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Partnership 2000 : Development of the Equality Provisions

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Partnership 2000: Development of the Equality Provisions

Forum Opinion No. 1

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Executive Summary

Executive Summary

1. This is the first in a series of six-monthly opinions which the Forum has been asked to prepare under the arrangements which have been put in place to benchmark and monitor the *Partnership 2000 Agreement*.
2. Under these arrangements, the Forum's specific remit involves the **development** of the provisions of the *Partnership* in relation to social inclusion and equality. In the preparation of this Opinion, those organisations in the Four Pillars of the *Partnership*, but who are not represented on the Forum, were also invited to participate in the work process. The views and recommendations contained in this Opinion are, however, the Forum's own responsibility.
3. The focus of this Opinion is: firstly, to explore more fully the strategic framework for equality contained in *Partnership 2000* and secondly to put forward the Forum's views on how the different components of this framework, which are set out in outline form in the *Partnership*, could best be developed. This developmental dimension is the distinctive feature of the Forum's role and needs to be distinguished from the monitoring role proper which is the responsibility of the group, comprising representatives of the Four Pillars under the aegis of the Department of the Taoiseach, and which meets on a quarterly basis for this purpose.
4. As an overall commentary, the Forum considers that our buoyant economy and Exchequer finances provide a unique opportunity to devote greater resources to equality issues and to tackling more decisively the obstacles which are holding up greater progress in this area, while at the same time respecting the fiscal disciplines which underpin *Partnership 2000*.
5. **Section II** discusses some of the key amendments which are now required to the Employment Equality and Equal Status Bills in the light of the Supreme Court's Judgements earlier this year that certain provisions of both these Bills were unconstitutional. More specifically, the Forum considers that both Bills should continue to make provisions for equal treatment of people with a disability and that the Government should adopt a positive and realistic approach to the principle of *reasonable accommodation*, with the Exchequer fully underwriting, subject to a prescribed upper ceiling (in each case), the costs involved. These costs could be met through tax allowances or from the present 1 per cent employment levy. International experience shows that, in most cases, these costs are quite small.

6. The necessity of having to amend the Employment Equality Bill should now be availed of to include some of the outstanding recommendations which the Forum submitted in its earlier Opinion on this Bill. It is very strongly of the view that the Government should set end-1998 as the target date for enactment of the amended Equal Status Bill, while noting that they have set mid-1998 for enactment of the amended Employment Equality Bill.
7. The provision of adequate personnel and other resources to the Department of Justice, Equality and Law Reform is essential if the equality commitments in *Partnership 2000* are to be honoured.
8. The Forum recommends that the proposed Equality Authority's promotional and developmental role should be legislated for, that it be provided with adequate resources and that membership of the Authority's Board should include representation of the interests of each of the groups protected by the legislation.
9. **Section III** stresses the need for strengthened action to promote equality through the National Anti-Poverty Strategy and the Strategic Management Initiative. It recalls the Forum's earlier work on the different actions required for effective equality proofing administrative procedures and goes on to recommend how these procedures should be implemented and further developed.
10. **Section IV** welcomes the commitment to establish a Monitoring Committee in the Department of Justice, Equality and Law Reform in relation to the Report of the Task Force on the Travelling Community but this needs to be supported by an adequately staffed Traveller unit within that Department. More generally, the Forum recommends that all the Monitoring Committees which have been established in the equality area should be encouraged to pursue a more proactive role to include also evaluation of the implementation process, together with the identification of inaction and constraints and of strategies to address these. Again, this highlights the need for adequate technical support staff and the centrality of Departmental resources.
11. **Section V** outlines the Forum's comments on a number of other institutional issues which are identified in *Partnership 2000* viz. a timescale should be set for the Working Group on women's access to training and employment schemes; that its recommendations be taken into account by the Working Group on childcare provision; the Equal Status Bill should be given priority alongside the parental leave legislation; a monitoring mechanism should be established to ensure speedy implementation of the 3 per cent employment target for people with a disability in the wider Public Service; formal liaison arrangements should be put in place between Traveller organisations and the Department of

Education and Science's Committee on Traveller education; the delay in establishing the Travellers Health Advisory Committee be addressed; and that a Traveller section be established in the Department of Enterprise, Trade and Employment with specific responsibility to promote jobs and the viability of the Traveller economy. Finally, the Forum recommends that a Commission or Task Force on the status of lesbians and gay men as well as a Task Force on Racism should be established.

12. Section VI highlights the need for more significant progress on equality issues, against the background of support for such action by all representative groups in our society and the public at large. A wide range of official reports and blueprints, together with the commitments in *Partnership 2000*, chart the way forward for such action. But it is now up to Government to take the necessary initiatives, tackle the obstacles to progress as well as ensure that these initiatives are underpinned by a fairer share of the unprecedented level of resources now available in our economy.
13. All the recommendations made in this Opinion are listed, for ease of reference, in the Box at the end of this Section. Finally, the Forum wishes to record its appreciation and thanks to Mr. Larry Bond, Department of Social Studies at Trinity College, as well as to the officials in the Departments concerned for their help and co-operation in the preparation of this Opinion.

Section I

**Introduction:
A New Focus
on Equality**

Introduction: A New Focus on Equality

- 1.1 The Forum's underlying concern during the course of preparing this Opinion was the need for greater political commitment and resolve to taking more decisive action to addressing the problem of inequality and social exclusion in our society. Continuing social polarisation, inequalities and divisions in our society are totally unacceptable and in nobody's long-term interests. The Forum particularly welcomes, therefore, that the achievement of greater equality is one of the key objectives and a core element of the strategic approach which underpins *Partnership 2000*. Of particular significance in this respect is the emphasis given in the *Partnership* to equality and increased social inclusion as a basis to sustaining competitiveness and in ensuring "*our society's overall efficiency and cohesiveness*" (p. 7).
- 1.2 The new national agreement, *Partnership 2000 for Inclusion, Employment and Competitiveness* agreed between the Government and the Social Partners in December last, sets out a strategic approach to the development of the economy and society into the 21st century. Its key objectives are the continued development of an efficient, competitive modern economy and ensuring that our society becomes more inclusive, that long-term unemployment is substantially reduced, and that the benefits of growth are more equally distributed.
- 1.3 The Forum has been given a specific role in monitoring the *Partnership* provisions on social inclusion and equality. The arrangements agreed on for the development of national level partnership state that:

"the NESF, in addition to providing opinions on policy issues featuring in its work programme, will be asked to provide opinions at six monthly intervals on the development of the provisions of the Partnership agreement regarding social inclusion and equality. In undertaking this task the NESF will put in place a process to ensure that the four pillars of the partnership can participate in the preparation of these opinions. They will take account of the benchmarking analysis provided by NESC and will consult with relevant Departments as appropriate" (para. 11.7).
- 1.4 A new focus on equality in Irish society is a central element of the agreement's strategic approach. In recent decades widespread changes in economic and social structures have exposed hitherto unquestioned social inequalities to challenge¹. Gender and marital status provided the initial focus for the debate

¹ *Strategy into the 21st Century*, especially Chapter 9, NESC, (1996).

on equality and discrimination in this country. Given the persistence of deep seated gender inequalities, the position of women in our society remains central to the equality debate, as the work of the Second Commission on the Status of Women and others has shown. More recently, the equality debate has expanded to include issues concerning disability, Travellers, national origin and sexual orientation.

- 1.5 *Partnership 2000* highlights the importance of a new, more integrated and more determined approach to promoting equality. Specifically it states that:

“Facing the challenges of the 21st Century (also) requires a new focus on equality which implies the adoption of a strategic approach for the full integration of women and of people with disabilities, Travellers and other groups experiencing discrimination. It includes the promotion of greater equality of access, participation and outcomes for all marginalised groups in our society” (para. 1.11).

and

“..it is an objective of this Partnership to develop a strategy which enhances equality and counters discrimination in both employment and non-employment areas. A framework will be developed to pursue in particular the full integration of women and of people with disabilities, and of members of the Traveller Community, into Irish society” (para. 5.1).

- 1.6 The Forum welcomes this integrated approach to promoting equality in our society and one which is in line with the approach that it has adopted in its work to date.² In this Opinion the Forum explores the strategic framework for equality outlined in the *Partnership*. This framework includes a number of dimensions:

- legislative change represents the first dimension;
- administrative procedures for equality proofing furnish the second; and
- thirdly the framework includes measures to monitor the implementation of the detailed reform programmes set out by the Second Commission on the Status of Women (1993), the Task Force on the Travelling Community (1995) and the Commission on the Status of People with Disabilities (1996).

Sections II-IV of the Opinion discuss each of these dimensions in turn.

² *Equality Proofing Issues*, Forum Report No. 10, (1996), and the *Employment Equality Bill*, Forum Opinion No. 5, (1996).

- 1.7 **Section V** considers other relevant institutional issues dealt with by the *Partnership*. The focus throughout is on developing the broad framework of equality policy. While *Partnership 2000* also sets out further specific policy commitments in respect of women, people with disabilities and Travellers, these are not all considered here. However they will be addressed in future Opinions.
- 1.8 **Section VI** presents some overall conclusions and, for ease of reference, lists all the recommendations made in this Opinion.

Section II

**Legislative
Reforms**

Legislative Reforms³

- 2.1 Legislative change represents a central element in the framework for equality outlined in *Partnership 2000*. Specifically, it envisaged the enactment of the Employment Equality (Amendment) Bill 1996 and the Equal Status Bill, publication of which it anticipated in early 1997.
- 2.2 Following the Supreme Court's Judgements, the Forum considers that the Government's legislative programme should now indicate a clear time-table for publication of the revised Bills and of having these processed and enacted by the Oireachtas. While the Forum supports the Minister for Justice, Equality and Law Reform assigning priority to the revised Employment Equality legislation, and notes his intention of having this in force by mid-1998, it is concerned that no date has yet been set for publication of the revised Equal Status Bill. It is essential, however, that the momentum of reform be reactivated and the Forum very strongly recommends that end-1998 should be set as the target date for enactment of this Bill.

Employment Equality Bill

- 2.3 The Employment Equality Bill extends and develops existing legislative provision for gender equality in employment and extends the scope of legislation to prohibit discrimination on a wide range of additional grounds. The Bill prohibits discrimination in employment on grounds of gender, marital status, family status, sexual orientation, religion, age, disability, race and membership of the Travelling community⁴. It makes further provision with respect to harassment in employment and in the workplace. It also develops the institutional mechanisms for implementation of equality legislation, including changing the constitution of the Employment Equality Agency and renaming it the Equality Authority. The role of the Authority is discussed separately below.
- 2.4 The Bill was passed by both Houses of the Oireachtas on 26th March 1997 and was referred by the President to the Supreme Court under Article 26 of the Constitution. In a judgement of 15th May 1997, the Court identified three issues in respect of which provisions in the Bill failed to comply with Constitutional requirements. Two of these issues, vicarious liability in criminal cases (Section 15) and certification as evidence of offences (Section 63.3) may

³ We deal here with the framework equality legislation; the *Partnership* also includes a commitment to introduce legislation on Parental Leave which is considered in Section V below.

⁴ In its Opinion on the Bill, the Forum recommended that the Bill should make reference to the "Traveller community", but this suggestion was not adopted; we note, however, that the term Traveller community has been adopted in *Partnership 2000* and should now be incorporated into the amended equality legislation.

be considered primarily technical. However the third, the *reasonable accommodation* aspect of the disability provisions is substantive.

2.5 Section 35 of the Bill sets out special provisions relating to the employment of people with disabilities. As first published, it provided for exemption from the provisions of the Bill for discrimination against a person with a disability where that person would require special treatment or facilities, provision of which would give rise to undue hardship to the employer. In commenting on this Section in its Opinion of December 1996, the Forum argued for a requirement of *reasonable accommodation* on the part of employers. This suggestion was reflected in subsequent amendments adopted by the Oireachtas. The relevant sub-Section, as finally adopted, read as follows:

“(4) *Nothing in this part or Part II applies to discrimination against a person on the disability ground in relation to employment of any description if -*

- (a) *that person needs special treatment or facilities in order to take part in a selection process or to undertake that employment, and*
- (b) *the employer does all that is reasonable to accommodate the needs of that person,*

*unless, having regard to all the relevant circumstances, including without prejudice to the generality, the matters specified in subsection (5), the cost of the provision of such treatment or facilities for that person would give rise to undue hardship to the employer”.*⁵

2.6 Essentially the Supreme Court held that this requirement was an unjust attack on the property rights of employers, despite the provision for undue hardship⁶. Article 43 of the Constitution prohibits the abolition of private property as an institution while recognising that private property rights “*ought, in civil society, be regulated by the principles of social justice.*” It therefore allows that the State may delimit the exercise of these rights “*with a view to reconciling their exercise with the exigencies of the common good.*” Nevertheless, the Court held that the above provisions unjustly limited the exercise by employers of a right to carry on a business and earn a livelihood which is protected by Article 40.3.1. It reasoned that, while the aim of the provision was laudable, the cost of providing for the equality of people with disabilities should fall to society as a whole rather than any particular group, in this case employers.

5 The Court found that a literal reading of this text leads to the absurd conclusion that while an employer who makes *reasonable accommodation* is generally exempt from the anti-discrimination provisions of the legislation, employers suffering undue hardship would not be so exempt; Counsel on behalf of the Attorney General accepted that this was a drafting error and that the words “*or where*” should have been used instead of “*unless*”; in such a case, a court is entitled to take the clearly intended interpretation and, in considering the constitutionality of the Bill, the Court proceeded on that basis.

6 See *Irish Current Law June Digest* 1997, the article by Dr. Gerard Quinn, *Irish Times*, Monday May 19, 1997, p.13 and editorials in *Irish Law Times*, Vol 15, No 6, June 1997, and *FLAC News*, Vol 7, No 3, April-June 1997.

“The Bill has the totally laudable aim of making provision for such of our fellow citizens as are disabled. Clearly it is in accordance with the principles of social justice that society should do this. But, prima facie, it would also appear to be just that society should bear the cost of doing it. (...) But the difficulty with the section now under discussion is that it attempts to transfer the cost of solving one of society’s problems on to a particular group. The difficulty the Court finds with the section is, not that it requires an employer to employ disabled people, but that it requires him to bear the cost of all special treatment or facilities which the disabled person may require to carry out the work unless the cost of the provision of such treatment or facilities would give rise to ‘undue hardship’ to the employer” (p.s 72, 73 of the Supreme Court Judgement)

- 2.7 Amendment of the legislation to meet the terms of the Court’s Judgement could proceed in a number of ways. *One option* would be to omit any provisions relating to disability from the Bill in favour of promoting separate disability legislation. Omitting disability from the present legislation is, however, neither practical nor desirable, particularly from the point of view of people with disabilities, at this time. The existing legislation has taken a number of years to draft. The same problems will occur in years to come in the context of separate legislation. Not including disability would depart radically from the core principle of mainstreaming and is not justifiable as there are ways of meeting the concerns of the Supreme Court. However, including disability would not impede the introduction of comprehensive disability legislation subsequently. In addition, this approach would simply defer the issue of *reasonable accommodation*. Thus, it has little to recommend it.
- 2.8 A *second option* would be to include the disability ground, but omit the *reasonable accommodation* provisions. Legislation framed in this way would afford people with disabilities important protection against simple discrimination by employers. However, it would not address the situation of those whose ability to carry out the essential functions of a job, and thereby their opportunities for employment, are dependent, therefore, on an employer’s willingness to reasonably accommodate their particular needs. By definition, these are the people who face the greatest barriers and who, at present, are least likely to be provided with equal opportunities in employment.
- 2.9 In summary, omission of the *reasonable accommodation* provision would mean that the legislation would create an inequitable and unjustifiable division between different groups of people with a disability and would detract from the benefits of mainstreaming disability which is one of the key objectives which the Forum has endorsed in its Report No. 10 on *Equality Proofing Issues*.
- 2.10 The Forum strongly recommends, therefore, that the only practical option is to proceed with the revisions to the Employment Equality and Equal Status Bills including disability and the concept of *reasonable accommodation* with

appropriate measures to address the concerns raised in the Supreme Court Judgement. This approach has the advantage of a mainstreaming approach, which includes people with disabilities and provides the comprehensive basis for the framework for equality referred to in *Partnership 2000* and through which future equality strategies and measures can be developed.

2.11 The question to be addressed, therefore, is whether it is possible to provide for *reasonable accommodation* in a way that meets the objections of the Supreme Court. The key issue here, as the Court itself made clear, is the allocation of costs. Essentially, the Court's Judgement suggests that employers may be obliged to make *reasonable accommodation* for people with disabilities only if the State provides full compensation for the costs thereby incurred .

2.12 The main objection to adopting such an approach is that the State may be exposed to open-ended and prohibitive additional costs. However, the Forum does not accept that this is the necessary or even the most likely result:

- firstly, evidence from other jurisdictions suggests that the costs associated with making *reasonable accommodation* in employment are in many (or most) cases quite small; in this respect, it is particularly important to note that *reasonable accommodation* has been found elsewhere to be cost effective to both the taxpayer and to employers; the US President's Committee's Job Accommodation Network⁷ (JAN) recently found that 19 per cent of accommodations cost nothing and 50 per cent cost between US\$1 and \$500; only 3 per cent were found to cost more than \$5,000;
- secondly, it should in practice be possible to put a ceiling on the State's liability in any particular case; indeed some such provision would seem to be inherent in the limitation of reasonableness itself; as already acknowledged in the Forum's Report No. 10, implementation of this principle should take into account the resource implications and provide a realistic timescale for meeting the accommodation costs;
- thirdly, the State already makes significant provisions for measures which de facto subsidise current initiatives to reasonably accommodate people with disabilities in employment; it also provides income maintenance in the absence of employment; and
- finally, assumptions regarding levels of demand are probably the central issue in estimating the likely costs of obliging employers to reasonably accommodate people with disabilities; while the purpose of the legislation is to increase access to employment, evidence from other jurisdictions

⁷ US President's Committee's Job Accommodation Network Internet Site at <http://www.pccpd.gov/pubs/ek96/benefits.html>, (October 1996).

again suggests that employment patterns change slowly and that the associated costs are likely, therefore, to be spread over quite a number of years.

- 2.13 In this regard, the Forum recommends that the Exchequer fully underwrites the costs involved, subject to a prescribed upper ceiling per case; a number of funding mechanisms could be evaluated for this purpose such as tax allowances or the diversion of a proportion of the present 1 per cent employment levy; the latter mechanism had been recommended in the Report of the Commission on the Status of People with Disabilities.
- 2.14 In short, the Forum recommends that the Government should adopt a positive and realistic approach to the principle of *reasonable accommodation*. It also needs to be acknowledged that people with disabilities require different, mostly minor accommodations, and that the major accommodations which will be required can be approached through a phasing mechanism over a realistic time period. Such an approach would build on the wide range of existing provisions. People with disabilities are looking for commitment to change over time and the imposition of a realistic timeframe would be acceptable. The Forum endorses, however, the necessity of a legal requirement to provide for *reasonable accommodation* in the absence of significant progress to date.
- 2.15 The Forum's detailed views on the initial Bill were set out in an Opinion, published in December last. A number of the recommendations made there were addressed (wholly or partly) in amendments made during the passage of the Bill through the Oireachtas and are incorporated in the final version of the Bill⁸. We take the opportunity afforded by the decision to amend and reintroduce the legislation to ask that further consideration be given to the views set out in our earlier Opinion and, in particular, the Forum's recommendations that:
- reference be made to the "*Traveller community*" rather than the "*Travelling community*" (para. 3.6);
 - a common definition, based on the old Sections 22 and 19, that indirect discrimination be for all protected groups with the word "*necessary*" replacing "*reasonable*" (paras. 3.9, 3.10); and
 - a common approach, based on the old Section 24, to "*positive action*" should be applied to all groups (paras. 3.13, 3.14).

8 Op.cit.: *Forum Opinion No. 5*, the main Sections where relevant changes have been made are Sections 16, 23 and 35.

2.16 The Forum recognises that, in modifying its earlier jurisprudence, the Supreme Court – having identified provisions in the Bill that were repugnant to the Constitution – did not, however, remain silent on the remaining Sections⁹. Rather it took the view that:

“ .. in the present case the Court is confronted by a novel and wide ranging reformist measure which is, apparently, to be followed by other similar legislation. Another Bill (the Equal Status Bill, 1997) has already been referred to the Court by the President. In the present case the President has referred to us the question of whether ‘the said bill or any provisions thereof’ is repugnant to the Constitution. If, in the present case, the Court were to find one provision of the Bill unconstitutional and to say no more the Court might not have addressed the problem or problems which is or are causing the President concern. The result, in the event of the legislature attempting to introduce amending legislation, could be a second reference, or series of references which would be singularly unsatisfactory to the President and to the legislature. Moreover Counsel assigned by the Court have attacked several sections of the Bill. Under these circumstances the Court is obliged to consider the whole Bill and all its provisions, particularly those which have been impugned by Counsel as being repugnant to the provisions of the Constitution” (p’s 8, 9).

2.17 As a result it is clear that, apart from the three provisions noted above, no other provision of the present Bill is repugnant to the Constitution. Given this, the view has been expressed that the Bill should be reintroduced, largely ‘as is’, with amendments restricted to the three provisions found repugnant, and the bringing together in the amended Bill of all the provisions regarding the Equality Authority that are at present divided among the Employment Equality and Equal Status Bills. The Forum accepts that such an approach would reduce the risk of any further reference of the Bill. However, it is of the view that the recommendations it has made could be addressed in amendments without any real risk of provoking a further reference of the Bill.

Equal Status Bill

2.18 The Equal Status Bill 1997, which was published on 5th February, promotes equality outside the workplace. It would for the first time give protection against discrimination outside the context of employment, on the same grounds covered in the Employment Equality Bill. The Bill would outlaw discrimination in the provision of goods, services, accommodation, disposals of land, education etc. It also contains measures to deal with discrimination by registered clubs against members or prospective members and provides for enforcement through the development of the Equality Authority.

⁹ See also the Supreme Court’s Judgement on the reference of the Equal Status Bill, 1997 under Article 26 of the Constitution.

- 2.19 The Bill was passed by both Houses of the Oireachtas on 29th April and was referred to the Supreme Court under Article 26 of the Constitution on 7th May and Judgement was delivered on 19th June. This Judgement records that Counsel for the Attorney General conceded that two of the three aspects of the Employment Equality Bill, which were found to be unconstitutional, were also so in the Equal Status Bill . These were vicarious liability – Section 71 of the Equal Status Bill – and certification as evidence of offences – Section 40.3. More generally, the Court noted that the two Bills were ‘inextricably linked’ as the Equal Status Bill presumed that the terms of the Employment Equality Bill, 1996 had been enacted into law. Counsel for the Attorney General argued, nevertheless, that the Court should follow the approach it had adopted in regard to the Employment Equality Bill and consider the constitutionality of all provisions of the Bill. However the Court rejected these arguments, holding that the circumstances relating to the respective references of the two Bills were entirely different. It therefore concluded that “*it is sufficient for the Court to decide that section 40(3) and section 71 of the Bill are repugnant to the Constitution*” (p. 25) and it did not consider the constitutionality of any other provisions of the Bill.
- 2.20 A Government decision has been taken to amend the Bill as appropriate and to reintroduce it to the Oireachtas. The Forum views Equal Status legislation as a crucial step forward in addressing inequality in our society and it, therefore, welcomes this decision. However, it notes with concern the likelihood at this point that, without specific action to the contrary, this legislation will not now be reintroduced before 1999 at the earliest and, as stated earlier, the Forum is very strongly of the view that end-1998 should be set as the target date for enactment of this Bill. We recognise that some delay is inevitable, given that it is reasonable to first proceed with an amended Employment Equality Bill, and given the need to reconsider in detail the provisions of the Bill, in the light of the recent decisions of the Supreme Court. According to the Department of Justice, Equality and Law Reform the main reason for the long anticipated delay is the limited resources of that Department.

Departmental Resources

- 2.21 In the opinion of the Forum, the resources of that Department are a crucial determinant of the pace and quality of efforts to put in place the equality framework agreed in *Partnership 2000*. This issue is of central importance to the progress of legislation as we have seen and is also of particular significance to the administrative and other dimensions of the equality framework as highlighted throughout our discussions below.

- 2.22 The Forum highly commends the achievements of the then Department of Equality and Law Reform since it was established in January 1993. However, it is evident that an enormous amount remains to be done to put in place a comprehensive framework for countering discrimination and promoting “*greater equality of access, participation and outcomes for all marginalised groups in our society*” as agreed in the *Partnership*.
- 2.23 In the circumstances, the Forum recommends that the necessary steps be taken to ensure that adequate personnel and other resources are provided to the relevant sections of the Department of Justice, Equality and Law Reform and commensurate with the legislative and other demands arising from *Partnership 2000* and elaborated on in this Opinion. More immediately this should be on a scale to ensure that both the Employment Equality Bill and the Equal Status Bill are published in early 1998 and enacted by the end of 1998. Should further disability legislation be required, these resources should then be applied to this task so that this can be published during 1998.
- 2.24 This issue presents an important concrete test case of the Strategic Management Initiative objectives of “*more effective management of major national issues, and delivering better Government through ongoing improvements in performance and a clearer focus on achieving objectives*” endorsed by the *Partnership* (para. 10.10) as well as the latter’s recognition that priority commitments in relation to social inclusion and equality will require a reordering of some Government spending priorities (para. 4.6).

Equality Authority

- 2.25 The Forum understands that the provisions regarding the Equality Authority, which are at present divided among the Employment Equality and Equal Status Bills, will be brought together in the amended Employment Equality Bill.
- 2.26 In the Employment Equality Bill, 1996 the Employment Equality Agency is renamed the Equality Authority and its functions and investigative powers, as set down in the Employment Equality Act, 1977 are amended to reflect the broader approach to discrimination and equality in employment now being legislated for. The Bill provides for the Authority to act as a complainant in particular instances of discrimination or victimisation. The Authority is accorded a central role in the provision of codes of practice. It is also empowered to carry out equality reviews and prepare equality action plans or to invite businesses or group of businesses to do so.
- 2.27 The Equal Status Bill, 1997 further amends the functions and powers of the Equality Authority, to reflect the extension of anti-discrimination and equality provisions beyond the employment area. Clearly such further changes must

await the passage of this Bill. However, the Bill also includes provisions regarding the organisation and operation of the Authority which can be brought into the Employment Equality legislation. These provisions include those specifying the composition and proper functioning of the Authority, and those setting out the Authority's functions regarding research and the dissemination of information.

2.28 The proposed Equality Authority is a crucial institutional mechanism for promoting equality in our society. The Forum welcomes, therefore, the decision to provide for its operation as far as possible in the Employment Equality Bill. In its 1996 Report on *Equality Proofing Issues*, the Forum envisaged an important developmental role for the Equality Authority. It argued that "*this Authority would have an invaluable contribution to make in generating an ethos of equality in our society. It would develop and communicate a knowledge and an understanding of equality and equality strategies*" (para. 3.37). We want here to emphasise, in particular, this promotional and developmental role. In our view, the Authority should act as a catalyst for change across society. In particular, we emphasise the Authority's potential for promoting equality action by the Social Partners and by civil society more generally.

2.29 More specifically, the Forum recommends that:

- the promotional and developmental role referred to above should have a legal basis;
- the Authority should have adequate resources to carry out all the roles assigned to it; and
- the membership of the Board of the Equality Authority should allow for representation of the interests of each of the groups protected by the legislation.

Section III

**Administrative
Procedures
for Equality
Proofing**

Administrative Procedures for Equality Proofing

3.1 The development of administrative mechanisms for equality proofing represents a further important dimension of the *Partnership's* strategic approach to the promotion of equality in our society. The Forum published its Report on *Equality Proofing Issues* in February 1996 and its recommendations were subsequently strongly endorsed by the Commission on the Status of People with Disabilities.¹⁰ Equality proofing may usefully be defined as:

“a mechanism, process, or technical method to implement equality objectives built into a variety of social and economic policies”.

3.2 Following its discussion of equality legislation and related institutional developments (i.e. the Equality Authority), the *Partnership* states that:

“In the context of the National Anti-Poverty Strategy (NAPS), this will be complemented by the strengthening of administrative procedures for equality proofing, having regard to the recommendations of the NESF” (para. 5.2).

The Forum is particularly concerned to see this commitment acted on as a matter of priority.

3.3 The National Anti-Poverty Strategy, which was published in April last¹¹, sets out a global target for the reduction of poverty. Specific targets are also set out in the five key areas identified for anti-poverty action. These are educational disadvantage; unemployment, particularly long-term unemployment; income adequacy; disadvantaged urban areas; and rural poverty. Key equality principles which underpin the overall strategy include:

- ensuring equal access and encouraging participation for all;*
- guaranteeing the rights of minorities especially through anti-discrimination measures;*
- the reduction of inequalities and in particular, addressing the gender dimensions of poverty” (p. 7).*

3.4 The NAPS *“is a major cross-departmental policy initiative by the Government designed to place the needs of the poor and the socially excluded among the issues at the top of the national agenda in terms of Government policy development and action” (p.2).* At the

¹⁰ *A Strategy for Equality: Report of the Commission on the Status of People with Disabilities*, para. 1.27, p. 10, (1996).

¹¹ *Sharing in Progress – National Anti-Poverty Strategy*, (1997).

political level a Cabinet Sub-Committee on the NAPS has been established.¹² A number of important administrative innovations also underpin the implementation of the Strategy. The Inter-Departmental Policy Committee which developed the NAPS will remain in place to direct its implementation. In practice, the implementation of the Strategy will be promoted through the Strategic Management Initiative (SMI).¹³ *Delivering Better Government*¹⁴ identified poverty as a Strategic Result Area. A specific SMI Team on the NAPS (the NAPS Unit) has been established in the Department of Social, Community and Family Affairs. Designated officers in each Government Department liaise with this Unit in the promotion of the Strategy. An initial work programme on the NAPS has been agreed and is being implemented. Each Government Department has been asked to prepare a baseline document by the end of the year setting out relevant policy, plans and targets, identifying constraints and cross-cutting issues.

3.5 The Forum welcomes the publication of the NAPS Strategy Statement and the measures that have been taken to date to operationalise the strategy. However, it is concerned that no specific action has so far been taken to implement the *Partnership 2000* commitment on strengthening administrative procedures to promote equality proofing through the NAPS. We recommend, therefore, that the Inter-Departmental Policy Committee address this issue as a matter of urgency. This Policy Committee should, as an immediate priority, draw up a programme of practical measures to develop administrative procedures for equality proofing, which will be implemented through the NAPS institutions. This programme should be based on a broad approach to equality proofing as an autonomous process, in line with the recommendations in Forum Report No. 10. Specifically it should not restrict itself to the sub-set of equality issues that arise in a poverty context, important as these issues undoubtedly are, and we recommend that its remit in the equality area should be strengthened.

3.6 The Forum, in its previous work has set out the different actions required for effective equality proofing administrative procedures. These are:

- identification of equality objectives, setting equality targets and timescales for their achievement;
- development of data gathering processes adequate for monitoring the achievement of these targets;
- establishing the equality implications of any particular policy or practice prior to its implementation;

12 This Committee will now also address policy on drugs and on local development.

13 The Strategic Management Initiative (SMI) is a programme of public service reform which was launched in February 1994; the aim of the SMI is to improve management of resources and to make the public service more results oriented and better focused on client needs.

14 *Delivering Better Government: Second Report to Government of the Co-ordinating Group of Secretaries: A Programme of Change for the Irish Civil Service*, (1996).

- 3.10 The Forum has previously recommended that proposed legislation, the design, implementation and outcomes of Government-funded programmes, and that the policies and actions of Government Departments and public organisations should be a focus for these procedures. This recommendation is reiterated and the proposed guidelines should set out how to approach the equality impact assessment of legislation, policy, programmes and projects.
- 3.11 Arising from the adoption of a work programme by the Inter-Departmental Committee, as recommended above, the NAPS Unit should be given clear responsibility for promoting administrative procedures for equality proofing in all Government Departments and for providing clear guidance on how to achieve this. In order to develop this aspect of the Unit's work, the Forum recommends that it should be strengthened with the appointment of at least one additional senior officer with an expertise in this area. Clearly this raises again the issue of resource constraints discussed above. However we stress that action on equality proofing in the context of NAPS, in line with the commitment in *Partnership 2000*, should not be contingent on such strengthening as we recommend here.
- 3.12 We recommend that, in promoting administrative procedures for equality proofing, the Inter-Departmental Policy Committee work closely with the Department of Justice, Equality and Law Reform. We welcome the identification of “*mainstreaming equality*” as a key issue for attention in the Strategy Statement of the then Department of Equality and Law Reform.¹⁵ This issue clearly parallels the Forum's arguments regarding equality proofing. The concept of mainstreaming equality is elaborated as follows:
- “Mainstreaming is a strong tool for ensuring that equality is central in the planning and policy development process of the State. The Department proposes to reinforce its monitoring and guidance role in this area so as to facilitate the integration of equality policy into key Government programmes and initiatives. The Department considers that there is scope to develop this function further and that the Department should play a role in evaluating the gender impact of Government policies, provide related advice to Departments and all agencies, identify mechanisms for mainstreaming and co-ordinate action for equality.... The Department will work to promote a mainstreaming approach on equality beyond gender to encompass other categories of disadvantage so that equality principles are applied across all relevant Government policies and programmes into the new millennium”* (p. 14/15).
- 3.13 The Forum recommends, as an interim measure, that the Equality Section of the Department of Justice, Equality and Law Reform should play a key support role to the NAPS. Specifically we see that Department playing a role in supporting the equality proofing element of the NAPS and SMI processes, similar to the support role envisaged for the Combat Poverty Agency with regard to the wider NAPS process. In the longer term, the Forum recommends that this role should be undertaken by the Equality Authority.

¹⁵ *Statement of Strategy, 1997 – 2000*, Department of Equality and Law Reform, (1997).

- development and implementation of strategies to achieve equality targets;
- creation of independent monitoring systems to analyse and review progress; and
- regular public reporting on progress.

3.7 The Forum recommends that the implementation of these procedures should involve:

- ensuring that the groups protected by equality legislation will be the initial focus for these procedures;
- providing guidelines for Government Departments, Local Authorities and State Agencies as to the application of such procedures; the Combat Poverty Agency is currently preparing poverty proofing guidelines as part of the NAPS and these should be expanded to become poverty and equality proofing guidelines; and
- collecting baseline data on the current situation of the protected groups and putting in place data gathering mechanisms to measure progress in relation to the current situation and the participation by and outcomes for these groups within policies and programmes.

3.8 To provide the necessary support and authority, equality proofing administrative procedures should be underpinned by having a legal basis and the Forum recommends that this should be done through the amended Equal Status Bill. Furthermore, equality should be an explicit principle underlying the Strategic Management Initiative as a whole.

3.9 In its Report on *Equality Proofing Issues*, the Forum commended the introduction of the Cabinet procedure instruction that all Memoranda for Government should include a gender impact statement. The Forum recommends that equality proofing administrative procedures should build on this approach by:

- establishing a requirement that equality impact and gender impact statements should be carried out assessing the impact of any new policy on the different groups;
- providing guidelines for the preparation of such statements;
- allowing for the involvement of relevant interests in the preparation of these statements; and
- publishing these statements.

Section IV

**Monitoring
Arrangements**

Monitoring Arrangements

- 4.1 The administrative arrangements put in place to further the implementation of the detailed reform programmes set out by the Second Commission on the Status of Women (1993), the Task Force on the Travelling Community (1995) and the Commission on the Status of People with Disabilities (1996), represent a further important dimension of the *Partnership 2000*'s equality framework.
- 4.2 A new Gender Monitoring Committee has been established to “*examine gender equality in the light of the recommendations of the Second Commission on the Status of Women and the strategic actions agreed at the UN Fourth World Conference on Women, to make recommendations to accelerate implementation of the above reports and to draw up reports for submission to the Minister on progress made*”.¹⁶ Government Departments and Agencies, women’s organisations and the Social Partners are represented on this Committee. Publication of the Third Progress Report on the implementation of the Commission’s recommendations is envisaged by May of next year.
- 4.3 An Inter-Departmental Task Force is preparing a Plan of Action on the rights of people with disabilities, based on the Report of the Commission on the Status of People with Disabilities. However, there has been serious slippage in the work of that Task Force. A Monitoring Committee has also been established to oversee implementation of the Commission’s recommendations which is representative of people with disabilities, their families and carers, service providers, the social partners and Government Departments.
- 4.4 *Partnership 2000* states that “*The Government strategy, in response to the Report of the Task Force on the Travelling Community, will continue to be implemented and will be monitored, with a view to effecting a real advance in the living circumstances of the Traveller Community, as well as improving relations between the settled and Traveller Communities, and a new status for the culture and identity of the Traveller Community*” (para. 5.32). The Task Force itself recommended that a number of arrangements be put in place to co-ordinate and monitor the implementation of its Report. Specifically it suggested that:
- the then Minister for Equality and Law Reform, as part of his/her responsibility for co-ordinating Government policy in relation to Traveller issues should monitor and co-ordinate the implementation of the Report’s recommendations;
 - a Traveller Unit with adequate resources should be established within the Department to assist the Minister in this regard; and

¹⁶ *Report of Department of Equality and Law Reform, 1993-1997, (1997).*

- an annual progress report should be published and a formal mechanism should be established for discussion of that report with all the relevant interests.
- 4.5 To date, no specific provision has been made for the overall monitoring of the implementation of the Task Force Report. The Forum welcomes the new commitment by Government to establish a Monitoring Committee and it recommends that, as with the other two Monitoring Committees referred to above, its membership should be drawn from the Four Pillars of social partnership and Government Departments with adequate representation for national Traveller organisations. This Committee should be serviced by an adequately-staffed Traveller Unit within the Department.
- 4.6 In the Forum's view, the Gender Monitoring Committee, the Monitoring Committee on the Report of the Commission on the Status of People with Disabilities and the proposed Monitoring Committee on the Report of the Task Force on the Travelling Community, based as they are on a partnership between Government and civil society, are potentially key mechanisms for promoting the development of equality policies. The Forum considers that, in order to realise this potential, the role of the Monitoring Committees should be strengthened. Monitoring practice to date has typically taken the form of listing actions taken under relevant headings. While useful, such an approach does not exhaust the possibilities of, for example, the brief of the Gender Monitoring Committee outlined above, which could be interpreted in a more proactive way.
- 4.7 The Forum recommends that a more active role for the Monitoring Committees be encouraged. This would mean going beyond monitoring to *evaluating* the implementation process and identifying inaction and constraints as well as good practice. It would also involve the Committees in taking a more proactive role in addressing issues relating to inaction and constraints as well as identifying new priorities for action. Such a development of the monitoring role would probably require some rethinking of the terms of reference and operating modes of the Committees. It would require also a greater commitment of administrative resources to the monitoring effort. The Forum's view is that effective operation of the monitoring process in the manner envisaged should require that each Committee be given the technical support of one full time officer, or equivalent, at the administrative level. This highlights once again the centrality of Departmental resources.
- 4.8 The Forum has already drawn attention to the fact that discrimination can operate in "*multiple and interactive ways*". This should continue to be a specific focus in the work of the Monitoring Committees referred to above so that the situation of women with a disability, Traveller women and Travellers with a disability for example can be explicitly addressed.

Section V

**Other
Institutional
Issues**

agreed in the Directive, the Government is committed to introducing legislation to give effect to the terms of the Directive by June 1998. However, very initial consultations with the Social Partners on this legislation have begun. In any case, the Forum recommends that the Equal Status Bill should be given priority alongside this legislation.

- 5.5 In addition to parental leave, a more family-friendly society is necessary i.e. job sharing and flexitime. The importance of rearing a family and the difficulties encountered by working parents must be recognised. Fathers play an integral role in parenting and employers should be further encouraged to adopt equal opportunity policies.
- 5.6 The Forum recognises the importance of developing an in-depth knowledge base for analysing the position of women in Irish society and especially for identifying the factors perpetuating gender inequality in the labour market and, more generally, women's under-representation in the decision-making structures of our society. It therefore welcomes the commitments to commission further research on male-female wage differentials and to develop statistical methods to evaluate the contribution of unpaid work to national prosperity.
- 5.7 The Minister for Health has recently published *A Plan for Women's Health, 1997–1999* and set up a Women's Health Council in line with key Partnership commitments in this area. The Forum welcomes these developments and, in particular, it compliments the Department on the partnership approach taken on this initiative.

People With Disabilities

- 5.8 The 3 per cent employment target for people with disabilities is to be met in the broader Public Service during the period of the *Partnership*. Measures to achieve this include a co-ordinated strategy with the promotion of codes of practice, the maintenance of proper records of employment of people with disabilities and the identification of suitable employment opportunities, targets and specific time-scales. Also a senior executive in each Health Board, Local Authority, VEC and State-sponsored body will be assigned responsibility for meeting the target.
- 5.9 Considerable progress has been made in implementing the 3 per cent employment quota for people with a disability in the Civil Service following the establishment of a Monitoring Committee under the *Programme for Economic and Social Progress*. The Forum recommends, therefore, that a similar mechanism under the auspices of the Department of Justice, Equality and Law Reform should be established to ensure the speedy implementation of the 3 per cent employment target in the wide Public Service.

Other Institutional Issues

5.1 The more important of these institutional issues, which are identified in *Partnership 2000*, are outlined beneath, together with some comments by the Forum in certain instances. As an overall commentary, progress has been made in some areas but slippages have been allowed to occur in other cases and these need to be addressed.

Gender Equality

- 5.2 Under the *Partnership Agreement* a Working Group on access of women to training and employment schemes has been set up, with membership from relevant Departments and the Social Partners including the National Women's Council, the Irish National Organisation of the Unemployed and the Congress Centres for the Unemployed. This Group, which is chaired by the Department of Social, Community and Family Affairs, will review the underlying issues and make recommendations to the Government but a timescale should be set for completion of its work.
- 5.3 Childcare provision is a crucial determinant of both the level and the nature of women's participation in labour market activity. An Expert Working Group has been established under the *Partnership* to develop a National Framework for Childcare Services and is to report by the end of next year. This Group will address issues concerning both the regulation of the supply of childcare services and demand side policy i.e. the financing of childcare provision. It is being chaired by the Department of Justice, Equality and Law Reform. Again, the Forum recalls its recommendations on childcare facilities¹⁷ and urges that these be taken into account by this Group.
- 5.4 In addition to childcare, the *Partnership Agreement* considers other measures to reconcile family and work responsibilities. Parental leave enables a parent (male or female) to stay at home to take personal responsibility for the care of the infant/young child for a period after that covered by maternity leave and before the child is three years of age.¹⁸ In December 1995, under the Social Protocol of the Maastricht Treaty, a Framework Agreement on Parental Leave was concluded between employer and trade union representatives at EU level. Subsequently, a Directive on Parental Leave was adopted by the Social Affairs Council of the EU in June 1996. In accordance with the two-year timetable

¹⁷ *Jobs Potential of the Services Sector*, Forum Report No. 9, (1995).

¹⁸ *Working Group on Childcare Facilities for Working Parents – Report to the Minister for Equality and Law Reform*, (1994).

Traveller Community

- 5.10 *Partnership 2000* emphasises that “the principle that the Traveller Community should be represented through its organisations in relation to health, education, accommodation and anti-discrimination policy and implementation is fully supported” (para. 5.30). The Agreement includes the following specific commitment:

“A special Committee within the Department of Education and Science will develop, in partnership with representatives of the Traveller Community, a national policy framework for Traveller education in line with the Task Force Report and co-ordinate its implementation” (para. 5.34).

A Departmental Committee has been set up to co-ordinate policy on Traveller education. The Forum recommends that the Department of Education and Science should convene a joint liaison committee involving the national Traveller organisations and members of the Departmental Committee to allow for an ongoing input to be made into the deliberations of the Departmental Committee.

- 5.11 A Traveller Health Policy Statement will be finalised and a Travellers Health Advisory Committee will be established (5.35). There has been serious delay in convening this Advisory Committee. The Forum recommends that this should be put in place with priority and that its first task should be to review and approve the Traveller health strategy currently being prepared.
- 5.12 Action will be taken to endorse labour force participation by the Traveller community and the viability of the Traveller economy. There has been little action on foot of this commitment. In part, this is due to the absence of any section in the Department of Enterprise, Trade and Employment with specific responsibility for Traveller issues. The Forum recommends that that Department should allocate responsibility internally for pursuing this commitment and for driving the implementation of the recommendations of the Task Force on the Travelling Community that are relevant to the responsibilities of this Department.

Further Targeted Initiatives

- 5.13 Under the *Partnership*, “consideration will be given to further targeted initiatives (building on models developed for women, people with a disability and Travellers) examining and addressing the difficulties of other groups experiencing discrimination” (para. 5.3). We noted above, that while gender and marital status provided the initial focus for the debate on equality and discrimination in this country, the debate has now been broadened to include issues concerning disability, Travellers, national origin and sexual orientation. In the Forum’s view, the

Commission on the Status of Women, the Task Force on the Travelling Community and the Commission on the Status of People With Disabilities have each made fundamental contributions to understanding the extent and nature of discrimination, inequality and exclusion in our society. Equally they have set out agendas to address discrimination and inequality at every level and in a comprehensive manner.

5.14 Each of these initiatives has demonstrated the value of drawing together Government Departments and agencies, representative organisations and others with relevant expertise and experience, with the task of providing a comprehensive overview of the experience of a particular social group as a foundation for an integrated programme of reform. The Forum believes that this approach should now be applied with regard to the situation of lesbians and gay men in Irish society. We note the significant legislative progress that has been made in recent years in addressing discrimination against lesbian and gay men, including the decriminalisation of homosexuality and the inclusion of the “*sexual orientation*” ground in the Employment Equality and Equal Status legislation. However we are of the view that the extent and nature of discrimination and exclusion on the basis of sexual orientation in this country, and the implications for policy, are not widely known or understood and require comprehensive consideration at this time.¹⁹ The Forum recommends, therefore, that, in respect of the above *Partnership* commitment (para. 5.3), that a Commission or Task Force on the status of lesbians and gay men should be established.

5.15 The Forum is concerned about recent indications of a growing influence of directly or indirectly racist assumptions in public discourse regarding refugees and migrants in particular, as well as minority ethnic groups in Irish society more generally. In this context, it commends the ongoing initiatives that have been brought together through the activities associated with the European Year Against Racism. Specifically the Forum notes the contribution by IBEC and ICTU in publishing a code of practice on racism in the workplace. It recommends that:

- a budget line be established in the Department of Justice, Equality and Law Reform to fund measures highlighting racism, preparing codes of practice, increasing our understanding of racism and addressing racism; and
- a Task Force on Racism should also be set up.

¹⁹ *Poverty, Lesbians and Gay Men: the economic and social effects of discrimination*, Combat Poverty Agency, Research Report No. 19, (1995).

Section VI

**Conclusions and
Summary List of
Recommendations**

Conclusions and Summary List of Recommendations

- 6.1 In conclusion, the Forum wishes to record its frustration at the delays in making more significant progress on equality issues. This is all the more surprising given the high level of public goodwill and support by all representative groups in our society as well as the wide range of reports and blueprints which have been prepared and endorsed by successive Governments.
- 6.2 *Partnership 2000*, which has been agreed between the Government and all the Four Pillars of the partnership process should now provide a further dynamic and support for more decisive action and for honouring the commitments which have been made in this area.
- 6.3 But at this stage it is now up to the Government to provide leadership, tackle the obstacles which are impeding progress and ensure that the necessary initiatives are undertaken. The most immediate priority in this regard is in the legislative field. Here, urgent action is needed in amending the Employment Equality and Equal Status Bills in the light of the Supreme Court Judgements and in having these enacted by the Oireachtas as quickly as possible.
- 6.4 In short, such legislation will provide the essential framework which is needed as a first step to addressing more effectively the needs of the groups covered by such legislation and in following up on the further targeted initiatives which are envisaged in *Partnership 2000*.
- 6.5 But legislative action is not sufficient in itself unless this is followed through by proactive policies and underpinned by adequate budgetary and staffing resources in the Departments and Agencies involved. There has been a lack of investment in this area in the past but the current economic boom and favourable budgetary position provide a unique and opportune time to ensure that the benefits of economic growth are more equitably shared. At the same time the fiscal disciplines that underpin *Partnership 2000* must be respected and the extra costs involved in implementing some of the recommendations contained in this Opinion should be met, as far as possible, through staff redeployment and a re-ordering of existing public expenditure priorities.
- 6.6 Finally, all the main recommendations made in this Opinion are brought together and listed in Box 1 for ease of reference.

Box 1

Summary List of Recommendations

(the number references are to the corresponding paragraphs in the Opinion)

(i) Legislative Reforms

- 2.2 The amended Equal Status Bill should be enacted by end-1998.
- 2.10 Both the amended Employment Equality and Equal Status Bills should continue to include disability and provision for *reasonable accommodation*.
- 2.13 The Exchequer should fully underwrite the costs involved in *reasonable accommodation*, subject to an upper limit (in each case); funding mechanisms such as tax allowances or a portion of the present 1 per cent employment levy could be evaluated.
- 2.15 Some outstanding recommendations from the Forum's Opinion No. 5 could be incorporated in the amended Employment Equality Bill.
- 2.23 The Department of Justice, Equality and Law Reform should be provided with adequate personnel and other resources.
- 2.29 The Equality Authority's promotional and developmental role should have a legal basis, it should be provided with adequate resources and its Board should be representative of groups protected by the legislation.

(ii) Administrative Procedures for Equality Proofing

- 3.5 Administrative procedures to promote equality proofing under the National Anti-Poverty Strategy should be strengthened, including the Inter-Departmental Policy Committee's remit in the equality area.
- 3.6/3.7 Outlines the different actions and administrative procedures which should be introduced for equality proofing.
- 3.8 Equality proofing procedures should be underpinned in the Equal Status Bill and equality should be made an explicit principle under the Strategic Management Initiative.
- 3.9/
3.10 All Government measures should include equality and gender impact statements, involving consultation with relevant interests and publication of these statements.
- 3.11 The NAPS Unit should be given responsibility for promoting equality proofing in all Government Departments and at least one senior officer should be appointed for this purpose.

3.13 The Equality Section of the Department of Justice, Equality and Law Reform should play a key support role to the NAPS and SMI processes, as an interim measure, pending the establishment of the Equality Authority.

(iii) Monitoring Arrangements

4.5 Membership of the Monitoring Committee on the Task Force on the Travelling Community should include the Four Pillars of social partnership, Government Departments and national Traveller organisations. The Committee should be serviced by an adequately-staffed Unit in Department of Justice, Equality and Law Reform.

4.6/4.7 The role of all the Monitoring Committees in the equality area should be strengthened, with each Committee given technical support staff.

(iv) Other Institutional Issues

5.3 The Expert Working Group on childcare provision should take account of the Forum's earlier recommendations.

5.4 The Equal Status Bill should be given priority alongside the parental leave legislation.

5.9 Establish a monitoring mechanism to ensure speedy implementation of the 3 per cent employment target for people with a disability in the wider Public Service.

5.10 Formal liaison arrangements should be established between national Traveller organisations and the Departmental Committee on Traveller education.

5.11 The delays in establishing the Advisory Committee on Travellers' Health should be addressed.

5.12 A Traveller Section should be established in the Department of Enterprise, Trade and Employment to promote the Traveller economy.

5.14 A Commission or Task Force on the status of lesbians and gay men should be established.

5.15 A budget line should be established in the Department of Justice, Equality and Law Reform to fund measures highlighting racism, preparing codes of practice etc. and a Task Force on Racism should be set up.

6.5 Need to provide adequate resources to tackle equality issues and ensure that the benefits of growth are more equitably shared.

**Terms of Reference
and Constitution of
the Forum**

**List of the Forum's
Publications**

Terms of Reference and Constitution of the Forum

1. The Terms of Reference of the National Economic and Social Forum are to develop economic and social policy initiatives, particularly initiatives to combat unemployment, and to contribute to the formation of a national consensus on social and economic matters.

The Forum will:

- (i) Have a specific focus on:-
 - job creation and obstacles to employment growth;
 - long-term unemployment;
 - disadvantage;
 - equality and social justice in Irish society; and
 - policies and proposals in relation to these issues;
 - (ii) Make practical proposals on measures to meet these challenges;
 - (iii) Examine and make recommendations on other economic and social issues;
 - (iv) Review and monitor the implementation of the Forum's proposals and if necessary make further recommendations; and
 - (v) Examine and make recommendations on matters referred to it by Government.
2. The Forum may consider matters on its own initiative or at the request of Government.
 3. The Forum will work in two year cycles and will inform Government of its programme of work within three months of the beginning of each cycle.
 4. In drawing up its work programme, the Forum will take account of the role and functions of other bodies in the social and economic area such as NESC to avoid duplication.
 5. The Forum may invite Ministers, Public Officials, Members of the Forum, and outside experts to make presentations and to assist the Forum in its work.
 6. The Forum will publish and submit all its reports to Government, to the Houses of the Oireachtas and to other Government Departments and bodies as may be appropriate.
 7. The Forum will be drawn from three broad strands. The first will represent the Government and the Oireachtas. The second will represent the traditional Social Partners. The third strand will be representative of groups traditionally outside the consultative process including women, the unemployed, the disadvantaged, people with a disability, youth, older people and environmental interests.
 8. The Forum will have an independent Chairperson appointed by Government.
 9. The term of office of members will be two years during which term members may nominate alternates. Casual vacancies will be filled by the nominating body or the Government as appropriate and members so appointed shall hold office until the expiry of the current term of office of all members. The size of the membership may be varied by the Government.
 10. The Forum is under the aegis of the Department of the Taoiseach and is funded through a Grant-in-Aid.

Forum Publications

(i) Forum Reports

1. *Negotiations on a Successor Agreement to the PESP* November 1993
2. *National Development Plan 1994-1999 – the proposed Local Development Programme* November 1993
3. *Commission on Social Welfare – Outstanding Recommendations* January 1994
4. *Ending Long-term Unemployment* June 1994
5. *Income Maintenance Strategies* July 1994
6. *Quality Delivery of Social Services* February 1995
7. *Jobs Potential of the Services Sector* April 1995
8. *First Periodic Report on the Work of the Forum* May 1995
9. *Jobs Potential of Work Sharing* January 1996
10. *Equality Proofing Issues* February 1996
11. *Early School Leavers and Youth Unemployment* January 1997
12. *Rural Renewal – Combating Social Exclusion* March 1997
13. *Unemployment Statistics* May 1997
14. *Self-Employment, Enterprise and Social Inclusion* October 1997
15. *Second Period Report on the Work of the Forum* November 1997

(ii) Forum Opinions

Opinion No.	Title	Date
1	<i>Interim Report of the Task Force on Long-term Unemployment</i>	March 1995
2	<i>National Anti-Poverty Strategy</i>	January 1996
3	<i>Long-term Unemployment Initiatives</i>	May 1996
4	<i>Post-PCW Negotiations – A New Deal?</i>	August 1996
5	<i>Employment Equality Bill</i>	December 1996
6	<i>Pensions Policy Issues</i>	October 1997

(iii) Forum Opinions under the Monitoring Procedures of Partnership 2000

Opinion No.	Title	Date
1	<i>Development of the Equality Provisions</i>	November 1997

