



**Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas**
Irish Human Rights and Equality Commission

Sent by email to: Minister@equality.gov.ie

Minister Roderic O’Gorman T.D.
Department for Children, Disability, Equality, Integration and Youth
50-58, Baggot Street Lower,
D02 XW14

Dublin, 09 February 2022

Dear Minister O’Gorman,

Section 30 of the Irish Human Rights and Equality Commission Act 2014 provides the Irish Human Rights and Equality Commission with the power to review the working and effect of any legislation that relates to the protection and promotion of human rights and equality, including section 19 of the Intoxicating Liquor Act (‘section 19 ILA’).

In exercise of this statutory function, the Commission has conducted a review of section 19 of the Intoxicating Liquor Act (‘section 19 ILA’) and I have the pleasure of attaching this review for your information. The review looked at the adequacy and effectiveness of section 19 ILA in light of national and international human rights and equality standards.

While the vast majority of discrimination claims are heard by the Workplace Relations Commission, section 19 ILA introduced a statutory exception, whereby a claim of discrimination arising in or at the point of entry to bars, restaurants, nightclubs and other places that serve alcohol must be brought before the District Court rather than the WRC.

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This is the first time since our establishment in 2014 that we have exercised the section 30 function. Section 30 specifically names section 19 ILA alongside the provisions of the EEA and ESA under our Section 30 powers. Our choice of this legislation for this first review reflects the importance that we attach to the issues that it raises.

In its review the Commission recommends that urgent steps now be taken to bring the complaints mechanism for discrimination claims occurring on or at the point of entry to a licensed premises into line with the mechanism available for other discrimination complaints. In particular, the Commission recommends that such claims are brought within the jurisdiction of the WRC, as opposed to the District Court.

The Commission has concluded that section 19 ILA disproportionately impacts specific groups, such as disabled people and members of the Traveller and Roma communities and that it does so in a significant way. Section 19 ILA results in complainants having to overcome more onerous procedural steps, such as identifying the correct licensee and court district. It also requires them to proceed through the courts system, which by its nature is more adversarial in nature, to seek redress. This makes the enforcement of important rights excessively difficult and, in some cases, virtually impossible. Furthermore, data provided by the Courts Service also reflects that a vast majority of the proceedings instituted in the District Court under the ILA 2003 were either struck out or withdrawn.

In our view there is no justifiable reason for a different legal approach for being discriminated against at the door of a pub, restaurant or club than in any other type of shop or service. This is a systemic equality issue that needs to be remedied for the sake of equal access to justice. All victims of discrimination deserve the same access to efficient and clear redress mechanisms.

The Commission requests that you as Minister make the necessary statutory amendment as a matter of priority, to bring these claims back within the jurisdiction of the WRC. Pending the achievement of this change, there are two important matters (relating to the shifting of the burden of proof, and the



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power to grant ILA complainants anonymity – see page 64 of the review) that, we submit, require your urgent attention.

The Commission will be publishing this review in the coming days. We welcome the opportunity to meet with you to specifically discuss the inequalities created by section 19 ILA and the findings of this statutory review.

Yours sincerely,

Sinéad Gibney,
Chief Commissioner
Irish Human Rights and Equality Commission.