

Alan Shatter, TD, Minister for Justice, Equality and Defence reports on work done during first 12 months of Government

Alan Shatter TD
Minister for Justice, Equality and Defence

Contents

1. Criminal Justice Act 2011
2. Criminal Justice (Community Service) (Amendment) Act 2011
3. Civil Law (Miscellaneous Provisions) Act 2011
4. Twenty-Ninth Amendment Of The Constitution (Judges' Remuneration) Act 2011
5. Defence (Amendment) Act 2011
6. Property Services (Regulation) Act 2011
7. Criminal Law (Defence and the Dwelling) Act 2011
8. Jurisdiction of Courts and Enforcement of Judgements (Amendment) Bill
9. Mediation Bill 2012
10. Personal Insolvency Bill
11. Investor and Entrepreneur (Jobs) Schemes
12. Surrogacy Guidelines
13. Legal Services Regulation Bill 2011
14. Criminal Justice (Withholding Information on Crimes Against Children and Vulnerable Adults) Bill 2011
15. National Vetting Bureau Bill 2011
16. European Arrest Warrant (Application to Third Countries and Amendment) and Extradition (Amendment) Bill 2011
17. Civil Defence Board
18. The announcement to prepare a new Bill on Gambling
19. Ministerial Transport
20. State Visits
21. Cork Prison
22. Civilian Staff Dublin Airport
23. UNIFIL - Deployment 2011
24. Visit to Lebanon
25. Defence Forces Participation in Missions Abroad
26. Thornton Hall Prison Project Review Committee
27. Prison Reform
28. Human Rights and Equality Commission
29. Callanan Report 19th September
30. Cloyne Report
31. Reduction in fees payable under the Criminal Legal Aid Scheme
32. Consolidation and Closure of Garda Stations
33. Garda Retirements & Promotions
34. Recognition of Foreign Civil Partnerships and Gay Marriages
35. Upward Only Rent Reviews
36. Irish Red Cross
37. Zambrano Judgement
38. Landlord and Tenant Law

39. Visa Waiver Programme
40. Magdalene Laundries
41. Signing of Memorandum of Understanding to support cooperation between forensic science agencies on the island of Ireland
42. Garda Vetting
43. Progress on clearing of backlog of applications for citizenship and new Citizenship Ceremony
44. Visits to Prisons by the Minister
45. Criminal Assets Bureau
46. Victims of Crime
47. The White Paper on Defence
48. Implementation of the Defence Forces Medical Services Review
49. Ombudsman for the Defence Forces
50. Visits to Military Facilities by the Minister
51. Graduation Ceremonies
52. Irish and Finnish Perspectives on European Security and Defence Policy
53. Memorandum of Understanding – Ireland's Participation in the Austro/German Battlegroup 2012
54. European Defence Agency (EDA) Projects
55. Opportunities in the European Security and Defence Markets
56. Cavalry Corp Day 3rd September
57. Ceremony to mark the 50th Anniversary of the death of Trooper Mullins in the Congo
58. Defence Forces
59. Appointments Advertised
60. Estimates Process
61. Councils of Europe
62. Attended various meetings with
63. Meeting with relatives of the disappeared
64. Winter Ready Campaign

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In the first 12 months as Minister in the Department of Justice and Equality and the Department of Defence, Alan Shatter, TD, prioritised the enactment of the following pieces of legislation:

1. The **Criminal Justice Act 2011** which implements crucial reform to facilitate Garda access to essential information, documentation and electronically held information to assist in the investigation of white collar crime. The Act also renders it a criminal offence to fail to furnish to the Gardaí information which could prevent the commission of white collar crime or to assist the Gardaí in an investigation into white collar crime. It also introduces important new measures to protect whistleblowers. The Act provides vital assistance to the

Gardaí in the completion of investigations which are current as well as providing assistance to them in investigations undertaken in the future. The Act was first successfully invoked in court proceedings in September 2011.

2. The **Criminal Justice (Community Service) (Amendment) Act 2011** which imposes an obligation on the courts when considering imposing a sentence of 12 months or less on a convicted offender to first consider requiring the offender to undertake community service. This measure is intended to bring about a greater use of Community Service Orders to the benefit of local communities and to save taxpayers money in the context of the cost incurred when convicted offenders serve short terms of imprisonment. It is also intended to partially address the current problem of prison overcrowding and the granting of unconditional temporary release to prisoners prior to their becoming eligible for release on remission.
3. The **Civil Law (Miscellaneous Provisions) Act 2011** implements important reforms across a diverse range of legal areas addressed in over 40 current Acts of the Oireachtas. The reforms apply to the following areas: bankruptcy law; domestic violence; enforcement of District Court Maintenance Orders; the provision of legal aid to victims of human trafficking; provision for civil partners to receive equal treatment to married couples with regard to citizenship matters; express statutory provision for citizenship ceremonies and new citizenship oath; reform of the legal provisions applicable to the appointment of Taxing Masters of the High Court; new arrangements for the protection of documentation furnished to and held by tribunals of inquiry; provision to bring the Family Mediation Service under the aegis of the Legal Aid Board and provision to facilitate the speedy electronic publication of Acts of the Oireachtas on the web immediately upon completion of the legislative process.
4. The **Twenty-Ninth Amendment Of The Constitution (Judges' Remuneration) Act 2011** enabled the Houses of the Oireachtas apply to the judiciary the same pension levy and salary reductions that have applied to related pay scales across the public service. The wording for the required constitutional amendment was developed by Minister Alan Shatter in consultation with the Attorney General and approved by the Government on 26th July. The 29th Amendment of the Constitution (Judges' Remuneration) Bill 2011 was published on the 4th August. The Referendum was passed on the 27th October 2011 with a substantial 79.74% of voters voting in support of the Government amendment. The Bill was signed into law by President Michael D Higgins on the 17th November 2011.
5. The **Defence (Amendment) Act 2011** provides for amendments to the Defence Acts to expand the potential candidature for appointment to the post of Military Judge and the Director of Military Prosecutions to persons other than members of the Defence Forces and for an amendment to the powers of the Selection Committee to determine a candidate's qualification for appointment to these posts. In relation to the alternative judge, it also provides for the appointment of a Circuit Court Judge to perform the functions of the Military Judge where the Military Judge is not available for whatever reason.

The Bill has now passed all stages in the Oireachtas. Terms and Conditions for a competition for the post of military judge are being finalised at present.

6. The **Property Services (Regulation) Act 2011** The primary purpose of the Act is to establish the Property Services Regulatory Authority with a mandate to set and enforce standards in the provision of property services by auctioneers, letting agents and property management agents and to provide redress mechanisms for consumers of those services. The Authority will also have statutory responsibility for the publication of residential property sales prices and the establishment and maintenance of a Commercial Leases Database. Advertisements inviting expressions of interest from suitably qualified members of the public who wish to be considered for appointment to the new Authority were published on the 7th December 2011. Appointments to the Authority will be made shortly.
7. The **Criminal Law (Defence and the Dwelling) Act 2011** clarifies the law concerning the use of force by a householder when under attack by an intruder in their home. It recognises the special constitutional status of an individual's family home and makes it clear that a person may use reasonable force to defend themselves in their home:
 - 1) It provides that a person who uses such reasonable force cannot be successfully prosecuted by the State or sued by a burglar in respect of any injury, loss or damage arising from it;
 - 2) It explicitly provides that a person attacked in the home is not required to retreat;
 - 3) It extends the right to use such reasonable force to the curtilage of the dwelling and
 - 4) It acknowledges that in circumstances where it is reasonable to do so, the force used may, unfortunately result in death.
8. The **Jurisdiction of Courts and Enforcement of Judgments (Amendment) Bill 2011** was taken at all Stages in Dail Eireann on 1st March 2012 having completed its passage through the Seanad in December 2011. The objective of the Bill is to implement the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters signed at Lugano on 30th October 2007. It also specifically applies to orders made in family cases. The 2007 Lugano Convention is to ensure that the same regime will apply for the recognition and enforcement of judgments moving between Switzerland, Norway and Iceland and the EU as the regime which at present prevails within the European Union for judgments coming from the Member States. The 2007 Convention was concluded by the European Community in May 2009 and has since been ratified by all of the relevant EFTA countries.

In addition to the above legislation the following additional Bills have been dealt with by the Minister:

9. **Mediation Bill:** On 1st March Minister Shatter published the general scheme of the Mediation Bill. The objective of the Bill is to promote mediation as an alternative to court proceedings thereby reducing legal costs, speeding up the

resolution of disputes and relieving the stress involved in court proceedings. Minister Shatter is anxious to ensure that individuals involved in disputes regard mediation as preferable to court litigation. The draft Bill will be forwarded to the Joint Oireachtas Committee for Justice, Defence and Equality for their consideration. They have been asked to revert with their views by 1st June 2012.

10. The **Personal Insolvency Bill**, the Heads of which were published on 25 January 2012, will radically reform our insolvency legislation by introducing three new non-judicial debt settlement systems for unsustainable secured and unsecured debt. These include a:

- 1) Debt Relief Certificate to allow for the full write-off of qualifying unsecured debt up to €20,000, after a one-year moratorium period;
- 2) Debt Settlement Arrangement for the agreed settlement of unsecured debt of €20,001 and over and
- 3) a Personal Insolvency Arrangement for the agreed settlement of both secured and unsecured debt of €20,001 and over.

The Personal Insolvency Bill will also continue the reform of the Bankruptcy Act 1988, begun in the Civil Law (miscellaneous Provisions) Act 2011. This will include, critically, the introduction of automatic discharge from bankruptcy, subject to certain conditions, after 3 years in place of the current 12 years.

The General Scheme of the Bill was furnished to the Joint Oireachtas Committee for Justice, Defence and Equality for their consideration in January 2012. The views of the Committee were published on 6th March 2012. The finalisation of the Bill will be arranged on a priority basis, so that it can be published in full by end of April - in line with the revised commitment in the EU/IMF Programme of Financial Support.

11. **Investor and Entrepreneur (Jobs) Schemes:** On the 24 January 2012, Minister Shatter secured Government approval for the introduction of two significant new immigration initiatives offering Irish residency to (non EEA) migrant entrepreneurs and investors who meet certain set criteria. The purpose of the new programmes is to support direct or indirect job creation by harnessing the investment resources and entrepreneurial potential of migrants. The new initiatives will be known as;

- 1) The Immigrant Investor Programme, and the
- 2) The Start-up Entrepreneur Programme

To qualify for the Immigrant Investor Programme the migrant must make an investment of a designated type, ranging from a €2m specially created low interest Government Bond, a capital investment in an Irish business that creates or protects jobs to a €500k endowment in the cultural, sporting educational or health areas. Investment in property may also qualify in certain cases.

The Start-up Entrepreneur Programme provides that migrants with a good business idea in the innovation economy and funding of €75k can be given residency in this State for the purposes of developing their business.

12. **Surrogacy Guidelines:** On the 21 February 2012, Minister Shatter published a Guidance Document on citizenship, parentage, guardianship and travel document issues in relation to children born as a result of surrogacy arrangements entered into outside the State. The Guidance Document provides information to people who intend to enter surrogacy arrangements outside the State on the practical and legal considerations arising under Irish law where the commissioning parents intend to bring the child to live with them in the State.

13. The **Legal Services Regulation Bill 2011:** The Legal Services Regulation Bill 2011 and Explanatory Memorandum was published by Minister Shatter on the 12th October, 2011. Second Stage began in the Dáil on the 16th December 2011. In addition to giving effect to key structural reforms included in the *Programme for National Recovery 2011-2016*, the Bill also meets a number of the State's key commitments in the *EU/IMF Programme of Financial Support for Ireland* aimed at structural reform building on the recommendations of the Legal Costs Working Group and the Competition Authority. Together, these provisions are intended to:
 - 1) promote competition and transparency in the organisation and provision of legal services in the State and in relation to legal costs,
 - 2) provide for independent regulation of the legal profession and an independent complaints system to determine allegations of lawyers misconduct, and
 - 3) better balance the respective interests of the public, consumers and legal professionals in their respective provision and consumption of legal services and to provide for greater competition.

14. Heads of the **Criminal Justice (Withholding Information on Crimes Against Children and Vulnerable Adults) Bill 2011** were published on Wednesday 13th July. (The date of the publication of the Cloyne Report). This Bill will render it a criminal offence for an individual to fail without reasonable excuse to disclose information which might be of material assistance in securing the apprehension, prosecution or conviction of a person who commits a serious offence against a child or a vulnerable adult or if he or she knows such offence has been committed and fails to so inform the Gardaí. The draft Bill was furnished to the Oireachtas Joint Committee on Justice, Defence and Equality in September and the Committee commentary on it was received in January 2012. The Bill in final form will be published and debated in the Dáil before Easter 2012.

15. The **National Vetting Bureau Bill 2011** will make statutory provision for the vetting of persons employed in circumstances where they have access to children and for the use of soft information. The Heads of this Bill were published on Wednesday, 27th July 2011, and were considered by the Oireachtas Joint Committee on Justice, Defence and Equality who reported in

November 2011. The Committee's views are available on the Oireachtas website. It is intended to publish the Bill in final form before Easter 2012.

16. **European Arrest Warrant (Application to Third Countries and Amendment) and Extradition (Amendment) Bill 2011.** On the 26th July 2011, Government approved the publication of the European Arrest Warrant (Application to Third Countries and Amendment) and Extradition (Amendment) Bill 2011. The purpose of the Bill is to provide a mechanism to enable Ireland to give effect in Irish law to Surrender Agreements entered into by the European Union with countries other than Member States of the Union. The Bill provides that the Minister for Foreign Affairs and Trade, following consultation with the Minister for Justice and Equality, may by order apply all or any of the provisions of the European Arrest Warrant Act 2003, which would otherwise apply only to Member States, to a third country where there is an EU Agreement on surrender with that country.

This will enable Ireland to give effect, in Irish law, to the Agreement between the EU and the Republic of Iceland and the Kingdom of Norway on surrender. It will also enable the terms of the European Arrest Warrant Act to be applied to any other countries with which the EU may have surrender agreements in the future, without the need for further primary legislation.

17. **The Civil Defence Board:** On 12th July 2011 the Minister secured Government approval for the drafting of legislation to transfer the functions of the Civil Defence Board back into the Department of Defence. The Heads of the Civil Defence (Repeal) Bill were subsequently agreed by Government on the 30th August last. The Bill is currently being drafted and it is anticipated that it will be published in early 2012. This proposed transfer of functions will result in verifiable savings and will allow management to develop the provision of training support, which is a key demand in a voluntary organisation like Civil Defence rather than duplicating the corporate governance of the Department. If the proposed Bill is enacted, it will repeal the Civil Defence Act 2002, dissolve the Civil Defence Board and transfer its functions, property, rights, liabilities and other responsibilities back into the Department of Defence.

18. **The announcement to prepare a new Bill on Gambling:** On the 21st September, 2011, Minister Shatter announced that the Government has agreed to his proposal to start work immediately on new legislation to modernise our laws on gambling. Minister Shatter stated that no provision would be made for large resort style casinos such as have been proposed by some promoters but that statutory provisions will permit modest size casinos. The number will be limited and every application will be subjected to vigorous checks, including deep and extensive checks on the promoters.

Other initiatives the Minister has prioritised over the past 12 months include:

19. **Ministerial Transport:** Changed arrangements for Ministerial transport resulting in estimated savings of €4 million per year.

20. **State Visits:** As Minister for Justice, Equality and Defence, Minister Shatter had political responsibility for the necessary security and protection arrangements put in place by An Garda Síochána and the Defence Forces and for their participation in civil ceremonies and events during the recent visits to this State of HRH Queen Elizabeth II and President Barack Obama.
21. **Cork Prison:** On 29th February 2012 Minister Shatter announced that consideration is being given to the construction of a new prison in Cork as part of an overall strategy to reduce overcrowding. The Thornton Hall Review Group recommended a new prison at Kilworth, however, the reduced capital envelope in 2012 will not allow this to proceed at this stage. To address chronic overcrowding, while ensuring value for money, the Minister is now exploring the feasibility of replacing Cork Prison with a new prison on the adjacent prison car park site. This would be done within the existing 2012-2016 Justice Capital Programme. The construction of a new, modern 250 space prison would eliminate the practice of prisoners having to slop out. A final decision will be made when detailed plans, design and costs have been finalised.
22. **Civilian Staff Dublin Airport:** In January 2012 Minister Shatter approved and launched a new pilot project where civilian staff from the immigration area of his Department (INIS) took up duty as Immigration Officers at Dublin airport. Ever since immigration checks have been put in place (1930's) this role has been discharged by the Garda Síochána. This initiative means that, in due course, Gardaí will be available for redeployment by the Garda Commissioner to frontline policing duties.
23. **UNIFIL - Deployment 2011:** In response to the United Nations request Dáil Éireann approved the deployment of up to approximately 440 personnel to UNIFIL in Lebanon in April 2011. An advance group of Defence Forces personnel deployed to southern Lebanon at the end of May 2011, with the main contingent deployed towards the end of June 2011. Initial deployment will be for 1 year, subject to renewal of the mandate and a satisfactory review of the mission at that time. In December 2011, the 105th Infantry Battalion replaced the 104th Infantry Battalion upon completion of their tour of duty.
24. **Visit to Lebanon:** The Minister accompanied President McAleese on her official visit to Lebanon during the period 14th to 16th October 2011. On 15th October 2011, together with President McAleese, he visited Camp Shamrock the headquarters of the 104th Irish Infantry Battalion and met with members of the Battalion currently deployed with the United Nations Interim Force in Lebanon (UNIFIL). This was followed by a tour of the Irish Battalion's area of operations. The visit to Lebanon afforded the Minister an opportunity to see, at first hand, the dedication and professionalism of military personnel and the tremendous work done overseas by the Irish Defence Forces. He conveyed to the troops the Government's deep appreciation for the outstanding manner in which they continue to perform their duties on overseas service. The Minister participated in meetings with members of the Lebanese government which addressed not only peace keeping matters but also the enhancement and development of closer economic ties between Ireland and Lebanon.

25. **Defence Forces Participation in Missions Abroad:** On the 28th June the Minister secured Government approval to continue to provide up to twelve members of the Permanent Defence Force for service with the UN-authorized-NATO-led International Security Presence in Kosovo (KFOR), for a further period of twelve months beyond June 2011; to continue to provide seven members of the Permanent Defence Force, for a further period from July 2011 for service with the UN-authorized NATO-led International Security Assistance Force (ISAF) in Kabul, Afghanistan, subject to ongoing review by the Minister for Defence and to continue to provide approximately 5 members of the Permanent Defence Force to serve with the CSDP mission engaged in the training of the Somali Security Forces, currently called "EUTM Somalia", for a further period of one year beyond August 2011 subject to an appropriate decision of the Council of the European Union authorising the extension of the CSDP mission. On 13 December 2011, the Minister secured Government approval for the continued provision of up to seven members of the Permanent Defence Force for service with the UN authorised mission, "Operation ALTHEA", the EU led Mission in Bosnia and Herzegovina, for a further period of 12 months beyond December 2011, subject to renewal of UN authority for the mission and subject to ongoing review by the Minister.
26. **Thornton Hall Prison Project Review Committee:** On 26th July 2011, the Government approved in principle the recommendations contained in the Report of the Thornton Hall Prison Review Group (published on 28th July 2011).

On 10th November, Minister Shatter, announcing the capital allocation available to the Justice Sector in 2012, stated that the reduced capital envelope this year will not allow the Prison Service to proceed with the construction of Thornton Hall or Kilworth Prisons in 2012. Work will, however, continue on the completion of the current construction work in the Midlands prison and in the Dóchas Centre, which together will provide a much needed 370 or so additional prison places. Works will also be undertaken in 2012 to provide in-cell sanitation in B Block in Mountjoy Prison. This follows the success of the recent upgrade of Mountjoy Prison C division.

Minister Shatter reiterated his strong intention to revisit the timeframe for the implementation of the recommendations of the Thornton Hall Report in 12 months, stating that the Government remains very much committed to addressing the twin problems of overcrowding and poor physical conditions within the prison estate.

On the 16th September 2011, Minister Shatter delivered a detailed paper on sentencing and prison reform at the Annual Lecture of the Irish Penal Reform Trust.

27. **Prison Reform:** On Tuesday 26th July, the Government decided to abolish the redundant Prisons Authority (Interim) Board, which was set up in 1998. The Board, which has a membership of 12 people, was set up by a previous administration to advise on and guide the management of the prison system

pending the creation of an independent statutory Prisons Board. No statutory Board was ever established. The Government's policy is to abolish agency boards where appropriate and to make agency managers directly accountable to Ministers. The decision to abolish the Board will save more than €100,000 per year. The Inspector of Prisons provides an independent oversight and critique of our prison system and his independence is provided for in the Prisons Act 2007.

Under new proposed arrangements, Visiting Committees will submit their Annual Reports to the Inspector of Prisons who will publish them. At present the Annual Prison Visiting Committee Reports are submitted to the Minister. Visiting Committees will report every two months to the Inspector on any issue that they wish to bring to his attention. They will be able to report any urgent or major issue to him at any time.

Visiting Committees will continue their role of visiting prisons. They will continue to meet with prisoners and liaise on their behalf with prison authorities. But they will be more effective: each Visiting Committee will comprise no more than six members, and only suitable people with a genuine interest in prison issues will be appointed. The Inspector will have independent oversight of their work.

A prison pilot scheme was commenced in September 2011 for the early release of prisoners, not yet entitled to release by way of remission, who are judged to pose no threat to the community, are of good conduct and have served a substantial portion of their sentence and who agree to undertake supervised Community Service. To date 65 prisoners have been released under the scheme. Community Service is a condition of release and failure to undertake the required Community Service results in a prisoner having to complete the outstanding prison sentence.

28. Human Rights and Equality Commission: The Government has agreed in principle to merge the Irish Human Rights Commission and the Equality Authority into a new Human Rights and Equality Commission. The purpose of this change is to promote human rights and equality issues in a more effective, efficient and cohesive way. Minister Shatter will bring forward legislative proposals in the first part of 2012 to establish a new Human Rights and Equality Commission. The essential objective of this body will be to champion human rights, including the right to equality. It will play a key role in:

- encouraging State authorities to put respect for human rights and equality at the heart of their policies and practices;
- monitoring compliance with international and constitutional human rights standards;
- helping people to understand what their rights are and how to protect them;
- promoting political debate on human-rights and equality issues, in particular by providing consultative opinions on proposed legislation;
- appearing before the superior courts as *amicus curiae* ('friend of the court') to assist the courts with the interpretation of human rights standards;
- investigating human rights and equality concerns, and

- publishing and promoting research and reports on human rights and equality issues.

On the 6th October Minister Shatter announced the appointment of a Working Group to advise him on the establishment of a new and enhanced Human Rights and Equality Commission. The Minister expects to receive the Working Group Report early in 2012 and will then be in a position to finalise the draft legislation required to establish the new unified Commission.

29. **Callanan Report 19th September:** The Minister commissioned and subsequently published the report of Mr Frank Callanan S.C., into the circumstances related to the deaths of Cpl Fintan Heneghan, Pte Mannix Armstrong and Pte Thomas Walsh on 21 March 1989, while serving with C Company, 64th Infantry Battalion in the United Nations Interim Force in the Lebanon (UNIFIL). Mr Callanan was appointed by the Minister, in April 2011, to carry out the inquiry, which encompassed a review of all available documents and interviews with all persons, as considered appropriate by him.
30. **Cloyne Report:** On the 13th July 2011, the Minister for Justice, Mr. Alan Shatter, T.D., and the Minister for Children and Youth Affairs, Ms. Frances Fitzgerald, T.D., published the Commission of Investigation Report into the Catholic Diocese of Cloyne. In response, the Ministers brought forward a comprehensive range of measures designed to address not just the type of problem highlighted by the Commission's report on Cloyne but provide the foundation for an immeasurably strengthened system of child protection. These measures include: the Criminal Justice (Withholding Information on Crimes Against Children and Vulnerable Adults) Bill; the National Vetting Bureau Bill and revised Children First National Guidelines which, following the Government decision, will be placed on a statutory footing.

Following a decision of the High Court on the 16th December 2011, the Department of Justice and Equality published the redacted parts of the Cloyne report on the 19th December 2011.

31. **Reduction in fees payable under the Criminal Legal Aid Scheme:** The Criminal Legal Aid Scheme in 2011 cost an estimated sum in excess of €57 million, being €10 million more than originally budgeted for by the previous government in Budget December 2010. A sum of €47 million is available under the December 2011 Budget for Criminal Legal Aid in 2012 and the decrease in fees will contribute to the necessary reduction in Criminal Legal Aid costs. The Minister for Justice, Equality and Defence, following the approval of the Minister for Finance, signed new Regulations into law imposing a reduction of 10% in the fees payable under the criminal legal aid scheme. The Regulations came into force on the 13th July 2011.

The Regulations apply to various fees payable to solicitors and counsel under the Criminal Legal Aid Scheme for appearances in the District Court and for appeals to the Circuit Court and in the fees payable in respect of essential visits to prisons and other custodial centres and for certain bail applications. The decrease also applies to fees payable under the Ad-hoc Garda Station and

CAB Schemes and to payments to professionals engaged by the defence as expert witnesses and to those providing translation/interpretation services.

32. **Consolidation and Closure of Garda Stations:** On the 5th December 2011, Minister Shatter announced plans, prepared by the Commissioner under the draft policing plan for 2012, for the closure of 31 Garda stations throughout the country and for a reduction in the public opening hours of 10 Garda stations in the Dublin Metropolitan Region. The plan also formally recognises the closure of eight other Garda stations which, while still listed as Garda stations, are already non-operational and will not re-open. We presently have 703 Garda Stations, 47 of which are in Dublin. An Garda Síochána, like all public service agencies, must introduce new efficiencies so as to make the best possible use of available resources. This will mean focusing resources on frontline operational services. In some cases it will mean using a different model for delivering a policing service to a local community, through a rationalisation of Garda stations and revised patterns of patrols. It is expected that there will be a further consolidation of Garda Stations in 2012.
33. **Garda Retirements & Promotions:** There is a requirement in the EU/IMF agreement for a reduction in public sector numbers and An Garda Síochána, like every other public sector organisation must carry its fair share of that reduction. The total number of departures from An Garda Síochána in January and February 2012 was 260. At the end of February, Garda strength is expected to be 13,635 - which is very comparable to the level in 2007 of 13,755. The Government and the Commissioner are committed to maintaining frontline services to the highest level possible. This will be achieved by real and substantial reform in An Garda Síochána under the Croke Park Agreement. For example a new Garda roster system is due to be introduced in April of this year. This new roster will more closely match the availability of resources with the policing demands. On Tuesday 7 February 2012 a significant number of appointments were announced - 33 in all including 2 Assistant Commissioners, 8 Chief Superintendents and 23 Superintendents. The consequential vacancies at Sergeant and Inspector level will also be filled by the Commissioner - this means 66 new appointments in those ranks.
34. **Recognition of Foreign Civil Partnerships and Gay Marriages:** : Minister Shatter made an Order, on December 19th, under the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 prescribing certain registered relationships entered into by same sex couples in other jurisdictions as entitled to be treated as equivalent to civil partnership under Irish law. The Order will come into effect on 25th December 2011 and details 32 countries/states in respect of whom registered relationships are now recognised. The registered relationships to which recognition is now being extended include: Civil Partnerships from the Isle of Man, Civil Partnerships from South Africa, Civil Unions from Illinois, USA, Marriages from New York, USA, Domestic Partnerships from Oregon, USA, and Civil Unions from Rhode Island, USA.
35. **Upward Only Rent Reviews:** On the 6th December 2011 the Government announced its decision not to proceed with the legislation to abolish upward

only rent review clauses in existing business leases. Substantial work on the preparation of a Bill was completed during the year by the Minister and the decision was taken with a great deal of regret. The Government was advised that any legislative scheme involving interference in the contractual relationships of private parties would find it extremely difficult to survive a Constitutional challenge. In addition, it was advised that any model proposed would require the payment of compensation to landlords whose rights were infringed, in order to ensure that the proposal would be compatible with the Constitution and the European Convention on Human Rights. The Government is strongly of the view that payment of compensation to landlords in such circumstances could not be justified in the current economic climate. Alternative approaches to addressing the issue were considered. The Minister for Finance outlined in his Budget speech that NAMA will play a role in dealing with the problems caused by upward only rent reviews which apply to NAMA properties. NAMA has now published its policy guidance which will inform the approach to be taken where relevant tenants are experiencing difficulties in paying rents. Where there is a failure to reach agreement on revised contracts the policy guidance provides an opportunity for NAMA to approve rent reductions where it can be shown that rents are in excess of market levels, and that the viability of the tenant is threatened. The policy also provides for the appointment of an independent valuer to ascertain current market rent. Where a tenant is not getting satisfaction he or she can contact NAMA directly.

36. **Irish Red Cross:** The Programme for Government provides for the initiation of a detailed legal review of the basis, structures and governance of the Red Cross in Ireland to improve its functioning in the light of changing circumstances. A draft Order that would amend the Irish Red Cross Order 1939 is currently being examined by the Office of the Attorney General. When the text of the draft order has been settled, the Minister will bring the draft legislation to Government for approval. A comprehensive review of all Red Cross legislation, and in particular the primary legislation, will then be commenced in accordance with the commitment given in the Programme for Government.

37. **Zambrano Judgement:** The European Union Court of Justice Zambrano Judgement (March 2011) prevents an EU Member State refusing a parent who has minor dependent children, who are EU citizens, the right to reside in the Member State of residence and nationality of those children:-

At the direction of the Minister, Departmental officials examined all cases before the courts (138) involving Irish citizen dependent children to which the Zambrano judgement (which concerns only children born prior to the 2005 Citizenship Referendum) was relevant. The relevance of Zambrano to others seeking to remain in the State is also under examination and, in the best interests of Irish citizen children, 764 parents have to date been granted Irish residency rights. Decisions made to date have resolved 123 cases which were before the courts at the date of the Zambrano Judgement. This sensible and pragmatic initiative is being taken in the best interests of the welfare of

eligible minor Irish citizen children and to ensure that the taxpayer is not exposed to any unnecessary additional legal costs.

38. **Landlord and Tenant Law:** Launched a consultative process on a draft Bill in relation to a much needed and long overdue overhaul and consolidation of landlord and tenant law. Submissions were invited, by the 31st May, from interested parties. The Government has subsequently approved drafting of the Bill. The Minister expects the Bill to be published in 2012.
39. **Visa Waiver Programme:** Devised and launched Ireland's first formal Visa Waiver Programme designed to assist in the promotion of Ireland as a quality business and leisure destination in markets which would not have been regarded as traditional source countries for tourism to Ireland. Under the provisions of the Programme, nationals of 16 specified countries who presently need a visa to enter Ireland and who obtain a visa to enter the UK for a short term visit do not need to obtain a separate visa to include a visit to Ireland on their itinerary. In addition, special arrangements have been put in place to facilitate visits to this State by nationals of these 16 countries who are long-term residents in the UK. On the 12 March 2012 Minister Shatter announced the extension of the Visa Waiver Programme for a further four year period from the original end date of October 2012 to October 2016. Two countries, Bosnia and Herzegovina, were added to the existing list of 16 countries already covered by the Programme. In addition nationals from the 18 countries, who are long term legal residents in the UK or the Schengen area, will have the cost of an Irish visa waived should they wish to visit Ireland. It is hoped that this arrangement will encourage a substantial increase in tourist visits to Ireland and in particular, result in a significant number of people who visit London for the 2012 Olympics also visiting Ireland.
40. **Magdalene Laundries:** Initiated the first substantive response by Government to address the issue of the circumstances of the women and girls who resided in the Magdalene Laundries. On the Minister's proposal, agreed by Government, the following has taken place:
 - 1) An Inter-departmental Committee has been established, chaired by Senator Martin McAleese, to establish the facts of State involvement with the Magdalene Laundries, to clarify any State interaction, and to produce a narrative detailing such interaction. Senator McAleese had been asked to provide an initial progress report within three months of the Committee commencing its work. On the 25th October, 2011, the Minister for Justice, Equality and Defence, Alan Shatter TD, published the interim progress report of the Inter-Departmental Committee set up to establish the facts of State involvement with the Magdalene Laundries.
 - 2) The Minister for Justice, Equality and Defence, Alan Shatter TD and the Minister of State with responsibility for Disability, Equality, Mental Health and Older People, Kathleen Lynch TD met with the four religious congregations and representatives from Justice for Magdalene, Magdalene Survivors Together and London Irish Survivors who represent former residents of the Magdalene Laundries. Their discussions included addressing the following matters:

- i. The making available by the congregations all records maintained by them with regard to the residents of the Magdalene Laundries to enable all available information about former residents to be shared with them and also made available for appropriate research purposes.
- ii. The provision of information concerning the number of persons currently residing with or in the care of the religious congregations who originally commenced such residence in the Magdalene Laundries and who have remained in their care.
- iii. To discuss the putting in place of a restorative and reconciliation process and the structure that might be utilised to facilitate such process.

41. **Signing of Memorandum of Understanding to support cooperation between forensic science agencies on the island of Ireland:** Obtained Cabinet approval for Memorandum of Understanding for support and cooperation between this State's Forensic Science Laboratory and the Northern Ireland Forensic Science Laboratory which Memorandum was signed and implemented by Minister Shatter and Minister David Ford in Armagh on the 8th June 2011.
42. **Garda Vetting:** Secured Government approval for the recruitment of contract staff to assist in tackling backlog and delay in Garda Vetting. At the time of the Minister's appointment it took an average of 12 weeks to determine vetting applications. This timeline has been reduced to an average of 2 weeks.
43. **Progress on clearing of backlog of applications for citizenship and new Citizenship Ceremony:** When the new Government came into office on 9th March 2011 there was a backlog of approximately 22,000 citizenship applications awaiting decision, approximately 17,000 of which had been awaiting decision for in excess of 6 months and many for in excess of 3 years. In his first 12 months in office Minister Shatter has determined some 17,700 Citizenship applications. In the year 2010, 7,800 such applications were determined. Minister Shatter put in place improved systems for more efficiently processing Citizenship Applications and arranged for more user friendly application forms and web access to such forms. In addition, the Minister devised and presided over the first formal Citizenship Ceremony ever held in this State. Following on from the success of this pilot ceremony, held in June 2011 in Dublin Castle, a series of further such ceremonies took place in July, August, September and December 2011 and in February 2012. A total of 43 ceremonies took place in the period 9th March 2011 to 29 February 2012. Citizenship Ceremonies will continue to be scheduled into the future.
44. **Visits to Prisons by the Minister:** Since taking office the Minister has visited the following prisons:
- 1) Mountjoy Prison
 - 2) St Patrick's Institution
 - 3) Dóchas Centre
 - 4) Cork Prison

- 5) Portlaoise Prison
- 6) Midlands Prison

The Minister will be making further prison visits during the first half of 2012.

45. **Criminal Assets Bureau:** Initiated at a European Council Meeting of Justice Ministers a process to provide a European wide framework for the establishment in European Union countries of Criminal Asset Bureaus which replicate the Irish CAB and steps toward the enforcement across the European Union of Court Orders made to seize the proceeds of crime where such proceeds are held in one EU country and have derived from criminal activity in another EU country.
46. **Victims of Crime:** At meetings of the European Council of Justice contributed to the development of the newly proposed EU Regulation detailing the rights of victims of crime to provide a uniform protection for such victims across the European Union.
47. **The White Paper on Defence:** The Minister for Defence initiated the necessary steps to ensure that the process of producing a new White Paper engenders broad and informed debate regarding Ireland's defence policy. The Minister has engaged with his officials in this regard. Whilst preliminary work on the preparation of a new White Paper had been ongoing, the Minister has decided to expand the planned consultative process by initiating the preparation of a Green Paper on Defence. This discussion paper will act as a catalyst to ensure an appropriate level of debate on Defence and inform the development of a new White Paper. The Minister intends to bring a Memorandum to Government in early 2012 seeking approval to formally launch the process. Publication of the Green Paper on Defence is expected towards the end of 2012.
48. **Implementation of the Defence Forces Medical Services Review:** The recommendations of the PA Consultants Report on the restructuring of the Medical Corps have been designed to meet the demands and needs of the Defence Forces and implementation is progressing. The Minister is committed to providing a sustainable medical service to meet the needs of the Defence Forces both at home and overseas. Approval was obtained from the Department of Public Expenditure and Reform for the holding of a competition for the appointment of Doctors to the Defence Forces Medical Corps. This competition is underway. In addition, an integrated model for the provision of the required medical services, involving both Medical Corps and outsourced service provision across the full range of services recommended by the PA consultants, is also being progressed.
49. **Ombudsman for the Defence Forces:** The Office of Ombudsman for the Defence Forces is the independent appeals mechanism for the Defence Forces internal Redress of Wrong System. In the period from March 2011 when Minister Shatter was appointed, to June 2011, all 17 outstanding cases were dealt with by him and a final determination issued to the Ombudsman.

Minister Shatter gave a final determination on a total of 33 cases in the period March to December 2011.

50. **Visits to Military Facilities by the Minister:** The Minister has visited the following military facilities since his appointment:
- 1) The Military Cadet School in the Curragh Camp, Kildare
 - 2) The Defence Forces Training Centre at the Curragh, Co. Kildare
 - 3) Cathal Brugha Barracks, Rathmines, Dublin
 - 4) The Naval Base in Haulbowline
 - 5) Collins Barracks, Cork
 - 6) Custume Barracks, Athlone
 - 7) Dún Uí Mhaoilíosa Barracks, Renmore
 - 8) Casement Aerodrome, Baldonnell
 - 9) McKee Barracks, Dublin
51. **Graduation Ceremonies:** Presided over graduation ceremonies of members of An Garda Síochána in Templemore and the commissioning ceremony of members of the 86th Army Cadet class.
52. **Irish and Finnish Perspectives on European Security and Defence Policy:** On 8th September 2011, the Minister hosted a Seminar in Farmleigh on Irish and Finnish Perspectives on European Security and Defence Policy. The purpose of the meeting was to share perspectives on defence policy issues. This is of mutual benefit as both Ireland and Finland are neutral, militarily non-aligned countries which are members of the EU but not members of NATO. The seminar was very successful and has provided a template for similar meetings with other partners in the future. The seminar was attended by senior personnel from the Ministries of Foreign Affairs and Defence as well as senior military officers from both countries. In addition a number of Academics from both countries attended.
53. **Memorandum of Understanding – Ireland’s Participation in the Austro/German Battlegroup 2012:** On 7th February 2012 the Minister obtained Dáil Éireann approval to sign the Memorandum of Understanding for the Austro/German Battlegroup, which will be on standby for the second half of 2012 for peacekeeping and crisis management missions. The Austro/German Battlegroup Memorandum of Understanding is an agreement between the participants, namely Germany, Austria, Czech Republic, Ireland, Croatia and the former Yugoslav Republic of Macedonia, which sets out principles in relation to the operation, deployment and management of the Austro/German Battlegroup.
54. **European Defence Agency (EDA) Projects:** On 27th September, Minister Shatter secured Dáil Éireann approval for Ireland’s participation in two EDA projects. One of the projects relates to Chemical, Biological, Radiological and Nuclear (CBRN) Protection and the other relates to Maritime Surveillance. Both of these projects will contribute to Defence Forces capability. At the EDA Steering Board meeting on 30th November the Minister indicated that the Irish Naval Service would act as lead nation in conducting a study on Naval Mariner training. The objective of the study is to review and evaluate what

training is currently available across the Union with a view to consolidating European Union capabilities in this area and delivering value for money training for our naval mariners. This study will support the EDA initiative in the area of military capability development called “Pooling and Sharing”. The concept involves groups of Member States coming together and pooling resources so as to retain, maintain and/or enhance their military capabilities which they can make available for Common Security and Defence Policy operations. Ireland is encouraging all Member States to be involved in this study to ensure an efficient use of training resources across the Union.

55. On 3rd October the Minister launched a seminar on “**Opportunities in the European Security and Defence Markets**”, which was organised jointly by Enterprise Ireland and the Defence Organisation. The objective of the seminar, which was attended by representatives from academia, industry and the European Defence Agency (EDA), was to afford Irish industry and research institutions an opportunity to engage with the EDA, and to hear from the Defence Forces about initiatives in their area of capability development. This is in support of Government policy to promote and support investment in technology research and development and put in place incentives for companies engaged in research and development. The key note address was provided by Madame Claude France Arnould, Chief Executive of the EDA.
56. **Cavalry Corp Day 3rd September:** The Taoiseach, Mr Enda Kenny, T.D., and the Minister attended the annual Defence Forces Cavalry Corps Remembrance Day at the Defence Forces Training Centre, Plunkett Barracks, Curragh Camp.
57. **Ceremony to mark the 50th Anniversary of the death of Trooper Mullins in the Congo:** The Minister attended the unveiling of a monument in Kilbehenny, Co Limerick to Trooper Patrick Mullins, who died as a result of hostile action while on service in the Congo on the 15th September 1961.
58. **Defence Forces:** Secured the agreement of Government that the Defence Forces would stabilise at 9,500 on an annualised basis up to and including 2014 and would not fall below that number. This brought to an end the continuing decrease in Defence Force numbers which occurred in previous years.
Barrack Closures, Increase Efficiency and Re-Organisation: Secured the agreement of Cabinet for the closure of four army barracks to ensure a more efficient use of resources and to increase the army numbers available for frontline services. The Minister also initiated a reorganisation of the army from a three brigade to a two brigade structure to maximise efficiencies and the army’s operational capability. The Minister has requested the Chief of Staff of the Defence Forces and the Secretary General of the Department of Defence to bring forward detailed proposals for his consideration.
59. **Appointments Advertised:** For the first time expressions of interest were sought through public advertisement from suitably qualified and experienced persons for nomination as Ireland's representative to the **Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading**

Treatment or Punishment (CPT); expressions of interest were also sought through public advertisement from suitably qualified and experienced persons for nomination as Ireland's representative to the **European Commission Against Racism and Intolerance (ECRI)**, expressions of interest were sought from members of the public interested in serving on the 3-person **Garda Síochána Ombudsman Commission;** advertisements inviting expressions of interest from suitably qualified members of the public who wish to be considered for appointment to the new **Property Services Regulatory Authority** were published on the 7 December 2011. For the first time in eighty five years a competitive recruitment process in relation to the appointment, by Government, of a **Taxing Master of the High Court** was conducted by the independent Public Appointments Service (PAS) in September 2011. Two appointments were made on the basis of the PAS recommendations.

60. **Estimates Process:** The Minister personally engaged in conducting negotiations with the Department of Public Expenditure with regard to the estimates for each of his Departments for 2012.
61. **Councils of Europe:** The Minister has attended EU Justice and Home Affairs Council Meetings and also EU Defence Ministers meetings to coordinate and cooperate on crucial EU issues of common interest.
62. **Attended various meetings with:** David Forde, Minister for Justice Northern Ireland; Matt Baggott, Chief Constable of the Police Service of Northern Ireland; Theresa May, UK Home Secretary; Owen Patterson, Secretary of State for Northern Ireland and Damien Greene, UK Minister of State for Immigration. The Minister has also, on the margins of EU meetings attended by him and at meetings of the EPP regularly throughout the, year met with and discussed issues of common interest with his European Union counterparts.
63. **Meeting with relatives of the disappeared:** On the 25th of November Minister Shatter, together with Minister of State Hugo Swire of the Northern Ireland Office met with the Independent Commission for the Location of Victims' Remains and with members of the families of those who disappeared during the troubles, including those whose family members' remains have been located by the Commission and those whose remains have not been discovered. He assured them of the two Governments continuing support for the Independent Commission for the Location of Victims' Remains and for doing whatever is possible to locate the remains of loved ones and further initiatives that could be taken to seek crucial outstanding information from those may know the whereabouts of remains.
64. **Winter Ready Campaign:** On the 9th November, the Minister for Justice, Equality and Defence, Mr. Alan Shatter, T.D., in his role as Chairman of the Government Task Force On Emergency Planning launched the Winter-Ready Information Campaign at the National Emergency Coordination Centre in Dublin. This is the first time that such a campaign has been undertaken. The main objectives of the campaign are:

- 1) To provide practical advice to on how best to prepare for the coming winter.
- 2) To ensure the public are aware of where advice and help can be found, if needed.
- 3) To reassure the public that preparations are being made and arrangements have been put in place to ensure that there will be a coordinated response to severe weather events.

ENDS

12 March 2012