

**Domestic/Sexual/Gender Based Violence** - Implement Cosc's National Strategy on Domestic, Sexual and Gender-based violence 2010-2014, including

- Targeting the general public, Travellers and ethnic minorities, young people and justice professionals in order to increase understanding and recognition of domestic and sexual violence and the services available to deal with these crimes.
- Increasing effective action to deal with perpetrators of domestic violence and sexual violence offenders.
- Increasing cohesion across the justice sector and the health/housing sectors.
- Improving and co-ordinating data to inform policy and service development.

**Anti Human Trafficking - Implementation of the proposed EU Directive on Human Trafficking** – A Proposal for an EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting Victims, is to be approved at a Council of Ministers meeting (possibly Ministers for Finance) in March 2011 with a 2-year timeframe for implementation. Subject to the views of the Attorney General it is likely that, at minimum, changes to the Criminal Law (Human Trafficking) Act 2008 will need to be made to provide for the new definition of human trafficking which includes begging. Other additional administrative measures will also need to be put in place in that timeframe.

**Victims of Crime** - Contributing to a review of the bail legislation in conjunction with victim interests.

**Mental Health (Criminal Law) Review Board** - Managing the transition to a newly constituted Board if some or all of the existing members are not re-appointed in September, 2011.

**International Policy - Ireland's JHA opt-in arrangement** - Ireland (together with the UK) secured a Protocol to the Lisbon Treaty entitling it to participate in JHA measures on a case by case basis. The Government made a Declaration on the Protocol confirming its intention to participate in JHA measures to the greatest extent possible, particularly in the field of police co-operation. The opt-in arrangements are to be reviewed after a three-year period (end 2012). In the meantime, IPD is monitoring the operation of the Protocol and, in particular, issues arising with the application of the opt-in arrangement.

## JUSTICE SERVICES

### RELEVANT DIVISIONS AND CONTACTS

Courts Policy Division

Prisons & Probation & Policy

Irish Youth Justice Service

Coroner Service/State Pathology

*Note – issues highlighted in red text reflect commitments under the Programme for Government 2011-2016*

### COURTS

#### *Immediate/Urgent Issues*

##### **Criminal Legal Aid**

- Cost reduction measures – challenging target of €5 million savings in 2011: proposals in development
- Criminal Legal Aid Bill – draft progressing well in consultation with Parliamentary Counsel

##### **Family Law Maintenance Enforcement –**

##### **Judicial Matters**

##### **ECHR**

**Courts Service** – current challenges - **Fines Act implementation**, combined office rollout, ECF staffing targets, ICT investment shortfall, capital programme halted, resourcing implications of Legal Services, **Personal Insolvency, Judicial Council and Mental Capacity bills**.

#### *Medium to Long Term Issues*

**Criminal Legal Aid** - Transition arrangements to facilitate operational transfer to Legal Aid Board, working target of 1/1/2012.



**Implementation of Judge Reilly report recommendations** – this primarily involves preliminary work on Justice Hub, an IT project to link existing ICT systems of criminal justice agencies. Working group currently in place to settle Unique ID for Justice sector.

**Review of Dublin Drug Treatment Court** – new court steering group was set a target of eighteen months to improve throughput, further review due to commence end 2011.

## **LEGAL AID BOARD**

### **Key Issues:**

The demand for civil legal aid (delivered by the Legal Aid Board – budget €30.5 million) continues to grow, reflecting the greater number of people eligible for services as a consequence of the downturn in the economy and the increase in certain types of case (family, debt, employment particularly). Demand has grown from 9,689 cases in 2006 to 17,175 in 2010. The great majority of clients are people in receipt of social protection payments and accordingly the Board has taken the innovative step of ‘passporting’ clients in to their services without further means testing where they have already been through such a process for social protection payments.

The Board has sought to address these resource issues in a variety of innovative ways including trialing increased use of mediation, use of private practitioner schemes on fixed rates and new technology for better case management. However, they face severe constraints given the increase in demand for services.

## **PRISONS AND PROBATION**

### **Key Issues:**

**Prisoner numbers and trends** - The prison population on 1 March, 2011 stands at 4,591 with a further 748 on temporary release. The current bed capacity of the prisons estate is 4430. Despite the introduction of 1934 new prison spaces during the last 14 years, the Irish Prison Service is currently operating at 104% of bed capacity. In the Dóchas Centre (Women’s Prison) the rate is 131%. The population has been growing steadily. By way of example, from 2007 to December 2010 prisoner numbers in custody have increased by 969 prisoners (29%) The number on Temporary Release has gone from 153 persons (4.4%) to 732 persons or (14.5%). An analysis of the prison population has shown that the increase in prison numbers is primarily as a result of an increased number of persons being committed and sentenced to longer sentences. While there has also been an increase in committals with shorter sentences and in those on remand, these have not had a significant impact. By European standards we have gone from a country with a relatively low rate of imprisonment up to the European average. Overcrowding is a problem but is still less severe than in countries such as Belgium (125%), France (131%), Italy (130%) and Spain (141%).

**Commission of Investigation into the death of Gary Douch** - Gary Douch was killed by a fellow prisoner in Mountjoy in 2006. A Commission of Investigation was set up to inquire into the facts. The Chairperson, Gráinne McMorrough SC, has indicated that it is her intention [REDACTED]

The Minister is obliged to publish the report as soon as possible after receiving it. In cases where its publication might prejudice criminal proceedings, the Minister may refer the matter of publication to the High Court for decision.

**New prison at Thornton Hall, Co. Dublin and other projects** - Construction of a dedicated access road due to be completed in March, 2011 is underway. The installation of off-site services is due to be completed in September, 2011. [REDACTED]



[REDACTED]

The next phase of the project planned involves a tender competition for the provision of 400 cells (700 spaces approximately) with construction completion scheduled for 2014. Developments at the Midlands prison and the Dóchas Centre are already proceeding which will yield 370 spaces.

**Inspector of Prisons** - Former District Court Judge Michael Reilly is the Inspector. He is required by the Prisons Act, 2007, to carry out inspections of prisons and make reports which are then published. He has recently produced a number of reports on standards and procedures relating to complaints, accommodation and deaths in custody which are being examined.

[REDACTED]

**Magdalen Laundries**- There is a campaign by groups acting on behalf of some women who were in Magdalen Laundries that the State should accept responsibility for any abuses that took place in these institutions.

[REDACTED]

**Parole Board** - The Parole Board makes recommendations on managing the sentences of long term prisoners. Its Chairman, Mr Gordon Holmes, passed away on 19 January 2011. Consideration will need to be given to appointing a new Chairperson.

## YOUTH JUSTICE

### *Immediate/Urgent Issues*

**National Children Detention Facilities** - Development of Phase 1 of the new national children detention facilities at Oberstown, Lusk, Co. Dublin to provide sufficient detention places for young people under 18 years ordered to be detained by the Courts. Phase 1 of the project will prioritise the provision of sufficient new detention places to enable the transfer of responsibility for 16 and 17 year old boys, currently housed in St. Patrick's Institution, from the Irish Prison Service. This development is subject to Government approval and the necessary funding being made available. Major reforms are underway in the delivery of services in the 3 detention schools. This includes a plan to integrate policies, practices, and the development of shared services and common rosters. This work is being progressed by IYJS in conjunction with the Board of Management and the relevant unions.

**Garda Youth Diversion Projects** - Continue the capacity-building change management programme of the 100 Garda Youth Diversion Projects (GYDPs) to enable them to focus on local youth crime problems. This change programme comprises a national programme of training for youth justice workers and Garda JLOs, 15 trial sites have been selected to help develop best practice approaches and a closed web-based on-line forum for staff and Gardaí to share organisational wisdom, facilitate on-line discussion and learning and provide access to the latest youth justice research.

**Youth Justice Strategy** - A new Youth Justice Strategy will be developed in tandem with the new National Children's Strategy which is currently being developed by the Office for the Minister for Children. The first National Youth Justice Strategy covering the period 2008-2010 is almost fully implemented with outstanding issues being progressed as soon as possible.

**Usage and Sharing of Personal Data** - Facilitate appropriate usage and sharing of personal data in the best interests of children in the youth justice sector and within the safeguards of data protection legislation. A general guide setting out the main principles of personal data protection and sharing was drafted by IYJS and received positive endorsement from the Office of the Data Protection Commissioner.

### *Medium to Long Term Issues*

**Amendments to the Children Act 2001** - Minister's approval in principle will be sought to proceed to draft the heads of a Bill in respect of amendments to the Children Act 2001. Legal advice has been received around particular issues and lacunae in the legislation have been identified.

**Youth Justice Teams** - Facilitate the establishment of local Youth Justice Teams which will improve service delivery at local level.

**Community Sanctions** - Ensure availability of community sanctions in conjunction with the Young Person's Probation division of the Probation Service.

**Youth Justice Research Programme** - Develop and implement a youth justice research programme to enable further enhancement of the evidential basis for policy development.

## **CORONER SERVICE AND OFFICE OF THE STATE PATHOLOGIST**

### **Key Issues:**

**Coroner Service** - The Coroner Service is delivered by individual coroners, who are local authority officers, in 48 separate coroner jurisdictions on a part-time basis (except in Dublin City where there is a full-time Coroner). The immediate key focus of any reform should be to achieve a more effective and cost efficient provision of service in the Dublin region which comprises approximately 40% of the national coronial caseload. Currently, there is a coroner for the Dublin City area and a coroner for the three local authority areas, which formerly comprised the old Dublin County Council.



**Office of the State Pathologist** - Work has commenced on a new joint facility for the Office of the State Pathologist and the Dublin City Coroner's Office at the O'Brien Institute, Marino, Dublin 3. The new state-of-the-art building is due for completion by autumn 2012. Jointly sponsored by the Department and Dublin City Council, the development will include post-mortem and laboratory facilities equipped with leading-edge technology. It will completely overhaul and modernise the facilities for use in instances of forensic pathology.



## ASYLUM, IMMIGRATION AND CITIZENSHIP

### RELEVANT DIVISIONS AND CONTACTS

Irish Naturalisation and Immigration Service (INIS)

Reception & Integration Agency (RIA)

*Note – issues highlighted in red text reflect commitments under the Programme for Government 2011-2016*

INIS is an administrative body under the Department of Justice and Law reform and is responsible for functions in relation to asylum, immigration (including Visas) and citizenship matters. It comprises of 7 Divisions as follows:

- Immigration and Citizenship Policy
- General Immigration
- Visas and EU Treaty Rights
- Citizenship and Long Term Residency
- Asylum Policy
- Repatriation, including Ministerial Decision Unit, and Family Reunification
- Corporate / Shared Services

The asylum system is administered by the Office of the Refugee Applications Commissioner (ORAC) who deal with cases at first instance and the Refugee Appeals Tribunal (RAT). The processing of cases for failed asylum seekers is then dealt with by the Repatriation Division of INIS. The provision of accommodation is dealt with by the Reception & Integration Agency (RIA), an administrative body attached to INIS.

INIS works closely with the Garda National Immigration Bureau (GNIB) who carry out a range of immigration functions on behalf of the Minister, including registration of immigrants, border control and the exercise of immigration officer functions on behalf of the Minister. Certain members of the staff of INIS are also designated immigration officers.

INIS has a total budget for €120.8 million for 2011, €67.5 million of which is allocated to the Direct Provision system for asylum seekers with the balance meeting staffing and administration costs including the provision of legal funding to the Refugee Legal Service (under the auspices of the Legal Aid Board) and towards meeting other legal costs. A total of €30.9 million in receipts from Immigration, Visas and Citizenship fees is also included in the budget.

The total staffing complement of INIS at the 31/12/2010 was 404 with 120 in ORAC, 66 in RAT and 38 in RIA.

#### **Some high level statistics:**

- Visa applications – there were over 144,000 applications in 2010 and almost 750,000 in the past 5 years.
- Immigration Registrations – there were 162,398 registered at end 2010. Any non-EEA national who is resident or intends to be resident in the State for more than 90 days must, by law, register with the Garda National Immigration Bureau.
- Citizenship applications – there were 25,796 applications for citizenship in 2010. This represents an almost threefold increase over 2008 figures when just over 9,000 applications were received. There were also 2,305 applications for Long Term Residency in 2010.
- EU Treaty Rights applications – there were 2,539 applications in 2010. The number of applications now exceeds the number of asylum applications.
- Asylum applications – since 2002 when the number of applications peaked at over 11,500, there has been a steady decline in applications to 1,939 in 2010. However, there are over 12,000 cases on



hand at Repatriation stage (both asylum and immigration cases). There are just over 6,000 asylum seekers in the Direct Provision system.

### ***Immediate/Urgent Issues***

#### **Dealing with Volumes of Cases On Hand and Consequences Arising**

- The most significant challenge facing INIS is to process the large volume of applications across a broad range of immigration and visa schemes together with the number of cases in the asylum system. While the number of new asylum applications has decreased significantly over the past few years, a large number of cases remain to be fully processed through the system. The length of time taken to process applications is a function of a number of factors including the quasi-judicial nature of the cases, the outcome of legal challenges which may require changed procedures to be introduced at short notice and the overall complexity of the system.

INIS is acutely aware of the need to address this issue while at the same time operating within significantly reduced budget allocations for 2011. Under its Business Transformation Programme (BTP), INIS has a comprehensive Business Transformation Programme in place. The BTP, which is central to INIS's response to the Public Service Agreement 2010–2014 ('Croke Park Agreement'), is aimed at delivering improved services, streamlining work practises, and achieving greater efficiency and value for money in the way INIS carries out its business. Twenty high level actions are incorporated in the Work Programme for 2011 which include, inter-alia, organisation restructuring to deliver on priority work objectives, targeting backlogs, streamlining work processing arrangements and tackling abuses of the immigration and asylum systems.

The most significant challenge is in the Repatriation area with just over 12,000 cases (a significant number of which are in the Direct Provision system) awaiting a decision at Subsidiary Protection or Section 3 (Immigration Act 1999) stage. The costs to the State in terms of accommodation, social/supplementary welfare, healthcare and education are significant. This is one of the highest priorities under the Business under the BTP outlined above.

- On the Citizenship side, there has been a major growth in applications with consequent challenges for processing of cases in reasonable timeframes. There are currently approximately 24,500 applications on hand. *Options for reducing the current average processing time of 26 months are being considered under the BTP.*
- Another challenge facing INIS is to meet the requirements under the Directive on Free Movement 2004/38/EC (EU Treat Rights) which prescribes a time limit of 6 months for decision on an application for residence rights based on being a family member of an EU citizen exercising their right to free movement under the Directive. While there is no set time limit for appeals of refusals, case law has established a three month time limit. A number of options for tackling this are being considered.

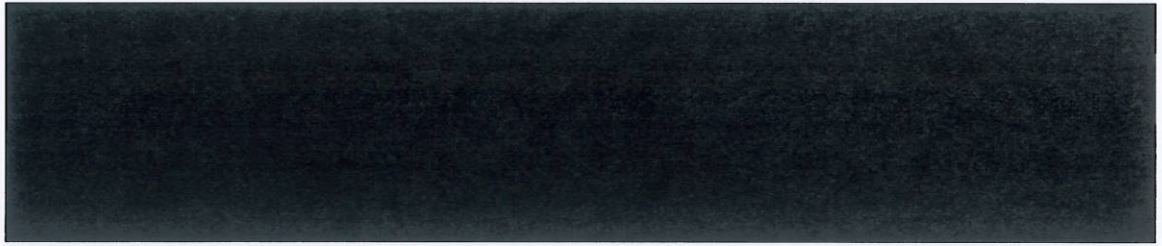
#### **Legal Challenges**

- The successful defence of legal challenges taken by individual applicants against a range of decisions taken by INIS including those in relation to deportation/transfer or removal from the State is critical to the integrity of the asylum and immigration system. A number of high profile cases are currently at various stages in the legal process including -
  - Transfers to Greece under the Dublin II Regulation (the system for determining the EU Member State responsible for examining an application for asylum). Difficulties in the application of the EU Dublin Regulation in relation to transfers of asylum seekers to Greece have intensified following a ruling in January 2011 by the European Court of Human Rights, that a transfer of an asylum seeker from Belgium to Greece was in violation of the European Convention of Human Rights. The ruling is based primarily on the deficiencies in the reception and asylum system in Greece. A number of Member States had suspended making transfers to Greece prior to the Court's decision and others have followed since the decision. The Irish High Court, the UK Court of Appeal and the German Higher Administrative Court



have each requested a preliminary ruling from the European Court of Justice concerning the correct interpretation of the Dublin Regulation in the context of cases involving transfers to Greece. A detailed submission to the Minister on the matter is in preparation.

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- An area showing increased levels of judicial review is in relation EU Treaty Rights decisions. A number of cases have recently been adjudicated or are due to be shortly and the consequences of these judgements are being examined in conjunction with legal advisers. It is likely that some changes to administrative procedures will be required.

### Immigration

- **New Immigration Legislation** - The Immigration Residence and Protection Bill 2010 was in Dáil Committee Stage when the previous Government left office. There is a clear need to overhaul Ireland's legislation in this area and we await the Minister's direction on how the Government wishes to proceed. A briefing note is being prepared on this issue outlining possible options.
- **New Policy Proposals on Immigration and Business** - Proposals are being drafted with a view to establishing new immigration schemes that would attract foreign investors and entrepreneurs with particular emphasis on start up enterprises in key sectors. INIS is working with State agencies and other Departments in this area through new consultative arrangements.
- **Family Reunification** - Proposals on family reunification rules are being drafted. The initial proposal will be for family reunification involving the families of Irish nationals. This would be followed by proposals for reunification where all parties are non-EEA nationals.

### Visas



- **Enhancement of visa processing for business, tourism and student applicants** - A series of measures are being implemented to facilitate visas for business, tourism and student visas from certain markets such as India and China while maintaining appropriate visa controls.
- **Common Travel Area co-operation** - There is an excellent and longstanding level of co-operation between Irish and UK officials on matters concerning the protection of the Common Travel Area between UK and Ireland.



### EU Treaty Rights

- **Free Movement Regulations** - EU Directive 2004/38/EC provides for the right of EU citizens and their family members to move and reside freely within the territories of the Member States. Arising from recent bilateral discussion with the European Commission on Ireland's transposition, some amendments will be required to the regulations. It is also intended to bring in measures in the area of marriage of convenience, mirroring those set out in the Immigration Residence and Protection Bill 2010. It might also be noted that Ireland has, since the Metock judgement in 2008, (which ruled out the requirement for prior legal residence by applicants in another EU Member State), argued for a revision of the Directive to make it less prone to abuse. This is a longer term issue however.



- **Introduction of interviews of applicants** - There is evidence of considerable abuse of the Directive, particularly through marriages of convenience. A system of interviewing some applicants and their EU spouses was commenced in December 2010. Following comprehensive training of staff in EUTR applications section, it is intended to roll out interviews as an integral part of the consideration of selected applications.

#### **Asylum**

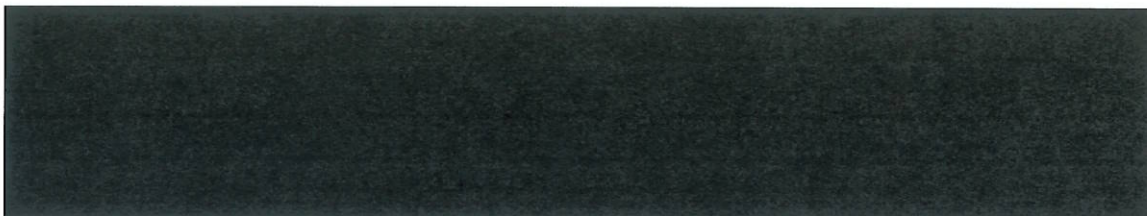
- **Infringement Proceedings relating to the Asylum Procedures Directive**



#### **Repatriation**

- **Deportation of non-EEA national prisoners** - The importance of having paper-work completed so as to ensure that where non-EEA national prisoners have been convicted of serious crimes, they are, wherever possible, deported at the point of their release from prison. The deportation of those with convictions for murder, rape/sexual assault, drugs offences and serious crimes against the person would be of greatest importance in this context.

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#### **Accommodation for Asylum Seekers (Reception & Integration Agency)**

- **Matching accommodation to current needs, given the fall in numbers in accommodation** At the end of February 2011, there were 6,005 asylum seekers in accommodation. This represents a reduction of 353 persons (or 5.5%) on the same period last year. As a general rule, RIA does not seek to move residents once they settle into a centre. This rule unfortunately cannot apply in circumstances where a centre closes, or where the contract capacity reduces. Closures and/or downsizing of accommodation is tragic for those who may lose their jobs but also extremely unsettling and disruptive for asylum seekers. Such activity invariably attracts criticism of the NGO support groups and also from other State service providers, such as education and health, who may also be negatively effected by closures (e.g., loss of a local teacher or the re-assignment of clinical staff to other areas, etc.)
- **Meeting budgetary targets and Value For Money Report (VFM) recommendations** - RIA's 2011 budget of €67.492m represents a 13% reduction on the 2010 budget. The VFM report recommended that RIA seek to maintain its occupancy rates at a minimum of 90% at all times.

#### **Citizenship/Long Term Residency**





## **Immigration**

- **New Administrative Schemes** - The current immigration regime requires some more clearly defined sets of rules catering for increasingly diverse immigration scenarios. Considerable work has been done in the area of students and doctors and it is proposed to deliver a series of additional schemes on key categories. The current system of immigration categories and stamps is also being overhauled.
- **Student Immigration** - A new regime has been established in the area of student immigration in tandem with a strategy for the growth of international education as a key economic sector. The new rules came into force in January 2011. Since the new rules impose limits on how long a person can remain in Ireland as a student, it will give rise in the second half of 2011 to a situation where substantial numbers of students will no longer be permitted to remain.
- **Implementation of the EC Council Regulation 1030/2002** (as amended by Council Regulation No. 380/2008) - The Regulation lays down a uniform format for residence permits for third country nationals. The Regulation sets out the technical specification which must be followed for all residence permits issued by Member States to third country nationals (other than asylum seekers and persons on short stays). This is a major project involving INIS and An Garda Síochána which requires the upgrading of the Garda National Immigration Bureau Information System (GNIBIS) and operational changes to the current Garda Registration framework where applications for the residence permit will be dealt with. The residence permit requires PKI (Public Key infrastructure) encryption and the creation of an infrastructure to support the underlying systems to issues keys and certificates required by PKI.

- **Polygamous marriages** - Increasingly, the issue of polygamous marriages has arisen in relation to various types of applications being made to INIS. An INIS wide policy addressing this issue will be developed.

## **Visas**

- **Extension of the e-Visa Project** - Based on the success of use of biometric capture (electronic fingerprints) in a pilot scheme in Nigeria, the system will be extended to two other locations in 2011 with further deployment to follow in future years.
- **Planning for peak periods for applications for visas and re-entry visas** - Arrangements are being made to prevent queues and backlogs for applicants for re-entry visas at the peak pre-summer period and to deal with possible demand for Europa League Final on May 18 (possible qualification for final by a team from a visa required country – Russia, Belarus, Ukraine or Turkey).
- **Completion of assignment of visa applications to new Visa Office in Abu Dhabi** - The Visa Office in Abu Dhabi, set up in late 2010, is to take over processing of visa applications from a range of countries from North Africa to Pakistan. The transfer of processing, on an incremental basis, is ongoing and due to be completed in the third quarter of 2011. The extension will involve arrangement with commercial visa facilitation service.
- **Conclusion of new contract for supply of visa stickers** - Following an EU tender process, a new contract for the supply of Irish visa stickers is almost ready for conclusion. The new contract will deliver significant savings over the terms of the previous supply contract while maintaining the strict EU security standards.
- **Common Travel Area Co-operation**
  - **E-Borders** - This relates to the collection and processing of data on passengers, in advance of their travelling.



- **Extension of Visa Data Sharing –**



- **Repatriation caseload fingerprint referral** - The conclusion of an initiative to refer the fingerprint records of persons in the repatriation caseload to the UK for searching against UK immigration records which may identify information facilitating the processing of cases to final decision and deportations where appropriate.

#### **EU Treaty Rights**

- **Implementation of Commission Report recommendations** - On foot of the Commission review of our transposition of the Free Movement Directive (2004/38), amendments to the European Communities (Free Movement of Persons) Regulations 2006 and 2008 will be required. Some issues have already been identified as part of the review process.

#### **Asylum**

- **Common European Asylum System** - Following the conclusions of the European Council, the year 2012 remains the deadline for the completion of the second phase of the establishment of the Common European Asylum System. To this end, the European Commission has proposed recasts of the three principal Asylum Directives on Reception Conditions, Qualification and Procedures together with recasts of the Regulations underpinning the Dublin II System. Ireland did not opt-in to the proposals to recast the Directives but did opt-in to the proposals on the Dublin System. The proposals are subject to co-decision with the European Parliament and final agreement on the package of proposals is not expected soon.

#### **Citizenship/Long Term Residency**

- **Decentralisation** - The new decentralised offices in Tipperary Town is expected to be completed late this year for occupancy in 2012. Decisions for occupancy will arise later in the year.
- **New Citizenship Act** - Issues being considered include a longer residency requirement and language and integration testing.

## LAW REFORM

### RELEVANT DIVISIONS AND CONTACTS

Criminal Law Reform Division	
Civil Law Reform Division	

*Note – issues highlighted in red text reflect commitments under the Programme for Government 2011-2016*

## CRIMINAL LAW

### *Current List of Bills on Order Paper or nearing publication*

**Criminal Justice Bill 2011** - The purpose of the Bill is to amend the criminal law to improve certain procedural matters and strengthen Garda investigative powers. The intention is that such improvements will assist in reducing the delays associated with the investigation and prosecution of complex crime, in particular white collar crime. Current Status - drafting being finalised based on proposals approved by outgoing Government.

**Criminal Justice (Community Service) (Amendment) Bill 2011** - This Bill will amend the Criminal Justice (Community Service) Act 1983. The primary purpose is to introduce a requirement on a court, before which an offender stands convicted of an offence for which a sentence of up to six months imprisonment would be appropriate, to consider imposing the alternative sentence of a Community Service Order. It was published in January 2011 and was awaiting Second Stage at dissolution.

**Criminal Law (Defence and the Dwelling) Bill 2010** - The purpose of the Bill is to clarify and up date the law in relation to the rights of a householder to use legitimate force in the home (and curtilage) in the context of defending themselves against attack from an intruder entering with the intention of committing a criminal act. The Bill was published in August 2010 and was awaiting Committee stage at dissolution.

**Spent Convictions Bill 2007** - This Bill is designed to facilitate the rehabilitation of minor offenders, in particular by easing the difficulties in securing employment. It set out the circumstances where details of certain convictions may be withheld. It had completed Second Stage in December 2008 and was awaiting Committee Stage.

**Criminal Justice (Forensic Evidence and DNA Database System) Bill 2010** - The Bill's main feature is the establishment of a DNA database. It was published in January 2010 and was awaiting Committee Stage at dissolution.

*Legislation under preparation* - noteworthy legislation being prepared at present includes –

**Criminal Justice (Cybercrime) Bill** - The purpose of this Bill, which is at an advanced stage of drafting, is to enable ratification of the Council of Europe Convention on Cybercrime and the transposition of the EU Framework Decision on attacks against Information Systems. Consideration is being given as to whether the terms of a recent EU Draft Directive could be incorporated into the Bill.

**Bail Bill** - The purpose of the Bail Bill is to consolidate and update bail law and to provide for certain improvements to ensure that the bail regime can operate in as tight and effective a way as possible. The preparation of the Bill includes the examination of the extent to which greater guidance could be given to the courts on the need to protect the public against those who present an unacceptable risk of committing a serious offence if granted bail.

**Probation Service Bill** - This Bill will provide a modern statement of the law governing the role of the Probation Service in the criminal justice system and will also give effect to the EU Framework Decision on the supervision of probation measures.



**Criminal Law (Sexual Offences) Bill (No. 1)** - This Bill will give effect to criminal law recommendations in the Second Interim Report of the Joint Committee on the Constitutional Amendment on Children (including recommendations of the majority of members, where agreement not achieved). A draft General Scheme has been completed. The Bill reduces age of consent from 17 to 16, introduces more objective test in relation to defences for defendants, strengthens offences by persons in authority, amends the criminal evidence act to make court proceedings less intimidating for children, and amends the law on incest to address a gender anomaly in sentencing - currently maximum sentence for males is life compared to 7 years for females. A draft memorandum for Government seeking approval to draft the Bill was circulated (14 January) to interested Departments.

**Criminal Law (Sexual Offences) (No. 2) Bill** - This is a wider Bill to provide further protections to vulnerable persons against sexual abuse and exploitation, including amendments to the Sex Offenders Act 2001 (e.g., risk assessment, disclosure of information to the public, amendments to strengthen provisions relating to civil sex offender orders).

### CIVIL LAW


At the time of dissolution of the Dáil the Department had responsibility for a total of 7 Civil Law Bills (a list is attached) on the Dáil and Seanad Order Papers.

Government decisions (usually arranged by the Office of the Chief Whip in consultation with Departments) will be necessary to restore Bills to the Dáil and Seanad Order Papers. The Minister's approval, based on separate submissions from the relevant Divisions in the Department, will be required to arrange for restoration of the Department's Bills.

A list of Civil Law Bills (11) at other stages, being drafted by Parliamentary Counsel or, in respect of which heads are being developed in the Department, is also attached.

#### *Notes on certain of the Bills are as follows:*

**Civil Law (Miscellaneous Provisions) Bill** – This Bill was presented to the Dáil in August 2010 and Second Stage commenced, but was not completed. It contains provisions on a number of issues including enforcement of maintenance orders, power to the Private Security Services Authority to engage persons on contract, **improvements in the efficiency of the courts, some changes in bankruptcy law**, and, changes in the civil liability of Good Samaritans.



**Property Services (Regulation) Bill 2009** - Restoration of the Bill, already passed by the Seanad and awaiting Committee Stage, would enable the Bill to be enacted soon. As well as regulating auctioneers and letting and property management agents it will provide, by way of amendments which have been drafted, publication of residential property prices and a database of rents in the commercial sector. The Bill would also allow the Property Services Regulatory Authority (already established on an interim basis) to assume full powers.

**Immigration, Residence and Protection Bill 2010** – This Bill was presented to the Dáil in June 2010 and a good deal of Committee Stage has been completed. The Bill is now as complete and as comprehensive as possible consistent with requirements under the EU and ECHR. It replaces law dating from 1935 (the Aliens Act) and provides a single code of law on entry to and presence of foreign nationals in the State. It will make management and administration of the asylum and immigration system more efficient, effective and economic. The 2010 Bill together with the 2007 and 2008 versions have been extensively debated and few issues remain to be settled in both Houses.

### *Bills expected to be ready for publication in the new Session*

**Criminal Justice (Legal Aid) Bill** – This Bill provides for (a) transfer of responsibility for management and administration of criminal legal aid from the Department to the Legal Aid Board and (b) stronger regulation of the scheme of criminal legal aid.

**Mental Capacity Bill** - This Bill, in the course of being drafted for some time, will extensively modernise the law on mental capacity and replace the Wards of Court system. The Bill will facilitate ratification of the UN Convention on Disability.

### *Bills being drafted*

**Sale of Alcohol Bill** - This Bill which has also been in the course of being drafted for some time will modernise and streamline the law relating to the sale of alcohol with a view to improved efficiency and more effective enforcement. It will replace the Licensing Acts 1833 to 2010 and the Registration of Clubs Acts 1904 to 2008.


### *Priority Bills in respect of which heads are being developed in the Department*

#### **Legal Services Bill (previously entitled as the Legal Costs Bill) –**

The Bill is intended as a response to the commitment under the EU/IMF Programme of Financial Support for Ireland on legal costs and regulation of the legal professions. The "legislative changes" are required by Q3/2011. They will take into account the recommendations of the Competition Authority and the Legal Costs Working Group.

**Personal Insolvency Bill** - [REDACTED] The Bill is also intended as a response to a commitment under the EU/IMF Programme to reform the bankruptcy regime. The deadline for presentation of a Bill under the EU/IMF Programme is Q. 1/2012. The Bill will take into account recommendations of the Law Reform Commission for a new framework for settlement and enforcement of debt and for personal insolvency.



BUSINESS DELIVERY	
RELEVANT DIVISIONS AND CONTACTS	
Casino Gaming Control Section Corporate Affairs Financial Shared Services Financial Management Unit Human Resources Internal Audit IT Minister's Office Minister of State's Office Organisation Development Unit Procurement Strategy Group Secretary General's Office	  These Divisions deal primarily with the administration of the Department

### Key Issues

#### Finance

- **Budgets** - We have a very challenging financial position across all the Votes. Instructions have been issued to all Cost Centres that only absolutely essential expenditure should be incurred in 2011 and that no large items of "new" expenditure (over €50,000) should be incurred unless it is first cleared by the Departments Financial Management Committee (FMC) which meets monthly. These meetings are attended by the Finance Directors from the principal Justice agencies, senior finance personnel from the Department and are chaired by the Assistant Secretary with responsibility for finance
- **Shared Services** - The Department has already created an operational model to roll out shared financial and payroll services across all Government Departments and Offices. The Killarney Financial Shared Services Centre provides such services for all Justice Sector organisations and for a number of other Departments and Agencies, including the Department of the Taoiseach. Service provision is governed by a comprehensive range of performance management and customer service systems. Based on its practical experience in this area, the Department made proposals in December 2009 to the Transforming Public Services Cabinet sub-Committee for the wider use of shared financial services in the Civil Service.

**Public Service (Croke Park) Agreement** - Driving and monitoring implementation across the Sector (see 'Managing the Mandate').

#### ICT


- Expansion of IT shared service to include the Probation Service and the Irish Prison Service (potentially more than doubling the size of the service and further reducing duplication of back office services). It makes extensive use of an outsourced support – e.g. no servers on Departmental premises. Preparations to tender for this are at an advanced stage.



- Criminal Justice Integration Project (CJIP) to set up a centralised facility for the sharing of information between the criminal justice agencies (Garda Síochána, Courts Service, Irish Prison Service).
- Asylum & Immigration Strategic Integration Programme (AISIP) to provide an integrated IT system for the provision of integrated document, case and accommodation management services to the Irish Naturalisation & Immigration Service (INIS).

**Procurement** - There is a high level of collaboration within the Justice Sector and with the National Procurement Service. Government policy on a shared service for Procurement will also impact on this area.

#### **Casino/Gaming Control**

- *Options for Regulating Gambling* offers a certain roadmap in terms of best regulatory practice that could be accommodated in a new legislative vehicle, should that be the wish of the Government. The document takes as its starting point the Report of the Casino Committee, *Regulating Gaming in Ireland* (2009) and envisages the proposed introduction of a unified regulator for gambling to be the Department of Justice and Law Reform. Based on the principles that young people and the vulnerable are protected, that gambling should in all respects be fairly and openly conducted, and that gambling is kept free of crime, the proposed options would also provide for remote gambling i.e. gambling via telephone, mobile phones, internet and interactive TV).
  - The specific issue of casinos, most particularly whether large-scale resort casinos would be permitted.
  - The continuation of assistance being given by an official of Casino Gaming Control Section to the Department of Finance in amending the Betting Act 1931 in an effort to regulate internet and other forms of remote betting. While the Betting (Amendment) Bill 2011 can be published by the Minister for Finance, it cannot be progressed through the Houses, during the 3 month mandatory standstill period imposed under Directive 98/48. (An amendment to the Betting Act 1931 to provide a licensing system for internet betting would, as a technical amendment, need to be notified in advance to the Commission under Directive 98/34/EC, as amended by Directive 98/48).
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## **APPENDICES**

- 1. Department Organisation Chart**
- 2. Contact Details - Management Advisory Committee (MAC)**
- 3. Contact Details – Heads of Divisions**
- 4. Justice Sector Organisations**
- 5. Legislative Programme – Civil Law**
- 6. [REDACTED]**