for international protection applications due to the different case types on hands, which were returned to the IPO under the transitional provisions in the 2015 Act.

Considerable additional resources have and are being allocated to the IPO to assist it in undertaking its statutory functions with a view to processing the volume of cases on hands as soon as possible. In 2017, 55 additional staff were assigned to the IPO. The current staffing complement in that office is now 139.9 (as at 19/1/18). In addition, there are some 50 serving members of the IPO's Legal Processing Panel. The resources assigned to the IPO are being kept under ongoing review as the State cannot predict how many people will present on our shores seeking international protection. During last year there was a twenty per cent increase in spontaneous (i.e. excluding relocation and resettlement) applications for International Protection, which has put increased pressure on the system. Additional resources will be allocated as these become available so that the caseload on hand, both those preceding the commencement of the International Protection Act 2015 and the increased volume of new applications are dealt with as quickly as possible and waiting times for those applying for international protection are reduced to the greatest possible extent.

Naturalisation Eligibility

279. Deputy Thomas Byrne asked the **Minister for Justice and Equality** further to Parliamentary Question No. 130 of 18 January 2018, if it is policy that it is a condition of naturalisation that a person has not been absent from the State for more than six weeks per annum in the years claimed towards the reckonable residency requirement, irrespective of the explanation furnished under Q5.6 of the application form. [3981/18]

Minister for Justice and Equality (Deputy Charles Flanagan): As I advised the Deputy in my response to his recent Parliamentary Question number 130 of 18 January, the granting of Irish citizenship through naturalisation is governed by the provisions of the Irish Nationality and Citizenship Act 1956, as amended. The Act provides that the Minister may, in his absolute discretion, grant an application for naturalisation if he is satisfied that the statutory conditions set out in the Act, which include residency conditions, are met.

The statutory residence conditions are that, regardless of how long an applicant may have resided in the State, the applicant must have a period of 1 year's continuous residence in the State immediately before the date of application and, during the 8 years immediately preceding that period, have had a further total residence amounting to 4 years (in the case of an application based on being the spouse or civil partner of an Irish citizen the Act reduces this further period to 2 years during the preceding 4 years).

While the Act clearly stipulates the statutory periods of residence required in the State, and that the final year be continuous residence, it has long been recognised that many people may travel abroad for a holiday, or may have some unexpected or unavoidable reason to travel abroad. In this regard it is considered that a reasonable and generous period of up to 6 weeks be allowed to provide for absences from the State for normal holidays and other short term and temporary nature absences, such as for business meetings or a family wedding or bereavement or medical emergency while abroad, and that such short term nature absence from the State would not impact on the statutory residence requirement. The Minister may allow some further discretion where there are wholly exceptional or unavoidable circumstances.

In the notes attached to the application form it is made clear to applicants that arrangements for assessment of residence are on the basis that the person is physically resident in the State for the required period of time and that where there are significant absences from the State the application may be refused.

Every application for naturalisation is considered on its own merits having regard to the statutory conditions set out in the Act.

UN Conventions Ratification

291. Deputy Clare Daly asked the **Minister for Justice and Equality** the position regarding the ratification by Ireland of the UN's Optional Protocol to the Convention Against Torture; and the timeframe for its ratification in view of the fact that Ireland signed OPCAT more than a decade ago. [4122/18]

Minister for Justice and Equality (Deputy Charles Flanagan): In May 2017, my Department completed the initial consultation phase with stakeholders on the ratification of the Optional Protocol to the Convention Against Torture. Since then, my Department has participated in the round table discussion and launch of the Irish Human Rights and Equality Commission's research into how OPCAT can be implemented in Ireland.

Having now considered this research, my Department is in the process of consulting with relevant agencies, Departments and other stakeholders seeking their views on the findings of this research.

Once these consultations are completed, these observations will assist in developing further the Heads of the Inspection of Places of Detention Bill. It is anticipated that this Bill will be the legislative vehicle for establishing the National Preventive Mechanism network required to implement OPCAT. This Bill is listed in the Government's Legislative Programme and will be submitted for Government approval as soon as possible, subject to competing priorities.

31st January 2018

Traveller Accommodation

88. Deputy Mick Barry asked the **Minister for Housing, Planning and Local Government** the progress being made in Cork city in accommodating 55 Traveller persons in emergency accommodation arising from the damage done to their dwellings during Storm Ophelia; and if he will make a statement on the matter. [4555/18]

Minister of State at the Department of Housing, Planning and Local Government (Deputy Damien English): In accordance with the Housing (Traveller Accommodation) Act 1998, housing authorities have statutory responsibility for assessment of the accommodation needs of Travellers and also have responsibility for the preparation, adoption and implementation of multi-annual Traveller Accommodation Programmes (TAPs) in their areas. My Department's role is to ensure that there are adequate structures and supports in place to assist the authorities in providing such accommodation, including a national framework of policy, legislation and funding.

In relation to any damage arising from events such as storm Ophelia, it is a matter for each housing authority to assess any damage caused to Traveller-specific accommodation in their area. As part of the capital funding supports provided by my Department, funding of 50% is provided to housing authorities for the purchase of emergency replacement mobiles. An emergency in this respect is an unanticipated event, such as storm damage, that would render a caravan/mobile uninhabitable or dangerous to live in. This scheme relates to authorised local authority sites only. Any request from housing authorities for such funding is considered promptly by my Department.

I can confirm that funding for 19 mobiles was provided by my Department to Cork City Council in December 2017. Cork City Council has informed my Department that the replacement of additional units is now also being considered. Any further requests for funding of additional units will, of course, be considered by my Department.

1st February 2018

Refugee Data

154. Deputy Niamh Smyth asked the **Minister for Justice and Equality** the number of refugee women and children coming to County Monaghan; and if he will make a statement on the matter. [5074/18]

Minister of State at the Department of Justice and Equality (Deputy David Stanton): I wish to inform the Deputy that under the Irish Refugee Protection Programme, refugees have been allocated to individual counties pro-rata based on the overall population of the county in order to ensure equity in terms of distribution. Under this system 90 refugees have been allocated to Monaghan County Council for resettlement. This number comprises 22 women, 46 children and 19 men. A further 3 people will be allocated in due course.

The Local Authority of the county in question has established and is chairing an inter-agency working group. All key service providers, including my Department, are represented on the working group which oversees the resettlement process. My Department has arranged to have funding provided to the Local Authority to employ, through an implementing partner, a Resettlement Support Worker for a period of 18 months and also an Intercultural Worker for a period of 12 months who will assist the families to negotiate the early months in their new community and to access local services. This funding is partly supported by the European Union's Asylum, Migration and Integration Fund.