



Relate

The journal of developments in social services, policy and legislation in Ireland

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New Government

A new Government came into office on 14 June 2007. More ministers of state were appointed and a number of them have responsibilities across a number of departments. There were some small changes in the organisation of government departments.

Responsibility for sea fisheries has been transferred to the Department of Agriculture and Food. This has been renamed the Department of Agriculture, Fisheries and Food. The aim is to bring responsibility for the main food production areas under one department.

Responsibility for non-national roads and the national vehicle and driver file has been transferred to the Department of Transport. This has been renamed the Department of Transport and the Marine and the former Department of Communications, Marine and Natural Resources is now known as the Department of Communications, Energy and Natural Resources.

Ministers of state in social services areas

A number of new ministers of state have been appointed with responsibilities across a number of departments. The following are in the broad social services areas:

Minister with responsibility for children: Department of Health and Children; Department of Education and Science and Department of Justice, Equality and Law Reform.

Minister with responsibility for integration policy: Department of Community, Rural and Gaeltacht Affairs; Department of Education and Science and Department of Justice, Equality and Law Reform.

Minister with responsibility for disability issues and mental health, excluding discrimination: Department of Health and Children, Department of Education and Science, Department of Enterprise, Trade and Employment and Department of Justice, Equality and Law Reform.

Minister with responsibility for older people: Department of Health and Children;

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Department of Social and Family Affairs and Department of the Environment, Heritage and Local Government.

Proposed legislation

Proposed legislation which was before the Oireachtas when the Dail was dissolved automatically lapsed. Some Bills

have been put back on the agenda. These include the Civil Law (Miscellaneous Provisions) Bill 2006 (which was briefly described in the September 2006 issue of Relate) and the Charities Bill 2007 (which provides for the regulation of charities and which we will cover in a future edition).

Programme for Government

The *Programme for Government* includes a range of economic and social policy commitments. Some of these are already contained in the social partnership agreement *Towards 2016* and/or in policy documents such as the *National Development Plan*, *Transport 21* and *National Action Plan for Social Inclusion*. The commitments are generally expressed as occurring over the lifetime of the government and "if economic resources allow". Here we summarise the specific new commitments in the broad social services area.

Tax and PRSI

PRSI: It is proposed to abolish the PRSI ceiling for full-rate payers and reduce the rate from 4% to 2% for employees and from 3% to 2% for the self-employed. The Exchequer will reimburse the Social Insurance Fund for the loss it will incur. (The Social Insurance Fund is currently in surplus and the Exchequer has not contributed to it for many years.)

Income Tax: It is proposed to reduce the standard rate of tax to 18% and the higher rate to 40%.

Mortgage interest relief: It is proposed to increase the ceiling for mortgage interest relief for first-time buyers and those who bought a house in the past seven years from €8,000 to €10,000 for single people and from €16,000 to €20,000 for couples or widowed people. The relief will remain at 20% even when the standard rate of income tax is reduced.

Taxation: A Commission on Taxation will be established to review the efficiency and appropriateness of the Irish taxation system. It will be specifically asked to consider and make recommendations on:

- The balance achieved between taxes collected on income, capital and spending
- All tax incentives with a view to recommending the discontinuation of those that are unjustifiable on cost/benefit grounds
- Options for the future financing of local government
- Fiscal measures to protect and enhance the environment including the introduction of a carbon tax

Environmental taxes: Vehicle Registration Tax (VRT) and motor tax will be weighted in favour of cars with lower emissions. Appropriate fiscal instruments, including a carbon levy, will be phased in on a revenue-neutral basis. The current VAT (Value Added Tax) classifications will be examined with a view to reducing the rate of VAT applied to certain environmental goods and services from 21% to 13.5%.

Health

Personal Health Check: It is proposed to introduce a Personal Health Check to provide for the prevention and early detection of illnesses. This will be a freely available national programme. It is proposed to establish an Expert Group in 2007 to develop guidelines for the Personal Health Check with a requirement to report in 2008.

There are a number of specific commitments in relation to primary health care:

- Extend the GP out-of-hours service nationwide.
- Improve GP cover by developing primary health centres in socially deprived areas.
- Ensure that there is a primary care team serving every community, with particular reference to new and rapidly growing areas. Five hundred new primary care teams will be funded by 2011.

Medical cards: The income limits for medical cards will be indexed to increases in the average industrial wage. The income limit for parents of children under six will be doubled and the limit will be trebled for parents of children with intellectual disabilities.

Other commitments include:

- The number of public-only hospital beds will be increased by 1,500
- Orthodontic cases will be referred to the National Treatment Purchase Fund (NTPF) and an Orthodontic Fund will be created to treat children who have been waiting longest
- Children under five who are waiting more than three months for occupational or speech and language therapy will be able to access these services automatically through the NTPF
- The Breast Check service will complete its national roll-out in 2007

- There will be a universal entitlement to the cervical cancer vaccine
- While the main focus will be on providing more and better home care services, ten new 50-bed Community Nursing Units will be established in the next five years

Older people

The commitments include:

- Increasing the basic State pension by around 50% to at least €300 per week by 2012
- Increasing the State pension for every year that a person over 66 delays taking it; additional PRSI contributions made after the age of 66 will be added to the pension when it is drawn down
- Aiming to reach a pension target of at least 50% of pre-retirement earnings from all sources
- Introducing phased retirement
- Extending the amount that people getting the State (Non-Contributory) Pension are allowed to earn without it affecting their pension entitlement
- Developing (in conjunction with the voluntary groups in this area) a new National Positive Ageing Strategy
- Setting up a training programme for all those over 50 for the teaching of computer literacy
- Supporting the extension of initiatives such as IT training in residential and day care settings, senior cyber cafés, senior websites and mature learner groups

Social welfare

The commitments include:

- Further increase eligibility for Carers' Allowance
- Double the Respite Care Grant to €3,000 per person cared for
- Extend the National Fuel Allowance Scheme to cover eligible carers
- Ensure a National Carers' Strategy focusing on supporting informal and family carers in the community will be developed by the end of 2007
- Implement a range of reforms to lone parent income support, including removal of the cohabitation restriction, replacing the One-Parent Family Payment with a family friendly allowance, and relaxing restrictions on work while retaining the social welfare payment
- Amalgamate Qualified Child Allowances and Family Income Supplements in order to develop a second tier of income support targeted at the poorest families
- Continue to increase Child Benefit
- Implement improvements to the Back to School Clothing and Footwear Allowance and the School Meals Programme

Education

It is proposed to:

- Increase the number of primary teachers by at least 4,000 and reduce the pupil teacher ratio to 1:24 by 2010/11
- Prioritise reductions in the size of classes at second level in the core subjects of Irish, English and Maths
- Introduce a new system of free fees (subject to a means test) for approved part-time courses

Housing

The abolition of stamp duty for all first-time buyers has been implemented (see below). It is also proposed to:

- Expand delivery of social and affordable housing options to meet the needs of 90,000 households
- Legislate on property rights
- Extend the remit of the Affordable Homes Partnership
- Introduce new incentives for the provision of affordable housing
- Introduce legislation to govern the management of apartment complexes and other similar developments
- Clearly set out the duties of local authorities in relation to the provision of services for all residential developments

Childcare

The programme includes the following:

- Ensure that every child has access to a pre-school place by 2012.
- Create an extra 50,000 new childcare places by 2010.
- Ensure a supply of affordable childcare premises by requiring housing developers to make a financial contribution or provide a site to local authorities for childcare facilities. Where possible, and where there is evidence of need, provide childcare facilities on the same site as or adjacent to primary schools.
- Prioritise expansion of pre-school facilities for children with intellectual disabilities.
- Increase paid maternity leave by five weeks and make all leave after the first 26 weeks available to either parent.
- Invest in and support the roll-out of affordable school-age childcare, whereby children will be given access to a range of after-school and holiday time activities, with a major focus on sports and the arts.
- Childcare services will be provided in schools or in other suitable premises, and will operate until 6pm and on a full-day basis during school holidays.

Disability

As well as fully implementing the National Disability Strategy, it is proposed to put in place a comprehensive employment strategy for people with disabilities.

Community

It is proposed to fund a new scheme called the Community Development Plan designed to deliver community facilities such as playgrounds, community centres, local markets, recycling, sports and recreational facilities throughout the country. It will be funded by a €150 million Community Development Fund to be established over a five-year period. It is also proposed to:

- Enhance and extend the Rural Transport Initiative nationwide
- Invest in the provision of broadband in rural areas
- Double funding for the CLÁR Programme to enable rural infrastructure deficits to be tackled
- Establish community and development agencies as a 'one-stop shop' for advice on grant supports, business opportunities, training and development, and to manage grant spending under the new EU fund for rural development
- Expand the Rural Social Scheme

Environment

The programme includes a wide range of commitments in

Stamp duty

The legislation to abolish stamp duty for first-time house buyers – the Finance (No 2) Act 2007 has been passed. The Act provides that first-time buyers do not have to pay stamp duty on a home whether it is new or second hand and regardless of its price. This applies to transactions on or after 31 March 2007. Buyers who had actually paid the duty can get a refund.

First-time buyer

You are a first-time buyer if you meet the following conditions:

- Neither you nor any person buying the property with you has bought or built on your own behalf a home either in Ireland or abroad
- The property is bought as your only or principal residence
- You do not receive any rent (other than under the Rent a Room scheme) for the first five years of your ownership

In order to be considered a first-time buyer, you must provide the money to buy the property yourself. However, if you get help from your family, you are still regarded as a first-time buyer provided:

the following areas:

- Agriculture policy
- Energy generation and energy saving
- Climate change
- Transport
- Taxation (see above)
- Waste management
- Noise pollution
- Enforcement, including a review of the Environment Protection Agency
- Strengthening the role of Comhar as part of the National Economic and Social Development Office,
- Enforcement of litter laws
- Improvement in water quality and air quality
- Protection of built heritage and natural heritage
- Ensuring that information and assistance about planning procedures is available through Citizens Information Services
- Seeking to establish an All-Ireland GM-Free Zone
- Animal welfare

Civil partnerships

It is proposed to legislate for civil partnerships at the earliest possible date in the lifetime of the Government.

- The property is in your name
- It is the intention of both you and whoever is helping you (usually your parents) that the other person is not to take a beneficial interest in the property.
- The other person has been joined into the mortgage solely at the request of the lending institution for the purpose of providing additional security for the loan
- It is not intended that the other person will be contributing to the repayment of the mortgage

If you received a gift of a home before June 2000 and you now buy another home, you can be treated as a first-time buyer. If you received the gift after June 2000, you cannot now be treated as a first-time buyer. If you inherited a home

at any time and you now buy one, you can be treated as a first-time buyer.

Special cases

There are two special circumstances where you are deemed to be a first-time buyer:

- You are the beneficiary of a trust where the trust funds were raised by public subscriptions for the benefit of a permanently incapacitated person and the home is bought from the trust funds for occupation by you

- You buy a home following your separation or divorce, you have not retained any interest in your former marital home, you have no beneficial interest in any other home and your spouse or former spouse is living in the marital home

You can get further information from the Revenue Commissioners regarding stamp duty and taxation matters (www.revenue.ie, Lo-call 1890 48 25 82).

Higher Education Grants

The level of maintenance grants payable to certain students in further and higher education is being increased from the start of the academic year in September 2007. The income limits for these grants are also increased. Most undergraduates in public third-level institutions in Ireland do not have to pay fees. The means test for maintenance grants is normally based on your parents' or guardian's income (except for mature students who live independently). If you have any income of your own, that is also taken into account.

At present there are four different maintenance grants schemes for further and higher education students. They are:

- The Higher Education Grants scheme for full time degree courses at universities, institutes of technology and similar publicly funded institutions
- The Vocational Education Committees Scholarship scheme for add-on degrees where students have already finished certificate or diploma courses and for certain courses in Northern Ireland
- The Third Level Maintenance Grants scheme for trainees for most two year certificate and three year diploma courses in Institutes of Technology
- The maintenance grants scheme for students attending approved PLCs

The Higher Education Grants Scheme is administered by local authorities; the other schemes are administered by Vocational Education Committees (VECs). The means test and general conditions are otherwise broadly similar. It is intended to publish a Student Support Bill to place all student support schemes on a statutory footing and to provide for a single unified scheme of student maintenance grants. The Bill is expected to, among other things, include guaranteed timeframes for the earlier payment of grants, provide for an independent appeals procedure and more efficient arrangements for handling applications and making payments.

Amount of grants

The maximum maintenance grant for the academic year starting in September 2007 is €3,420 for students living away from home (who could not reasonably be expected to travel daily between the normal family home and the

college and whose normal family residence is not within 24 kilometres (15 miles) of the college being attended). The maximum maintenance grant for students who live in or near the college town is now €1,370.

Special rates of grants (usually called "top up" grants) are paid to students from very low income families – broadly the children of long-term social welfare recipients. The income limit for the top up grant for the year 2007/8 is €18,055, most of which must come from a social welfare payment. The rates of these grants in 2007/8 are €6,690 for students living away from home and €2,680 for those who live at home.

Income limits

You may qualify for a maintenance grant for a course starting in the academic year 2007/8 if your parents' income in the year 2006 was below a certain level. The precise level depends on the number of children in the family. If there are less than 4 dependent children in the family, the income limits are as follows:

Income is	You get
Up to €38,675	Full grant
€38,676 – €41,085	75% grant
€41,086 – €43,500	50% grant
€43,501 – €45,920	25% grant

The student service charge (registration charge) is not payable where the income is less than €48,335.

The limits are somewhat higher for families with four or more dependent children. The limits are also increased if there are other children (or a parent) in the family pursuing further or higher education courses – the limits are increased by €4,685 for each such student.

Nationality and residence requirements

In order to get a maintenance grant you must have been resident in the local authority/VEC area from 1 October 2006 and:

- Be a national of an EU/EEA member state or Switzerland or
- Have refugee status or
- Have been granted humanitarian leave to remain in Ireland or

- Have permission to remain in Ireland by virtue of marriage to an Irish national living here or be the child of such a person or
- Have permission to remain in Ireland by virtue of marriage to an EU national of who is living in Ireland or be the child of such a person

Certain people who have been granted leave to remain in Ireland do not qualify, for example, people who have been granted leave to remain on the basis that they are the parents of Irish-born children.

National Employment Rights Authority

The National Employment Rights Authority (NERA) has been established on an interim basis pending the legislation necessary to give it statutory effect. It includes a number of units which were previously part of the Department of Enterprise, Trade and Employment. These are the Employment Rights Information unit, the Labour Inspectorate and the prosecution-enforcement unit.

Towards 2016 includes a range of commitments to improving employment rights and compliance. Among other things, it includes a commitment to increase the number of labour inspectors from 31 to 90 by the end of 2007 and to have a regional structure for the inspectorate. Inspectors will be located in Carlow (where the NERA headquarters is located), Dublin, Cork, Shannon and Sligo.

Joint investigation and exchange of information activity has started with inspectors from the Revenue Commissioners and the Department of Social and Family Affairs. This was

provided for in the Social Welfare and Pensions Act 2007 which came into effect on 30 March 2007.

The legislation to put NERA on a statutory basis is also expected to provide for changes to some of the employment laws.

National Employment Rights Authority
O'Brien Road, Carlow
Lo-call: 1890 80 80 90 Tel: 059 9178800
Email: info@employmentrights.ie
Web: www.nera.ie

Employment Appeals Tribunal procedures

The Report of the Employment Appeals Tribunal (EAT) Procedures Revision Group was published in June 2007.

It made a number of recommendations including the following:

- There should be a statutory interim or preliminary process. This would involve a pre-examination of each case by a member of the Tribunal where all parties would be required to attend and give an outline of their respective positions.
- In the light of the preliminary process, the procedure for a substantive hearing could be less formal and more focused.
- Procedures should be speedy, inexpensive, fair and, as far as possible, informal. These should be given statutory effect.
- Determinations should be issued without undue delay, made publicly available on the EAT website, and be legally consistent.
- The Tribunal should be given power to issue determinations on an agreed basis where the parties had agreed a settlement of a case.
- Provision should be made to enable the Tribunal to facilitate expansion of claims in appropriate circumstances. In effect this means that you would be able to make additional claims once you have made an initial application.
- An effort should be made to harmonise the time limits for making applications to the Tribunal, which vary a lot under the various pieces of legislation.

The publication is available at:

<http://www.entemp.ie/publications/employment/2007/EATProceduresrevisiongroup.pdf>

It is not yet known if these changes will be included in the proposed new legislation.

Personal Injuries Assessment Board (Amendment) Act 2007

The Personal Injuries Assessment Board (PIAB) was described in the June 2006 issue of Relate. The Personal Injuries Assessment Board (Amendment) Act 2007 provides for a change in the rules when people reject an award made by the PIAB and take their case to court. Everyone is entitled to do this. The Act provides that if you do this and then you do

not get a higher award in the court proceedings, you are not entitled to get legal costs.

You do not need a lawyer in order to make an application to the PIAB. You are, however, entitled to use one if you wish. The Act provides that you are not entitled to get those costs from the other party. Further information is available at www.piab.ie.

Criminal Justice Act 2007

The Criminal Justice Act 2006 was briefly described in the September 2006 issue of Relate. Since then, parts of the 2006 Act have been put into effect and the Criminal Justice Act 2007 has been passed. This is quite lengthy and complex and deals with a wide range of issues. Most of it is now in effect. Here we briefly describe the main elements of the 2007 Act. The 2006 and 2007 Acts are available on www.oireachtas.ie and need to be read in conjunction with a range of other criminal legislation.

Period of detention

Among other things, the 2006 Act provided for an extension in the period during which a suspect can be detained before being charged or released. This came into effect on 14 December 2006. This means that, if you are suspected of having committed a crime, you may be detained for questioning for up to 24 hours before being charged or released. After the first 6 hours, a further period of 6 hours must be authorised by a Garda Superintendent and the subsequent 12 hours must be authorised by a Chief Superintendent.

Longer periods of detention have applied for some time in the cases of the Offences against the State Act (48 hours) and drug trafficking offences (7 days). The 2007 Act allows for 7-day detention in the following cases:

- Murder involving the use of a firearm or explosive
- Murder of a Garda, prison officer or certain other officials
- Possession of a firearm with intent to endanger life
- False imprisonment involving the use of a firearm

This provision came into effect on 18 May 2007. After the initial 6 hours, an extension for a further 18 hours must be authorised by a Garda Superintendent. A further 24 hours must be authorised by a Chief Superintendent. After that, the Chief Superintendent must apply to either the District Court or the Circuit Court for further extensions.

Bail

The 2007 Act makes a number of changes to the rules regarding bail. The rules about granting bail cannot all be

described here but, in general, if you are charged with an offence, you may be granted bail by the District Judge. In the case of certain serious crimes, you have to apply to the High Court for bail. These crimes include murder, offences against the state and the offences in the 2006 Act relating to organised crime.

The 2007 Act adds a number of firearms offences to the list of serious crimes – this came into effect on 18 May 2007.

The 2007 Act provides for a number of changes to the procedures for applying for and being granted bail. Most of these changes came into effect on 18 May 2007 or on 1 July 2007. If you are applying for bail in a serious offence case you must, in general, give the court a range of information about your occupation, sources of income, property and any previous criminal offences including offences committed while on bail. This information may not be published in case it would breach your right to a fair trial. The 2007 Act allows certain Garda opinion to be taken into account as evidence.

The 2007 Act provides for the electronic monitoring of certain adults while they are on bail but this provision is not yet in effect. It also provides for the prosecution to appeal against the award of bail by the District Court but this is not yet in effect.

Sentencing

Suspended sentences

The 2006 Act put the power to suspend sentences on a statutory basis. The 2007 Act makes some changes to the 2006 Act in respect of offences committed during the period

The Citizens Information Board is the statutory body which supports the provision of information, advice and advocacy on the broad range of social and civil services to the public. It provides the Citizens Information website and supports the voluntary network of Citizens Information Services and the Citizens Information Phone Service.

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of a suspended sentence – this came into effect on 18 May 2007. In simple terms, this means that if you commit an offence during the period of a suspended sentence, you must be sent back to the court which granted your suspended sentence before you are sentenced for the subsequent offence. The original court may then order you to serve all or part of the suspended part of the original sentence. The sentence for your subsequent offence then does not start until you have served the sentence for the original offence.

Mandatory sentences

The 2007 Act provides for mandatory sentences for a second or subsequent serious offence. These serious offences include those relating to organised crime, serious assaults and burglaries, firearms offences and drug trafficking offences.

If you are convicted of one of these offences and you commit another such offence within seven years, you must get a mandatory sentence for the subsequent offence that is at least three quarters of the maximum sentence set by law for that offence unless to do so would be disproportionate in all the circumstances of the case. These mandatory sentences apply if:

- You are aged 18 or over
- You have been convicted on indictment of one of the specified offences and you were sentenced to a term of imprisonment of at least five years
- The subsequent offence must have been committed within seven years of the conviction for the previous offence (excluding any period of imprisonment) or committed during the period of imprisonment for the first offence

If the maximum sentence is life imprisonment, then the mandatory second offence sentence is at least 10 years.

Monitoring and protection of persons orders

The court may impose certain orders which apply after your release. A monitoring order is one which requires you to notify in writing the Garda Inspector of the district in which you live of your address, change of address, or any proposed absence for a period of more than seven days from your home. This is somewhat similar to the requirements imposed

on certain sex offenders and certain drug offenders. The monitoring order may last for up to seven years after your release from prison.

The court may also impose a protection of persons order. This is an order protecting a victim or any other person named in the order from harassment or intimidation by the offender. The order may last for up to seven years after your release from prison.

Inferences to be drawn in certain circumstances

In general, the accused in a criminal case has what is described as the “right to silence”. Generally, this means that if you are accused of an offence you do not have to give an account of your movements or explain any relevant matters. This general rule remains but the Act does provide that inferences may be drawn from a failure or refusal to account for circumstances or a failure to mention particular facts. This is a complex area of law and it is not possible to give a short explanation of the effect of these changes.

Anti-Social Behaviour Orders

The provisions of the 2006 Act dealing with Anti-Social Behaviour Orders (ASBOs) for adults came into effect on 1 January 2007. The ASBO provisions for young people aged under 18 came into effect on 1 March 2007. Further information including FAQs on ASBOs is available on the Garda website www.asboireland.ie.

Citizens Information

LOG ON
www.citizensinformation.ie

LO-CALL
1890 777 121 Open Mon to Fri, 9am to 9pm

DROP IN
For your local centre see [Golden Pages listing](#)