



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*
(OFFICIAL REPORT—*Unrevised*)

Thursday, 29 January 2004.

Requests to move Adjournment of Dáil under Standing Order 31 ...	1085
Order of Business ...	1086
Civil Registration Bill 2003: Financial Resolution ...	1093
Central Bank and Financial Services Authority of Ireland Bill 2003:	
Order for Second Stage ...	1094
Second Stage ...	1094
Referral to Select Committee ...	1155
European Parliament Elections (Amendment) Bill 2003:	
Order for Second Stage ...	1155
Second Stage ...	1156
Ceisteanna — Questions	
Minister for Justice, Equality and Law Reform	
Priority Questions ...	1158
Suspension of Member ...	1163
Visit of Swedish Parliamentary Delegation ...	1168
Private Notice Questions ...	1168
Visit of Member of US House of Representatives ...	1175
Adjournment Debate Matters ...	1175
Adjournment Debate	
Training and Employment Schemes ...	1175
School Accommodation ...	1179
Questions: Written Answers ...	1185

DÁIL ÉIREANN

*Déardaoin, 29 Eanáir 2004.
Thursday, 29 January 2004.*

Chuaigh an Ceann Comhairle i gceannas ar 10.30 a.m.

*Paidir.
Prayer.*

Requests to move Adjournment of Dáil under Standing Order 31.

An Ceann Comhairle: Before coming to the Order of Business I propose to deal with a number of notices under Standing Order 31 and I call first on Deputy Connolly to state his matter.

Mr. Connolly: I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the findings of the task force on the health service that recommended the establishment of a no fault compensation scheme for psychiatric nurses which was agreed by the health service employers agency, the Department of Finance and the Department of Health and Children, and used as an instrument in the settlement of the accident and emergency dispute, the commencement date for such a scheme and the likelihood of the scheme applying across the health service.

Ms McManus: I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the findings of the task force on the health service which was agreed by the employers in solving the accident and emergency dispute over assaults on psychiatric nurses.

Mr. Morgan: I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the ongoing and worsening crisis in the health service, where there is not only a shortage of beds but also trolleys on which to place patients and corridor space in which to put them. This cannot be described as a functioning health service. We were promised before the last election that the hospital waiting lists would be cleared within two years. How long will the Government allow this dreadful situation to continue, where patients in Louth county hospital in Dundalk and other hospitals must lie on trolleys for up to five days?

Mr. Healy: I seek the adjournment of the Dáil under Standing Order 31 to debate the following

urgent matter: the ongoing and serious anti-social behaviour in our towns and cities and the lack of Garda manpower to deal with it, and to give the Minister for Justice, Equality and Law Reform an opportunity to announce to the Dáil the recruitment of the 2,000 gardaí promised in the programme for Government and the appointment of additional community gardaí.

Aengus Ó Snodaigh: I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the revelation that more than 100 prisoners in Irish jails and detention centres attempted suicide last year, a rate of one suicide attempt every three days, and that the suicide attempt rate is highest among women at the Dóchas centre, and the need for the Minister for Justice, Equality and Law Reform to explain the action that will be taken by the Government to address this appalling situation.

Mr. Deenihan: I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the loss of 210 jobs in County Kerry, 40 at the American Express Rosenbluth travel centre, Killarney, and 170 at Wilson Socks in Tralee and Cahirciveen.

An Ceann Comhairle: Having considered the matters raised, they are not in order under Standing Order 21.

Order of Business.

Minister for Agriculture and Food (Mr. Walsh): It is proposed to take No. 14a, Civil Registration Bill 2003 — Financial Resolution; No. 6, Central Bank and Financial Services Authority of Ireland Bill 2003 — Order for Second Stage and Second Stage; and No. 7, European Parliament Elections (Amendment) Bill 2003 — Order for Second Stage and Second Stage. It is proposed, notwithstanding anything in Standing Orders, that No. 14a shall be decided without debate.

An Ceann Comhairle: There is one proposal to put to the House. Is the proposal for dealing with No. 14a without debate agreed?

Mr. Boyle: The resolution refers to the Act. Is it procedurally in order to take the resolution, given that the Bill has passed Second Stage and has yet to be debated on Committee Stage? While the Bill is largely non-contentious, the Minister has indicated she is unwilling to accept some amendments and there is a likelihood that amendments that are unacceptable to the Government will be put to a vote. Is it procedurally in order to refer to the Bill as an Act and to take the resolution on today's Order of Business?

An Ceann Comhairle: The resolution is in accordance with precedents in the House. It is in order.

Mr. Boyle: What about the reference to an Act?

An Ceann Comhairle: It is in accordance with practice in the House.

Mr. Gormley: It is not an Act.

An Ceann Comhairle: Is the Deputy agreeing to the proposal?

Mr. Boyle: I have nothing against the resolution. However, it seems out of order for the Dáil to agree a resolution on an Act the House has not passed. I cannot see how that is in accordance with procedures.

An Ceann Comhairle: Is the proposal for dealing with No. 14a without debate agreed? Agreed. I call Deputy Kenny on the Order of Business.

Mr. Kenny: Does the Government propose to nominate somebody from this country for a vacancy which has arisen on the European Central Bank's executive board? Belgium indicated this morning that it intends to put forward a person for this position, and the job is expected to go to one of the four remaining eurozone countries which does not have a member——

An Ceann Comhairle: It would be better if the Deputy found another way of raising this matter. It does not arise on the Order of Business.

Mr. Kenny: Belgium has indicated its intention of putting somebody forward. I want to know whether Ireland will do the same, as is our right. We are one of the four eurozone countries without a presence.

An Ceann Comhairle: That does not arise on the Order of Business.

Mr. Durkan: The Minister has the answer.

Mr. Kenny: Is the Government taking any steps to ensure that the 400 persons stranded because of the unfortunate demise of Jetmagic will be brought home?

An Ceann Comhairle: That does not arise on the Order of Business.

Mr. Kenny: On the Order of Business, the Minister of State at the Department of Health and Children — I am glad to see his boss here — has circulated thousands of letters containing four gems of wisdom. The first is that the European Union has grown significantly over the decades.

An Ceann Comhairle: Does the Deputy have a question appropriate to the Order of Business?

Mr. Kenny: This relates to Government business. The second is that the theme of our Presidency is "Europeans Working Together".

An Ceann Comhairle: The Deputy is being disorderly. I call Deputy Rabbitte.

Mr. Kenny: Let me finish my point.

An Ceann Comhairle: I asked the Deputy whether he had a question appropriate to the Order of Business.

Mr. Kenny: I want to make a point. The third is that the process of discussing and reaching agreement is known as the Intergovernmental Conference. The fourth statement was that he would have a very busy schedule over the next six months and that he was looking forward to the challenge ahead.

An Ceann Comhairle: The Deputy is being disorderly. He is raising matters that are not appropriate to the Order of Business.

Mr. Kenny: The Minister of State is sending information all over the country to the effect that he has a very busy schedule and that he is looking forward to the challenge ahead. Where is the absent Minister of State?

Mr. Durkan: The Minister of State is probably out delivering the letters.

An Ceann Comhairle: I ask Deputy Kenny to resume his seat and allow Deputy Rabbitte to speak.

Mr. Rabbitte: We are lucky there is not a photograph of the family on the front page of it. It could be worse.

This is the third schedule of business we have had this week. It has been changed three times. The House is glad that the Immigration Bill has been withdrawn and that the Minister for Justice, Equality and Law Reform did not proceed in the fashion he proposed, having regard to the fact that the original legislation was struck down. It is extraordinary and a very inauspicious start that in the first week we have had three different schedules of business put before the House.

Regarding the Finance Bill, when will it be published and have the Minister and his colleague planned any surprises for us this year? Are there any little tax breaks for anybody down in south-west Cork or Naas, or any swimming pools for pedigree mares or anything like that that we do not know about? Will he give us advance notice this year? We caught him out last year and we will have to do it again this year if he does not tell us in advance.

Mr. Walsh: The Immigration Bill is being introduced in the Seanad tomorrow and will be introduced in the Dáil next Wednesday. That

allows adequate time for Members to deal with any of the issues involved.

Mr. Stagg: That is assuming the Seanad is finished with it.

Mr. Walsh: We are assuming that.

Mr. Stagg: It is a dangerous assumption.

Mr. Walsh: With the co-operation of everybody that can be attained.

Mr. Rabbitte: What happens if Terry sets fire to more candles?

Mr. Walsh: The important thing is the aroma emanating from those candles — a west Roscommon aroma.

The Finance Bill will be published next Wednesday.

Mr. Gormley: Yesterday the European Commission kow-towed to US interests by formally approving a variety of genetically modified maize. This decision must be discussed at the Council of Ministers. Will the Minister make time available in this House——

An Ceann Comhairle: The Deputy must find another way of raising this matter. Has time been promised for a debate?

Mr. Gormley: No. I am asking the Minister whether time can be made available.

An Ceann Comhairle: Time has not been promised. The Deputy is only entitled to ask about promised debates.

Mr. Gormley: The Minister wants to answer. Will the Chair allow the Minister to answer?

An Ceann Comhairle: I cannot allow the Deputy to go outside Standing Orders.

Mr. Gormley: We constantly talk about better informing the public on European issues.

An Ceann Comhairle: There is ample opportunity within Standing Orders to submit a question to the Minister.

Mr. Gormley: The Minister of State, Deputy Roche, is always saying that we have not discussed the issue of liability. It should be discussed on the floor of this House if the Minister will make time available. Will the Minister do that?

An Ceann Comhairle: The issue does not arise on the Order of Business.

Mr. Crawford: I wish to raise four matters. When will the dormant accounts Bill be brought before the House? The money could be very well used for disability groups and others.

An Ceann Comhairle: The Deputy may not state what he might contribute on Second Stage. He should confine himself to the four matters appropriate to the Order of Business.

Mr. Coveney: That is what the money is for. It has been announced.

Mr. Crawford: The health complaints Bill seems to have been lost, like many of the health services. Will that Bill be brought before the house or is it completely dead? The other matters are relevant to the responsibilities of the Minister who is standing in for the Taoiseach today. Will there be a Bill to rationalise Bord Bia and An Bord Glas. Last, but by no means least, can we have a land Bill or some other Bill brought before the House to allow us to discuss the problems of agriculture and whether there is any future for it?

Mr. Walsh: The dormant accounts Bill will be introduced in mid-2004. A Bill regarding Bord Bia and An Bord Glas was introduced in the Seanad yesterday. It was passed on Second Stage and will be discussed on Committee Stage next week. The health Bill will be introduced towards the end of the next session.

Ms McManus: Yesterday in the High Court two obstetric cases were settled, one involving an award of €4 million and the other an award of €1.5 million. This highlights the cost of obstetric medical indemnity. From Sunday a new scheme is being introduced and this is a matter of dispute between the Government and hospital consultants.

An Ceann Comhairle: Has the Deputy a question appropriate to the Order of Business?

Ms McManus: I have. It is a very serious matter.

An Ceann Comhairle: It is worthy of a question to the Minister.

Ms McManus: There is a threat of disruption by hospital consultants. Is there an intention to provide for a supplementary health Estimate to ensure there is a proper deal in place, considering the lack of preparation that is the responsibility of the Department of Health and Children?

Mr. Walsh: There are no plans for a Supplementary Estimate.

Mr. Martin: I would expect the Deputy's support in this matter.

Ms McManus: I support the Minister, but this is a fine mess.

Caoimhín Ó Caoláin: The particular focus I wanted to concentrate on has already been addressed to some degree. The Minister for Agriculture and Food, Deputy Walsh, in his

[Caoimghín Ó Caoláin.]

response as regards the health Bill indicated the end of next term. That would bring us right up to the local elections. As the health Bill will address the current configuration, that is the health boards, does he anticipate that the legislation will be in place regarding the current situation where health boards are made up of representatives of local authorities? Could he please clarify?

Mr. Walsh: The health (amendment) Bill, which deals with the matter raised by the Deputy, will be introduced this term.

Mr. Durkan: I see two Bills here. The critical infrastructure (Dublin metro) Bill is something the Minister for Transport, Deputy Brennan, could get his teeth into. I would like to know the present whereabouts and the implications it will have for existing traffic management in Dublin, particularly in a couple of vital areas. There is also the greater Dublin area (GDA) land use and transport authority Bill, another one that should add to the general confusion on the streets.

Mr. Walsh: The first one, as regards the Dublin metro, will be introduced in 2004, probably next term. It is not possible to say when the land use Bill will be introduced.

Mr. M. Higgins: I ask about legislation on the B list, the national monuments Bill. Which Minister is introducing this? The purpose of the Bill is described as to consolidate and modernise five key pieces of national monuments legislation. A separate Minister dealt with the last national monuments legislation and since then the current Minister for the Environment, Deputy Cullen, is in flagrant breach of it. Which Minister will introduce this legislation and will it retain or seek to demolish entirely any autonomy that was given to the responsible Minister for national monuments legislation?

Mr. Walsh: The responsible Minister is the Minister for the Environment, Heritage and Local Government and legislation will be introduced in May 2004.

Mr. Cuffe: Given the unfortunate reference to disability in the Immigration Bill 2004 that was published yesterday, would it not be in order for the disability Bill to be taken prior to that Bill to ensure that any reference to prescribed diseases or disability is taken out? I know there is a need to get rid of references to lunatics, idiots or those who are mentally deficient—

An Ceann Comhairle: We cannot discuss matters that might be more appropriate for the Second Stage of the Bill.

Mr. Cuffe: —but it seems highly unfortunate that the Minister should seek to discriminate against those suffering from disability. Will the

disability Bill be taken prior to the immigration Bill?

An Ceann Comhairle: The question is on the legislation and when it will come before the House.

Mr. Walsh: The legislation will be introduced this term.

Mr. Kenny: As regards membership of the Council of Europe Development Bank Bill listed for publication this session, when will it actually appear? Will the Minister respond in respect of the European Central Bank's executive board vacancy? Will Ireland put forward a nominee as is our right?

An Ceann Comhairle: The first part of the question is in order.

Mr. Walsh: Yes, that will be published this term. On the second part of the question, that is under consideration.

Mr. Stagg: Will the Minister confirm that the Government has agreed to hold a debate on the interim Flood report? Will he confirm that the format of that debate will allow for questions and answers and a motion at the end, rather than having it in a parliamentary vacuum, unattached to anything, on a Friday? When is it proposed to convene a meeting of the Dáil Reform Committee?

An Ceann Comhairle: The first question is in order.

Mr. Stagg: Is the second one not in order?

An Ceann Comhairle: It would not be a matter for the Minister.

Mr. Walsh: A debate will take place on the Flood report on Friday 13 February.

Mr. M. Higgins: That is a great day.

Mr. Stagg: Is it not a matter for the Whips?

Mr. Walsh: That is a matter for the Whips.

Mr. Stagg: I would like to correct the Minister. It is a matter for the House to determine the format of the debate. We are seeking to have a debate with questions and answers and a motion at the end of it.

An Ceann Comhairle: It is being taken in Government time, is it not?

Mr. Walsh: This matter will be raised at the next Whips' meeting and it should be possible to reach consensus on it.

Mr. Sherlock: Is it the Minister's intention to bring in legislation to give effect to EU

regulations, which according to Deputy Ned O'Keeffe will prohibit the killing of a goose or a turkey on a farm?

Mr. Walsh: I do not believe there is any legislation on that matter.

Mr. Sherlock: Are there such EU regulations that cover the killing of a goose or a turkey on a farm?

An Ceann Comhairle: It is a secondary legislation matter. The answer may be deferred to another day.

Mr. Rabbitte: The Minister is too long around——

Mr. Sherlock: : Can I ask the Minister——

Mr. S. Ryan: I have two questions for the Minister for Health. Given the inability of older people to gain access to long-term nursing homes, is it proposed that the health and social care professionals regulatory Bill, which will endeavour to ensure a quality service for the public, will enable some of the people who have to wait twelve and half years before they get into a nursing home——

An Ceann Comhairle: The question is about the content of the Bill. Has the Deputy another matter?

Mr. S. Ryan: Does the Minister intends to proceed with the health (amendment) Bill?

An Ceann Comhairle: That question has already been answered in reply to Deputy Ó Caoláin this morning.

Mr. S. Ryan: I was wondering if the Minister had secured agreement from his councillor colleagues throughout the country who are on the health boards.

An Ceann Comhairle: That does not arise.

Mr. Walsh: The health and social care professions regulatory Bill will be published this term

Mr. S. Ryan: Will it meet the councillors' requirements?

Civil Registration Bill 2003: Financial Resolution.

Minister for Agriculture and Food (Mr. Walsh): I move:

That provision be made in the Act giving effect to this Resolution for the charging in accordance with the Act of certain fees, being fees for the alteration of the surname of a child, re-registration of births of legitimated persons, registration of foreign adoptions, notification

of marriages, the solemnisation of marriages, searches of indexes to the registers, searches of the register of stillbirths, production of a copy of an entry in a register and for the performance of other related functions.

Question put and agreed to.

Central Bank and Financial Services Authority of Ireland Bill 2003: Order for Second Stage.

Bill entitled an Act to amend the Central Bank Act 1942 for the purposes of providing for the establishment and functions of the regulatory authority sanctions panel, establishing the financial services ombudsman's bureau and prescribing the functions and powers of that ombudsman, providing for the establishment of consultative panels to advise the Irish Financial Services Regulatory Authority on certain matters; to amend the Central Bank Act 1997 for the purposes of making further provision for auditing the accounts of financial service providers and providing for the regulation of money transmission businesses; and to make miscellaneous amendments to certain other acts and statutory instruments relating to the provision of financial services.

Minister for Finance (Mr. McCreevy): I move: "That Second Stage be taken now."

Question put and agreed to.

Central Bank and Financial Services Authority of Ireland Bill 2003: Second Stage.

Minister for Finance (Mr. McCreevy): I move: "That the Bill be now read a Second Time."

This Bill is complementary to the Central Bank and Financial Services Authority of Ireland Act 2003 which was signed into law last year. That Act established the Irish Financial Services Regulatory Authority to oversee the activities of financial institutions, including their treatment of customers.

This Bill provides for establishment of a financial services ombudsman to deal with consumer complaints about financial institutions; establishment of consumer and industry consultative panels to advise the financial services regulator; new reporting and auditing obligations for financial institutions; power for the financial services regulator to impose penalties directly on financial institutions for failure to comply with regulatory requirements, subject to a right of appeal to the appeals tribunal already provided for in the Act; a right of appeal to the appeals tribunal as regards certain supervisory decisions of the authority; new regulatory requirements for money transmission and *bureau de change* businesses; and miscellaneous amendments to financial services regulations.

[Mr. McCreevy.]

The greater part of the Bill is based on recommendations of the report of the implementation advisory group on the establishment of a single regulatory authority for the financial services sector. This document, known as the McDowell report, recommended a new architecture for financial services regulation in this country. The Act passed last year put in place a key component of that architecture, the new financial services regulator. This second piece of legislation provides the remaining pieces of the architecture recommended by the McDowell report. The miscellaneous amendments are mainly technical in nature, correcting flaws and errors in existing financial services legislation that have emerged in the course of practice. They are further pointers to the need for a consolidation of financial services legislation, something that was also recommended by the McDowell group. I am happy to be able to tell the House that a consolidation Bill is now included in the Government's legislative programme.

The drafting of the Bill has benefited greatly from the public consultation process on its contents. The consultation process has led to significant changes in certain Parts such as that dealing with the financial services ombudsman. I thank the many organisations and individuals who took the trouble to comment on the original draft heads. The end product is a more considered set of legislative proposals.

I will now comment briefly on the main provisions of the Bill. The financial services ombudsman will deal with complaints from consumers about their individual dealings with financial institutions. Broader issues of consumer protection are the responsibility of the financial services regulator and specifically of its statutory consumer director. The Bill provides for close co-operation with them and the pensions ombudsman.

This will allow the financial services ombudsman to bring patterns of complaint to the attention of the financial services regulator so the consumer-director can consider if regulatory action is necessary to deal with the issues highlighted. Codes of conduct issued by the financial services regulator will form one of the important criteria against which the ombudsman will assess complaints.

There is also provision for close co-operation with the registrar of credit unions within the financial services regulator regarding complaints involving credit unions. Some amendments to the Credit Union Act are also provided for so that members of a credit union will have the same right of access to the ombudsman as customers of other financial institutions.

In terms of how the ombudsman will deal with complaints, the intention is that a customer should first make his or her complaint to the financial institution concerned. It is in everyone's interest that financial institutions deal with their

customers in a fair way and treat their complaints seriously. If a customer is not satisfied with the response of the financial institution, he or she can refer the complaint to the ombudsman. The ombudsman will try to reach an agreed solution between the customer and the financial institution. If this fails, the ombudsman will make a formal determination on the complaint. The ombudsman's determination will be binding on both parties, subject to their right to appeal to the High Court.

Overall, my intention is to provide a simple means for aggrieved consumers to have their complaints dealt with fairly and quickly by an independent person, the ombudsman. The Bill provides that the ombudsman's office will be overseen by a council. I will appoint the members of the council following consultation with my colleague, the Minister for Enterprise, Trade and Employment. The council will consist of up to ten persons and must include people from consumer and industry backgrounds. The council will be responsible for the appointment of the chief ombudsman and deputy ombudsmen. It will also be responsible for laying down the detailed rules governing the scheme, including the levying of charges on financial institutions to fund the operation of the scheme.

Strong accountability arrangements are built into the Bill. There is a requirement on the ombudsman to produce an annual report and an annual strategy statement, both of which will be laid before the Houses of the Oireachtas. The chairman of the council and the ombudsman are obliged to appear on request before a joint committee of the Houses of the Oireachtas.

The structure set out in the Bill differs considerably from that originally proposed. This reflects the comments received during the consultation process and subsequent contact with the current ombudsman schemes for the insurance and banking sectors. I am happy to say that the existing ombudsman schemes have agreed, in principle, to amalgamate with and transfer their staff to the new statutory scheme. This should prove a highly advantageous arrangement for all concerned, not least the customer. The statutory scheme will be able to build on the track record and expertise of the existing schemes and their staffs avoiding what would otherwise be a loss of continuity and expertise. Specific provisions are included in the Bill to facilitate the amalgamation. The Bill also provides for investigations commenced under the existing schemes to be continued under the new scheme.

I now turn to the provisions for the appointment of consumer and industry panels to advise the financial services regulator. The establishment of such panels was recommended in the McDowell report. It is obviously desirable that the financial services regulator pay close attention to the views of those whose interests it is mandated to promote, the consumers of

financial services and the providers of those services, financial institutions.

The Bill has been altered significantly in light of comments made in the course of the public consultation process. I will appoint the panels following consultation with the Minister for Enterprise, Trade and Employment and, in the case of the industry panel, the Taoiseach. The financial services regulator will be obliged to consult the panels on all general policy issues. I, as Minister for Finance, am obliged to consult both panels before approving the annual budget of the financial services regulator. Reports and opinions of the panels will be published. The financial services regulator can be obliged to publicly state its reasons if it does not agree with a recommendation from a panel. The regulator is obliged to provide appropriate support to the activities of both panels. Either or both panels can appoint specialist advisory groups on specific issues.

The consultative panels will provide a very useful reality check for the financial regulator on how its activities are impacting on consumers and financial institutions. Again, the public consultation process has provided the impetus for change in the proposals set out in the Bill which I believe will further enhance the effectiveness of the panels.

The general recommendations of the review group on auditing have been given legislative expression through the provisions of the Companies (Auditing and Accounting) Act enacted at the end of last year. Apart from establishing the new Irish Auditing and Accounting Supervisory Authority, the Act includes a further important chapter which strengthens corporate governance standards in Irish companies. Of particular importance are the provisions for an annual statement from directors covering the company's compliance with company tax and other laws material to the company's financial position. The compliance statement must be reviewed by a company's auditor who is obliged to give a view on its reasonableness or otherwise.

The Bill covers the add-ons recommended by the review group on the financial institutions. It provides that the financial services regulator can require financial institutions to provide it or another statutory authority with reports on compliance with obligations under financial services and other legislation. It provides that auditors must make an annual positive statement that they have not come across anything in their examination of a company's finances that would trigger a duty to report to the financial services regulator under various existing statutory provisions. It also gives the regulator the power to require an auditor to provide it with information relevant to its statutory duties. The provisions in this Part of the Bill should be viewed in the context of the Government's determination that we must do all we can to

promote the highest standards of corporate compliance in this country.

The McDowell report recommended that the financial services regulator should have the power to directly impose penalties on financial institutions, subject to a right of appeal. Currently, the financial services regulator can only do so through the courts. The Bill provides that the financial services regulator can penalise a financial institution directly if it breaches a requirement of an Act, regulation or code of conduct. The penalty can take the form of a reprimand, a fine, public disclosure or a combination of the three. There is also provision for managers to be disqualified from employment in the financial services sector. The financial institution or manager is given an opportunity to present a case to a sanctions panel and to appeal a proposed penalty to the appeals tribunal already provided for in the Act passed last year.

The McDowell report also concluded that the appeals tribunal provided a suitable mechanism for review of the financial services regulator's supervisory decisions. I have, therefore, tabled amendments to existing financial services legislation to provide, in general, for a right of appeal to the tribunal rather than the High Court.

The system of authorisation which currently applies to bureaux de change is being extended to persons engaged in money transmission business. The main purpose of the authorisation system is to facilitate the effective implementation of the anti-money laundering and anti-terrorist funding provisions of the Criminal Justice Acts. The current authorisation regime that applies to bureaux de change is also being amended to encompass the objective of preventing the financing of terrorism. The new provisions address international concern at the possible use of such businesses as conduits for the financing of terrorism.

The Bill includes a wide range of mainly technical amendments to various items of financial services legislation. A small number of these amendments are more substantive in nature, as I will now describe. Some of the amendments to insurance legislation go beyond the purely technical aspects. I refer in particular to the amendments designed to restore the right of an administrator appointed to an insurance company in difficulty to have access to the insurance compensation fund. While we have not had an insurance failure for almost 20 years, it is important to have in place a range of options to deal with such a situation. The amendments restore the option that was availed of by the then Governments when PMPA and ICI got into difficulty in the early 1980s.

I also draw attention to the proposed amendment to section 77 of the Central Bank Act 1989 on mergers and acquisitions in the banking sector. The heads of the Bill published last year provided for the removal of the role of the Minister for Finance in this area, as recommended in the banking sector strategic

[Mr. McCreavy.]

issues report published in August 2000. While I respect the arguments put forward by the distinguished members of that working group, I have decided, with Government approval, that it would be going too far to remove the element of political judgment and accountability that the current arrangement provides. The proposed revision to the 1989 Act sets out the criteria that the Minister for Finance must use when exercising his or her judgment.

I refer to three proposed amendments to the Consumer Credit Act 1995. One amendment provides that I, as Minister for Finance, may extend the provisions of the Act to cover business consumers. This arises from a McDowell report recommendation that non-consumer moneylending should be treated in the same way as consumer lending. I only intend to exercise this power after consultation with the financial services regulator and careful consideration of all the arguments.

Another amendment arising from the McDowell report provides that all institutions that lend on the security of a borrower's principal home be made subject to Part IX of the Consumer Credit Act. Part IX provides protection to a borrower by imposing various obligations on housing loan lenders, for example, to warn the borrower explicitly about the danger of losing the family home if repayment conditions are not met. The third amendment extends the definition of mortgage intermediaries to cover so-called introducers. This amendment is being made on foot of the recommendation from the Director of Consumer Affairs.

I will table a number of amendments on Committee Stage, the majority of which will be technical. I will propose more substantive amendments in two areas. One set of amendments will deal with concerns raised by, among others, the European Central Bank regarding the new provisions on sanctions and the appeals tribunal. The second set of substantive amendments will respond to a reasoned opinion from the European Commission about the current exclusion of credit unions from the terms of the consumer credit directives.

Following the passage of the Bill, we will have put in place the essential building blocks of a modern, consumer focused regulatory system for the financial services sector in Ireland. We will also have contributed significantly to the objective of maintaining Ireland's reputation as a business-friendly, but well regulated domicile for international financial services activity. I commend the Bill to the House.

Mr. R. Bruton: I am pleasantly surprised at the quality of the performance of the financial services regulator, especially in regard to consumer protection. I was sceptical of the notion of rolling into one the consumer protection and prudential functions and I still have misgivings that, ultimately, in a test of wills, the consumer

director will be very much subservient to the financial services regulation dimension of the authority. Nonetheless, the present incumbent in the consumer director role has taken a strong position, is producing worthwhile information for consumers and is confronting the banks in respect of a number of their practices such as the failure to pass on interest rate reductions. She must be commended on the excellence of her work. However, the test will be when issues of enforcement arise and the consumer director requires action to be taken to penalise institutions and whether the significant powers of the regulatory authority will be brought to bear in endorsing and enforcing the her role.

I also have misgivings about the IFSRA board, which, with the exception of one excellent appointee, Deirdre Purcell, does not comprise a consumer protection expert. There is no provision in the Act to appoint persons to the board of the authority with a specific consumer protection role. The Director of Consumer Affairs is an *ex officio* member but he or she is an employee of the board and is compromised in that role.

While I have misgivings about the model, significant progress is being made. I read the IFSRA's strategy statement, which was recently published, and I hope to meet representatives of the authority soon to discuss it. It is an impressive document, which outlines seven high level goals and 85 categories of action against most of which the authority has set performance targets. The authority is going about its business effectively and I wish it well.

The balance struck in the legislation is welcome. The appointments of a financial services ombudsman and consumer panels are welcome developments to which I will refer later. The Minister will have read trenchant criticism by Jonathan Westrup, a lecturer in Trinity College, over the past week of the role of the Oireachtas in supervising the financial regulator in particular. He referred to the performance of the Oireachtas Joint Committee on Finance and the Public Service in *The Irish Times* stating:

It is not hard to conclude that the Irish political system is just not interested in such work because TDs feel that they gain no political advantage from such activity and so there is little political will. The fact remains that the Oireachtas has given regulators great powers but has largely chosen to leave them to their own devices leaving a major gap in the accountability structure.

It is important that we should reflect on this issue. It is ironic that, as we propose to establish consumer and industry panels and give them access to substantial resources through the regulatory authority, the same has not been done in respect of the Oireachtas which is seen by many as the primary supervisor in terms of the performance of the regulatory system. Legislation has not often sought to develop that issue in any

way. The Minister has provided that in all cases the Oireachtas has the power to call the various bodies before it, which is right and proper, but on the other hand, no legislation has ever sought to specify a schedule of regular scrutiny. Oireachtas committee are, therefore, not under an obligation, for example, to supervise bodies annually. No format of scrutiny is provided or indicated in this legislation and, therefore, for example, routine access to audits that would be the subject of Oireachtas scrutiny is not provided to give the Oireachtas equality of power in an unequal battle to supervise regulators, particularly in as complex an area as this.

Resources is also an issue for the committee. Mr. Westrup is correct regarding political will because there is little political return from hours of scrutiny of regulators in committee. If the House wants that, an obligation should be put on the committees to do the work and an expectation that they should present the results of this work. That has not been sought in previous legislation nor has it been sought in respect of the authority. The Minister and his advisers need to reflect on the importance of Oireachtas scrutiny of regulators. The important question is who will regulate the regulators? Is it the Minister's role or that of Oireachtas Members? We do not have access to resources.

Before the legislation was published Mr. Westrup wrote an article in which he compared the resources of the Oireachtas Joint Committee on Finance and the Public Service to its counterparts in other jurisdictions. The committee is staffed by one clerk and has access to the Oireachtas legal adviser who is shared with all the other committees. The equivalent UK committee has two clerks, two economists as well as part-time advisers while the New Zealand committee has 2.5 clerks and an audit office which provides reports to the committee, unlike our Comptroller and Auditor General who only provides audit reports to the Committee of Public Accounts.

The issue is not only about giving the committees more resources, as responsibilities must be attached. If we are to go down the road of assigning a serious role to the Oireachtas in overseeing regulators, we must make provision for it. It is instructive that the last time there was a battle when a regulator refused to appear before the Oireachtas, the legislation which had made provision for the regulator had not anticipated such a circumstance and the regulator was able to point out that there was no legal basis upon which the Oireachtas could call her before it. The Minister and his officials give great consideration to the regulation in regard to consumers, industrial users and others but we may need to focus more on the role and responsibilities of the Oireachtas in this area, about which I am interested. It is equally important that the Oireachtas has roles, although the Minister does not support this.

The appointees to the bodies the Minister is seeking to put in place should have some confirmation-type hearings. The Minister has repeatedly said he thinks worthy people would not come forward if they had to appear before Oireachtas committees but that is manifestly untrue. Very worthy people come forward, are proud to have positions on State boards and are happy to be accountable to the Oireachtas in regard to how they conduct their stewardship.

I do not see how the Oireachtas would suddenly become perceived as a star chamber if, before they were appointed, people came before a committee and were asked about their intentions and views. That would enhance the role of the Oireachtas and not, as the Minister fears, be seen as a highly politicised attempt to hand-trip someone who happened to have Fianna Fáil connections because he or she was being placed on the board. That would not happen in practice. It might happen on the first day of a nine day wonder as the Oireachtas began to flex its muscles with its new powers, but it would not become a feature of the way in which it oversaw affairs.

As Deputies and Senators, we have a long way to go in developing our capacity to oversee these regulators who now have extraordinary powers and whose decisions are often surprising — for example, the decision to approve Eircom line rental increases and decisions to repeatedly increase electricity prices, supposedly in the name of competition. Many of these decisions are strange and need Oireachtas supervision. This is a topical issue and is important in the context of our consideration of this Bill.

By and large, I am pleased with the Minister's proposals for the financial services ombudsman and it is clearly a welcome appointment. The ombudsman is to be appointed by the council, therefore, striking the right balance in its make-up will be crucial. I understand the Minister envisages a 50:50 split between representatives of industry and consumers. I suspect that a majority of consumer interests on that council would be more appropriate for an ombudsman to protect consumer rights. The point has been made by others outside the House that those appointed should not only be experienced in consumer issues to the extent of, like me, doing weekly shopping, looking at the shelves and knowing what it is to be a consumer, but also have some expertise in the protection of consumers. It is important that dimension is emphasised as opposed to just nominees' general capacity to be a good consumer.

Mr. McCreevy: I understand the Deputy's knowledge of consumer pricing structure, now that I know he goes shopping.

Mr. R. Bruton: I check out Lidl, Aldi and all the rest of them.

It is important we ensure the council which appoints the financial services ombudsman and

[Mr. R. Bruton.]

has the supervisory role has a proper balance and experience and its manner of selection must be appropriate. While not necessarily suggesting the Minister ought to appoint members to the board, perhaps he should allow an open competition in which people can propose themselves. RTE was this morning advertising for people to apply to be on its consumer user panel. Perhaps the process for the financial ombudsman would be more formal than that, but many people would come forward if they thought it was an open competition and if the Minister gave a clear indication he was not merely appointing his own favoured contacts but genuinely wanted a broad-based council with the appropriate skills. If the Minister advertised for people and ran a selection procedure under his supervision and appointed people on a fair-minded basis, it would boost confidence and it would be seen that the Minister was taking a proper approach to this matter.

On Committee Stage we will want to ensure that the independence of the ombudsman from the regulatory authority is clear. The intention is there but the detail must be worked out.

It is strange that the ombudsman will not be creating the codes of practice. That is a feature of the appointment of a consumer-director to the regulatory authority. Therefore, it is the consumer director, via the regulatory authority, who will create codes of practice rather than the ombudsman. Perhaps, given the present structure, that is the appropriate way but we must also ensure the ombudsman's experience informs those codes of practice, a point which needs to be copper-fastened in the legislation even though it is provided for to a degree.

It is strange that it is proposed to move the existing non-statutory ombudsmen to a sub-role. If there is a working system of oversight, there is a practical argument in favour of using that experience and skill. On the other hand, it is important the Minister provides us with an assessment of the culture and operations of the existing institutions if they are to be transferred *en bloc* to become the core of the new financial services ombudsman. It is an unusual provision that a new authority such as this would just inherit the work of the non-statutory group. If we go down that road, the Minister needs to demonstrate that the culture and operations of those institutions are up to best practice standard. He must give such assurances that, despite this unusual arrangement, we will still get best practice in terms of the financial services ombudsman.

I welcome the binding nature of the determinations to be made by the ombudsman, which is different from the ombudsman director of the public service who does not have such a power but rather has the power to make reports to the Dáil. Perhaps it is instructive that the public sector is willing to give in to the supervision of others' standards of compliance which it would not accept in its own case.

Nonetheless, the provision for binding determinations by the financial services ombudsman is significant.

One anomaly with which the Minister could deal today or on Committee Stage is that it seems a case cannot go to the financial services ombudsman if legal proceedings are ongoing between a consumer and a financial institution. I would like assurances that this will not allow an out for a financial institution which is coming under scrutiny, whereby it can issue legal proceedings and the opportunity for the consumer to use the services of the financial ombudsman is negated. No one would want to see that happen.

I congratulate the Minister on not accepting the McDowell proposal that the consumer panels should be chaired by IFSRA staff. That was a strange proposal and I was surprised to see it in the McDowell report. I am glad the Minister has not decided to go down that road and proposes to select the chair from within the panel. I say the same thing with regard to the selection of the members of the consumer panel. The Minister should invite those who wish to be considered and establish a procedure for shortlisting a group of people in whom he has confidence and who he believes will do the job well.

The Minister has struck a correct balance in respect of the powers of the regulatory authority. It can proceed with some regulatory and policy documents without first referring them to the consumer and industry panels but only where there is an obligation to act without delay, and when the documents have been issued the authority is obliged to seek the comments of the panels. That strikes the right balance.

It is significant that the Minister has given considerably more powers to the consumer panel than to the industry panel in respect of monitoring and commenting on performance. Only the consumer panel will have the power to make suggestions for initiatives. I presume the Minister feels that to offer an industry panel the power to monitor, comment on performance and make suggestions would risk a conflict of interest. This question can be teased out on Committee Stage. I am sure there are instances where suggestions, initiatives or comments on performance could be permitted to the industry panel rather than statutorily ruling them out. There would have to be tight controls to guard against regulatory capture where the industry panel could gain an unhealthy influence over the activities of the authority. A balance must be struck between the dangers of regulatory capture and denying power to comment on performance or suggest initiatives.

The consumer panel will be given substantial power with regard to the IFSRA. Should it not also be given power to comment on the overall performance of the financial sector? It may be that everything can be seen through the prism of the IFSRA but we do not have a particularly competitive financial sector and the IFSRA does

not have the power to create competition. It can only regulate what is there although it can make it more congenial for people to enter the market. Perhaps we should consider allowing the consumer panel to make more general comments on the performance of the financial services sector as opposed to the performance of the Irish Financial Services Regulatory Authority. We should consider this as we move towards Committee Stage.

I welcome the authority's powers to take more immediate enforcement action than the rather slow process available to it at present. The Bill also transfers the new audit obligations to the financial services sector. I am not an accountant or expert in this field and bow to the professional expertise of the Minister and Deputy Burton. Nevertheless, some of the compliance obligations being imposed on directors in other sectors seem to be excessive. I think of the compliance obligations of a director of a widget factory, for example. However, the new demands being imposed on the financial sector are appropriate. They are intimately bound up with the financial security of consumers who deposit money with financial institutions or who raise money from them. While one may argue that compliance obligations imposed on small operations in the general sphere are too onerous, in the financial sector I am persuaded of their reasonableness. That is also a matter which can be teased out on Committee Stage.

Had Second Stage of the Bill not been rescheduled at short notice I might have had more to say about it. I welcome the Bill, look forward to the contributions of other Deputies and hope we can further improve on it.

Ms Burton: I welcome the publication of the Bill and its reading in the House. The appointment of a financial services ombudsman is long overdue and has been promised by the Government for six or seven years. Therefore, the proposal in the Bill to appoint one is welcome.

Like most modern economies, the Irish economy is fuelled, to a considerable extent, by credit, especially consumer credit. I note the upbeat Economic and Social Research Institute report on the future performance and prospects of the economy, the importance of the development of the service sector and the impact on the domestic market of the growing population. The consequence of this credit boom is that we live in a world of high pressure advertising by banks and financial institutions who continuously promote their services, instruments and credit to consumers of all ages and classes.

Many families are now counting the cost of pre-Christmas spending sprees and are waking up to horrendous costs being charged to them by various financial institutions. In a significant number of cases consumers continue to be ripped-off by financial institutions and financial

service providers. Recent examples, of which we are all aware, include credit cards and store cards with extraordinarily high rates of interest charged on them, despite the fact that interest rates in the eurozone are at a historic low.

Another example is the practice of moneylending companies which operate door-to-door businesses providing credit and a collection service at the door. In a number of clearly indicated cases these companies' interest rate run into several hundred per cent. I draw the Minister's attention to a fine investigation recently carried out by journalists from the *Sunday Independent* into that phenomenon. Some organisations responded to those reports in the *Sunday Independent* by saying that, while these credit institutions peddling door-to-door credit charge several hundred per cent interest, illegal moneylenders charge even more. Consumers are between a rock and a hard place.

The Office of the Director of Consumer Affairs and the IFSRA have been involved in pointing out the difference between the costs of insurance premiums, especially for young male drivers, and the fees associated with the provision of insurance services by brokers and such like. I commend the work started by the IFSRA and the consumer-director based there, which understandably up to now has largely focused on trying to inform consumers about their rights and give them a strong message that shopping around may save them considerable amounts of money. However, it is very early days yet for the IFSRA, which is still very much under the wing and control of the Central Bank. We have yet to see the day when it will bite. While the work it has done so far, particularly on consumer information, is to be commended, judgment has to be deferred until we see a conflict involving financial institutions or financial service providers. The jury is out on whether it is hidebound by the traditional conflict between the guardian role of the Central Bank and the role of an aggressive pro-consumer pro-regulation IFSRA.

The Bill provides for the appointment of a financial services ombudsman to deal with consumer complaints about financial institutions and for the establishment of two panels, the consultative consumer panel and the consultative industry panel. It is important that consumer interests are strongly represented on both panels and that both panels and the authority are not composed by rounding up and appointing the usual suspects. By that I mean representatives of the various commercial industries and the various organisations in the banking and financial services industries with the usual collection of, in many cases, party political hacks.

Having established a regulatory framework, while within all parties there are people deserving of public appointment, when setting up a regulatory authority we need people on the panels and authority with experience and who are independent-minded. We need people who can

[Ms Burton.]

act with a degree of judicial impartiality in carrying out their functions as important roles are given in this Bill, some of which break new constitutional ground to which I will return later.

It is not sufficient for the Minister to simply consult the Minister for Enterprise, Trade and Employment and the Taoiseach or other members of the Cabinet as he has indicated. We need a clear public procedure covering the appointment of up to 50 persons to the new structures that will apply when this Bill is enacted. There should be a public appointments process, which may entail advertising or a process of consultation.

It is essential that representatives of organisations such as the Consumers Association of Ireland, which has done much good work over the years, should be on these panels. They have shown a clear expertise and dedication. The Minister should also consider organisations such as credit unions, which have offered not-for-profit credit availability, particularly to some of the poorest people in society.

I hope the Minister will look at the money advice and budgeting service, MABS, which was the victim of probably the most stupid and cruel cut by the Minister for Social and Family Affairs, Deputy Coughlan. The Minister for Finance pulled the wool over her eyes when he got her to cut back in a mean way the financial arrangements which MABS could put in place for families and individuals who had gone considerably over their heads in becoming indebted to various moneylenders, loan sharks and financial institutions charging extortionate rates of interest. That was a mistake and I hope the Minister will seek to remedy it by consulting widely on the people he chooses for appointment to these various boards and panels.

Members of the Society of St. Vincent de Paul, which has taken a detailed interest in the problems of improper use of credit by poor families, should qualify for the Minister's consideration. We know that the financial services industry will offer people by the dozen and while those people will be well qualified for appointment to those panels, they will represent the sector from which they come. While in some cases their appointments will be appropriate, we also want strong independent voices who are champions of consumer interest. It is only in that way that the new authority will get courage to take on malpractice by financial institutions. I am aware that most banks and financial institutions provide decent services to and have good relations with their customers. However there are corner boys whose sole intention is to rip off consumers.

Like many other Deputies I have occasionally dealt with families purchasing a house who find that they are in the grip of a mortgage provider whereby if they hit hard times and fall behind in their payments at any stage they are subject to unbelievable fines. Such areas of doubtful

practice need to be clearly addressed by the new authority.

Section 8 of the Bill deals with administrative sanctions, which can be applied by the regulatory authority where there are transgressions. It provides for fines of up to €5 million, orders to pay costs and, for directors and managers of financial institutions, disqualification from being involved in the management of a financial service provider. These are significant and onerous civil penalties. Has the Minister taken the advice of the Attorney General on the constitutional status of this new mechanism of imposing sanctions? Article 34.1 of the Constitution, one of the cornerstones of the separation of powers, makes it clear that it is for the courts and judges to administer justice and to impose penalties on those who have transgressed the law.

While this model comes through the European Union and under European law it is possible to provide such a structure, there are a number of cases where this law comes very close to carrying out the operations of a judicial function in a non-judicial environment. That has happened previously. I refer here to the judgment of Justice Kingsmill Moore in the case re solicitors in 1954 when he clearly stated that judgments can be exercised which are punitive. Fines of £5 million, disqualification from practising a profession or in a particular area of activity are strong and appropriate sanctions where there are transgressions of financial service regulations. I will be interested to hear the Minister indicate in his reply and on Committee Stage whether he is satisfied that these provisions are constitutional.

There are several examples in the lifetime of the Government where legal advice has been found wanting. Many of these proposals were put forward by the Minister, Deputy McDowell, when he chaired the committee. He subsequently served as Attorney General and is now Minister for Justice, Equality and Law Reform. Despite possessing one of the most eminent legal brains in this country, his record in second-guessing the courts and producing legislation that is acceptable to them is not brilliant. Has the Minister for Finance consulted the current Attorney General in respect of the constitutionality of section 8?

I wish to deal with the section that provides for new reporting and auditing obligations for financial institutions. I was not directly concerned with the debate on the Companies (Auditing and Accounting) Act before it became law. As a fellow accountant, will the Minister for Finance offer a point of view on a specific matter? The Bill provides for the new reporting obligations for financial institutions. Would the Minister be prepared to accept an amendment from the Labour Party to include in the Bill some statutory protection, especially in the case of financial institutions, in respect of internal auditors, independent non-executive directors and the independent audit committee?

As the Minister is aware, where companies have a listing on the Stock Exchange, as do most

large banks and financial institutions, regulatory requirements arise from those bodies and they seek to attend to those functions. However, it emerged from the DIRT inquiry carried out by the House that the role of internal audit systems was critical in alerting the bank to what was happening and in obliging the banks and financial institutions to face up to their responsibilities in terms of their participation in widespread tax evasion in respect of customer accounts. Shareholders in Allied Irish Banks lost significant amounts of money in the scandal involving Allfirst Maryland, one of its subsidiaries. If there had been a stronger internal reporting function, a stronger internal audit committee and stronger independent executive directors operating in that bank, AIB might have been saved the grief and the loss caused by the actions of one of its traders.

Will the Minister, in addition to applying to banks and financial institutions the requirements of the Companies (Auditing and Accounting) Act, give specific consideration to the role of internal auditors in the banks? In my experience as an accountant — I am sure that of the Minister is similar — the continuing internal audit function in banks and financial institutions is the major protection and safeguard against fraud and malfeasance on the part of either staff or directors. Frauds are often perpetrated by the management, owners and directors of a company. We saw this in the cases of Parmalat and Enron where overweening and powerful founding families, directors or owners held sway. It takes a brave individual to threaten any of these entities or imply that their financial stewardship and management is less than perfect. The Bill provides an opportunity to provide further legislative protection in respect of the traditionally strong role played by internal audit systems in banks and financial institutions. The same goes for audit committees and independent non-executive directors.

I attended a function last week at which a report was published by business women regarding the small number of women on the boards of Irish companies. It is interesting that the report was launched by Mr. Buckley from Allied Irish Banks who made an interesting and thoughtful contribution. Women are the main purchasers and consumers in our economy. I salute Deputy Richard Bruton for doing the family shopping. I live in an equal household, so I do some shopping and my husband does the rest. I invite the Minister for Finance to visit the shops from time to time to see what is happening in terms of prices.

Will the Minister give a commitment that, of the authority and two panels to be established, at least one if not two will be chaired by a woman? There is no reason that the overall composition of the three bodies, of which there will be approximately 50 members, should not be on the basis of a 50-50 split between men and women. As the Minister stated previously, there are more

than enough qualified women available and interested in doing those jobs.

I wish to take up a point made by Deputy Richard Bruton in respect of the panels which will have an important regulatory function. I would like the members of the panels to be recruited through an open process. I accept that the Minister will have the final call on who will be appointed. However, the members of the panels and the regulatory authority should be obliged to make statements of their financial interests similar to those made by Members of the Oireachtas and local authority representatives in order that, especially in the case of people who come from the financial services industry, it can be clearly seen whether there might be potential conflicts of interest.

The job of the panels will be important. Deputy Richard Bruton correctly referred to the ridiculous level of resources available to the Joint Committee on Finance and the Public Service. Mr. Jonathan Westrup, in his lecture to the ACCA, remarked that the capacity of the Oireachtas committees to oversee regulators is limited and that there is not a high level of interest among Members in this regard. In my experience there is a high level of interest and the Joint Committee on Finance and the Public Service, which has a mixture of economists, accountants, former bankers and people with significant experience in business and other walks of life among its members, is an example of this. The members of the committee are well qualified for the job expected of them. However, the committee is entirely without resources to carry out the job of overseeing regulatory agencies.

What resources will the Minister allocate to the panels so they can properly carry out their functions? If their members will simply get a monthly lunch in the Central Bank headquarters at which, just before lunch is served, they will be given a three page statement outlining what is being done, that is not regulation. The panels should be empowered to bring to the attention of the regulator, for example, the fact that people are paying 300% interest rates to loan sharks and to ask what will be done to prevent consumers being ripped off. We want regulatory panels with teeth in terms of the power to raise issues as they affect consumers, big and small, in the operation of financial services and industries. One issue I invite them to address is how mortgage lenders act when people get into difficulty with their mortgage repayments. Some mortgage providers charge extortionate fines when mortgage payers fail to keep to the schedule of their agreement.

There is a great deal of work to be done in detailing and building up a picture for the Oireachtas of how the new structure will work. The new structure is welcome. In principle, much of its operation should go well, although I have grave doubts about the constitutionality of section 8. I welcome the establishment of the panels provided they are independent,

12 o'clock

[Ms Burton.]

appointment is on merit, there is an appropriate gender balance and they do not simply become the province of party political or industry hacks. That is important. The people on the panels must be independent. If we achieve that and if the panels are properly resourced to target those areas that are regularly identified as areas in which consumers and small business may be abused, we will create a financial services regulatory authority ombudsman that will have real teeth.

Following representations from the Director of Consumer Affairs, there is an attempt in the miscellaneous sections of the Bill to regulate the practices of mortgage intermediaries. These are people who find mortgages for clients. In my constituency, and probably in the Minister's, there are many people who provide mortgage intermediary services. Some of them are providing those services as a consequence of leaving banks and building societies. They are providing a good service. Others, however, are charging high fees and I welcome the proposal to regulate the way fees for such services are provided.

I am concerned that some of these mortgage intermediaries are too close to the big builders who are building the estates. It is a closed circle and the young couple buying houses, being so anxious to get into the property market and to get a mortgage, end up with insufficient knowledge of how much they will actually pay in terms of the capital cost, which they are borrowing, and the service charges that surround obtaining the eagerly sought mortgage. I welcome that provision in the Bill but perhaps the Minister will explain in further detail how it is proposed to deal with it.

The consumer-director has also been at pains in recent months to give more information about certain financial services products, in particular, products such as tracker bonds. Many people have little financial expertise. The general rule is *caveat emptor* and, ultimately, consumers must take responsibility for their actions. Nonetheless, there are financial service products available, such as tracker bonds, which are new and are strongly marketed as almost guaranteeing financial returns. Consumers do not have the capacity to read the small print and significant numbers of people have sustained significant losses from these products as a result of the fluctuating stock markets in the past couple of years. The IFSRA is empowered to give information to consumers about the pros and cons of different types of financial products. I hope that when the panels are established they will go a step further and examine and inquire into some of these products.

Caoimhghín Ó Caoláin: I propose to share time with Deputies Finian McGrath, Connolly and Boyle.

This Bill is a follow-up to the 2003 Act of the same name. At its core is the establishment of a financial services ombudsman. This is a long overdue development and is badly needed by users of financial services, particularly the ordinary customers of banks and insurance companies.

The issues dealt with in the Bill were debated in the course of the passage of the 2003 Act. This was followed last summer by a series of hearings conducted by the Oireachtas Joint Committee on Finance and the Public Service. I commend my colleagues on the committee on their participation in those hearings, which examined the charging practices of the main banks. The committee also heard from the consumer-director of the Irish Financial Services Regulatory Authority established under the 2003 Act. The hearings confirmed the need for greater consumer protection and, particularly, the establishment of a financial services ombudsman, which is provided for in this legislation.

Irish people, as individual consumers and as a society, are being grossly exploited by banks and other financial institutions. I instanced my experience and observation of that at the Joint Committee on Finance and the Public Service and in the House when we discussed the original substantive legislation. Allied Irish Banks and Bank of Ireland operate a virtual duopoly. They and the other main financial institutions are raking off excessive profits in their dealings with customers through charges and a range of practices which ensure their dominance in the market. This has a major knock-on effect on the economy.

The reality customers must deal with is shown in the figures. I will offer just one statistic at this point. In 2002, there was inflation of 23% in this State for financial services, which includes both the insurance sector and the banks. Compare that with an EU average of only 4% over the comparable period. These are the figures presented by Forfás in its consumer pricing report for 2003. That is a damning comparison.

We should study the survey conducted in 2001 by ISME, the Irish small and medium enterprise representative body. Among the points gleaned by the survey was that one fifth of customers surveyed bluntly stated that they did not trust their bank. Half the respondents outlined that they were concerned about interest rate charges. Three quarters of those reported that they were concerned about bank fees and charges. Almost half the firms which queried their bank charges and interest rates and which initially received an unsatisfactory response received a refund. What does this tell us? Eight out of every ten ISME members surveyed queried their bank about charges and interest rates, but fewer than two thirds of them received a satisfactory response. When pressed, nearly half received a refund.

Almost two thirds of respondents stated that their bank charges were not fully explained, while 41% indicated that new charges had been applied

in the previous 24 months. What was worse was that almost half the respondents indicated that their bank had debited their account without prior permission or approval. More than 60% indicated that they had been unable to negotiate lower interest rates or bank charges. Unsurprisingly, three quarters of respondents stated that there was no difference between the banks.

The Minister must bear in mind that the customers surveyed were business people directly represented by ISME. Most of them would be able and confident to challenge their banks with the support of a representative body which is flexing itself in the market. Other customers with less clout, such as families on lower incomes and older people, would be more open to abuse from the financial institutions than the sector of which I have given an account.

The Irish Bankers Federation has publicly opposed the Government's banking levy, which was introduced last year. I have spoken about that a number of times during budget debates with the Minister. That levy is only €300 million over three years and it is spread across all the banks. That is only a fraction of what banks should contribute. They are among some of the largest beneficiaries of the Government's decision to slash corporation tax from 16% to 12.5%. The practical result of banks' predominant position and the Government's failure to challenge them is less revenue, resulting in less money for the health services, the repair and building of schools, people with disabilities and badly needed social housing programmes. The untaxed portion of these massive profits enriches a privileged minority in society while our infrastructure continues to suffer and the marginalised not only stay on the margins but, as we have seen in successive budgets, are confined to that position.

What emerged from the hearings of the Joint Committee on Finance and the Public Service was that we have all the problems of exploitation by financial institutions but none of the principal solutions. We do not have Government or EU control of charges because it is laid down on tablets of stone that it would be anti-competitive. I have been arrogantly informed time and again when I raise the issue that the question of having such controls is invalid. Despite this, we do not have real competition, as has been demonstrated in the financial services sector. I am not prepared to accept any claim to the contrary. That was clearly revealed during the hearings of the Joint Committee on Finance and the Public Service.

We also considered the extraordinary situation where Allied Irish Banks, Bank of Ireland and the Trustee Savings Bank operated a cartel in the tendering process initiated by Cork County Council. The latter two banks withdrew from the tendering process, resulting in its collapse. That forced the county council to accept the terms of its then banker, Allied Irish Banks. That dictated the terms for the council because it was not left

with any option as no one else was bidding for its business. It went from a position of having an 80% discount on the gross commercial scale of fees payable on all accounts to what will be 10% in 2006. What will be the net effect on the people of County Cork? It will mean a further €187,000 in bank charges which will come from people's contributions to the public funds of the local authority and which should be better spent on other much needed measures in County Cork.

As a submission from the Consumers Association of Ireland stated: "The immediate asset test for IFSRA will be how swiftly it redresses the balance of power between Irish retail banks and Irish customers". The results of that test remain to be seen and have yet to be assessed. The same test will apply to the financial services ombudsman as established by the Bill which, as I have already recorded, I welcome.

Mr. F. McGrath: I thank you, a Leas-Cheann Comhairle, for giving me the opportunity to speak on this Bill. I welcome the debate on banking and the financial services. However, we have been too silent on the question of integrity and honesty in the banking and business sectors. I have felt for many years that the big boys and girls involved in the different business and banking scams have got away lightly. I strongly welcome the establishment of a financial services ombudsman to deal with consumer complaints about financial institutions.

In recent years Ireland has become known as the island of scandals and tribunals. Politics, banking, business, the church, the legal profession and the medical profession have suffered from the erosion of public confidence. That has had a profound impact on our value system. The Bill must be part of the analysis and the serious debate we need in society. These financial scandals have led to a lack of participation in the democratic process. We must wake up to that reality. We in politics call it the "you are all the same" syndrome. Approximately 33% of voters seem to label all politicians as the same and to blame them for the scandals, especially the financial scandals. Our friends in the media also contribute to that on a daily basis with ill-informed commentary and deliberate misrepresentation of the facts. Many of the electorate believe we live in a liberal democracy. I urge them to think again and open their eyes to the scandals in financial institutions.

When discussing the Bill, it is essential to consider the Minister's earlier remarks about maintaining Ireland's reputation as a business friendly but well regulated country. Those of us on the left of politics — there are not many of us left — are often labelled as being against business and profits. I have no major ethical problems with profits, only with their misuse. Not all profit is greed. When it is used in a positive and constructive way to the greater good of society, I strongly encourage profit-making.

[Mr. F. McGrath.]

Some matters should be clarified in this debate on financial institutions. Pope John Paul II in the encyclical, *Centesimus Annus*, published in May 1991, presented a moral evaluation of capitalism:

Can it perhaps be said that, after the failure of communism, capitalism is the victorious social system, and that capitalism should be the goal of the countries now making efforts to rebuild their economy and society?

The answer is complex. Those of us who believe in social justice should tell people straight out that the solution lies in a left of centre mixed economy with a strong public service engine room. The economic policies of right wing philosophers may be rampant in the international arena but they are leading to more poverty, disadvantage, exclusion, injustice and a more violent international community. That is the world of 2004.

This is relevant to the Bill which gives us an opportunity to set out a direction for our country and, above all, for justice and ethics in our financial services. It provides for the establishment of a financial services ombudsman to deal with consumer complaints about financial institutions, which I strongly support. It also provides for the establishment of a consumer and industries consultative panel to advise the financial services regulator and empowers that regulator to impose penalties on financial institutions for failure to comply with regulatory requirements, subject to the right of appeal to the appeals tribunal already provided in the Central Bank Act. These are positive aspects of the Bill.

I am a strong supporter of consumers' rights. The consumer is being hammered and, if the Minister of State does not do something practical about prices, and the way people are overcharged, there is no point in passing this Bill or having this debate. I hope the Minister of State and the Cabinet will listen to a different view and take it on board so that we can move forward.

Mr. Connolly: I welcome the introduction of the Bill, which represents a charter for the protection of the consumer against malpractice by unscrupulous financial institutions. These institutions cannot afford to take their customers for granted as ACC Bank, now owned by Rabobank and formerly known as the farmer's bank, has done. This institution now restricts lodgements and withdrawals to a minimum of €1,000, greatly increasing the vulnerability of rural dwellers to the possibility of violent attacks and home robberies. In effect, it makes them sitting ducks for this type of crime.

I seriously query the ethics of this restrictive practice which forces many elderly people to save up to €1,000 at home thereby placing them at considerable risk to life and limb. Some years ago outbreaks of home robberies and violent attacks on elderly people galvanised the banking sector into presenting attractive terms to rural dwellers

and encouraging them to place their savings in banks and other financial institutions.

ACC Bank-Rabobank obviously believes it can dispense with the small customer for whom this deterioration in services will pose a major security risk. It will hardly escape the notice of criminals that every customer who enters or leaves branches of this bank will be carrying at least €1,000. For the criminal it would be a matter of establishing whether the hen is going to lay or whether it has just laid. This irresponsible action effectively changes the bank's status to that of an industrial and business bank rather than a service for small customers.

It also establishes a dangerous precedent for other financial institutions and the associated banks. First Active has already announced its intention to be the first cashless bank in the country. This is another attack on the rights of small customers who may be uncomfortable with technological advances and have always relied on the banks to handle their cheques. These financial services providers are moving to edge out the small depositors and reduce the consumer's right to freedom of choice. They also place make it difficult for their local managers to maintain their bread and butter customers in local and farming communities to attain their monthly and yearly targets.

New regulatory proposals will be a deterrent to the widespread disparity between the charges imposed by the money transmission agencies. These disparities are difficult to justify and one wonders why they were permitted hitherto. The regulatory requirements will also help to root out the gangster element from the industry and make money transfers more affordable for student travellers.

One recalls the many exchange bureaux that sprang up in the vicinity of the Border, particularly on the Dundalk to Newry road and the Tyholland-Middletown area of the Border just half a mile from my home. They were located in tin huts and cabins just short of the Border, mainly on the southern side, and did not seem to be regulated. They did not do anything to engender customer confidence in financial service providers and institutions. This confidence has taken a battering in recent times as a result of faulty investment advice. One recalls the great fanfare which greeted the launch of the Eircom shares debacle when pensioners lost heavily as a result of misplaced optimism and faulty advice.

With the impending enlargement of the European Union on 1 May by the entry of ten new states and the free movement of capital throughout the enlarged 25 member EU, the Bill's stated aim of preventing money laundering is laudable. Any measure to reduce the amount of dirty money concealed behind apparently respectable businesses is to be welcomed.

I also welcome the Bill's provision to bring introducers in the area of mortgage sales within the scope of the Consumer Credit Act 1995 thereby regulating their activities. Prior to this

many of the middle layer operators in this area were little more than chancers or cowboys who did nothing more than increase the cost of the mortgage service to the client with little if any value added as a result. The Act is also being enhanced by the Bill which obliges lenders of housing loans to make consumers aware of various factors and responsibilities regarding their borrowing. One omission is the introduction of a cooling-off period. This should perhaps be two or three weeks to allow potential borrowers reconsider whether to proceed with the loan. I welcome the proposed function of the financial services ombudsman in dealing with consumer complaints against banks, credit unions, insurance companies and brokers.

Last year in Britain, complaints about financial products and services increased by 44%, underlining increasing levels of dissatisfaction with pensions, endowments, stock markets and investments. Most of the complaints concerned mortgage endowments which were oversold by brokers in the same way that banking services are oversold to college students. I hope that the financial services ombudsman will be able to outlaw irresponsible and abusive promotions by banks to cajole and encourage college students to borrow for trivial reasons.

Mr. Boyle: The Central Bank and Financial Services Authority of Ireland Act 2003 was the first new Bill discussed in the 29th Dáil and the first on which I had the opportunity to speak. At that time the Opposition expressed several concerns which repeated the view of many consumer rights groups that, as the first building block for a consumer protection infrastructure for the financial services sector, the Bill was putting the cart before the horse. Its philosophical premise seemed to lay too great an emphasis on the prudential role and not enough on the consumer protection role. In many ways those criticisms remain valid but they have been outweighed and ameliorated somewhat by the strong performance of the Director of Consumer Affairs, as previous speakers, and consumer rights groups have noted.

In putting the final pieces of this jigsaw together and, I hope, establishing the type of consumer protection infrastructure which has been long sought and needed, there is an onus on us in this House to get it right. While much of what is contained in the Bill goes in that direction, we still need to ask questions to ensure the necessary fine-tuning and nuancing take place. It remains the case that the overall board of the Irish Financial Services Regulatory Authority is too highly weighed in terms of traditional financial institution and banking types and should have a greater consumer involvement role, as is the case in the Financial Services Authority in the United Kingdom, albeit a different model. If the intention is to bring about an infrastructure in which consumers can have a

great deal of faith, this is something we should have sought to change in the Bill.

The idea of establishing new panels, in particular a consumer panel, is to be welcomed. However, it is a step removed from actual board involvement. It is trying to influence the policy direction of the IFSRA from a remove, with no guarantee that influence will eventually pay off. There is also the difficulty that consumer involvement in such a panel is not properly defined or guaranteed by those who have been campaigning in the area such as the Consumers Association of Ireland. It would help the Bill if we were to name the type of consumer groupings which should be involved on both the panel and, ultimately, on the board of the IFSRA. This model is used in the United Kingdom and I see no reason it should not be repeated here.

Deputy Bruton referred to the difficulties of public appointments. The Department of Finance is currently progressing through the Houses the Public Services Recruitment and Appointments Bill, which specifically precludes Government appointments. I would welcome a process whereby nominations would be sought for positions such as this where people would need to justify publicly the role they can play in organisations from a consumer protection viewpoint. It would be welcome if the Bill could be improved in this respect.

Both the Central Bank and financial services authority Bills are based on the McDowell report, to which there have been several references. It is in the remit of the Minister and the Government to pick and choose from such a report if they feel subsequent legislation will be better as a result. The curious thing is the selective way in which the Department and the Minister have approached the McDowell report. The argument about having a standalone authority is now over. It is enmeshed within the Central Bank. It is operating successfully to a certain extent. This is a key recommendation of the McDowell report which was ignored.

Another recommendation the Minister is choosing to ignore in this regard is the separation of consumer credit and business credit. This is a mistake, particularly in regard to small businesses where there is a strong interlinkage. I can cite one case without naming the individuals involved. A woman who came into my constituency office lost a florist business because of involvement with a financial institution based on family security. If the IFSRA and the ombudsman are to be successful, and if the consumer director is to have even greater strength, the organisation must be able to tackle situations whereby credit is given too easily. There is far too much credit in our society. When the credit exists, the linkages between security, which is subsequently sold at a greater value than is still owing to the financial institution, and where a financial institution such as the Irish Nationwide Building Society has the ability to charge late payment facilities, and the legislative need to put in place measures whereby

[Mr. Boyle.]

the length of time in which foreclosures can be made, should be strengthened so that people can work their way on a business level out of the difficulties in which they find themselves. We should not make a direct breakage between consumer credit and non-consumer credit.

It appears a contradiction that the Minister will not accept the recommendations in the McDowell report in regard to political involvement in bank mergers and acquisitions. I agree with him on this point. It is important in the future to seek to have some semblance of control over how many actors can be involved in the financial services sector so we do not have to go to one big bank, and we do not have a situation where all the financial institutions are owned outside of the State, as is the case in New Zealand, which is a similar type economy and has a similar population. There are lessons to be learned from the experiences of other countries.

Most of the credit implications of financial institutions foreclosing unnecessarily and dangerously on individuals result from the role of property in this country and the economic value placed on it. I do not think it is a coincidence that the house price bubble here occurred since the direct entry into the mortgage market of the major financial institutions and banks. Deputy Bruton already alluded to the vested interest that developers, builders and construction companies might have with financial institutions. There are other vested interests, for example, the legal profession. This is why thousands of people are unable to get proper legal redress through the legal system. The legal profession is slow to take on people with whom it has an ongoing business relationship in terms of the acquisition of property and conveyancing. This is why the role of a financial ombudsman and a strong consumer director within the financial services authority is vital.

On the basis that several building blocks are left unplaced on the edifice that should be a strong financial services authority, and that these are the blocks that should have been in place in the first instance, I am prepared to strongly support the Bill. I hope the Government will accept several amendments tabled not just by Opposition spokespersons but by consumer rights organisations who still have reservations as to how this can be the most effective organisation possible.

Mr. Coveney: I did not expect to have an opportunity to speak on the Bill today but I am now pleased to do so. I wish to make a number of points which I hope the Minister of State will take note of.

As we have already heard from our party spokesperson on finance, Deputy Bruton, Fine Gael welcomes the legislation and supports the vast majority of the Central Bank and Financial Services Authority of Ireland Bill 2003. It is complementary to the Central Bank and

Financial Services Authority of Ireland Act 2003. The Act established the Irish Financial Services Regulatory Authority to oversee the activities of financial institutions, including their treatment of consumers. There are three main purposes to the Bill on which I wish to comment. The first is the establishment of the financial services ombudsman, which is the main purpose of the Bill, dealing with consumer complaints about financial institutions. The second is the establishment of a consumer and industry consultative panel to advise the regulatory authority. The third is to introduce new reporting and auditing obligations for financial institutions.

Before referring to the content of the Bill, I want to put in context why Fine Gael is so supportive of it. In recent months, Fine Gael has adopted an advocacy role on behalf of consumers. We believed it was necessary to do so because it was an area the Government was neglecting. Under our party spokesperson, Deputy Hogan, we launched an insurance campaign which I hope has made some contribution towards ensuring the people in power take action on trying to reduce insurance costs across the board, whether business or car insurance. The other initiative has been the creation of a website, *www.ripoff.ie*, which has had many hundreds of complaints since it was established. A number of the complaints deal with banks and financial institutions.

I wish to give a flavour of some of the concerns that were raised, which I hope will be dealt with by the ombudsman's office. The first concerns the cost incurred by customers when switching banks. What needs to be achieved is a seamless system in which the customer is king and in which he or she can switch from one bank to another without bearing a cost or inconvenience when doing so. If we are serious about insisting on competition and choice for the consumer in respect of banking, mortgages and other financial services, we need to ensure this is the case. Such a system is not in place.

Concerns arise over stamp duty when switching mortgages. I hope an ombudsman's office will be able to deal with this. In the case of credit cards, the Government, through the introduction of its new levy on credit cards in a recent budget, has added to the complexity of switching between financial institutions, depending on the time of year one switches. Another issue, which is and continues to be topical, although some improvement has been made in this area in recent years, is the cost of using a credit card in Ireland compared with other countries, the United States being an obvious example. The level of competition in the provision of credit card services in Ireland is not sufficient. We are paying interest rates of between 3% and 4% for the use of a credit card service, yet financial institutions are charging three or four times that rate. The consumer is not getting value for money when using credit cards in some cases. The

ombudsman's office could address this and the consumer panel could make suggestions on it.

The most blatant of the issues with which an ombudsman's office may need to deal is that of passing on interest rate cuts by the ECB to the customer after such cuts are introduced. In this regard, consider a press release by Deputy Richard Bruton from some months ago, which sums up this issue very well. He stated that while the large banks have passed on the interest rate cut to mortgage customers, the Irish Financial Services Regulatory Authority must examine the position regarding business and personal customers. The press release states:

Mortgage lending, makes up, less than one-third of all Irish lending. The rest is made up of short and long term borrowings. In the 2% years since December 2000, the ECB rate has come down by 2.75%. In that time the business borrowing rates have only come down by half of this amount. Personal borrowers are in the same boat although those with term loans did somewhat better. Clearly the banks have not been passing on savings to borrowers in these categories, who between them have borrowings of €95 billion.

We have had some complaints similar to that in the press release, which in turn are similar to those found on the website *www.ripoff.ie*. The problem needs to be addressed. Perhaps the figures in the press release are slightly out of date. However, they make the point that, on foot of interest rate cuts made by the ECB over a period of two and a half years, parallel cuts have been made by the financial institutions in the area of borrowing with the highest profile, namely, mortgages. However, we have not seen the same cuts in the other areas of borrowing people may not be monitoring so carefully, namely, business loans and short-term borrowing for car loans, etc. This can and, I hope, will be addressed by the ombudsman's office and the advisory panels, which will have an advisory role.

Fine Gael welcomes the concept of the ombudsman. In some cases, consumers feel quite powerless when dealing with their banks. Until recent years, the bank manager has been very much a dominant figure in society and he or she often dominated the agenda rather than the customer. This needs to change and it has already begun to change in many ways. New financial institutions, such as the Bank of Scotland, have come to Ireland and provided more competition. However, there are still consumers who feel somewhat powerless in their dealings with banks. To offer them a channel of complaint is important, and this is certainly what the ombudsman's office will provide.

It is important that the body itself is constructed carefully and that it is user-friendly and easy to access. The Minister should ensure there is an adequate PR campaign to promote the idea of the ombudsman so the public will be aware of it. It is often those who need such a

facility most who need to hear about it through a PR campaign.

The consumer director of the IFSRA is doing a reasonably good job and this needs to be acknowledged. She has undertaken a number of surveys, raised issues and generated debate. An obvious example pertains to the insurance sector, where she conducted a survey of insurance costs that has helped inform us on the insurance debate.

Let us consider the level of indebtedness in which many now find themselves. The Government could perhaps take some initiatives in this area. The reality is that very few young workers do not have a mortgage, car loan, holiday loan, student loan, high overdraft facility or high credit card limit. Some may have all of these. Given that interest rates are so low, there is a move towards making it too easy for people to borrow money. If there is even a slight change in interest rates, borrowers in this category may find themselves under very significant financial pressure. Five or ten years ago, it was very difficult to get a loan of up to €7,000 or €10,000, yet such loans now seem to be offered without asking by way of an overdraft limit. We need to examine whether our financial institutions are encouraging people to borrow in a way that could be dangerous to the consumer interest should interest rates change or should the economic climate change in terms of employment and earnings.

I welcome the advisory panel on consumer interests. Its role will be to monitor the performance of the IFSRA and provide suggestions for initiatives that could be taken by either the Government or the regulatory authority itself. It is a positive suggestion and I regard it as a type of think-tank panel, which will be helpful. For example, it could undertake studies on behalf of the consumer when it feels there may be issues of concern.

The panel will only be as good as the people who are on it. I do not want to see the type of political appointment system we have had in the past for prison visiting committees. This should not be used to reward local Fianna Fáil cumann or Progressive Democrats branch members.

Mr. Parlon: Fine Gael never did that.

Mr. Coveney: Those involved should be advocates of the consumer interest and have a proven track record in the area. We must be responsible and if we are serious about a panel that can make a difference to the consumer. We should appoint the right people, regardless of their political background.

The establishment of an industrial consultative panel is welcome and necessary. We must achieve good regulation and protect the consumer while ensuring that Ireland remains a competitive place to do business. However, we must not frighten off financial institutions or businesses that deal with them through overregulation. The Minister of

[Mr. Coveney.]

State is not a fan of overregulation, he is the opposite, but we must be careful. We need a free, open economy where people can borrow money and there is competition in the area. At the same time, we must have regulations in place and an advisory panel to protect the consumer and ensure that everyone is treated in a fair manner. This will build an open, transparent and competitive market in Ireland. The industry consultative panel will play a vital role in this.

We must ensure the advisory panel advises and does not make decisions. It must not have the capacity to make decisions because people will come from industry into the area with a good understanding of it but their role must be strictly advisory.

The Bill introduces the new reporting and auditing obligations recommended by the review group on auditing following the Committee of Public Accounts investigation into DIRT irregularities chaired by the late Deputy Jim Mitchell. Is the requirement in the Bill for the provision of a compliance statement each year by directors the same as the requirement under the Companies (Auditing and Accounting) Bill? There is a concern that the Bills do not complement each other and we should avoid duplication.

The Bill is welcome and will improve the situation for the consumer. It will empower consumers who currently feel that banks are overly-dominant and will promote more competition between financial institutions, helping people to move from one institution to another. It creates two advisory panels that will assist in financial regulation in future both for the consumer and industry.

Mr. M. Higgins: Tá áthas orm seans a bheith agam cúpla focal a rá faoin reachtaíocht tábhachtach seo. D'Fháiltigh mo chomhghleacaí, an Teachta Burton, roimh an reachtaíocht cheanna agus dúirt sí go raibh sé thar am go dtiocfadh sé isteach. Tá Páirtí an Lucht Oibre sásta gur comhlíonadh an gealltanas a bhí tugtha ag an Rialtas, is cuma b'fhéidir go bhfuil sé beagáinín déanach.

There is an obligation that this Bill satisfies the fundamental social requirement to restructure the relationship between clients and the banking sector. I have my own view on the commercial banking sector. Its relationship with the public has been outrageous. What has happened to the average customer within that sector? There has been a destruction of services in the name of modernisation and the service provided to the customer has been fundamentally changed. I came to Galway in 1960 when banking was not an occupation that was used to impress in night-clubs in Dublin. I remember the bank manager in Galway as a remote figure in the downstairs office in Lynch's Castle who pretentiously read the pink pages of the *Financial Times* to impress the rest of the staff.

I would, however, go back to the era of the pink pages rather than continue the current system. Between then and now there has been a systematic destruction of the skill level of those who provide the service from a trade union point of view and there is a reliance on cheaper labour. Banks suggest that customers have their dockets filled in before approaching the counter and the corraling started by Disneyland in the United States decades ago has crept into the banking halls, with people dividing themselves between lines so the least possible amount of time is spent between the provider of the financial service and the person who is using it. This is all presented as modernisation.

The Minister mentioned an issue closer to the core of the Bill — the outrageous advertising of financial services. There is a long list that begins in the recent scandalous period with endowment mortgages and goes on to the notion of equity-based tracker bonds. The latter are sold to customers on the basis that the financial services adviser who occasionally drops into the bank, but who is usually not on the premises, is available. A question to a person behind the counter results in the customer being given a telephone number which relays the message that the investment adviser is Liz and she can be called on Thursday mornings between 11 a.m. and 12 a.m. and, even then, she might not be there. This is an outrageous approach towards the public, but the public puts up with it. For many, myself included, this deterioration in relationship represents something appalling about what is presented as modernisation and as preparation for a new globalised existence about which I need not waste my time. One can publish as many 100 page documents as one likes but one does not need to be a rocket scientist to see the margins that exist between the services of Irish banks and those of other banks in Europe and abroad.

In 2004 in this economy, the second richest in Europe and the fourth richest in the world, with the least social protection, it is now impossible to transfer money from one bank to another. That is an extraordinary development. I go from here occasionally, as many Deputies do, to a bank at the corner of a well-known street. If I wish to transfer money to a member of my family who happens to be using another bank, I must take it out in cash, walk across the street and lodge it in the other bank. I am told that one cannot make an interbank transfer.

I find all this interesting as a sociologist. It is as if the only troublesome aspect of the Irish banking sector is the people. One must reduce the number of staff and have lower-skilled staff placed in worse conditions. I remember the late Mr. Titterton who at least retained some sense of standard in the banking sector. The notion is that it is only tedious cranks who do not use the new system. Let me make a perfunctory observation at this point that is fundamental. To say one is making changes, from the Office of the

Ombudsman down, and not to put someone who is consuming the services into a strong position on the main board and on the necessary panels will create a very serious deficiency.

On the other side there is what one might call false and artificial advertising. If tested some of it is already unlawful under existing legislation. For example, to advertise on television or radio that one could reduce one's monthly bill by such an amount without specifying what debt one would be accumulating over the new period of the loan is frankly fraud, yet it happens every day. The attitude that has been adopted is that one can say anything to maximise one's commercial return, irrespective of the ethical base.

I lectured in financial economics more than 30 years ago. We read about the relationship of the Central Bank to the commercial banks. People do not realise it but in 1947 the distinguished T. K. Whitaker was running between the Department of Finance and the Central Bank because the Central Bank had told the Government it could not continue to operate as it was doing. There was an effective strike by the Central Bank against the Government. At that time, if people looks at the history of the bank and the Department of Finance, the issue was resolved by a set of accommodating letters, a change of Government in 1948 and then, much later, a change in economic policy leading eventually to the point which is now prominent, 1958-63 and the First Programme for Economic Expansion. My point is that the bank's reputation as a source of orthodoxy was very much vaunted at the time. In more recent times there is no doubt, as the banks' representatives appeared before the committees of this House on the question of vigilance in the operation of accounts outside this State and operation of DIRT and so on, that there was a serious lack of even the most minimal diligence that one might have expected in the public interest.

To go back to where I began, this legislation, which was promised is welcome, even if late in delivery. The Labour Party spokesperson on Finance, Deputy Burton, has also welcomed it but she has emphasised that consumers are still being ripped off and the necessity for a strong consumer presence in the different bodies that will come into being. I will turn to that in a moment because there are some other questions which she raised on which I would like to elaborate.

I want first to tease out what I am saying. In public policy the issue of ethics is very important. Let me observe *en passant* that much damage has been done to civil society internationally by the recent events in the United States, from which the international commercial world is reeling. What I am talking about is fraud. There is an assumption that when the figures get a few zeros added it becomes miscalculation rather than fraud or an off-balance sheet mistake, but it was misrepresentation and fraud. The ethical basis of banking and of credit and its relationships will be

strengthened by the existence of some of these new institutions. However, they must come from outside the traditional banking sector.

There is more to being responsible in banking and financial services than going away for corporate weekends and looking pink from gin and tonics and port. The reality is that many of the people who have described themselves to me as bankers are a joke. They may have some expertise that they picked up in some part of the economy, but the assumption is that after one has passed some kind of consumption or wealth threshold one is qualified for the board of a bank. They have done very badly for us and very well for themselves. I would love someone to write a short essay some time, which they might make available to all of us lay members of the public, on what precisely are the valuable functions exercised by executive and non-executive directors of banks. Are the decisions so complex and so intricate that they need regular renewal, rather like the barrister who is well paid for a case and who needs a refresher to brighten his mind again and remember the contours of the case?

Our non-executive directors need to be refreshed endlessly, with buckets of money, not drops. That kind of ancient structure is daft and irresponsible and I do not respect it. At the same time these people, who vote huge sums of money for themselves using the shareholders as cover, provide a miserable, narrowing and shrinking service for the members of the public. I remember writing about it and the banks getting very excited 20 years ago, maybe less, when I was writing for *Hot Press*. I wrote an article called "The Hole in the Wall Gang" as the banks were introducing self-service entities around the country. I was asked by the public relations officer of one of the principal commercial banks to meet him for lunch. He did not achieve much. I will confine myself to the general observation that it is amazing that the public is not organising outside all these institutions to protest against the degrading, shortened, withered level of service being provided.

There is also the notion of inservice staff training in which members of staff are told that their faces are to break into a glazed smile as they tell customers they cannot move their money from one bank to another unless they walk across the road or that they might not have all their figures correct. This is Ireland, the friendly island. This is how we have evolved, and everyone I meet complains about it. I do not need anyone to send me any more questionnaires or people asking me to take a call at home on my private number and spend 40 minutes saying why a particular bank is not meeting its service to the customers. It is an intrusion into my privacy. I wish they would go away on a reflective weekend and not fire paint at each other or imagine there some kind of macho "laddism" that these people feel they should be involved in. They should just think what their relationship to the public should

[Mr. M. Higgins.]

be. Many members of the public are wising up to it. If a person were to tell me when buying his sandwich, "I am a banker, you know," Members can speculate on the comment he would get.

I have already called for strong representation on the new institution in the context of consumer interests. There should be somebody outside the credit relationship for dealing with the social circumstances surrounding credit and the absence of it. This should concentrate on the notion of people being refused credit and the issues involved in credit reputation. The presence of people from the health boards and MABS, for example, would be immensely valuable.

I remember as a child in Newmarket-on-Fergus, County Clare seeing the first cattle buyers arrive with cheque books, in white trench coats, usually from Northern Ireland. It created a sensation. I have been watching the evolution of credit. One thing I regard as incredible are tracker bonds. People have advertised these equity-based securities in four or five of the great regions of the trading world, the US or Japanese or European Union stocks or even Irish equities. The question is whether any of them would declare what charges they are taking in the early period of investment. It may be argued that this information is published, but it is not readily available. What, for example is being earned, by alleged management fees? If they are real management fees, where would the consumer who purchased such bonds ever find out about the complex decisions taken by management over a period of time? They are a skim off the customer's savings with no indication as to the service provided.

One service that is provided is when people are entitled under existing legislation to be told how their investments are doing. A statement will be made about the world economy, saying in effect: "We have been going through an incredibly difficult two years and as you know when you bought our product we previously had four wonderful years." These were "wonderful years" when equities were flying out of the grass. That is the kind of rubbish being provided for the people who are being sucked into this system. The other side of it is interesting. Regularly the Central Bank, which acts as a kind of purveyor of OECD financial journalism, which is not economics, offers comments to the public on the state of world markets. I hope the Minister will appreciate it is not internal reform that is in question. What is needed is a restructuring in the consumer's and the democratic interest and real sanctions on misrepresentation, language that means something and a body that will make representation in favour of the customers. The suggestion that this Bill will give rise to some new obligation that will fall on these principled people who will interpret it themselves and mumble away is simply not acceptable.

I suggest that whatever is proposed in this legislation should not close off or quench any

existing legal right available to a customer. That is important. Section 8, for example, it needs to be looked at carefully. We should remember that while we can indicate the intent of the Bill and the likely consequences of a judicial kind, we cannot function as a substitute or alternative to the existing judicial process, which should be located where sanctions may be applied through the courts. Most importantly, no internal provision of the Bill should quench any right of any consumer as regards the normal legal process.

Mr. Crawford: I welcome the opportunity to speak on this Bill. The whole issue of the financial institutions and the service they give our country is extremely important. Without strong banking structures and our own banking base, we would have been in much greater difficulties in the years when times were more difficult in Ireland than at present. I will criticise some of the activities of the banks later, but I want to recognise the fact that they have given a good service.

I first turn to the miscellaneous amendments, just in case I run short of time. Sometimes matters termed "miscellaneous" are passed over and forgotten. I notice in the Minister's speech the important issue with regard to the need for amendments to insurance legislation to go beyond purely technical matters. He refers to particular amendments designed to restore the right of an administrator appointed to an insurance company in difficulty to have access to a compensation fund. I raise this because we recently had a situation in my constituency where a company dealing in industrial insurance, went out of business, in Clones, County Monaghan. In blunt terms it was one of the major issues that led to the closure of the CPV factory there. It was one of the issues, not all.

I welcome that amendment in this Bill because it is important. The insurance company concerned can be blamed for going for cheaper insurance, but in the present insurance market nobody may be accused of wrong in that context. The same insurance company dealt with many businesses in Northern Ireland and across the water in Britain. Those companies were totally covered under UK legislation, but because CPV was south of the Border, it had to carry its own costs. The tribulations of the company were enormous and some people used the situation to their own benefit.

I pay tribute to those involved who tried to mediate and get the issue sorted. No doubt, this is a welcome concept in this Bill and I support it. The Bill deals with the issue of mergers under miscellaneous amendments. I support this aspect of the Bill. The banking structures have become quite small. There have been many mergers in recent times. If two of the bigger banks in this country were to merge this would have to be seriously examined by the Government because monopoly is a dangerous thing in so far as the consumer and the whole financial services industry is concerned. It is likely they would

become more interested — as many of the banks are, at present — in what the shareholders thought rather than what the customer needed.

The Minister indicates that he intends to make amendments on the Committee Stage. I know he has experienced difficulties with the credit union movement in the past and that a major difference had to be brokered between them. I hope this Bill will not impose on the movement, through the backdoor, a regulation that will make it impossible for it to operate in a meaningful way. A regulation in this regard brought before the European Parliament some time ago did not obtain agreement. I am not sure what is the exact intention of this amendment but I will check it out before Committee Stage.

Credit unions provide a tremendous service to their customers. The introduction of a regulation which prevents them lending small amounts will make it impossible for them to operate. All that will do is force people into the hands of moneylenders. This new regulation which is being introduced by way of amendment to current legislation should be reconsidered. I want an assurance from the Minister that is not what is intended because it would have serious consequences.

I know many for whom it would have been impossible to start up in business without assistance from a credit union. Banks will only assist such people when they are established. A credit union will accept a person's word. In many cases employees know the person concerned and his or her family on a personal basis. It is interesting to note that the credit union movement is increasing its number of counter assistants at a time when the banks are cutting back. Banks want to operate via the Internet with as few people as possible visiting branches, yet the credit union movement is making accessibility one of the main planks of its business and is doing an excellent job in that regard. I would not like to be party to a regulation that would impose hardship on the credit union movement.

I do not suggest the movement should be above structures and should not have to act responsibly. I believe it is responsible. We must ensure the movement is not tied up in red tape when making small loans. If enters the area of providing mortgages or loans of €10,000, €20,000 or €30,000, then it must be regulated in the same manner as banks. It should not be tied to meaningless and unnecessary paperwork for loans of €3,000 or less.

Deputy Coveney referred earlier to the fact that Deputy Richard Bruton and I visited some small industries in Monaghan. One of the issues about which directors were very concerned was the amount of red tape they encountered. That is all very well if one has a business large enough to employ an accountant as part of the staff, but onerous regulations that force businesses to pay massive sums to outsiders put industry under further pressure. I refer in particular to those businesses unable to gain access to broadband

and other facilities. I know that issue was discussed in previous legislation a few months ago. I want to ensure the proposed imposition will not be unbearable.

We need good regulation, not over-regulation. We need to encourage banks to locate here. There has been criticism of some of the changes brought about by banks which have recently located here such as ACC Bank, now owned by Rabobank, and the Bank of Scotland. We must ensure we do not scare them off. With the number of Irish banks diminishing through amalgamation and so on, we need to ensure the banking sector does not end up like the insurance industry where the number of participants is so small there is little room competition or opportunity. It is important that, in introducing regulation, we do not over-regulate this area.

The consumer-director will have a major role to play, especially in the insurance sector. I have already highlighted the need to shop around in this regard. There is no doubt that those who shop around the banking structures will get a better deal. Often, it is those starting off in life that are the hardest hit by banks in terms of surcharges and so on. It is not possible for such people to shop around. I hope the Bill will introduce provisions to ensure that can happen. It is important the Minister realises that it is often people at the lower end of the spectrum who are harassed by banks and banking institutions in general.

We can all remember, even those who were not Members at the time, when the House was recalled to discuss the difficulties of a major company. I agree with what was done in that case. I know the individual concerned on a personal basis. He was able to overcome his difficulties and his business operates better than ever. Many small businesses blacklisted for a few thousand euro never recover and those concerned are often forced to go on social welfare. They are the issues about which I am concerned.

As other speakers from my party said, we have no problem with the Bill which provides for the establishment of a financial services ombudsman to deal with consumer complaints, the establishment of consumer and industry consultative panels to advise the regulatory authority, new reporting and auditing obligations for financial institutions and so on. It also provides for a right of appeal, introduces new regulatory requirements and covers many miscellaneous issues. I would like to concentrate on some of these.

Other speakers referred to the establishment of the consumer and industry consultative panels. It is important that the consultative panels include people with a knowledge of consumers and the difficulties they experience. I am concerned that structures agreed in the House often become political. I do not direct my remarks to the Minister of State, Deputy Treacy. I would say the same to a member of my party if he or she was Minister. People of this highest calibre who are

[Mr. Crawford.]

knowledgeable about the industry must be appointed. There is no point in appointing individuals who have been good supporters of Fianna Fáil, the Progressive Democrats or any other party. The Bill provides that the Minister for Finance must consult the Tánaiste and Minister of Enterprise, Trade and Employment. That means both Government parties are covered and that is worrying.

Consumer groups and voluntary organisations such as MABS and the Society of St. Vincent de Paul must pick up the pieces daily when people experience financial difficulties. They deal with individuals while the Small Firms Association, for example, deals with small businesses. The people and businesses who experience difficulties pay higher charges to the financial institutions generally. Meanwhile, the larger companies can shop around and hire accountants and auditors to put forward a glossy accounts structure.

I use MABS and the Society of St. Vincent de Paul in cases involving my constituents occasionally to minimise the stress and difficulty they experience. A newspaper recently reported that 8,500 people had received treatment for overdoses and suicide attempts. That highlights the stress many people are under in the so-called Celtic tiger economy. I urge the Minister to appoint people with a background in this area and who have knowledge of the difficulties that arise on the ground. MABS employees are wonderful and the public give generously to the Society of St. Vincent de Paul, especially at Christmas. Without such organisations, people would be much worse off, including some one would not expect to be in difficulty.

Houses are three times more expensive than ten years ago. While interest rates are low compared with rates of more than 20% that were charged in the 1980s, the capital must still be repaid. The capital repayment is significant if ones pays €300,000 rather than €100,000 for a house. In addition, new home owners take out loans to buy furniture, cars and holidays, to clear credit cards and so on. That is fine when everything is going all right but, for example, people still die suddenly. Thankfully, an improved life insurance structure has been implemented but, in the past, even local authority loans had to be repaid following a sudden death, which put enormous pressure on families. People with knowledge of financial needs and difficulties must be considered when making appointments to consultative bodies.

I refer to the administrative structures and the fines proposed in the legislation. Impressive sanctions that may be imposed on a financial service provider are a caution or reprimand, an order to refund a charge, a fine of up to €5 million or an order to pay the costs of the investigation. I welcome the provision of strong penalties but financial institutions are frequently able to avoid them. Last week a business person who had organised a concert for charity was jailed

because one of the posters advertising the concert had not been taken down, yet other business people can walk away free from prosecution because they can pay for good advice and the means to be released.

I welcome the legislation and the appointment of an ombudsman. The appointments to the board and the consultative committees must include people who have experience in this area. People who are reasonably well off can make their own deals. It is extraordinary that many of our best workers who put their life savings in banks over the years are only earning interest at 1.5% and, therefore, must use the capital to live on while banks charge between 10% and 12% for overdrafts to small customers. This issue must be examined in the context of the profitability of banks. We cannot survive without profit but there should not be abuse and I hope this legislation will lead to the curtailment of abuses.

Mr. G. Mitchell: I welcome the Bill but I have a few concerns that the Minister of State might consider and address. When I was Minister of State at the Department of the Taoiseach, I chaired an international review of the Irish Financial Services Centre and a number of heavy hitters from Boston and New York provided their services free to the State to participate in the review. I met a cross-section of domestic and international interests from the financial services sector in New York and Boston to discuss their views about the IFSC.

I was briefed to discuss the positive environment in Ireland, the common law system and highlight that we are an English speaking people committed to the European Union, the euro, low interest rates and the certainty that brought, tax rates and so on. However, Americans were interested in investing in Ireland because, according to one senior entrepreneur, they had found in Dublin an enterprising spirit and work ethic that had not been experienced in New York for 25 years. That was an eye opening comment. Every morning the traffic jams begin earlier because workers are heading to their offices in the IFSC earlier and they finish later because there are rewards. That is welcome because I believe in encouraging and rewarding enterprise. The IFSC generates one third of all corporate tax receipts, even though the rate has been reduced to 10%, and the centre also accounts for 7,500 jobs. The Americans also mentioned that the same scenario applied in Luxembourg but at certain times of the year they had to bring half their staff from the United States to Luxembourg because they could not recruit locally.

I was struck this morning by the forecast for development in Dublin over the next decade and the lack of suitably qualified personnel to take on the high-tech jobs which will come on stream. I suspect that in the international financial services sector, we are in danger of going down the same road as Luxembourg if we do not constantly keep

that situation under review. That would have serious implications for us. Luxembourg is on mainland Europe and it is easy to move around from there. One can attract staff from Germany and Belgium easily. We do not have the same luxury, therefore we need to attend to that issue if the financial services sector is to continue to be vibrant. I ask the Minister to ensure this issue is kept strongly and actively under review. The availability of a workforce with an ethic which they had not seen for a quarter of a century in New York was one of the great attractions, greater than the tax rate and the other attractions through which we sold the IFSC.

The new development of an EU-wide company has been proposed. This would be set up under an EU statute and with EU-wide powers, not just an Irish company trading in France or Germany. Rather, it would be a European company which would be to the European Union what an Irish company is to Ireland, set up under its own statutes and under European law. This proposal is at an advanced stage and is coming our way quickly. I do not know what the implications of that will be for the Central Bank, the financial services authority or this Bill. For example, will the remit of the ombudsman and the council extend to European companies or is there a need for a specific provision to ensure that companies set up in such a manner would be subject to the full implications of this Bill?

I welcome the provision of a financial services ombudsman and council and hope it will create greater transparency in the financial services sector. I suspect that most of us are, at certain times in our lives, just grateful to get an overdraft facility, a loan or a mortgage and sometimes we do not question how much it costs or what are the bank charges. I am aware we get a separate bank statement showing the charges, but there is no real competition. One does not know whether one would be better off with one bank rather than another. There is a need for greater transparency and competition in this area and a need for the financial services authority to perhaps create an awareness among people that there is competition and that it would be wise for them to shop around.

The psychological relationship between banker and customer is one which favours the bank, and most customers do not want to ask questions for fear it might be held against them when that rainy day comes. However, that is no longer acceptable. There needs to be a change in the relationship between banker and customer. Customers' rights, particularly in terms of explaining exactly what one is paying for a financial service, need to be more transparent.

I am concerned about the danger that over-lending in the housing sector could give rise to difficulties for financial institutions in future. I have no evidence it will happen, nor do I wish to scaremonger, but it is not unreasonable to suspect that house prices in Dublin may well be overvalued, particularly if they continue to rise as

they have been. Not so long ago in Britain, negative equity became the order of the day and people were handing back their keys, saying that they could not continue to make their repayments.

I would like to hear what role the Central Bank and financial services authority will have where lending is a multiple of the borrower's income. I do not want to discourage banks from lending. Again, I suspect when most of us took our first mortgages, we went in deep, took what we could and survived. However, I wonder if there are implications in regard to the ratio of lending by banks and financial institutions for the stability of the banking and financial services sector into the future. If there are, will there be someone there to apply the brakes at an appropriate time before something calamitous occurs?

I welcome the provision for the chairperson of the council to be required to appear before a committee of the Houses of the Oireachtas. This should be a standard provision in every Bill, as is the case more and more, which is welcome. However, I note there is no sanction if the chairperson does not appear. Will the Minister point out how he sees such a sanction applying? I recognise that the Bill provides that there are certain matters which should not be discussed by the chairperson while an investigation is ongoing but there should be some provision in the Bill, perhaps for the failure of a person to appear before a committee. That could be reported to both Houses and would become a matter of concern, which could be raised on the floor of either House. There is no penalty in the Bill. It does not, for example, provide that the Minister may suspend a chairperson who refuses to attend or that the committee could recommend such a sanction. I welcome the provision but I am nervous of provisions which give powers to the Houses of the Oireachtas but do not provide for a penalty when those powers are not applied.

There is a Contempt of Parliament Act in the United Kingdom under which, if a person fails to comply with a lawful request to attend before a committee or at the bar of the House of Commons, such a person can be made to account for it. I do not know how we should deal with that situation here. Natural justice must apply and people's good names have to be protected, but this is something which can be done, particularly if the right legal advice is available to the committees of the Houses of the Oireachtas. Will the Minister deal with that point in his reply?

I welcome the general provisions of the Bill. I am delighted to have the opportunity to say a few words and I am sure the Minister will take into account some of the concerns which I have raised.

Mr. Eamon Ryan: I welcome the opportunity to speak on the Bill and to address points on the banking and credit sectors in society. I have developed a personal view recently that something is awry in the Irish banking, financial services and credit sectors which, according to

[Mr. Eamon Ryan.]

words I heard when I was growing up, “will all end in tears”. I am increasingly fearful of the results of the massive increase in borrowing and personal credit which has been raised for various uses. Unfortunately, the council, ombudsmen and regulatory authorities for which we are legislating will be hugely important in future years if we allow this massive increase in personal borrowing to continue, particularly should there be changed circumstances in our economy or society. That is what makes these legislative provisions important.

I am not biased. I was interested to hear Deputy Michael D. Higgins’s views of the banking sector and agree with many of them. He spoke of going to lunch with a public relations officer of one of the main banks. That may well have been my father who fulfilled one of those functions in years gone by. While Deputy Higgins failed to be convinced by my father, I am sure there would be little difference between the two of them on such matters. I come from a long line of bankers, going back to both my grandfathers and even further. I do not speak these words of warning from a jaundiced position of distrust or dislike of bankers but because I fear that what is happening represents a dangerous change in the way banking operates in society.

My grandfather once told me a story of his first day as manager of a bank in Macroom which he referred to as the premier branch in the country. A seemingly reputable young man sought a loan to buy cattle and assured my grandfather that the deal was a clever one. My grandfather, thrilled to be giving out money for the first time, loaned the customer what at the time was a huge amount of money. When he was walking home that evening along a dark country road my grandfather met the man to whom he had lent the money. He was lying unconscious in a ditch having taken too much drink. He had not drunk all the money and my grandfather vividly described how it was blowing down the road. He spent his first evening in his new job chasing the money down the country road in the dark and picking it out of the puddles. This was a lesson for him for the rest of his time in banking. I would not like to have tried to borrow money from my grandfather. He was a tough man to persuade to loosen his purse, but sometimes that is not a bad thing.

In the early history of the State and until recently we were too conservative in our lending. The Department of Finance was incredibly conservative in the first 40 years of its operation. The inability of that Department to free the country’s purse strings before the end of the 1950s did huge damage to our State. I do not advocate an austere hairshirt approach and no lending. However, what is happening at present is at the other end of the spectrum and all the parties involved will suffer tremendously.

As I prepared this speech in my office, I happened to glance at my desk and found, among my post, a document from the National

Association of Regional Game Councils — a laudable body with which I do not have dealings — informing me that I could get preferential loans exclusive to its members. I could also get a credit card which offers so much more than other cards, financial flexibility and superb benefits. There is no restriction on the loans I could get and I could buy any make or age of car. No deposit, savings or upfront payments would be required. As a member of this association, which unfortunately I am not, I could obtain just about anything I wanted.

Last week in my post I received a letter from the ESB — not known in the past as a credit organisation — offering to give me €5,000 of credit because I was such a good customer. The ESB wanted to lend me money and get into the game of making interest from my having an extra fridge, video or whatever.

My wife was in her bank branch two weeks ago. It is one of the four main clearing banks and my wife has a standard and unremarkable current account from which she wanted to withdraw €50 or €100. The bank official, in a conspiratorial and friendly manner, whispered to her and asked her if she realised she had been approved for a loan of €20,000. My wife wanted to withdraw €50 and had made no approach or loan application. The bank had seen that her account was trundling along, doing no harm and decided she was a person to whom it could loan €20,000. These are symptoms of the massive credit explosion which is occurring in our county and which, if we are not careful, will lead to real difficulties when we need to change our economic circumstances.

It is important that the regulator begins by examining some of the practices of our financial institutions. Just about everyone is now offering free credit and 0% finance for the first number of years. There is no control of what is happening in this area and we desperately need to impose it before it results in trouble for the financial and commercial institutions and companies involved.

There is huge concern regarding the mortgage market. A reputable banker who spoke to me on this subject said he felt that banks themselves have played a large part in the house price increases of recent times. It is hard for us to believe that banks were not engaged in the mortgage business until ten or 20 years ago. They left it to building societies and credit unions. Their aggressive move into the mortgage sector, at a time when the Central Bank and every international financial institution is saying that Ireland’s house prices are over-valued and that this will lead to trouble could be hugely damaging in future if we have a downturn in the housing or jobs markets. The banks must look at what will happen if that occurs and they are faced with repossessions on a massive scale.

The introduction of lending facilities such as the interest-only mortgage facility has added to this effect. Someone buying a second property, usually to be rented, is offered an interest-only mortgage for the first number of years on the

assumption that there will be a capital gain on the property which will help pay off the capital sum when the time comes. This is a dangerous lending policy which will have huge ramifications. If there is an economic downturn when these people seek to sell their properties and retrieve their capital, they will make a loss. What will banks do then with all the properties they might have to repossess? This issue will be hugely important and one which the ombudsman must examine.

Whatever about his role as President, Deputy Michael D. Higgins would make an excellent financial regulator or member of the board of the regulatory body. It has been recommended that someone from outside the financial services industry would bring a different perspective on lending and credit. We do not want to hear the same voices from the banking, industrial and commercial world who think everything is proceeding brilliantly, all the institutions are making money and the customers are happy to be able to buy their 04D registered cars. It would be no harm to have someone on the regulatory board who will be prepared to say the emperor has no clothes, that there is madness afoot and that we need to restrict the type of lending that is taking place. I was interested in what Deputy Richard Bruton said earlier about how we in the Oireachtas relate to regulators. Yesterday the Oireachtas Joint Committee on Communications, Marine and Natural Resources had a nine hour meeting with ComReg, to which the Deputy referred. As usual great work goes on in the committees of which the public may be unaware. While I have spent the past year reviewing the telecoms area with my fellow committee members, yesterday's nine-hour meeting represented the masters on top of the basic degree we had completed in the past year and we learned much from it.

In hindsight I believe ComReg made a poor decision in changing the conditions that applied to Eircom's cap. One of ComReg's responses was to ask the committee why it failed to advise and give its opinions during the nine-month consultation period prior to the decision. This was a valid point. However, as Members of the Oireachtas we do not have time and tend to be reacting to events. We find it difficult to follow all the regulators that now exist. In the communications, marine and natural resources portfolio, there are at least three — ComReg, the Commission for Energy Regulation and the Broadcasting Commission, which is a form of regulator. We need to consider a formal structure of communications between Oireachtas Members and the regulators, and our reviewing of them in order that we do a better job.

A model of how this might work may lie in our scrutiny of European regulations. A dedicated sub-committee reviews those regulations and recommends to committees whether they should closely scrutinise particular directives. The same should apply to our review of and work with the

financial and other regulators with which this House has to deal. We could develop a system that allows the committee to be flagged to review important upcoming decisions. A committee cannot spend all its time looking over the shoulder of a regulator. Once in every year or two a regulator might advise a committee to review a crucial decision with important long-term consequences. While we should not consider every directive, when there is an important regulatory decision a regulator should notify the committee, the Minister or other body depending on how it is structured. This should work well. If the committees are resourced properly they can become a very useful tool in providing outside analysis and act as a sounding board for regulatory decision.

I listened to the Minister's speech with interest. He referred to the miscellaneous amendments in the Bill, which are largely of a technical nature. He rightly picked out two as having particular significance. The first amendment restores the right of an administrator appointed to an insurance company in difficulty to have access to the insurance compensation fund. In his speech the Minister trumpeted the fact that since the famous collapses of the ICI and PMPA in the 1980s, there has not been a major insurance failure in this country.

I beg to differ with the Minister. When I was first elected to this House I had to deal with representations from people affected by the collapse of the UK company, Independent Insurance. While this was a British company it had a significant branch operation here. Under the interpretation of existing regulations by the Government, it was decided that those who lost out in that collapse were not entitled to access to the funds they had been paying in as a tax since the establishment of the insurance levy. This was a particularly unfair judgment by the Government. Those who have been paying the 2% levy to cover the cost of any such collapse find that when their insurance provider collapses they get nothing, as the headquarters happen to be in the United Kingdom.

Most insurance companies operating here are similarly arranged. Most do not have an Irish headquarters but one elsewhere. As someone in the insurance industry advised me today, anyone setting up an insurance company today would not do so here, but would go to somewhere like Gibraltar or elsewhere where there are much lower capital requirements.

If the Minister is to address how the insurance levy is administered, I hope he will consider accepting an amendment we may propose to the effect that the ability of an administrator to have access to the fund should not be limited to companies based in Ireland but should extend to all companies operating under branch licence or freedom of services operation with an Irish business here. The Government cannot collect the levy and refuse people access to avail of it. I am not talking about helping the businesses in

2 o'clock

[Mr. Eamon Ryan.]

question, which through their own fault may have collapsed, but about Irish consumers affected by such collapses through no fault of their own. As this seems to be the intent of this Bill, I hope the Minister will amend it to broaden the scope of where the insurance compensation fund may apply.

Another amendment mentioned by the Minister is far from a miscellaneous one and is very significant and interesting. This is his desire to maintain control over mergers and acquisitions within Irish banking contrary to the recommendations of the McDowell report. I agree with the Minister on this. It is important not to let the market decide the development and structure in the Irish banking industry.

How much control will the Minister have even if he changes the legislation to keep certain controls within his Department? Given that the shareholding of major Irish banks is now largely in New York, London or Frankfurt, their future is not really in the hands of Irish people let alone the Government. It would be hard for the Minister to restrict a merger or acquisition in this area. If the board of Deutsche Bank in Germany decides that an Irish bank is an attractive acquisition I cannot see how the Minister could have control over that. Where possible and where he has the powers he should exercise them. It is important that we maintain an indigenous Irish banking industry.

At the start I spoke about how banking works and my experience of it. I was always told it was about risk assessment. It judges whether a person is a decent character who will make a business work, not squander the money and be able to pay the bank back. In the Irish banking market we have developed a completely different culture, where quarterly objectives must be met and sales must be made rather than making a judgment on the character of the person. When banking decisions are made outside Ireland that assessment of risk of character or operation of a company becomes more difficult and there is a strong case for maintaining a close contact between the Irish banking community and its customers.

There is also an important requirement for banks to go back to their core business of analysing risk and character. They should not lend money in the hope that they will obtain an immediate and welcome return on interest while failing to take into account the consequences of customers not being able to pay or resolve difficulties in which they find themselves.

I enjoyed the opportunity to speak on the Bill. While my party supports it, we hope the Minister might consider certain small amendments on Committee Stage designed to improve its intent.

Mr. Kehoe: I welcome the Bill. I am glad that a mechanism designed to protect consumers has been brought forward because it is badly needed. For many years banking institutions have

creamed off major profits by imposing many charges. Banks will always enjoy profits but customers will never do so.

I agree with my party's spokesperson on finance, Deputy Richard Bruton, who stated that the financial services regulator must immediately investigate whether bank customers are being ripped off in terms of interest rates. For a long period banks have imposed many additional fees and charges. The two largest such institutions have had the market to themselves and introduced a huge number of extra charges over many years.

Deputy Coveney referred earlier to the initiative introduced late last year by Fine Gael whereby people can log on to the *ripcoff.ie* website and inform the party of instances where they were ripped off. Many banking institutions have been referred to in communications to the website from people who were ripped off by the imposition of additional charges.

Many Members referred to instances where they were ripped off by banks. Interest rates are extremely low. In such circumstances, banks recoup the money they would otherwise make if rates were high by imposing additional charges. For example, people are charged for making withdrawals, writing cheques, etc. I have spoken to a number of business people who deal with banks on a daily basis. I refer to those who run supermarkets and need to lodge large amounts of cash or write numerous cheques. They told me that colossal bank charges were imposed on them which made a major dent in their end of year profits. It is sad that business people trying to create gainful employment in their local communities are being charged exorbitant fees by banks. I accept that banks must also make profits but the charges they have imposed over many years are unacceptable.

Reference was made to the ease with which people can borrow money from banks. Deputy Eamon Ryan referred to the ESB offering him credit and his wife being offered a loan by her bank. On each occasion one opens the newspaper, a small leaflet from a banking institution offering loans or credit cards will fall out. This is especially true of Sunday newspapers. One could spend a great deal of time on Sunday reading the leaflets in the newspapers that come from lending banks and lending institutions such as the PTSB and others.

People who have difficulties with banks visit my clinic on a regular basis. I was visited last weekend by a farmer who stated that he was suicidal because of the pressure exerted on him by a bank — I will not name it — in my county. He had an overdraft of €6,000 which he had exceeded by €3,000 and was thus in debt to the tune of €9,000. The bank held the deeds to his 150 acre farm, his house and another property he owned.

The man in question experienced financial difficulties in the past. He was £90,000 in debt but he paid off every penny. Before Christmas, he

was not allowed to write cheques or withdraw money from the bank and was extremely disappointed with the way it had treated him. Representatives of the bank contacted him each day to see when he was going to pay off his overdraft. By today's standards, €9,000 is not a great deal of money.

The man in question only told me his story on Saturday last but the matter first arose before Christmas. It was dreadful that he was informed at that stage that he could not write a cheque, even for €200 or whatever. He had a bleak Christmas. I understand that the account was held jointly in his wife's name. For the purposes of discussion, let us say that their names are Michael and Mary. What puzzled both him and me was that, last week, his wife received a letter from the bank inquiring whether she wanted a loan to buy a new car or carry out house renovations and informing her that she could obtain a loan up to the amount of €15,000.

I do not understand how the bank could send this letter to Mary when only weeks ago it was putting her husband under pressure because he had exceeded his overdraft facility by €3,000. That was bad business. I have asked someone to meet representatives of the bank to discover exactly what is the situation. Under no circumstances should a customer be treated in this manner, especially, as in this case, by one of the two major banking institutions. I was surprised by what happened.

Banks have no difficulty lending money. However, if people cannot keep up their payments, banks will show no mercy and will not offer to help out. In recent years they have been giving money away and offering loans and credit cards in leaflets in daily or Sunday newspapers. I have often received letters from my local bank stating that I have been approved for loans of €20,000 or €30,000 and that all I need do is tick a box, sign my name and return the letter. Other banking institutions not based in Wexford but located in the south-east are doing the same. People can obtain car loans, etc., without difficulty.

I feel strongly about the services offered by the banks. Old people are regularly advised not to carry large amounts of cash or hoard cash at home. They are told to put money into the bank, post office or credit union. However, in last year's budget the Minister imposed a charge on credit cards. That galls me. On the one hand, we have been encouraging people to carry a credit card but, on the other, we are charging them for doing so. Where is the encouragement in this? The charge on the credit card is only a small amount but where is the sense in charging a person for carrying the card after encouraging him or her to get one? I could go further and discuss gardaí on the streets but that does not relate to the Bill.

Many old people will not use banks now. They are afraid to bank. They see no security in banking and have lost confidence in it. Before my involvement in politics I worked as a sales

representative and had a customer base of between 300 and 400 customers. If €10,000 worth of goods was sold to, let us say, Paddy Doyle and he was not paying the money, the financial controller of any company could ring up the bank to ask how much money he had in his account. That is happening on an ongoing basis in every major business dealing with cash transactions and waiting for money from customers. If somebody asked the financial controller if he or she was doing this, he or she would deny it. Since he or she has contacts in banks such as Bank of Ireland, the AIB, Permanent TSB or the ACC, he or she can ring them and say: "How much has Paul Kehoe in his account? When did he last write a cheque? I have a cheque from him for €10,000, so will you ring me back when he has that amount in his account so I can go to the bank and cash the cheque?" I feel strongly about this. It is happening everywhere. Why should anybody be allowed to do this?

Another important issue is student loans and credit cards. Students are encouraged to carry credit cards. When I was 18 years old, a student had to work at weekends. Under no circumstances could they get a loan. Students never carried a credit card because they could not get one. Now, however, a chap aged between 17 to 20 years can get a credit card without any problem. He simply fills in an application form. The new board proposed in the Bill could examine this practice and clamp down on it. It should not be allowed. It ends up frightening young people. They are given loans which they cannot repay or get into trouble with their credit cards over Christmas or whatever period.

I listened to a radio programme before last Christmas in which a number of young people between the ages of 18 and 25 years told harrowing stories of their experiences over the previous Christmas. They had got loans or used their credit cards to buy presents and so forth and the banks immediately clamped down on them when they could not repay the money. How will they in later years be able to take out loans to buy a house or a car? If they had a bad record when they were aged between 18 and 25 years, that record will continue to exist when they are 30 years of age, when they might be thinking of getting married and taking out a loan to buy a house.

Fees are charged for writing cheques just as there is a charge on credit cards. Cheque books are extremely handy, particularly for older people. They do not have to keep cash in the house. However, they are being charged exorbitant fees for using their cheque book. Banks are moving further away from the customer. Deputy Michael D. Higgins spoke about the telephone calls he receives from banks on his private number. I have received the same calls. The caller rings and asks if one is available for a 15 to 20 minute question time the following evening at 6 p.m. The caller is generally from one of the main banks. I do not have an account in

[Mr. Kehoe.]

one of the banks whose caller contacted me and do not know how they got my number or why they were ringing me. Out of curiosity, I agreed to take the call. The caller spent 20 minutes on the line. I asked why they were ringing me when I did not have an account in their bank. The caller replied that they were carrying out a survey in which they were ringing account holders and non-account holders to find out what type of service the bank should give to the customer.

It was a little strange. I was asked what bank I used but I did not tell them that. I was also asked how much money I might have in the bank and what type of service I might use, whether it was a daily, weekly or monthly service. I was asked if I had a credit card or ATM card. The questions were about private and confidential matters. I was always told to keep three things to myself — my religion, bank account and politics. This caller was ringing about one of them.

It is probable that every Member of the House has a bank account. I always encourage people to open a bank account because it is safer to do so. However, I am a member of the local credit union in Enniscorthy. I have never received a questionnaire or telephone call from a credit union on how to improve its service to the customer. I have rarely seen an advertisement in a newspaper for a credit union and have never seen a television advertisement for one. However, each time I call to the credit union office in Enniscorthy, it is packed with people. I have never gone to that office and seen only three or four in the queue. That is true of every credit union.

The reason is that the credit union offers a genuine service. It will give the customer every support it can. If he or she falls into arrears, it will do all it can to help him or her. The bank does the opposite. It will give a customer a loan as soon as he or she signs his or her name. If one seeks a loan from the credit union, the board has a meeting to decide if one should get it. Its members will consider whether the customer will be able to meet the repayments. More than likely it will be local people on the board and they will know the customer or know somebody who knows something about him or her. They will find out if he or she will be able to make the repayments and if the loan application is genuine.

Banks are different. They simply look at the customer's name, address, date of birth, salary and place of work and give the loan. However, if he or she falls into arrears, they will bring him or her to court to get the money back or take what he or she has. Many families and business people have had bad experiences with banks. Credit unions operate in a different way.

I was involved in voluntary organisations. Many such organisations have a registered number as a charity whereby they are exempt from bank charges. I was treasurer of my local branch of Macra na Feirme for three years. It was charged a small amount by the bank every year

and I had to telephone the bank every year and ask it to drop the charges. I was not annoyed about the money, but about the fact that the bank knew it was wrong to charge an organisation which was a registered charity. I do not know why it did that.

The same is true for penny banks. A woman rang me recently to complain that she had been charged DIRT and banking charges on the penny bank. The small community in Blackwater in County Wexford operate the penny bank twice a week, on Friday and Saturday nights. The penny bank is not worthwhile because it makes little profit as a result of banking charges. The senior citizens' party in the area is funded by the profits from the penny bank. However, the little profit it makes means it is a waste of time. How does that encourage people to save money in banks?

Bank of Ireland and the AIB are two of the major banks in rural Ireland. However, they do not care about rural Ireland. There are few small towns and villages with a major banking institution because most of them are closed. The Bank of Ireland in Enniscorthy closed its branch in Ferns. It does not care about the people in that area. They can go to Wexford, Enniscorthy or Gorey. The bank's attitude is that if the people want to bank, they can go to their nearest branch.

I hope the board of this authority is not made up of political appointments. I repeat what Deputy Coveney said this morning, namely, the board will only be as good as the people on it. I hope I will not be critical of this board in the future. I hope it will be a good board which will work in the best interests of the consumers. I look forward to its establishment and I hope the people on it will work extremely hard. I am glad they will be accountable to the Houses of the Oireachtas. I commend the Bill to the House and hope it works.

Mr. Durkan: I am glad to have the opportunity to speak on this Bill. Reference was made to the ombudsman and the financial regulator. We live in the regulation era and we have become accustomed to regulators in recent years. It looks like we will have more of the same. It should be recognised that regulators have a number of jobs. They must ensure there is fair play in the marketplace and that restrictive practices are not in operation. They must deal with the customers of the services they regulate in a fair and equitable manner. They should operate in such a way to ensure competition prevails and that the consumers' interests are kept to the fore in any debate or action taken.

The introduction of the ombudsman in this legislation is interesting, progressive and challenging. I am sure many people can recite stories about the way they have been treated by financial institutions. I am not criticising all financial institutions as some of them treat their customers in a fair and equitable manner. Others, however, believe their only loyalty is to their shareholders. When the euro was introduced, for

example, the banks and financial institutions howled from the highest platforms that it would be the end of their profits, that they would suffer severe penalties as a result of the currency exchange rates and that it was a restrictive era for banking. When I read the annual and six monthly reports for the banking institutions, I was amazed to find that their profits did not fall, but that they increased substantially. I am happy that they are continuing to increase. However, how could they tell all and sundry that they would not be able to exist in the future? The banks shed crocodile tears before the introduction of the euro. However, their fears did not materialise.

There is a lot of investment in financial and international financial services. However, we must accept, whether we like it, that we have become uncompetitive. There are a variety of reasons for that which must be considered, including those associated with activities in the financial services sector. The differential between the amount paid in interest to depositors and the amount charged to borrowers is interesting. The variation of 4.74% is considerably higher than in most other European countries. That is one third higher than the average in the nine EU countries covered in one survey. It is significant that our close competitor and immediate trading partner, the United Kingdom, has a variation of only 0.33%. It operates from a dramatically lower margin. The regulator has not had an effect in that area, but I hope the ombudsman will.

We have been told that we have the lowest inflation rate in Europe. However, the cost of goods in our supermarkets and the services people use, such as the telephone and electricity, has accelerated beyond that indicated in the consumer price index. I do not know how the Government has managed to do this. I am sure the Minister of State at the Department of the Environment, Heritage and Local Government, Deputy Noel Ahern, is as confused as I am. I have tried to find out the reason. It is contradictory when the Government tells us, on the basis of the CPI, that interest rates are low and we should be happy, while every other indicator for the past five years shows that the cost of the goods for which the consumer must pay on an annual basis has gone through the roof.

Mr. N. Ahern: That is because the Deputy is being selective.

Mr. Durkan: The downside of that argument is that the CPI must also be selective. It must be avoiding the consumer goods which previously gave an accurate record of our inflation rates.

What is more interesting is that five or six years ago this economy was regarded as one of the five most competitive economies in Europe and one of the most competitive in the world. We can talk until tomorrow about financial services and how sophisticated we have become, but there is something wrong because now we are one of the least competitive countries.

This has happened over five years and we are fast becoming one of the least competitive economies in Europe and countries in the world.

Government spokespersons say in response to this that ours is no longer a low wage economy, as if that was a great achievement. Jobs are relocated from this economy to what we deem low wage economies from which we will import the goods that we once produced. The employment will go to those in another economy. There is a serious gap between financial services and competitiveness where this inflation is taking place and it has not been exposed. Those who suggest we have achieved the ultimate by becoming a high wage economy should know that will lead to large-scale relocation of jobs from here to competitive economies, not necessarily low wage economies. The new post of financial ombudsman should have real teeth to challenge the financial services sectors and query the charges they impose on customers, consequently creating the problem of rising prices.

Politicians nowadays must have a political account. Between elections, when nothing is withdrawn, this account diminishes because someone is managing it. What management is involved? If the Ceann Comhairle were to give me €200 in the morning to mind, I would keep it, have the use of it, and do anything I liked with it as long as I had it. Why should I reduce it by a specific amount every six months just because I had the loan of it? That is what financial service providers do all the time. Countless people have accounts which are inactive for a period yet the sum in the account is reduced, allegedly for management. That practice needs to be examined carefully with a view to ensuring that the consumer is protected.

One would expect confidentiality in the payments and charges applied by financial institutions. That is not the case, especially these days. As a previous speaker said, it is quite possible for a person to obtain information on an individual account holder to ensure that the business the person may have with the account holder is guaranteed and secure. That is business and it involves risks, winning some and losing some. Under the present system financial institutions never lose. Only the consumer loses. This issue, which has been raised by several Members, requires consideration and I hope that the ombudsman will take cognisance of it and deal with it when the time comes.

In case one believes consumers are getting away lightly, two years ago my colleague, the Minister for Finance, imposed a penalty on credit cards with one stroke of his pen. Consumers were already paying a penalty on current accounts. The Minister, Deputy McCreevy, is my constituency colleague, a nice man of whom I am very fond and who does good things for people. However, he decided this was a way to make money for the Government, not to provide equity and fairness to the consumer. It was a brilliant stroke but how can it be explained to the consumer in the

[Mr. Durkan.]

marketplace? I am waiting for someone from Government to tell us this. Everyone has been encouraged for security purposes to get a credit card to move away from carrying cash and writing cheques. We were to use plastic, the “flexible friend”, yet once again the consumer has been caught. This is the rip-off society. The Government is dipping its greedy paws into consumers’ pockets to ensure that they not get too far away.

This legislation proposes to introduce consultative panels and I do not doubt that various organisations will be called on to provide personnel for these panels. I hope that will be the case, that they will be picked at random and will not all be Government supporters singing from the same hymn sheet. Whatever happens by way of penalty to the consumer must be approved by the consumer panel because another trend is gaining ground in our regulated society.

If the regulator believes there is insufficient profit available to encourage a competitor into the marketplace, he or she may increase prices to make it attractive. I have heard and read a great deal about competition but have never yet encountered a situation where a price increase was encouraged to attract another competitor into the market at a certain level. This is a contradiction but there are some areas where this is the theme. It has not happened in the financial services area yet but I have no doubt that it will happen there. I do not know who thought of it or what is the underlying business concept. I have never heard of it before. The bottom line must surely be that the consumer has to receive an adequate and fair service at a competitive price while ensuring that there is a sufficient investment to continue the service, whatever that may be.

There is no danger that there will be a fall-off in investment in this area. A few years ago we were warned that, when the euro was introduced, the poor banks would starve and go by the wall. This conjured up visions of the heads of banks starving to death outside their institutions, and poverty and destruction descending upon our economy. However, it did not happen that way.

In the event of a breach of the regulations, unfair treatment of the consumer or unfair competition what action can the ombudsman take? Will it be a case of, “Dear Sir or Madam, I noticed you were a little bit off-line. It think it might be a good idea if you changed your tactics.” What will be the real penalty? Will it be a couple of million euro, to be imposed daily as long as the action continues? This is an issue which should be looked at very carefully. The whole concept of the merging of the side-by-side activities of the regulator and the ombudsman will depend on how effective each is and what way penalties will be applied in the event of there being penalties.

By February this year, ECB interest rates will have fallen two full points, from 4.75% to 2.75%. Needless to say, that full reduction has not

been passed on to consumers. This is where it disappears into oblivion in the inner vaults — no pun intended — of the financial institutions. I am sure it is good for the financial institutions. I do not wish to be critical because I realise that we must have a stable financial services sector and a stable economy. If we do not have a stable financial services sector and banking system, we will not have it at all.

Why do we need these regulators? I was a member of the Committee of Public Accounts at the time of the Allfirst banking debacle. I recall asking why someone in the Central Bank or the banking centre, the parent body of the bank concerned, did not pick up a telephone before the \$700 million dollar fraud took place pointing out that there appeared to be a bit of a problem, that the bank seemed to be over-stretching itself over the last six months, which appeared to be unhealthy, and asking what could be done about it. The reply I was given, which I have no reason to disbelieve it, was that notwithstanding the availability of the much vaunted modern technology, computerisation, etc., the on-line system we all know about, it was virtually possible to siphon off almost the entire assets of a financial institution in this country by a subsidiary from outside the State without anyone knowing about it. I believed it because it was what we were told. Therefore, I would issue a warning.

My good friend and constituency colleague, the Minister for Finance, stated at the end of his speech — I almost missed it — that he intends to introduce a number of amendments on Committee Stage. One set of amendments will deal with concerns raised by, among others, the European Central Bank in regard to the new provisions and sanctions and the appeals tribunal. The second set of substantive amendments will respond to a reasoned opinion from the European Commission about the current exclusion of credit unions from the terms of the consumer credit directives. This was a small reference at the end of his statement. The Minister will be pleased to know that I am looking forward to the debate on that issue. This is a subject which has been visited previously. I have a funny feeling that the consumers who currently invest in credit unions, or borrow from credit unions, are about to receive a visitation from the Government.

Mr. Perry: I am pleased to have an opportunity to speak on the Central Bank and Financial Services Authority of Ireland Bill 2003. The Bill provides for a statutory financial services ombudsman to deal with complaints against financial institutions, consumer and industry consultative panels to advise the regulatory authority, new reporting and auditing obligations for financial institutions as recommended in the report of the review group on auditing, which is important. It also provides for power for the regulatory authority to impose sanctions directly on financial institutions for failure to comply with

regulatory requirements, subject to a right of appeal to the Irish Financial Services Appeals Tribunal, a right of appeal to the appeals tribunal in regard to certain supervisory decisions of the authority, new regulatory requirements for money transmission and bureau de change businesses to combat money-laundering and the financing of terrorism and miscellaneous other amendment to financial services legislation.

This Bill is very welcome. The DIRT report recommended that a single regulator should address ethics, professional standards and corporate governance in the provision of financial services in Ireland. The Bill will go a long way towards achieving this goal. The Oireachtas will have a role to play in overseeing the work of regulators such as the Irish Financial Services Regulatory Authority and its parent body, the Central Bank. It is important that the Central Bank should be accountable. Following the Committee of Public Accounts inquiry, under the chairmanship of the late Deputy Jim Mitchell, and the collection of unpaid taxes, it is important that the committee should invite both bodies in to discuss their renewed powers and the changes and level of responsibility of the Central Bank. These bodies should be held accountable to an Oireachtas committee. I intend to bring them before the Committee of Public Accounts at the earliest possible date.

The Bill is to be broadly welcomed. As well as a number of technical matters, it allows for the creation of a financial services ombudsman to represent consumers in complaints against banks, building societies and other financial institutions. This is important given the number of complaints. The level of profits generated by the banks is extraordinary. There is almost a charge now to go inside the door of a bank. There are hidden charges. Some banks make almost €3 million daily. This is a form of indirect taxation. There are opportunities for them to reduce interest charges. Many years ago interest charges were a problem. Interest charges have decreased but other charges have been introduced. If one receives a loan from a bank, one is charged a commissioning fee. These are all stacked-up charges which should be regulated. There should be standard banking charges, whether in retail banking or consumer charges for banking.

Deputy Durkan referred to credit card charges. Given that the Government introduced taxation on credit cards, the Minister might consider the possibility of having a once-off charge on credit cards. Being reissued with a credit card means an additional tax. Some people can pay up to €200 a year taxation on credit cards. The level of credit card charges generates considerable revenue, which is another indirect form of taxation. Given that the banks are now obliged to be more transparent in their dealings, it is important that the Financial Services Authority of Ireland Bill and the Central Bank live up to their responsibility.

The banks have a major responsibility to consumers. It has recently been brought to the attention of Mr. Frank Daly of the Revenue Commissioners that many banks facilitated the opening of offshore accounts. The DIRT inquiry demonstrated that there was a massive exodus of cash out of the country to the Isle of Man, Jersey and other tax havens. One must question the amount of tax that was paid on these accounts. I am delighted that the banks are now co-operating fully with the Revenue Commissioners and making available their balance sheets. The figures gleaned from this exercise will demonstrate that there was a quite startling level of facilitation of tax evasion by banks. It can no longer be accepted that any financial institution of the State can accommodate tax evasion. I am delighted that the Revenue Commissioners are dealing with the problem decisively.

In the United States, the credibility of the accountancy profession and the corporate sector was brought into question by the number of certificates that were signed in respect of certain accounts. It was wrong that those doing exceptionally well and who had received money from unknown sources were facilitated by Irish financial institutions in opening certain accounts that allowed them to evade tax. It was wrong that any financial institution in the State felt that it was accommodating the customer in doing so. The financial institutions now feel they have paid, but they should be penalised heavily.

The establishment of a consumer and industry consultative panel to advise the IFSRA is also very important. I am not sure how the panel is composed but it is important that the Minister include on it consumers and those on the lower end of the scale. Such people now tend to go to credit unions and not to banks. Unfortunately, the days of the bank manager in the small town are definitely gone.

Mr. Durkan: There are now a screen in the wall and machines.

Mr. Perry: They have been replaced by the computer. The gentleman in the local bank is now just like a checkout cashier. If the relevant information one requires does not come up on the screen, he will refer the matter to the main office in Sligo or wherever it may be. The level of involvement has decreased.

The Minister has been very good regarding tax incentives to facilitate the growth of small towns. I appreciate that he has encouraged and extended the upper Shannon scheme. A small bank in a small town could have up to €35 million or €40 million on deposit. The banks are obliged by law to reinvest part of such capital in their own areas to encourage enterprise, but in certain cases they do not do so. Sometimes they do not invest in the parts of the country where considerable sums have been deposited and they relocate the deposits to what may be a safe investment elsewhere. Banks are very much devoid of

[Mr. Perry.]

sentiment and will not give anyone a free lunch, but it is clear that they should honour their obligations in this area.

The Bill will provide for new reporting and auditing obligations for financial bodies. It is very welcome that the regulatory authority is being given the power to impose sanctions on those financial institutions which fail to comply with the rules. It is important that the body act on the legislative power afforded to it by the Bill. We want decisive action, and a high level of service is critical for consumers.

It is equally important that large and small businesses, borrowers of small amounts, those doing business privately and students are not ripped off. We have a rip-off culture and the banks have definitely ripped off consumers in every possible way. If one were to carry out a value for money comparison with other jurisdictions, such as Northern Ireland and Great Britain, one would discover that the banks in Ireland have made an exorbitant profit in recent years. This should be subject to full scrutiny because the hidden extras that are involved certainly add to inflation.

Fine Gael is an advocate of consumer rights and we act as such inside and outside the House. We have a rip-off culture and cartel arrangements can exist between banks in certain areas. They believe it is acceptable to have an agreement by consensus on certain facilities and charges. Every charge a bank imposes on a person's account should be specified clearly so that he or she will be in no doubt about why it has been levied.

In June 2003, the Fine Gael spokesperson on finance, Deputy Richard Bruton, asked four questions on this vital area, the first of which queried why only half the ECB rate cut of 2.75% from the past two and a half years had been passed on to business and personal borrowers.

Mr. Durkan: That is a good question.

Mr. Perry: The European Central Bank is now setting the rate but the banks still have a means of varying their rates. When one considers the loaded charges on accounts and the extension of credit limits, one will note that the banks have caveats on every deal known such that very few customers can avail of the lowest-service deal. The system is designed in such a way that, if one manoeuvres by one day, one will automatically pay a higher rate.

The second question asked by Deputy Richard Bruton was why Ireland has the third highest mark-up between lending and deposit rates in the European Union. This is difficult to explain. The financial regulatory authority should examine the mark-up and deal with the banks decisively. We are now part of an enlarged Union and it is important that we be competitive in every sense. We all hear people making comparisons and asking why business is so expensive in the Republic of Ireland by comparison with Northern

Ireland and why services are more expensive here than in other EU countries. One must remember that the critical stacked-up costs of doing business in Ireland, such as costs associated with banking, insurance and electricity, are not taken into account. The consumer must pay for all these charges.

Some banks make up to €1 billion per year — very much in a monopoly environment — and should be brought to task over all the hidden charges. The Minister issued his inflation report last week, which was good to see, but he cannot control these charges. We all hear talk about hairstylists' costs and certain other aspects of our rip-off culture, but the worst charges are the stacked-up costs of taking out a loan and opening a business. If the Minister dealt with the major bodies responsible for these stacked-up costs, the rates would decrease.

The third question asked by Deputy Richard Bruton was why financial charges for the consumer have increased by 23% in the 12 months up to the middle of 2002.

Mr. Durkan: That is a good question. It is a serious issue.

Mr. Perry: The Central Bank is an autonomous body but at least the new authority will be accountable to the House. I hope the people the Minister will appoint to the advisory boards will have expertise in this area.

Deputy Richard Bruton's fourth question was why the average interest rate on short-term loans to enterprises was more than three points higher than that in other EU countries. People think all businesses are ripping them off but the financial institutions are responsible and they must be regulated. No one minds if banks make healthy profits but we must get value for money. There is no reason businesses are paying rates of 23% and that the average interest rate on short-term loans to enterprise is 26%. It is an indictment of the financial institutions in one of the healthiest economies in Europe.

There is an area of Government policy that the regulator should examine — the €40 charge for credit cards. People have to pay it twice if they decide to open a second credit card account. The Minister should re-examine the credit card tax.

Mr. Durkan: Absolutely.

Mr. Perry: If a person has two televisions, he or she does not have to pay for two licences. People often upgrade their credit cards and they have to pay the charge again. Many parents give their children credit cards for going to college and this is another indirect tax. I hope the Minister is getting healthy returns from it.

Mr. Durkan: He is getting it from the consumer, not from the banks. He is clobbering the consumer once again. What has the consumer done to the Government?

Mr. McCreevy: The consumer re-elected the Government.

Mr. Durkan: The Minister will be whistling past the graveyard and he will not be able to blame the consumer for that.

Mr. Perry: I hope the consumer will be more alert at the next election.

This Government likes to talk about Europe and the benefits it brings. As a committed pro-European party, we also do that but we put our money where our mouth is. On the establishment of the European currency, direct control over interest and exchange rates was surrendered to the European Central Bank and by pooling sovereignty our economy benefited. Now, however, Ireland does not have a seat on the executive board of the ECB. There is currently a vacancy on the board and it is vital that we secure a place on it in the enlarged Europe.

Mr. Durkan: Absolutely.

Mr. Perry: There are reports that Belgium has manoeuvred itself into a strong negotiating position for this vacancy. What negotiating position has this Government taken? We hold the Presidency of the EU and should have an automatic right to a place on the board.

The auditing measures contained in the Bill are compatible with those required under the Companies (Auditing and Accounting) Bill 2003. My party does not oppose those requirements, we want to ensure that Government is not just joined up but that there is an interlocking level of management of financial institutions.

The inquiry into DIRT payments by the Public Accounts Committee found that tax evasion was accommodated by banks for the *crème de la crème* of the country but consumers now expect equality of treatment for all customers, value for money, interest rates the same as those in the rest of Europe and the same level of encouragement of enterprise. Comparing the level of the consumer spend and the value received in return, it must be acknowledged that the cost of doing business in this country is 10% higher than the rest of Europe and it is the consumer who must pay at the check out.

Minister for Finance (Mr. McCreevy): I thank all Members for their valuable contributions to this debate and I appreciate the support of all sides of the House for the establishment of a modern, consumer-focused regulatory system for the financial services sector. Before I address some of the points raised in the debate, I emphasise again two points I made in my speech. The greater part of this Bill arises from a public consultation process on the completion of the McDowell report on recommendations for a new architecture for financial services regulation in the State. I am also conscious of the need for consolidation of financial services legislation and,

as a consequence, a consolidation Bill is now included in the Government's legislative programme.

I appreciate the gracious acknowledgement of Deputies of the IFSRA's performance in consumer protection. I acknowledge Deputy Richard Bruton's point about ensuring proper Oireachtas scrutiny of regulators, something we should consider further. I assure the Deputy that I intend to appoint robust consumer representatives to the council of the ombudsman because the culture of the ombudsman should be one of fairness and openness to consumers with grievances. On his comments on the industry panel and the dangers of regulatory capture, I assure him that the circumscribed powers of that panel arose from similar concerns expressed by the Competition Authority.

Deputy Burton expressed concern about the composition of the panels. The Bill obliges me to consult not only my ministerial colleagues but also representative organisations of consumers and industry, respectively. On the issue of penalties, the Deputy expressed concern about the constitutional implications of my proposals. I will propose changes on Committee Stage, having consulted the Attorney General, to ensure that the provisions in the Bill are compatible with the prerogatives of the courts under our Constitution.

On the auditing provisions, I assure Deputy Burton that the provisions in this Bill are additions the requirements in the Companies (Auditing and Accounting) Bill which will give powers to the IFSRA to impose additional tailored requirements on financial institutions. These provisions will facilitate the IFSRA in laying down provisions for the corporate governance of financial institutions.

The comments of Deputies Ó Caoláin, Finian McGrath, Connolly and Boyle reinforce the fact that the significant challenge faced by the financial regulator is to provide for a fair marketplace that benefits both personal and business consumers. They also underline the important investigative work being done by the Competition Authority in the financial services sector and with the Director of Corporate Enforcement in improving the overall standards of corporate governance in the State.

Deputy Coveney made the point that the compliance statement from the IFSRA is at its discretion. It is intended to be complementary to the Companies (Auditing and Accounting) Bill requirements.

Deputy Michael D. Higgins comments underlined the difficult tasks faced by the new regulatory structures in defending consumer interests in an era of rapid technological change and development. The Deputy will agree that the terms and conditions apply to all loans.

I fully understand the vital role played by credit unions in serving the needs of local communities. Deputy Crawford can rest assured that credit unions fully understand the need to comply with EU rules and have been fully consulted on the

[Mr. McCreevy.]

amendments that will be brought forward on Committee Stage to achieve compliance.

Deputy Gay Mitchell asked about the ombudsman's provisions. The Bill, as drafted, will allow a consumer access to the Irish Financial Services Ombudsman or the equivalent officer in another EU member state. On the Deputy's concerns about the potential failure to appear before the Oireachtas, it would be inconceivable that a ministerial appointee would refuse to comply with the statutory obligation to appear before an Oireachtas committee or that a Minister would not take action if that happened.

Deputy Eamon Ryan echoed the comments of other Deputies on the dangers of excessive lending, especially in the housing area. This is something on which the financial regulator and the Central Bank have been quite active. A second issue raised by Deputy Ryan was that of compensation for Irish customers of insurance companies regulated in another member state of the European Union which fail. This issue is being addressed at EU level on the basis of an Irish initiative reflecting our experience of the impact of the collapse of independent insurers.

Deputy Kehoe echoed from his experience his concerns about the lending practices of financial institutions which illustrate the challenges facing the new regulatory structures. He also pointed out, and it is something on which I agree with him, that the credit unions play a vital role in supporting the local community.

Deputy Durkan was concerned about the competitiveness of the financial services sector. This will be a focus for the new industrial panel. I also thank Deputy Perry for his pertinent comments in matters relating to the Bill. These issues have existed for some time, so I am anxious to progress the legislation. I look forward to an early continuation of this debate on Committee Stage.

Question put and agreed to.

Central Bank and Financial Services Authority of Ireland Bill 2003: Referral to Select Committee.

Minister for Finance (Mr. McCreevy): I move:

That the Bill be referred to the Select Committee on Finance and the Public Service, in accordance with Standing Order 120(1) and paragraph 1(a)(i) of the Orders of Reference of that committee.

Question put and agreed to.

European Parliament Elections (Amendment) Bill 2003: Order for Second Stage.

Bill entitled an Act to amend the European Parliament Elections Act 1997 to give further effect to Decision 76/787/ECSC, EEC, Euratom, to give effect to Council Decision 2002/772/EC, Euratom of 25 June and 23

September 2002 amending the Act annexed to the first-mentioned Decision, to amend the constituencies for which candidates are elected and the number of members to be elected for such constituencies and to provide for related matters.

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. Gallagher): I move: "That Second Stage be taken now."

Question put and agreed to.

European Parliament Elections (Amendment) Bill 2003: Second Stage.

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. Gallagher): I move: "That the Bill be now read a Second Time."

The purpose of this short Bill is to implement the recommendations of the constituency commission report of 2003 on changes to the European Parliament constituencies and to give effect to the European Council decision of 25 June and 23 September 2002 concerning the election of Members of the European Parliament.

The Bill has six sections. Section 1 defines the European Parliament Elections Act 1997 to which I shall refer as the 1997 Act. Sections 2, 3 and 5 amend the 1997 Act to implement certain provisions of the European Council decision of 25 June and 23 September 2002.

The 2002 Council decision updated a 1976 Act of the European Community concerning the election of the representatives of the European Parliament by direct universal suffrage. Most of the changes made in the Council decision are textual and are already provided for in Irish legislation. The four changes requiring transposition into Irish law are: the specification of new categories of office holders who are not eligible for election to the European Parliament, namely, a member of the board of directors of the European Central Bank, the Ombudsman of the European Communities, a member of the Court of First Instance or an official of the European Central Bank; the ending of a dual mandate for a person who is a Member of either House of the Oireachtas and the European Parliament, although the Council decision, provides for a derogation for a Member of the Houses of the Oireachtas elected to the European Parliament in June 2004 until the next general election to the Houses of the Oireachtas, when he or she will no longer be permitted to hold the two offices; a requirement that the results of the European elections may not be announced officially until the close of polling in the member state whose electors are the last to vote; and any reference in the 1997 Act and in other domestic legislation to a representative in the European Parliament should be construed as a reference to a Member of the European Parliament.

I would like to set out briefly the background to the European Council decision of June and September 2002. The European treaty provided for a uniform electoral procedure to the European Parliament from the first direct elections in 1979. While the Parliament actively sought the introduction of such a procedure, unanimity was never forthcoming at Council level, mainly because of one member state's desire to maintain its first past the post electoral system.

Two developments in 1998 gave renewed impetus to harmonising the electoral procedure for European elections. First, the Amsterdam treaty relaxed the strict uniformity requirement. Article 138(3) of that treaty reads as follows: "The European Parliament shall draw up a proposal for elections by direct universal suffrage in accordance with a uniform procedure in all member states or in accordance with principles common to all member states".

Second, UK legislation was amended to provide for a non-preferential proportional representation list system for European elections. Some form of list system of proportional representation was used throughout the European Union in the 1999 European elections, except for Ireland and Northern Ireland. The Amsterdam treaty also authorised the European Parliament to draw up a proposal for a common procedure or common principles for European elections to supersede the 1976 Council Act on direct elections.

In anticipation of the coming into force of the Amsterdam treaty, the European Parliament in July 1998 passed a resolution incorporating a draft Act to implement the revised Article 138(3). The draft Act was discussed from 1998 to 2002 in the general affairs group of the Council of Ministers.

There were some contentious points in the draft Act such as a proposal that a list system of proportional representation must be used. There was no problem with specifying PR in the Act as it is a principle common to all member states. However, there was a difficulty with the article specifying that a list system of PR be used. The Irish PR single transferable vote system is not a list system within the normal continental meaning of the expression so we secured a change to this article to accommodate our electoral system. This text provides for retention of our present electoral system, while allowing for an alternative, if such is decided in the future.

It was also proposed that the office of MEP shall be incompatible with the office of member of a national parliament. This proposal represented a complete change in policy as a dual mandate had previously been specifically provided for. In this regard, the explanatory statement which accompanied the European Parliament's report of 2 June 1998 stated:

However, the development of Parliament's powers and responsibilities makes it increasingly difficult, if not impossible, for the

members to hold some other Office at the same time. In these circumstances, given the way in which the European Parliament's powers have evolved since 1976, it would now be appropriate to make the Office of MEP incompatible with that of member of a national parliament.

Article 5 of the Council Act of 1976 permitted members of the European Parliament who are members of a national parliament to exercise a dual mandate. While 13 of the 15 Irish MEPs elected in 1979 exercised a dual mandate, only four of the 15 MEPs elected in 1994 had dual membership. Following the 1997 general election, no Irish MEP had a dual mandate. While two dual mandated MEPs were elected in Ireland in 1999, no Irish MEP currently holds a dual mandate.

In recent years, there has been a tendency for Members of the Irish Parliament elected to the European Parliament to opt for one or other mandate at the next subsequent general election. There has also been a progressive reduction in the number of national representatives exercising the dual mandate. In practice, therefore, the exercise of the dual mandate in Ireland has become limited in time and in number.

The previous Government negotiated a limited derogation to the elimination of the dual mandate. The Government has now decided that the limited derogation will apply on a once-off basis at the June 2004 elections. The ban on the dual mandate will fully apply from the next general election.

Debate adjourned.

Ceisteanna — Questions.

Priority Questions.

Internet Grooming.

1. **Mr. Deasy** asked the Minister for Justice, Equality and Law Reform if he has satisfied himself that the recent practice of Internet grooming is adequately covered by the Child Trafficking and Pornography Act 1998; if he has further satisfied himself that where a child, in the absence of coercion and of his or her own free will, meets with a predatory adult following Internet grooming, this is covered by the Act and constitutes an offence under the Act; and if he will make a statement on the matter. [2581/04]

Minister of State at the Department of Justice, Equality and Law Reform (Mr. B. Lenihan): The definition of child pornography at section 2 of the Child Trafficking and Pornography Act 1998 includes any visual representation or description of, or information relating to, a child that indicates or implies that the he or she is available to be used for the purposes of sexual exploitation.

[Mr. B. Lenihan.]

That provision was included in the definition in order to deal with fears that paedophiles were exchanging information with one another on the Internet about such children.

The particular issue of Internet grooming referred to in the question was not an issue at the time the 1998 Act was being prepared but has since given rise to concern. It would not be easy to deal with in legislation but I have been examining it in the context of legislation which will be required for compliance with two recent EU Framework Decisions to see if a practical and enforceable solution can be found. As part of the examination I have regard to a provision in the recently enacted Sexual Offences Act 2003 in the UK which makes it an offence to meet a child for the purpose of committing a sexual offence against him or her following grooming, whether on the Internet or otherwise.

Mr. Deasy: I thank the Minister of State for his response, but there is a problem with the questioning system, which affects the Ceann Comhairle's office. I put down a couple of questions, one of which was a priority question to ask the Minister for Justice, Equality and Law Reform the number of orders made under sections 3 and 4 of the Criminal Justice (Public Order) Act 2003. I also asked a question about how many prosecutions had been secured under the Intoxicating Liquor Act 2003. These questions have not been allowed for different reasons and the figures are not available. One was disallowed by the Ceann Comhairle's office.

Last week the Department of Justice, Equality and Law Reform issued a statement with regard to the Garda crime statistics. It said the reductions in violence and public order offences follow the enactment during 2003 of the public order Bill and the intoxicating liquor Bill, which gives significant additional powers to the Garda to deal with public order and street crime.

Somebody is misleading somebody else. A Department and a Minister make a statement with regard to two pieces of legislation but say they do not have the figures to back that up and will not provide a Deputy in this House with the figures. There is a massive fundamental contradiction here. This exposes entirely the sham procedure in this House. It has turned into an exercise in concealment, more than anything. Somebody will have to answer the question as to how a statement like that could be made a week ago, while at the same time questions that I have asked on the same pieces of legislation have been disallowed. It is extraordinary. The Ceann Comhairle, on a point of order, will have to answer that question.

At the same time last week the Minister for Justice, Equality and Law Reform, Deputy McDowell, said that the spiral in crime had been curtailed. This is the same man who asked an expert group to look into the rate of unreported crime. The group has not reported to him, so how

in God's name could it be said that the spiral of crime in this country has been curtailed? There is something fundamentally wrong with this process.

An Ceann Comhairle: The Deputy has made the point. The Chair will investigate the matter and communicate with the Deputy.

Mr. Deasy: I think I deserve an answer from the Ministers of State. This is not good enough. We must sort this out.

An Ceann Comhairle: The Deputy is speaking on priority Question Time.

Mr. Deasy: This is a fundamental issue within this House. At the very least one of those two Ministers of State should be allowed to try to answer the question that I put.

An Ceann Comhairle: The Deputy has made his point distinctly and the Chair is prepared to undertake to investigate the reasons the questions were turned down——

Mr. Deasy: Absolutely not. This is a complete sham.

An Ceann Comhairle: ——and come back to you on the matter.

Mr. Deasy: This undermines everything we do in this House.

An Ceann Comhairle: The Deputy has made his point. If he has a supplementary on his question——

Mr. Deasy: One week it is said that two Acts are responsible for a reduction in crime in this country. At the same time figures cannot be produced to prove that. That is misleading this House. The Government is working on a false premise. I am asking one of the Ministers of State to explain the situation that has arisen. It is a fundamental issue within this House. The Government is making it up as it goes along. The Ministers of State will not answer the question because they cannot possibly.

An Ceann Comhairle: The House is dealing with priority questions and the matter raised by the Deputy will have to be dealt with in another way. As far as the Ceann Comhairle's office is concerned, the Chair will communicate directly with the Deputy.

Mr. Deasy: They cannot possibly answer the question. They are too cute sometimes and are making this stuff up as they go along. What am I doing here during priority questions? Once every three months I get up here and I am entitled to an answer.

An Ceann Comhairle: I understand the Deputy did not submit a substitute question, that an effort was made to contact him by phone last night——

Mr. Deasy: This is the third time this has happened. I received these responses again and again.

An Ceann Comhairle: —— and that he did not contact the Questions Office.

Mr. Deasy: The Government is prepared to make statements about these Acts being the catalyst for the reduction of crime in this country when it does not have a clue. It does not have the figures.

An Ceann Comhairle: The Deputy will have to raise the matter in another fashion.

Mr. Deasy: What am I doing here at priority questions? If I cannot ask a fundamental question like that I have no business here. The time is up on this procedure and it is an absolute sham.

An Ceann Comhairle: The Chair will communicate with the Deputy.

Mr. Deasy: I am asking for an answer from the Ministers of State. They do not have a response. This exposes them for what they are. Somebody has misled this House.

An Ceann Comhairle: It does not arise out of the question. The Deputy will have to find another way of raising it. We will have to move on to Question No. 2 in the name of Deputy Costello. The Deputy is being disorderly and repetitive.

Mr. Deasy: This is simple and fundamental.

An Ceann Comhairle: The Chair allowed the Deputy to make his point and will communicate with him on the issues raised with regard to the disallowance of the question by the Ceann Comhairle's office.

Mr. Deasy: A Department is making an assertion and has no numbers to back it up. It refuses to give the numbers to a Member because they do not have them in the first place.

Mr. Costello: On a point of order——

An Ceann Comhairle: The House will hear Deputy Costello, on a point of order. I would ask Deputy Deasy to be orderly. He has been there for six minutes and what he has said is totally repetitive. I would ask him to give way to Deputy Costello.

Mr. Deasy: You have to be disorderly around here. This is fundamental in our society. If you do not know how many crimes are being

committed or the effectiveness of legislation, what chance do you have of improving the situation? You cannot do it. This Department has misled this House and the Ministers have no answer.

An Ceann Comhairle: I ask the Deputy to resume his seat.

Mr. Deasy: I am demanding an answer here. It is absolutely fundamental.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. O'Dea): We are not allowed to answer by the Ceann Comhairle.

An Ceann Comhairle: The Minister of State wants to intervene.

Mr. O'Dea: I am happy to answer questions put by any Member of this House if they are allowed by the Chair. I cannot answer questions that are not allowed on the Order Paper.

Mr. Deasy: How come the Minister of State made a statement——

Mr. O'Dea: The Deputy's former leader, Deputy Bruton, told us to ask the right questions when we were in Opposition. Obviously, the Deputy is not asking the questions properly.

Mr. Deasy: Can the Minister tell me why that statement was made? He has not a clue. He is making this stuff up as he goes along.

An Ceann Comhairle: I call on Deputy Costello. I would ask Deputy Deasy to give way.

Mr. Deasy: I am staying here and I am going to demand answers.

An Ceann Comhairle: The Deputy has disobeyed the Chair and will have to leave the House.

Mr. Deasy: Does the Minister of State have an answer and does he have the figures?

Mr. O'Dea: Yes. I cannot answer the question——

Mr. Deasy: The guards told you before you enacted this that it was worthless. It was a public relations exercise from the start and the reason the Minister of State does not want to respond is that it has been exposed.

An Ceann Comhairle: Deputy Deasy will have to leave the House. If the Deputy does not resume his seat he will have to leave the House.

Mr. Deasy: I am not going to resume my seat.

An Ceann Comhairle: Then the Deputy will leave the House.

Mr. O'Dea: If the Minister of State cannot answer that fundamental question he has no business being here. This is a sham. This procedure is a complete and utter charade.

An Ceann Comhairle: The Chair is left with no option but to suspend the sitting, and there will be no questions. If the Deputy wants to resume his seat he should do so.

Mr. Deasy: I am not going to do so.

An Ceann Comhairle: As the Deputy will not resume his seat the sitting is suspended for ten minutes.

Sitting suspended at 3.40 p.m. and resumed at 3.55 p.m.

Mr. Deasy: I will resume where I left off. This is a fundamental point that affects people's safety and security. Justice legislation is churned out and much of it is not enforced or is unenforceable. It must be dealt with on a scientific basis. The Minister made a statement based on the facts according to him but he is not able to provide a Member with statistics. That is a fundamental point as far as this business is concerned and what I do, as a Member, on behalf of the people I represent.

An Ceann Comhairle: The Chair has requested the Deputy to leave the House and he leaves the Chair with no option but to move his suspension from the House.

Suspension of Member.

An Ceann Comhairle: I move: "That Deputy Deasy be suspended from the service of the Dáil." In accordance with Standing Orders, the division will take place on Tuesday next before the Order of Business. The Deputy must now leave the House.

Mr. Deasy: I am leaving under protest. This is crazy stuff. It is wrong.

Deputy Deasy withdrew from the Chamber.

Mr. Durkan: On a point of order, the Deputy's suspension results from the failure of a Department to respond to a relevant question tabled by an Opposition spokesperson. A memorandum was sent to the Ceann Comhairle's office stating the relevant information was not available and, consequently, the parliamentary question could not be answered. This is common practice nowadays. It is also common practice for Members to be informed that the Minister has no responsibility to the House.

With regard to this parliamentary question, the Minister had the information and used it outside the House, which is also common practice. He is treating the House with contempt. I would like to

have this issue dealt with at the next meeting of the Committee on Procedures and Privileges.

Mr. Costello: Deputy Deasy made a valid point, although he may not have made it in the right surroundings, given that the Minister for Justice, Equality and Law Reform is not present. An explanation is needed in this first instance regarding why the Minister has not shown us the courtesy of being present for his priority questions, which do not come around every day. As Labour Party spokesperson on justice, equality and law reform, I was not contacted by the Minister, his officials or the Ministers of State regarding his absence. That is a severe and serious discourtesy to myself and to the House. However, it reflects the point made by Deputy Deasy. The Minister's attitude to the House——

An Ceann Comhairle: The Deputy has made his point.

Mr. Costello: The Minister has made misleading statements outside the House regarding the recent Garda figures on crime levels, in which he indicated legislation he put through the House was responsible for the decreases in crime levels. At the same time, he will not inform the House in reply to parliamentary questions what legislation has led to this reduction in crime. The Minister is swanning around, manipulating the figures and operating a public relations machine to convince the public that he is doing a fantastic job and he is a wonderful Minister, but he will not come to the House.

An Ceann Comhairle: The Deputy has made his point and should resume his seat.

Mr. Costello: He has a 50% attendance record on priority questions. This is not the first time he has done this. He was supposed to introduce legislation——

An Ceann Comhairle: The Minister notified my office that he would not be present because he is in London.

Mr. Costello: The entire day was to be devoted to Department of Justice, Equality and Law Reform business.

An Ceann Comhairle: The Deputy has made his point and should resume his seat.

Mr. Costello: Emergency immigration legislation was to be introduced and passed today but the Minister for Justice, Equality and Law Reform did not have the courtesy to be present.

An Ceann Comhairle: The Deputy should show courtesy to the Chair.

Mr. Costello: I am being courteous to the Ceann Comhairle.

An Ceann Comhairle: I appreciate that but the Deputy has extended my generosity.

Mr. Costello: I must protest.

An Ceann Comhairle: The Deputy has made his protest and it has been recorded. I call Deputy Paul McGrath.

Mr. Costello: This is a valid protest and the Chair must——

An Ceann Comhairle: If the Deputy will not resume his seat, I will suspend the sitting until 4.15 p.m. I call Deputy Paul McGrath.

Mr. Costello: I have a final point of order. A Cheann Comhairle, you have a responsibility to Members to ensure the Government does not mislead——

An Ceann Comhairle: The Deputy should resume his seat.

Mr. Costello: I have a serious point of order.

An Ceann Comhairle: The Chair might well assume this is orchestrated.

Mr. Costello: I have not orchestrated this.

An Ceann Comhairle: The Chair might well assume it when one Deputy after another gets up to disrupt the business of the House. This is Question Time to the Minister for Justice, Equality and Law Reform.

Mr. Costello: I did not come in here to disrupt the business of the House.

An Ceann Comhairle: You are disrupting the business of the House. I am asking you to resume your seat.

Mr. Costello: I came here with serious questions——

An Ceann Comhairle: I am giving you one last chance to resume your seat.

Mr. Costello: The Minister for Justice, Equality and Law Reform is not here to take my questions and he has not given any——

An Ceann Comhairle: Deputy, resume your seat.

Mr. Costello: The Minister for Justice, Equality and Law Reform has not given me an explanation as to why he is not here and I want one.

An Ceann Comhairle: You have ensured that the sitting is now suspended until 4.15 p.m., at which time we will take a Private Notice Question.

Sitting suspended at 4 p.m. and resumed at 4.15 p.m.

Mr. Costello: A Cheann Comhairle, may I raise a point of order?

An Ceann Comhairle: Deputy Costello, we cannot have a point of order on the issue we dealt with earlier. Have you a point of order on the Private Notice Question?

Mr. Costello: I have a point of order.

An Ceann Comhairle: Very well.

Mr. Costello: There was absolutely no orchestration in what happened earlier.

An Ceann Comhairle: I am sorry Deputy, you may not raise that point of order.

Mr. Costello: You made an allegation in the House.

An Ceann Comhairle: I did not make an allegation. I asked a question, Deputy.

Mr. Costello: At the very least you made a suggestion.

An Ceann Comhairle: I am not discussing the matter with you. We are moving on to the Private Notice Question or I will adjourn the House until Tuesday.

Mr. Costello: I am not making a reflection on you. I want to clarify there was no orchestration in this matter.

An Ceann Comhairle: I ask you to resume your seat and allow your colleague Deputy Shortall, to ask her question.

Mr. Costello: It is important that this point be clarified.

An Ceann Comhairle: The Deputy will have to find another way to clarify it. We are moving on to the Private Notice Question.

Mr. Costello: A statement was made by you, a Cheann Comhairle. If you will just give me one minute——

An Ceann Comhairle: You and not the Chair will bring about the adjournment of the House until Tuesday.

Mr. Costello: I want one minute of your time——

An Ceann Comhairle: I have dealt with the matter.

Mr. Costello: —— and we can resolve the matter.

An Ceann Comhairle: There will be no discussion on the matter. We have moved on to the Private Notice Question. The Deputy will have to find another way of raising the matter.

Mr. Costello: I do not wish to leave the House.

An Ceann Comhairle: I call Deputy Shortall.

Mr. Costello: There is an important point.

An Ceann Comhairle: I ask you to resume your seat. If you do not resume your seat the House will be adjourned until Tuesday afternoon.

Mr. Costello: When will I have an opportunity for clarification?

An Ceann Comhairle: That does not arise now. I call Deputy Shortall to ask her Private Notice Question.

Mr. Costello: I do not wish to have to leave this House.

An Ceann Comhairle: I am not asking you to leave the House. I will adjourn the House until Tuesday if you do not resume your seat.

Mr. Costello: There is an important point.

An Ceann Comhairle: The business of the House must continue. If you resume your seat we will take the Private Notice Question. If you do not resume it, we adjourn the House.

Mr. Costello: I am very reluctant to do so without the clarification.

An Ceann Comhairle: Deputy, I ask you to resume your seat.

Mr. Costello: I do so under duress. I do not want to see the business of the House adjourned.

Mr. Cuffe: On a point of order, a Cheann Comhairle, you are punishing the entire class for the sins of one pupil. You are punishing the Opposition, including my colleagues and me.

An Ceann Comhairle: You will withdraw the remark that the Chair is punishing you.

Mr. Cuffe: You are doing so.

An Ceann Comhairle: You will withdraw the remark.

Mr. Cuffe: I have no opportunity to put my questions to the Minister.

An Ceann Comhairle: The Chair was left with no option but to suspend the sitting as Members continued to be disorderly. I ask you to resume your seat.

Mr. Cuffe: You are punishing the entire class for the sins of one student and that is grossly unfair.

An Ceann Comhairle: You are being unfair to Deputy Shortall.

Visit of Swedish Parliamentary Delegation.

An Ceann Comhairle: Before coming to the Private Notice Question I wish, on my own behalf and on behalf of the Members of Dáil Éireann to offer céad míle fáilte, a most sincere welcome, to our parliamentary colleagues from Sweden, who are in the Distinguished Visitors' Gallery. I express the hope that you will find your visit enjoyable, successful and to our mutual benefit.

Private Notice Questions.

Air Services.

Ms Shortall asked the Minister for Transport the action he proposes to take arising from the collapse of the airline Jetmagic; the steps which will be taken to assist up to 400 passengers who may be unable to complete return journeys as a result of the collapse; the steps being taken to ensure the continuation of the routes; if he has plans to review conditions of the licensing of airlines in view of this collapse; and if he will make a statement on the matter.

Minister of State at the Department of Agriculture and Food (Mr. Treacy): I wish to express my own regret and that of the Minister for Transport, Deputy Brennan, at the difficulties that Jetmagic is experiencing, and our concern both for the passengers and the staff of the airline.

Jetmagic is a Cork Airport based regional airline, which began operations in April 2003. The airline has been operating from Cork to a wide range of destinations in the UK and Europe and has 100 staff all based in Cork.

The airline announced earlier today that it is suspending operations on the recommendation of its board of directors. An extraordinary general meeting of shareholders will take place within the next week or so, to decide whether the company should be wound up. The airline has not actually closed as of yet, and if further financial backing can be found, it may be able to get back on its feet. The company has cited a lower than expected passenger demand, especially in business travel, as being the main reason for its cessation of operations. Competition from other carriers on some of its routes is also cited as impacting on the company's business forecast for 2004.

The airline has said that it has approximately 400 passengers who cannot now return to Ireland on Jetmagic flights. The airline has put a helpline in place, and any stranded passengers who call

the number will be given details of alternative flights that they can arrange to get them home, although the airline is not in a position to fund those flights. Jetmagic is contacting airlines at airports it serves and is asking those airlines to help in getting people home.

Passengers who have already booked and paid for flights will not be able to travel outwards. The airline is recommending that any passengers who have paid for tickets with credit cards should contact their credit card company for a refund and that any passengers with travel insurance should contact their insurance company. For any passengers who have not paid by credit card and who do not have insurance, Jetmagic has provided an address to which claims for refunds should be sent.

Aer Lingus has offered that any Jetmagic passengers stranded abroad at any airport served by Aer Lingus, will be brought home by them for €50 per passenger, plus taxes. Passengers who are not at an airport served by Aer Lingus, but are able to make their way to such an airport, can avail of the same offer.

European airlines operate under a package of European law, known as the "third air package", dating from 1992. Under this legislation, airlines are free to commence operations as long as they meet economic and safety criteria and to compete on any routes they wish without recourse to any authorities for approval. Governments are not permitted to subsidise or assist any airline company.

In Ireland, economic regulation of the airline is carried out by the Commission for Aviation Regulation and safety regulation by the Irish Aviation Authority. Jetmagic commenced operations in April 2003, having obtained approval from both the Commission for Aviation Regulation and the Irish Aviation Authority. The Commission for Aviation Regulation became aware towards the end of last year that Jetmagic was facing financial difficulties. The Commission for Aviation Regulation contacted the company regarding concerns it had about the financial situation and asked the company to improve its balance sheet position. Jetmagic recently confirmed to the Commission for Aviation Regulation that it had received additional investment from some of its shareholders. It is now clear that these additional funds were not sufficient for the ongoing viability of the company.

The Deputy also raises the question of a review of the licensing of airlines. As it happens, the European Commission is currently carrying out a review of the third aviation package to see if the 1992 legislation requires updating. However, I am satisfied that the unfortunate collapse of Jetmagic is not due to any deficiency in the present licensing arrangements.

Ms Shortall: I thank the Minister of State for coming to the House to provide that reply. The priority today is the plight of the 400 passengers

abandoned at various airports. In his reply the Minister of State seems to wash his hands of any responsibility for those people. It is important that all possible steps are taken today to ensure those people can return home as quickly as possible. I note the reasonably generous offer made by Aer Lingus. Has the Department of Transport taken any steps to contact other airlines, to establish where the passengers are and the quickest and cheapest way to get them back home? Given the exceptional circumstances, I hope the Department will play a role in this.

Mr. Treacy: There is no such thing as washing our hands. We are bound by certain national and international legalities on this issue. The Department takes this matter seriously and has been in contact with the company since the latter part of last year.

Ms Shortall: I am talking about today.

Mr. Treacy: The Deputy should let me answer, as I did not interrupt her. The Commission for Aviation Regulation has also been in touch with the company. There has been constant communication between the Commission for Aviation Regulation and the Department of Transport. Every effort is being made through all the possible avenues including the communication with the national carrier, Aer Lingus, whose generosity I acknowledge, to ensure that services and options are available as far as physically possible to return passengers to Ireland as quickly as possible.

With passengers in various locations it is not possible to make arrangements to return them all together. However, all organs of the State, including the Department of Transport, are and will be available to assist Irish citizens stranded anywhere.

Ms Shortall: It is regrettable that the Minister of State has not answered my question. I want to know whether his Department had taken any steps today to ensure people are brought home as quickly as possible. All his bluff, blunder and generalisation do not answer that question.

I wish to ask about the more serious issue of the licensing system for airlines and the precise role of the Commission for Aviation Regulation in this regard. We are all familiar with the position that obtains in respect of travel agencies and have learned through difficult experiences. In the past various companies ran into difficulties and their passengers were stranded in various places or were left high and dry. As a result, a system of bonding for travel agencies was introduced. If we have a system that applies to travel agencies in respect of safeguarding the moneys of passengers and clients, a similar system should be put in place for airlines.

With regard to the role played by the Commission for Aviation Regulation in granting licences to airlines, are conditions set down in

[Ms Shortall.]

respect of the financial situations of such airlines before they are licensed? Is there any requirement to lodge a bond to safeguard against situations of this nature and to protect the interests of passengers?

Mr. Treacy: The company in question only took this decision earlier today. We are in touch with the situation but we obviously cannot have duplication of effort because it would create confusion for the unfortunate passengers.

Ms Shortall: So there is no effort at all.

Mr. Treacy: As stated earlier, a special helpline has been made available by Jetmagic. Communication has been made by the company with individual passengers, in so far as that can be done. The company has contacted these people's home addresses and, in co-operation with the Department of Transport, which is in touch with the situation, has tried to reach them by telephone. The Department, the Government or the Minister have not heard of any particular cases of hardship thus far. Every effort is being made on a professional basis to ensure that people experience a minimum of disruption and that they are returned to Ireland as quickly as possible.

As regards bonding, I was Minister of State with responsibility for aviation when we introduced bonding for travel agents. There is no requirement in European law either for travel agents or airlines. Ireland is the only country with that system for travel agencies, which was introduced as a result of difficulties experienced in the past.

As regards the licensing system for airlines, detailed criteria are laid down by the Commission for Aviation Regulation and the Department of Transport *vis-à-vis* the finances, guarantees and research which must be available and the requirements that must be met before an airline can be established and commence trading. Those criteria are extremely strict. We could obviously consider the issue of bonding. If Ireland was the only country to go down that road, it would be expensive. However, if a global approach could be taken, with support from the International Air Transport Authority or a similar organisation, it would help to ensure that a new instrument of support would be available to protect airlines and their staff, passengers and operations in the future. I am sure this matter will be considered by the Minister.

Mr. Naughten: Has any contact been made with other airlines servicing this country and the foreign airports involved to see if an arrangement similar to that with Aer Lingus could be put in place as a matter of goodwill to fly the 400 stranded passengers home?

I met the management of Jetmagic a number of months ago. The company provided a high

quality, regionally-based service and it is disappointing that it has encountered financial difficulties. One of the reasons for that was the cut-throat competition in the sector. In light of the comments made by the company and the previous example of the service provided by Go between Dublin and Edinburgh, does the Department intend to put measures in place to ensure that there will be fair and balanced competition?

The Minister of State indicated that any company operating in this country must meet economic and safety criteria. It is clearly evident that the passengers are not part of the current aviation package. The Minister of State said that there is not a deficiency in the licensing system at present. In light of the Government's holding of the Presidency of the European Union, will he give consideration to ensuring that a bond system be put in place, particularly in respect of some of the other low cost carriers? With new enterprises commencing operations, passengers could be left stranded as is the case with Jetmagic.

Mr. Treacy: As the Deputy is aware, from information recently available in the public arena, there have been certain difficulties whereby clubs and groups have come together to operate as travel companies or travel groups and have, to a degree, flouted the laws. I will ask the Minister for Transport to examine the situation to see if there is anything that can be done with regard to a bonding system on a European-wide level while we hold the Presidency. It is not a simple matter but we will do everything possible to ensure that protection is provided.

I agree that competition is critical. We would not have the massive tourism product or the reduced cost in air travel, either on the island of Ireland or out of Ireland, were it not for the huge competition that exists. Jetmagic admits that there was tough competition on the routes on which it provided services. This eroded the cash returns it expected to make on those routes.

As regards the Deputy's first question, the Department of Transport has been in contact with a number of airlines, including Aer Arann, the world's fastest growing regional airline, British Airways, CSA, a Czech airline, and Aer Lingus. All four have offered assistance to the stranded passengers. Every effort is being made by the staff of Jetmagic and officials of the Department of Transport to see what can be done to ensure that people experience the minimum amount of difficulty in returning to our country.

Mr. Eamon Ryan: It is a matter of regret for the staff of the company, its owners, who invested a great deal of money and have now lost it, and the people of Cork and Munster that Jetmagic has ceased operations. We would like the Government to do what it can to try to rescue some of the passengers affected by this situation and also to try to rescue some of the business that Munster will lose.

It is ironic that the Minister for Transport, who has been spending so much time dealing with aviation policy with the supposed intention of improving the fortunes of Cork Airport, has not paid attention to this matter. He has been busy formulating his business plans, which no one understands and which have not been explained—

Mr. Naughten: Including himself.

Mr. Eamon Ryan: —to split up the State airports. It is unfortunate that, rather than concentrating on that matter, which does not make much sense to people in the industry, he did not pay attention to what was happening at Cork Airport and stop throwing shapes about the structures of the three airports operated by Aer Rianta.

Will the Minister of State indicate whether he believes the company faced fair competition on some of its routes? Some commentators have stated that what may have happened is that routes the company selected, especially for business or commuter services, were targeted by certain competitors who introduced services of their own to ensure that Jetmagic did not get off the ground and experienced difficulty attracting customers. Is the Minister for Transport concerned that such competitive practices were pursued in this case? What means does he have of governing the issuing of routes and the management of competition in this sector to ensure that a new operator such as Jetmagic has an opportunity to establish itself and to ensure that large existing operators, especially State companies, some of which are about to be privatised, do not use their monopoly position to compete unfairly and bring about the demise of such a fledgling airline? What measures did the Department put in place to ensure that such anti-competitive practices were not pursued in this instance?

Mr. Treacy: Deputy Eamon Ryan's statement about the Minister, Deputy Brennan, is disingenuous. It is also inconsistent with the statement he made earlier in connection with the situation regarding the Irish Financial Services Regulatory Authority. The Minister must have business plans and be committed to ensuring that, before decisions are made on any issue, certain criteria are fulfilled. It is the same in this situation with the licensing arrangement laid down for airlines.

I am not an expert on airline travel so I cannot say whether the competition was unfair. That is a matter for the European Commission under European law. There have been no allegations of unfair competition. There have been statements from the company that there was strong competition on their routes. However, under European law, airlines are free to choose their routes and Governments in member states are precluded from investing in airlines. That is the

reason there has been such change in the travel industry and why there are so many new companies in the business. It is also the reason that air travel has become much cheaper and mobility has increased, to the advantage of all economies.

Ms Shortall: Will the Minister address the jobs issue? Every effort should be made by the Department to contact FÁS and other agencies involved in recruitment and employment to ensure the 100 people left behind by the company will be enabled to find alternative employment, preferably in the aviation industry.

The other issue is the future of Cork Airport and what this collapse means for it. Other speakers have spoken about the absence of a business plan. The concern of Opposition Members is that the Minister, Deputy Brennan, is proceeding on the basis of a hunch with breaking up Aer Rianta without having thought it through and without a clear business plan. That is the reason we and the consultants who recently advised the Government are concerned. The break-up of the Aer Rianta company calls into question the future viability of Cork and Shannon airports.

In this case, a local company started at the airport with services on popular routes at competitive prices, yet it could not survive. What does that say for the Minister's claim that opening up the airports will facilitate the generation of extra business? After today's events one must ask if that business exists. One must also ask about competition and whether anti-competitive practices were followed by other airlines to squeeze out Jetmagic. Both elements had an impact but the latter was probably a stronger influence on what happened today.

Serious questions arise from the collapse of this company. Will the Minister of State relay to the Minister, Deputy Brennan, the concerns expressed by the Opposition? We do not seek answers today, within a few hours of the event, but expect the Minister, in light of his broader plans for Cork Airport, to examine closely the events leading to the collapse of Jetmagic. He should come to the House or to the Committee on Transport with a detailed report on what went wrong and why this fledgling company could not survive despite the goodwill that existed and the good deals Aer Rianta gave the company. Why could it not survive?

Mr. Treacy: The Government is most concerned about the loss of jobs but it is legally precluded from intervening in the situation until a special annual general meeting of the company takes place and the Department of Transport and other relevant State agencies are notified of the situation. Obviously, in the event of a negative conclusion at the annual general meeting, the Department of Transport will liaise with the Department of Enterprise, Trade and Employment and the other State agencies,

[Mr. Treacy.] including FÁS, to assist the victims of this problem.

I do not agree that there was an effort to squeeze out Jetmagic. Competition in the airline industry is tough. The objective of airline operators is to fill their planes to maximum capacity so they can achieve the maximum throughput and the best possible turnover. That leads to competition. There is no comparison between running an airline and running an airport. Aer Rianta is an airport management company; it is not an airline operator, an aviation authority—

Ms Shortall: The Minister, Deputy Brennan, seemed to suggest that they were queuing up to come to the airport.

Mr. Treacy: —or a tour operator. The management and development of an airport is different from running an airline or a tour operation. Making comparisons between what happened to Jetmagic and the positive attitude of the Minister, Deputy Brennan, to ensuring there is an equalisation of regional opportunity throughout Ireland is spurious.

Visit of Member of US House of Representatives.

An Leas-Cheann Comhairle: Before proceeding to the Adjournment Debate, I take this opportunity on behalf of the Ceann Comhairle, myself and the other Members of the Dáil to extend a sincere and warm welcome to Congressman Jim Leach, a Member of the United States House of Representatives, who is with us in the Distinguished Visitors Gallery. I wish Congressman Leach an enjoyable and happy visit to our country.

Adjournment Debate Matters.

An Leas-Cheann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 21 and the name of the Member in each case: (1) Deputy Gilmore — the cessation of the linked work experience programme which has been operated by the Dún Laoghaire Community Training Workshop; and (2) Deputy Durkan — the serious conditions at a number of primary and second level schools in County Kildare.

The matters raised by the two Deputies have been selected for discussion.

Adjournment Debate.

Training and Employment Schemes.

Mr. Gilmore: I thank the Ceann Comhairle for allowing me to raise this matter on the Adjournment. The linked work experience

programme is one of the most successful jobs and training schemes I have encountered. Unfortunately, in Dún Laoghaire it has been ended, apparently for budgetary reasons.

The linked work experience programme is operated in Dún Laoghaire by the Dún Laoghaire Community Workshop. Linked work experience provides work experience for young people between the ages of 16 and 25 years. Most of the young people concerned have left school early, many before the junior certificate. Most are from disadvantaged homes and many labour under a variety of social, educational and economic disadvantages. They are young people who find it difficult to get a start in life and some could end up in trouble with the law.

Under the linked work experience programme, the young person's needs are assessed by the programme co-ordinator who then tries to match them to an employer, helps the person with his or her CV and interview and follows up by providing back-up support from the training workshop while the person is with the employer. The employer, in turn, provides the young person with mentoring assistance. The young person spends six months in the training workshop and approximately six months on the job.

The scheme is working successfully. Since the beginning of 2002, 90 young people in Dún Laoghaire have gone through this scheme. Of those, 60% were placed in employment or in appropriate training or education after they finished the programme. That is a high success rate. There are 52 local companies or employers involved in the scheme, most of whom are prepared to repeat the experience and to take more than one trainee. Young people from disadvantaged backgrounds in danger of being left behind or getting into trouble are being channelled into useful employment. The employers are enthusiastic about the scheme, the Community training workshop is happy that it is working successfully and the trainees gain huge fulfilment from it.

Shortly before Christmas, the community training workshop was told that the scheme is being discontinued. This information came from FÁS. I have seen two items of correspondence from FÁS and they are contradictory. The letter from the regional director states that the centre is operating with too high a number for the scheme while the letter from the director general of FÁS seems to imply that the centre does not have enough people on the scheme. When one reads both letters together, however, it is clear that the scheme was discontinued for financial reasons. FÁS simply pulled the plug on a successful scheme for its own financial reasons.

Will the Minister ensure that FÁS reinstates this scheme? It is working well for young people who, in normal circumstances, would be lost to education, employment or getting a start in life. I met one employer who told me he had two of these people working for him. One of them was from a family in which, over three generations,

nobody had worked and there was little family support for somebody leaving in the morning to go to a job. This scheme has managed to get these young people into employment, employers and operators are happy with it and the trainees are more than fulfilled with it. It astonishes me that when something is working and is a success, we manage to pull the plug on it. Over the next number of years people will organise seminars, produce reports and wonder about what can be done for the young people from disadvantaged backgrounds who are dropping out of school, finding it difficult to get employment and who are sometimes getting into trouble. This scheme is working successfully in my area. I want it back in the interests of the trainees, their families and the communities in which these young people live. I ask the Minister of State to intervene with FÁS to ensure this working worthwhile scheme is restored.

Minister of State at the Department of Agriculture and Food (Mr. Treacy): I thank the Deputy for raising this issue and I will outline briefly the respective roles which FÁS and the Minister of State at the Department of Enterprise, Trade and Employment, Deputy Fahey, play in training and employment schemes. The Minister of State's role is to agree public funding and give overall policy direction to FÁS. The Minister of State does not have a role in the ongoing operational management of FÁS schemes or in deciding how funding should be allocated to individual project or participants. Such decisions are day-to-day operational matters for FÁS as part of its responsibilities under the Labour Services Act 1987. However, in light of the Deputy's concerns, the Minister of State has asked FÁS to comment on its dealings with the Dún Laoghaire community training workshop.

Community training workshops are small training centres that run a range of community-based training programmes to meet the needs of early school leavers in their area. The workshops are autonomous bodies under the control of management committees drawn from different sectors of the community. These committees employ staff to run the workshops and are responsible for the policy and administration of the centres.

FÁS assists more than 40 of these workshops nationwide by meeting staff salaries and paying allowances to the centres' trainees. In return, FÁS will negotiate a contract with each workshop, while agreeing the level of training to be provided that year. The training provided by these workshops has two elements. Formal training within the workshops is provided at foundation level. This mixes practical skills, such as catering or woodwork, with personal development courses and leads to FÁS or City and Guilds certification, junior certificate or applied leaving certificate.

Towards the end of their training period, community workshop trainees are job ready and

can participate in the linked work experience part of the FÁS community training workshop programme. This takes place in local companies and runs for a period of approximately four to ten weeks, during which FÁS continues to pay the participant the same training allowance he or she received while in the workshop. The objective is to give valuable work experience to the graduate and hopefully a permanent job placement in the company. In agreeing work programmes with the workshops, FÁS is guided by the needs of early school leavers and young people who need basic qualifications to obtain employment. FÁS, therefore, requires young people to obtain the basic qualification before they take up in-company training.

I understand the Dún Laoghaire community training workshop has been in operation for more than 15 years and has run a range of programmes covering literacy and numeracy, pre-apprenticeship, craft skills, catering and computer skills. However, FÁS has become concerned that a significant number of participants on the linked work experience module in Dún Laoghaire have not received training or a basic qualification in the workshop, but instead have been going directly into employment.

Mr. Gilmore: It is working.

Mr. Treacy: FÁS has informed the Minister of State, Deputy Fahey, that it has not stopped supporting linked work experience for the Dún Laoghaire community training workshop, but that it has requested the training centre to confine the participation to graduates who have completed their training courses and hold a basic certificate.

Mr. Gilmore: That is the same thing.

Mr. Treacy: In other words, the system cannot be evaded.

Mr. Gilmore: That is insulting the training workshop and the participants. There is no question of evasion.

Mr. Treacy: If the Deputy reads the report FÁS has presented, the people are going directly into employment without training.

Mr. Gilmore: The scheme is working.

An Leas-Cheann Comhairle: Order, please.

Mr. Treacy: If it is working and jobs are available —

Mr. Gilmore: These young people are falling through the system.

An Leas-Cheann Comhairle: We cannot have a debate on the matter.

Mr. Treacy: The Deputy is contradicting himself. He is saying that this situation will lead to unemployment and that it will be a disaster for the young people. However, the report states that they are going directly into employment without training. That is a contradiction. I do not understand the Deputy's case.

Mr. Gilmore: They are getting training.

Mr. Treacy: Furthermore, FÁS has assured the training centre that all its young people who have completed their training and received certification can avail of linked work experience to help them secure employment. It is a good transparent system.

Mr. Gilmore: A scheme that is working is being wound down.

School Accommodation.

Mr. Durkan: I thank you, a Leas-Cheann Comhairle, and the Ceann Comhairle for affording me the opportunity to discuss the increasingly serious problem of gross overcrowding, inadequate and dilapidated buildings and the clear breaches of health and safety regulations arising therefrom which negatively affect conditions under which pupils and teachers try to work and study in a number of primary and second level schools in County Kildare. I call on the Minister for Education and Science to provide the necessary resources to address these pressing issues.

County Kildare is adjacent to the greater Dublin population area. There is ongoing pressure for school places and utility and community services. Schools, hospitals and other essential services are to the fore in that regard. Virtually every town and village which has or does not have a primary and/or second level school, is under serious pressure to provide urgently required facilities for an increasing population.

I do not propose to name all the schools in County Kildare, but the Maynooth post-primary school, which has been understaffed for several years, is heavily overcrowded. It is currently restricting admissions. Its students and teachers work and study in conditions which are more suited to the 18th or 19th century, rather than the 21st century. The school is at the early architectural planning stage. Planning permission was granted three years ago. The community has taken all the necessary action, but the relevant action has not been taken by the Department.

I ask the Minister to give priority rating to all schools in the county. A number of schools, such as Sallins and Robertstown, which were in a serious condition have received indications. Work will proceed on those in the current year, but it remains to be seen to what extent that will happen. However, work must be carried out on Maynooth post-primary school, Scoil Clochar Naofa in Kilcock and Tír Mochain national

school, to name but a few. Kill national school requires a new building. Discussions have taken place. The Minister said in reply to parliamentary questions that consideration was being given to the acquisition of a site. However, while that has been happening for the past two years, new road proposals have been outlined which will bring heavy vehicular traffic close to the school. It would be better to relocate the school to another site as quickly as possible in view of the impending major road reconstruction work. St. Patrick's post-primary school in Naas is another example. I will not list all the schools because there are a total of 46.

In view of the severe pressure emanating from the increased population and demand for school places, will the Minister influence the Department to draw up a priority list which takes cognisance of the geographic location of County Kildare, particularly north Kildare, to the population base of Dublin? If the schools in question have to take the population overflow from the capital city, which they are doing and are willing to do, the least that can be done is to ensure that the necessary resources are provided in a structured way to meet the requirements. If that is not done, the problem will get worse. If that happens, the Minister will leave himself open to allegations that he failed to do his duty and to meet his statutory requirements. Those allegations will be valid because we have repeatedly brought this to the attention of the Minister and his Department. The Minister of State is too good at his job to refer to the website. We all know about the website. I do not want to hear about it. I want action soon.

Mr. Treacy: I am taking this debate on behalf of the Minister for Education and Science, Deputy Noel Dempsey, who has EU Presidency responsibilities this afternoon and regrets very much that he cannot be here.

Given the generalised nature of the Deputy's statement, I propose to outline to the House both the extensive actions already taken by the Department of Education and Science, and those planned for the future to address the accommodation needs of schools in County Kildare which continues to experience a population growth. This position almost inevitably places strain on existing educational infrastructure. Over the past two years, however, the Department of Education and Science has provided a massive and unprecedented €69.3 million for an extensive catalogue of capital interventions in primary and post-primary schools in County Kildare to address this issue, one of the biggest in Ireland. At primary level, the landscape in Kildare now includes two new schools at Celbridge and Killashee. A state-of-the-art, 16 classroom school with a double autistic unit is scheduled to go to construction in Naas this year together with a new eight classroom school in

Rathmore, which represents very positive progress.

Major extension and refurbishment works will also proceed for schools in Sallins, Clogherincoe and Celbridge. In addition, refurbishment works and the provision of ancillary accommodation are already under way at Scoil Naomh Mhuire, Ballymany. To further develop provision in the area, there are a number of primary school projects in architectural planning for extension and refurbishment works. The details of these projects are available on the school building programme for 2004 which is published on the Department of Education and Science's website at www.education.ie.

Mr. Durkan: How well we know that.

Mr. Treacy: The Department of Education and Science is continually looking at new and innovative ways of expediting and devolving delivery of educational infrastructure. In this regard, the Deputy may be aware of two pilot initiatives being run by the Department — the small and rural school programme and the permanent accommodation programme. These initiatives are very promising and the Minister for Education and Science has decided to extend the schemes to include more schools for 2004. Included in these schools are the Monasterevin No. 2 national school and Scoil Naomh Brighde, Ticknevin. Both of these schools have accepted an invitation to participate and attended a meeting about this recently. Scoil Naomh an Chloch Mhor, Rathvilly, has also accepted an invitation for the construction of ancillary accommodation in 2004.

Further additional accommodation was provided in Kildare in 2003 by way of purchased temporary accommodation for six primary schools. Officials in the Department of Education and Science are assessing and prioritising all applications for temporary accommodation for primary and post-primary schools for 2004. The Department will soon publish a list of projects proceeding this year. At post-primary level, in Naas, a major extension project has been completed at St. Mary's College, which has increased capacity at the school to 800 pupils. An application for further additional accommodation is being assessed. In addition, a major extension at meanscoil Iognaid Rís is in architectural planning. There is surplus capacity at St. Patrick's post-primary school and the school's management authority, County Kildare VEC, is assessing the future of the school at its existing location. Elsewhere in the county, a physical education hall has recently been completed at Scoil Eoin, Rathstewart, and a large extension of almost 1,900 sq. m. is under construction at Scoil Dara, Kilcock.

There are several post-primary projects in architectural planning for extension and refurbishment works. The details of these projects are also available on the Department of

Education and Science's website. On the recent publication of the Department's building programme, the Minister stressed his absolute conviction that devolving funding, responsibility and authority to schools for small-scale capital building projects is the way forward. As a further initiative in that direction, the Minister has put in place a new €31 million devolved summer works scheme. This caters for necessary small-scale works that can be planned and delivered generally during the summer holidays when the children and teachers are at home. The 2004 programme will be updated in early spring to provide details of schools with approved projects under this scheme. This initiative sets clear dates for both the application and decision processes. Too often in the past a project could not progress during the summer because of difficulties caused by late notification. The new approach will bring greater clarity and certainty to the operation of the small-scale works programme and will help schools in their preparations for the execution of the works during the summer. The scheme is open to all primary and post-primary schools in the country and schools in Kildare may further benefit from funding under the scheme, subject to the prioritisation criteria governing the scheme, the level of funding available and the competing priorities for that funding.

School authorities are responsible, in the first instance, for ensuring the safety and welfare of children and others in their care. In accordance with the Safety, Health and Welfare at Work Act 1989, it is the responsibility of school management authorities to have a safety statement in place in their schools. Schools are obliged to identify possible hazards, assess the risks to health and safety and put appropriate safeguards in place. Primary schools are given an annual allocation of €3,809 plus €12.70 per pupil under the grant scheme for minor works which can be used entirely at the discretion of school management to address basic health and safety issues connected with the school infrastructure. In addition, the Department of Education and Science has set aside a contingency sum of €11 million to deal with emergency works in primary and post-primary schools, including emergency health and safety works, during 2004.

A key part of our strategy on capital expenditure will be grounded on the budget day announcement of multiannual allocations for capital investment in education projects covering the years 2004-08. All projects not going to construction as part of the 2004 school building programme are being reappraised with a view to including them as part of a multiannual building programme from 2005 onwards. These projects will also be reviewed in the context of a re-examination of the criteria governing the prioritisation of large-scale works in consultation with the education partners. The purpose of this review is to ensure that the criteria have optimum precision and are fully tuned to meeting the priority accommodation needs of the primary and

[Mr. Treacy.]

post-primary sectors. When the review has been completed, a further list of priority projects will be approved to proceed through architectural planning this year. The Minister for Education and Science, Deputy Noel Dempsey, expects to be in a position to make a further announcement on these matters during 2004 and is very positive about that. Overall, the ongoing unprecedented

level of investment in schools in County Kildare demonstrates the Department of Education and Science's commitment to ensuring that the long-term accommodation needs of the area are met. The Government's record in this regard is second to none.

The Dáil adjourned at 5.05 p.m. until 2.30 p.m. on Tuesday, 3 February 2004.

Written Answers

The following are questions tabled by Members for written response and the ministerial replies received from the Departments [unrevised].

Question No. 1 answered orally.

Industrial Relations.

2. **Mr. Costello** asked the Minister for Justice, Equality and Law Reform the progress made by the Labour Relations Commission in addressing the industrial relations dispute between his Department and the Prison Officers' Association; the reason he has resorted to closing down four of the most efficient prisons in the State while negotiations continue; if the prison service will be required to pay mileage allowance to prison officers who are being transferred from the institutions to be closed and the estimated annual cost of this; if he is considering privatising any sections of the prison system; and if he will make a statement on the matter. [2582/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): It is timely that I have this opportunity to bring the House up to date on developments in relation to this matter.

The talks at the Labour Relations Commission have been protracted and difficult. Some progress was made initially but I regret to say that an impasse on one aspect of the talks has emerged leading to talks being adjourned yesterday until further notice to allow the sides to reflect on how to overcome the present difficulties. In the course of the talks and again following the impasse reached yesterday, the Labour Relations Commission advised against the sides taking public positions on aspects of the talks which might prejudice the prospects of a successful outcome to such further discussions which will inevitably arise in the future. This is a long standing industrial relations practice which has served practitioners well over the years. I am disappointed that the POA has not adopted this approach of maintaining confidentiality around the talks.

In the light of statements issued by the POA in the last 24 hours and in view of the contents of two bulletins issued by it to its members in the course of the recent negotiations which have come to my attention, I must now reluctantly take this opportunity to set the record straight on some of the misleading statements made about matters under negotiation at the LRC. I do so reluctantly and will confine my remarks to a minimum.

The POA contention that the Irish Prison Service deliberately collapsed the talks at the LRC is patently untrue. While the talks reached an impasse, management was prepared and is still

prepared to explore options for overcoming the particular difficulty involved. Furthermore, management made itself available to continue talks on other issues on the agenda pending reflection by both sides on how to resolve the issue at impasse.

The impasse which has now emerged is not as the POA suggests related to management wanting staff to be available on stand-by to work additional hours without pay. In fact management has proposed an attendance system aimed at promoting 'smart' working which would involve staff contracting to work a fixed number of additional hours per year which would be paid for at a premium rate of 1.8 times the relevant hourly basic rate whether or not they are required to be worked.

As regards the closure of prisons, Deputy Costello will already be aware of the terms of the Government decision of 11 November 2003 and the budgetary context in which it was taken. That decision approved a series of measures to be taken in the event of failure to reach agreement with the Prison Officers' Association on a change agenda aimed at eliminating overtime payments and reducing other costs in the Irish Prison Service. These measures included the mothballing of the Curragh and Fort Mitchel Prisons and the transformation of the open centres at Loughan House and Shelton Abbey into post-release centres for the reintegration into society of prisoners on conditional temporary release. The reasons for the Government decision have been well aired in the House and indeed in the Seanad. I refer the Deputy to the Adjournment debates in this House on 12, 18 and 27 November 2003 and to an Adjournment debate in the Seanad on 19 November 2003. It was made clear that the Irish Prison Service could not continue to spend public money to feed an overtime culture which was virtually out of control while sustaining outdated and inefficient work practices. It was made clear that I had no desire to close or mothball prisons and that his preference was for a mutually advantageous agreement with the Prison Officers' Association which would ensure an efficient and cost effective prison service. I would still prefer an agreed way forward.

Deputy Costello's suggestion that four of the most efficient prisons in the State have been selected for closure does not reflect the full facts. For example, Fort Mitchel is one of the most expensive prisons in the State with an annual cost per prisoner in excess of €100,000. The Curragh Place of Detention, which has already been mothballed, was less expensive at €72,000 per prisoner per annum but it has been possible to move the inmates and staff to a modern facility at the Midlands Prison which also operates at a cost of approximately €72,000 per prisoner per annum. Furthermore, the facilities at the Curragh are in a very poor state of repair with major capital investment required to put it to rights. As regards the open centres, the position is that the

[Mr. McDowell.]

cost of keeping an offender in Shelton Abbey is well above the average at €85,000 approximately while Loughan House operates at a relatively modest €63,000 per prisoner per annum approximately. It should be borne in mind, however, that staffing costs in these institutions are extremely high compared with the staffing costs that could be expected if they were transformed to be run as a post release centre by another agency.

In relation to the payment of mileage, prison officers transferring on a temporary basis are entitled to be paid mileage in accordance with the relevant Civil Service circular, i.e. where an officer proceeds on an official journey direct from home or returns home direct, the travelling allowance payable will be calculated by reference to the distance from home or headquarters to the temporary location, whichever is the lesser and will be paid at the reduced rate. As the amount payable is largely dependent on individual circumstances, it is not possible to provide an estimate of the annual cost at this time, pending receipt of individual claims from the officers concerned. It should be remembered, however, that any mileage payments which may be made will have to be reviewed should transferred staff be permanently assigned at the new location. Furthermore, any costs arising from mileage payments will be more than offset by savings in overtime.

As regards the question of privatising sections of the prison system, the position is that, in the event of failure to reach agreement with the Prison Officers' Association, steps will be taken to give effect to that element of the Government decision of 11 November 2003 which envisages the invitation of tenders from contractors for the provision of a prisoner escort service. A prior indicative notice has already been published in the EU Official Journal in that regard. Prisoner escorts currently account for over one quarter of the overtime worked in the Irish Prison Service — that is €15 million approximately — and there is a great deal of room for rationalisation and efficiencies. Furthermore, I will be bringing forward legislation shortly to provide the necessary statutory authority to facilitate this arrangement. If agreement is reached with the POA the privatisation of prisoner escorts will not proceed. Instead, the system will be rationalised from within through the establishment of a dedicated prison service escort corps. While I have no immediate plans to privatise any other sections of the prison service, I am aware that the Irish Prison Service already outsources a number of services, including certain specialist maintenance services. The whole area of maintenance is under review and consultants have been engaged to advise on how best to provide for such needs. I am currently awaiting the outcome of this review and management's recommendations arising.

Illegal Immigrants.

3. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform the proportion of the fund which will be used to fly illegal immigrants out of member states in view of the Council of Ministers' recent announcement of the setting up of a €30 million fund to increase the number of illegal immigrants who are repatriated; and the types of project which will be initiated to help reintegrate them in their home countries. [2579/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The financial provision of €30 million in the 2005-2006 EU budget period is intended to fund a framework preparatory action to support a series of pilot programmes, including joint flights and reintegration measures, aimed at increasing the number of returns of persons illegally resident in the EU.

The fund is a further development of the Comprehensive Return Action Programme which was approved by the Justice and Home Affairs, JHA, Council on 28 November 2002. This sets out a series of proposals for the development of a number of short, medium and long-term measures in the field of return. Considerable progress has been made in adopting these initiatives and this will be continued under the Irish Presidency.

The fund was first announced by the European Commissioner for Justice and Home Affairs, JHA, Mr. António Vitorino, on Thursday, 22 January 2004, at the informal meeting of JHA Council of Ministers held in Dublin Castle. The precise details of the framework preparatory action, ie. how it will be allocated to specific areas or projects of return and the procedures involved, will be a matter for negotiation in the relevant working group in Brussels chaired by the Irish Presidency. It is Ireland's aim to progress negotiations on this framework preparatory action so that Council conclusions on the matter can be reached before the end of the Irish Presidency.

It should be noted that the fund is not intended to replace national programmes of return but rather to augment them and provide value added for the EU as a whole.

Garda Reform.

4. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform if he will consider introducing comprehensive Garda reforms in line with the Patten commission model, including a fully independent Garda Ombudsman responsible for complaints investigation, an independent policing board responsible for civilian oversight, and district-level community policing partnerships for local democratic accountability. [2589/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): As has already been made clear the Minister will be introducing significant

changes affecting the Garda Síochána in the forthcoming Garda Síochána Bill. Preliminary details of these proposals in the form of a draft general scheme of a Bill were published and views on the proposals invited. I understand that Sinn Féin has made a submission on the proposals in the context of that consultation process.

As regards the Patten commission, the Report of the Independent Commission on Policing in Northern Ireland, published in September 1999, has been given detailed consideration and where appropriate its work has been taken into account in preparing the Garda Síochána Bill.

However, I would enter the caveat that the Patten commission itself made it clear in its report that its recommendations were what it believed “would be the best arrangements for policing in Northern Ireland” and that the “problems faced by the police service in Northern Ireland are in a sense unique to a divided society with its own political history and culture”.

I would also point out that it looked at structures in the context of the policing structures in the United Kingdom where there are more than 40 different police services associated with specific local authority areas. We, in contrast, have a national police service as do many of member states of the European Union, particularly the Scandinavian states.

As regards a Garda Ombudsman, the Garda Síochána Bill to which I have referred will provide for the establishment of a fully independent Ombudsman body which will have wide powers to investigate complaints made against members of the Garda Síochána. The new body will also be able to investigate policies and practices of the Garda Síochána where such policies and practices may be the cause of complaint.

On the question of the establishment of a policing board the position is that this issue has been raised on a number of occasions, but the Minister is not convinced that such a board would be the most appropriate model for this jurisdiction and the proposed Garda Bill will make no provision in that regard. In this State we have one national police force which is answerable, through the Minister for Justice, Equality and Law Reform, to the Dáil. The introduction of a Garda policing board would introduce a further level of bureaucracy into the process and effectively diminish the supervisory role of the Dáil.

As regards district-level partnerships and local accountability, there will be provision in the proposed Bill for the involvement of local authorities and local communities in local policing issues. However, it is not proposed to make the Garda Síochána in any way accountable to any body or group other than the Minister and

the democratically elected members of Dáil Éireann.

Prison Escapes.

5. **Dr. Upton** asked the Minister for Justice, Equality and Law Reform the number of prisoners currently absent without leave from prisons as a result of escapes or failure to return from temporary release; the steps being taken to deal with this problem; and if he will make a statement on the matter. [2503/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I want to dispel any belief that there is a major security issue in this area. In this context I would like to refer the Deputy to Question No. 403 answered on 18 November 2003 which gives background material on the issue.

It is important to note that the vast majority of prisoners who have actually become unlawfully at large over the years are persons who absconded from one of the open prisons or who failed to return from a period of temporary release, but a large number are actually people who were released, perhaps only a matter of weeks before the end of a sentence, and who failed to sign on at the prison every week — one of the conditions of the release. In most of these cases, the offender is very much at the lower end of the risk to the public spectrum. The gardaí are informed where prisoners are unlawfully at large and have the power to detain, arrest, and return such persons to prison. It is also the case that, as the vast majority of persons on this list were nearing the end of their sentences they would, in the absence of them being at large, now have been released back into the community in any case.

Over the years, a substantial number of prisoners have failed to comply with the requirement to sign on at the prison. However, the vast majority of prisoners who have failed to comply with the condition of their temporary release have not come to notice in respect of any further offences. The list of people currently shown as “unlawfully at large”, which amounts to 666, would include many such people. As reported previously, the lists are subject to an ongoing examination to check their accuracy and it is anticipated that this process, when completed, will lead to a more realistic and significantly reduced figure.

To put this in context, the number of prisoners who escaped from closed prison custody and who are still at large is negligible and no major criminal figures are involved. No prisoner escaped from a closed prison in 2003. Three prisoners absconded from a trustee area of the Dóchas Centre for a brief period and were quickly recaptured.

I would also like to highlight the fact that the construction of additional prison spaces has

[Mr. McDowell.] significantly reduced the number of persons released on unstructured periods of temporary release. This has had a knock-on effect on the numbers at large as a significant proportion of those on the unlawfully at large list are a hangover from the revolving door syndrome which was prevalent in the 1990s. It is worth recording at this stage that similar lists from 1997 indicated that there were upwards of 1500 prisoners “at large” at any one time.

Courts Service.

6. **Mr. Howlin** asked the Minister for Justice, Equality and Law Reform the progress made by the Courts Service with regard to guidelines for gardaí acting as jury keepers; and if he will make a statement on the matter. [2435/04]

142. **Mr. Costello** asked the Minister for Justice, Equality and Law Reform the progress made by the Courts Service with regard to guidelines for gardaí acting as jury keepers; and if he will make a statement on the matter. [2600/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I propose to take Questions Nos. 6 and 142 together.

As the Deputies will appreciate, under the Courts Service Act 1998, the Courts Service is independent in the performance of its functions, including the management of the courts. The issue of security arrangements within the courts, including arrangements concerning juries, is a matter, in the first instance, for the Courts Service to consider. In this regard, I am advised by the Courts Service that it is currently in the process of producing guidelines for jury keepers. I am further advised that the Courts Service hopes to be in a position to finalise the guidelines in the very near future.

In so far as the Garda authorities are concerned, I have been informed that, while the Commissioner has not issued any specific guidelines to gardaí who act as jury keepers, the Garda Síochána discipline regulations are there to deal with any matters relating to misconduct involving a member of the Garda Síochána employed as jury keeper. Indeed, these regulations were applied in a recent case.

Prison Committals.

7. **Mr. Gormley** asked the Minister for Justice, Equality and Law Reform his views on the 47% rise in the number of persons incarcerated in the State between 1994 and 2002; and if he will give the latest figures for same. [2520/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The average number of prisoners in custody in 1994 was 2,141. This figure

had risen to 3,112 in 2002. The number of persons in prison custody on 27 January 2004 was 3,168. The total annual number of committals to prison custody by the courts has risen by 15%, from 10,153 to 11,860, during the years 1994 to 2002.

As the Deputy is no doubt aware the 1990s, in a prison context, was blighted by a persistent high level of overcrowding in our committal institutions which resulted in the granting of release in an unstructured manner to many offenders at an early stage in their sentences. This situation was in serious danger of undermining the credibility of our whole system of criminal justice as the prison capacity available was totally insufficient to accommodate those sent there from the courts. As a result, almost 20% of those persons under sentence were out on temporary release. The construction of a large number of prison spaces in recent years has created a situation whereby the Irish Prison Service is now in a much better position to accommodate prisoners for the duration of their sentences.

Probation and Welfare Service.

8. **Mr. J. Breen** asked the Minister for Justice, Equality and Law Reform further to Parliamentary Question No. 73 of 27 November 2002, if more personnel will be recruited to the Probation and Welfare Service in County Clare; and if he will make a statement on the matter. [2384/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): As you will be aware, the Probation and Welfare Service office which covers the Clare area was understaffed for some time due to the prolonged absence on sick leave of one of the staff. The office has a full complement of staff at present and is endeavouring to deal with the backlog of cases which have arisen along with new cases coming on stream. The Probation and Welfare Service has advised me that there has been a significant increase in the level of referrals from the courts in County Clare as well as in Limerick City and County.

Every effort is now being made to eliminate the backlog of cases as quickly as possible. I have been further advised by the Probation and Welfare Service that the backlog of cases is being tackled in order of the date that the report was first requested in Court.

Departmental Transport.

9. **Ms Shortall** asked the Minister for Justice, Equality and Law Reform the total cost of purchasing new cars for the ministerial car fleet for each year since 1998; the amount spent in 2003 and the amount allocated for this purpose in the Estimates for 2004; the running cost of the car fleet for 2004; if he has plans to consider cutting

costs in this area; and if he will make a statement on the matter. [2501/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I have been informed by the Garda authorities that the total cost of purchasing Ministerial cars for each of the years concerned is outlined in the following table:

Year	Cost
	€
1998	480,350.35
1999	502,947.75
2000	551,408.28
2001	677,277.22
2002	597,438.75
2003	367,829.97

As expenditure on ministerial cars forms part of the total Garda budget for the purchase of vehicles under subhead D of the Garda Vote there is no specific amount allocated to the purchase of ministerial vehicles for 2004. As can be seen from the figures provided the cost of purchasing ministerial cars each year is somewhere between €500,000 and €600,000 per annum except for 2003 when €367,829.97 was spent. It is expected that expenditure on Ministerial cars in 2004 will be in excess of previous years figures.

The provision of the garda drivers, cars, fuel, maintenance and depreciation of the vehicles are the key components of cost to the Exchequer in providing State cars. It is estimated that maintenance and running costs, excluding the cost of the provision of garda drivers, are in the region of €550,000 per annum.

The Garda Síochána is constantly examining ways by which the running costs of the garda fleet may be reduced and thereby increasing the efficiency of it's fleet. The ministerial fleet will also benefit from any means to improve efficiency.

Juvenile Offenders.

10. **Mr. Rabbitte** asked the Minister for Justice, Equality and Law Reform the number of juvenile liaison officers in the Garda Síochána at the latest date for which figures are available; his plans to extend the scheme in view of the proven success of it in dealing with juvenile offenders; and if he will make a statement on the matter. [2492/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I have been informed by the Garda authorities who are responsible for the detailed allocation of resources, including personnel that as at 27 January 2004, there are 85 JLO gardaí and eight JLO sergeants working in the various divisions throughout the country. In addition to this, the national juvenile office has a staff of one superintendent, two inspectors, two sergeants and four civilians. There are no plans

to extend the programme to other areas as the programme is already nationwide.

Part 4 of the Children Act 2001 came into law in May 2002. This effectively placed the Garda juvenile diversion programme on a statutory basis for the first time in its 40 year history. Included in the Act is the introduction into the criminal justice system of the concept of restorative justice and family conferencing, the provisions of which are currently being put into effect by the Garda Síochána.

In compliance with the provisions of section 44 of the Act, a committee has been established to monitor the effectiveness of the programme, review all aspects of its operation and monitor the ongoing training needs of facilitators. In addition, a review is presently taking place within the Garda Síochána regarding the resource implications resulting from the introduction of the Children Act.

Passports for Investment Scheme.

11. **Mr. Wall** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to reports that a number of persons wanted for criminal offences abroad are travelling under Irish passports granted under the passports for investment scheme; if, in particular, his attention has been further drawn to the case of a person (details supplied) who has been declared a fugitive by the Czech Government and is wanted in connection with a major financial scandal in that country and is reported to be planning to use the Irish passport to stand in the forthcoming European Parliament elections; if there are grounds under section 19 of the Irish Nationality and Citizenship Act 1956 for withdrawing the passport of this person, or others wanted for criminal offences; and if he will make a statement on the matter. [2505/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): Section 19 of the Irish Nationality and Citizenship Act 1956 empowers the Minister for Justice, Equality and Law Reform to revoke a certificate of naturalisation in a number of specified circumstances. Those circumstances include cases where the issue of the certificate was procured by fraud, misrepresentation, whether innocent or fraudulent, or concealment of material facts or circumstances; the person to whom it was granted has, by any overt act, shown himself to have failed in his duty of fidelity to the nation and loyalty to the State; the person to whom it is granted is also, under the law of a country at war with the State, a citizen of that country; and the person to whom it is granted has by any voluntary act other than marriage acquired another citizenship.

Before revoking a certificate of naturalisation, the Minister must give notice to the person to whom the certificate was granted of his intention, stating the grounds therefor and the right of that person to apply to him for an inquiry as to the

[Mr. McDowell.]

reasons for the revocation. If the person in question makes such a request, the Minister is obliged to appoint a committee of inquiry consisting of a chairman having judicial experience and such other person as he may think fit, and refer the case to it. Thereafter the committee must report its findings to the Minister with a view to informing his decision.

It is clear therefore that the revocation of a certificate of naturalisation is a serious matter and one in which the Minister must be in a position to show that the legal requirements have been fulfilled.

It has never been the practice to comment on the detail of individual cases and I do not intend to depart from that practice. If the Deputy, or indeed any Member of this House, is aware of any particular cases where the exercise of my power under section 19 may be appropriate, relevant details should be passed to the Minister for investigation by the gardaí.

Details of several recipients of certificates of naturalisation under the investment based scheme were referred to the gardaí a number of years ago for investigation but, following consideration of the reports of the investigations, it was concluded that there were insufficient grounds to justify invoking section 19 at that time.

The Deputy can be assured that if the circumstances of any particular case warrant revocation under the above provisions, I will have no hesitation in utilising his statutory powers to the fullest extent possible.

Liquor Licensing Laws.

12. **Ms Shortall** asked the Minister for Justice, Equality and Law Reform when he intends to use the powers available to him under the Intoxicating Liquor Act 2003 to introduce regulations providing for traceability of alcohol sold in off-licences; if the EU has been notified of the proposed regulations; if a response has been received from the EU or other member states; and if he will make a statement on the matter. [2500/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The powers in question are contained in section 22 of the Intoxicating Liquor Act 2003. They provide for the making by me of regulations to specify particulars to be affixed to any container in which intoxicating liquor is sold for consumption off the premises which would enable the licensee and the licensed premises concerned to be identified.

With a view to ensuring effective implementation of this measure, I am consulting with interested parties prior to making such regulations. Discussion of issues arising in this context is ongoing between officials in the Department of Justice, Equality and Law Reform and representatives of trade organisations and other interested parties, including the gardaí.

In order to avoid any later challenge to regulations made under section 22 on the grounds that proper procedures had not been followed, I intend to notify the European Commission of proposed regulations in accordance with the so-called technical standards or transparency directives, Directives 98/34/EC and 98/48/EC. These directives have been put in place at EU level in order to give the European Commission and the member states an opportunity to examine, in advance, proposed national standards and rules in the interests of transparency and the smooth functioning of the internal market. The notification will take place in due course when consultations with interested parties have concluded and details of the draft regulations have been progressed.

Asylum Applications.

13. **Mr. S. Ryan** asked the Minister for Justice, Equality and Law Reform the matters discussed at his meeting in Dublin on 6 January 2004 with the European Commission, and the with EU Justice Ministers on 22 January 2004, particularly in regard to proposals for new measures to ensure common procedures across the EU for dealing with asylum seekers; and if he will make a statement on the matter. [2497/04]

53. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform if he will report on the outcome of the informal Justice and Home Affairs Council meeting on 22 and 23 January 2004 in Dublin Castle, particularly with respect to discussions on the Common Migration and Asylum Policies. [2363/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I propose to take Questions Nos. 13 and 53 together.

The meeting between the Government and the European Commission on 6 January took the form of bilateral meetings between the Irish Ministers with responsibility for chairing meetings of the Council and their counterparts on the European Commission. This was followed by a plenary session. A My meeting with Commissioner Vitorino focused on the Irish Presidency programme for the Justice and Home Affairs Council. I also made a short presentation on that programme, and the outcome of his discussions with Commissioner Vitorino, at the plenary session.

On 22 and 23 January I hosted an informal meeting of the Justice and Home Affairs Council in Dublin Castle. The main purpose of such meetings is to allow joint consideration and an open exchange of views on topics of general scope. Meetings of this nature are not formal Council meetings and they do not arrive at formal conclusions or decisions. The Deputy will therefore understand that I am not in a position to detail the discussions which took place. However, I am more than happy to outline the matters under discussion.

The informal Council took place over a day and a half. On each day there were sessions dealing with individual topics which were organised around Presidency discussion papers which outlined the issues and posed questions for consideration. Over the course of the informal Council, Ministers discussed a range of issues — the question of a common EU returns policy, the draft Council directive on minimum standards on procedures for granting and withdrawing refugee status, organised crime, a European Commission proposal for a Council framework decision on the European evidence warrant and, in the context of civil law cooperation, the possibility of an EU instrument to deal with small claims. In addition, at my invitation, the UN High Commissioner for Refugees, Mr. Ruud Lubbers, addressed the Council and provided a UNHCR perspective on refugee protection issues including progress in relation to the development of a common EU asylum policy.

Deputy Seán Ryan has specifically asked about the proposed asylum procedures directive, discussions on which have not yet been finalised at EU level. The informal Council discussion was essentially an orientation debate on one important aspect of that directive namely, the safe third country concept. The directive, which is one of the central measures which was mandated by the Amsterdam treaty and by the Tampere European Council, aims to set out minimum standards for the granting and withdrawing of refugee status in member states.

The European Council, on 12 December 2003, welcomed the significant progress achieved in the negotiations on the adoption of this directive. While taking note of the persisting political obstacles that have been delaying the conclusion of negotiations, it reaffirmed the importance of developing a common European policy on asylum and invited the Justice and Home Affairs Council to complete its work as soon as possible to ensure that the first phase of the establishment of a European asylum system is fully implemented within the deadline set in Tampere.

The discussion at the informal Council on the safe third country concept was helpful in providing guidance on how to bring forward dialogue on this measure. There was an emphasis on the need for flexibility and a general consensus that safe third countries should be part of the directive. The Presidency now intends to reflect on these discussions and to bring forward a new text to reflect their outcome as soon as possible.

Deputy Ó Snodaigh also asked about the discussions on migration issues. These discussions focused on the practical implementation of various measures which have already been adopted at EU level in relation to the return of illegal immigrants. The discussions were aimed at providing the Presidency with a basis for progressing the practical implementation of return-related measures and were consistent with the Presidency focus in the JHA area on

operational co-operation. Ministers had a positive exchange which identified practical ways to move forward on the implementation of a common return policy at EU level.

People Trafficking.

14. **Mr. M. Higgins** asked the Minister for Justice, Equality and Law Reform the action being taken to combat the reported trafficking of women, especially from Eastern Europe, for purposes of prostitution here; and if he will make a statement on the matter. [2508/04]

Minister for Justice, Equality and Law Reform

(Mr. McDowell): The Garda Síochána is ever vigilant to ensure that any allegations relating to the trafficking of women for purposes including prostitution are vigorously investigated. “Operation Quest” was set up under the direction of the Assistant Commissioner, Dublin Metropolitan Region, to target human trafficking/exploitation and associated crime in relation to lap dance clubs in Dublin. The operation consists of members from local detective units working alongside members from the Garda National Immigration Bureau and the Criminal Assets Bureau. This investigation is ongoing and, where appropriate, files will be sent to the Director of Public Prosecutions.

In view of the exponential growth in the level of immigration in Ireland over the past number of years, all members of the Garda Síochána are now being advised of the need to be mindful of the possibility of trafficking in women for purposes such as prostitution. Any cases where evidence of trafficking for purposes such as prostitution is disclosed will be fully investigated.

Of its nature it is impossible to be precise about the extent, in Ireland of persons being trafficked for the purposes of prostitution or sexual exploitation, but I am very conscious of the growing problem of trafficking in human beings particularly throughout the European Union. That is why he is actively pursuing, for example the transposition into Irish law of the EU Framework Decision on Trafficking in Human Beings; the ratification of the UN Transnational Crime Convention with its Protocol on Trafficking in Human Beings; and the EU Council Framework Decision on Joint Investigation Teams.

The Garda authorities report that since the enactment of the Illegal Immigrants (Trafficking) Act 2000 there have been nine cases of trafficking investigated by the Garda National Immigration Bureau where sexual exploitation has been disclosed as the motive.

Finally, I also provided grant funding in 2003 to Ireland En-Route, a forum made up of statutory organisations and voluntary groups set up in 2000 to investigate and address the problem of trafficking in women and children for sexual exploitation. This forum is currently conducting research into the extent of the problem in Ireland.

Garda Disciplinary Proceedings.

15. **Mr. Penrose** asked the Minister for Justice, Equality and Law Reform the amount paid out in respect of court awards or out of court settlements for claims taken against members of the gardaí in respect of assault, unlawful arrest, or other breach of a citizens rights in respect of 2001, 2002 and 2003; the number of cases in which awards were made by the courts; the number of cases which were settled out of court; and if he will make a statement on the matter. [2490/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The information requested by the Deputy in relation to court awards and out of court settlements taken against gardaí in respect of assault, unlawful arrest or other breaches of citizens' rights is set out in the table being circulated with this answer.

Civil actions may be taken by the general public against members of the Garda Síochána for compensation for alleged wrongs and personal injuries inflicted on them by gardaí in the performance of their duties. The highest percentage of these types of civil actions against the Garda Síochána is in relation to assault and

unlawful arrest. The great majority of these cases have been settled for less than €25,500. Settlement of cases takes place on the advice of the Chief State Solicitor, the Attorney General and State Counsel.

The Garda Commissioner has informed me that incidents which result in successful claims against the State in respect of the actions of gardaí are examined with a view to identifying and implementing operational strategies to eliminate or reduce similar claims in the future. The Garda Commissioner has also informed me that the Garda Síochána discipline regulations 1989 are invoked in appropriate cases where the actions of individual gardaí come into question. It is relevant also to indicate here that I will shortly be publishing a Garda Síochána Bill, the draft scheme of which was approved by Government and published in July 2003, one of the principal aims of which will be the establishment of a new mechanism for dealing with complaints against members of the Garda Síochána which will secure public confidence and which will address the acknowledged shortcomings in the existing law and procedures on complaints.

Year (Total Amount)		Assault	Unlawful Arrest	Other
		€	€	€
2001 €1,619,746.83	Awards	1,904.61 (1)	20,950.68(2)	22,220.42 (1)
	Settlements	123,164.59 (5)	33,965.49 (3)	162,782.25 (9)
	Costs	244,665.35	123,199.41	886,894.03
	Total	369,734.55	178,115.58	1,071,896.70
2002 €1,240,388.40	Awards	1,270 (1)	3,809.21 (1)	56,500 (2)
	Settlements	166,924.48 (6)	106,835.58 (10)	185,078.82 (11)
	Costs	230,769.67	148,714.19	340,486.45
	Total	398,964.15	259,358.98	582,065.27
2003 €1,232,101.65	Awards	11,000 (1)	10,000 (2)	4,870 (2)
	Settlements	75,000 (4)	303,011 (4)	37,814.84 (3)
	Costs	145,561.70	71,794.28	573,049.83
	Total	231,561.70	384,805.28	615,734.67

The number of cases in which awards were made by the courts and the number of cases which were settled out of court are shown in brackets in each case.

Prison Accommodation.

16. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of prison spaces currently required; if he expects to have adequate spaces in the wake of the closure of the Curragh and Spike Island prisons; and if he will make a statement on the matter. [2512/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The number of spaces required at any given time will clearly depend on the level

of crime and the number and duration of sentences imposed by our courts and peaks and valleys will be experienced. As such, a definitive figure is not possible. However, given that crime figures have stabilised and are indeed reducing and that the numbers committed to the prisons from the court system are fairly static, there is no evidence of any strong underlying trend which would suggest a major increase in capacity is warranted. The number in custody on 27 January was 3,168 as against 3,186 for the corresponding date in 2003. However, that is not to say that there are no accommodation issues in the system. For example, some additional accommodation will be required for female prisoners. There is also an urgent acknowledged need to refurbish

older facilities to provide both better accommodation and to reduce the usage of multiple occupancy cells.

With regard to the closure of Fort Mitchel and the Curragh, I want to put these matters in their proper context. At the start of this year, the Curragh Place of Detention had capacity for 102 prisoners in 52 cells. Following the closure of the institution, the vast majority of its prisoners were accommodated in single cells in an unused block of the modern Midlands Prison. Approximately 80 prisoners were transferred in this way. As such the closure was largely neutral in its effect. Spaces had been available in the Midlands Prison for some time but, until now, it had not been possible to bring this into operation due to lack of available staff under existing rostering arrangements.

Fort Mitchel Place of Detention also has a maximum capacity of 102 prisoners with many housed in multiple occupancy cells. The prisoners currently housed there are also being transferred to other prisons. The newly-built block in Limerick Prison has room for up to 100 prisoners and will shortly come into commission. Its opening will offset the loss in capacity as a result of the forthcoming mothballing of Fort Mitchel.

The overall position is that closure results in a combined reduction of 204 prison spaces which is largely offset by the opening up of new accommodation in Limerick, 100, and the midlands, approximately 80. The net effect will be to reduce the overall capacity in the system by approximately 25 spaces.

I do not take any reduction in prison capacity lightly and, in an ideal world, we would not have to close Fort Mitchel and the Curragh. We would, on the contrary, be developing new, modern facilities to the highest international standard and providing the long overdue refurbishment of some of older institutions. However, we are not in this ideal world and it is frustrating in the extreme to see the money earmarked for these necessary capital projects being devoured by an overtime system which has spiralled out of control. The Government has now called time on this abuse of public money and the House will be aware of the measures which are being implemented to protect the financial future of the prisons and our future investment in the prison system.

In this regard, the Government is committed under its agreed programme to continue with the modernisation of prisons and to the provision of sufficient places so as to avoid serious overcrowding in the future. A review of prison space requirements and a new capital building programme to meet the requirements for the next ten to 15 years is under way. I hope to bring these proposals to Government in the near future.

Asylum Applications.

17. **Mr. Eamon Ryan** asked the Minister for Justice, Equality and Law Reform the

Government's plans to meet its commitments under international law to allow asylum seekers access to the asylum system. [2522/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The State fully meets its obligations under the 1951 Geneva Convention relating to the status of refugees and has a comprehensive legislative and infrastructural framework in place for this purpose.

The Refugee Act 1996 provides a comprehensive statutory framework for the processing of asylum applications. Section 8 of the Refugee Act provides, *inter alia*, an entitlement for an asylum seeker to apply for a declaration of refugee status. Section 9 of the Act provides, *inter alia*, that an applicant for asylum be allowed to enter and remain in the State until an asylum application has been considered. This legislative framework compares very favourably with legislative provisions internationally and was drafted in full consultation with the UNHCR.

Asylum applications in Ireland are processed in accordance with procedures agreed with the UNHCR and are based on the highest standards of international practice. Our asylum determination system compares with the best in the world in terms of fairness, decision making, determination structures and support services for asylum seekers. Three separate offices, namely, the Office of the Refugee Applications Commissioner, Refugee Appeals Tribunal and the Reception and Integration Agency have been put in place and highly resourced to deal with all aspects of asylum applications from initial application to appeal and to co-ordinate accommodation and other support needs of asylum seekers.

In addition, staff working in the asylum processing agencies are provided with comprehensive training overseen by UNHCR including dealing with vulnerable groups, such as victims of torture and unaccompanied minors, and comprehensive translation and interpretation services are provided to applicants as well legal assistance at all stages of the asylum process. The provision of services to asylum seekers represents a considerable cost to the Exchequer and, for example, amounted to some €340 million in 2002. A figure for expenditure on asylum services in 2003 is being compiled at present. In 2004, the Department has provided some €120 million for asylum and related immigration services, including processing of asylum applications and accommodation.

I understand that what prompted the Deputy to table this question was the recent discussion at the informal meeting of the EU Justice and Home Affairs Council in Dublin on 22 and 23 January 2003 on the draft asylum procedures directive, with particular reference to comments made by Amnesty International. The informal Council discussion was essentially an orientation debate on one important aspect of that directive, namely, the safe third country concept. The

[Mr. McDowell.]

Council discussions were helpful in providing guidance on how to bring forward dialogue on this measure. There was an emphasis on the need for flexibility and a general consensus that the safe third country concept should be part of the directive. The Irish Presidency intends to reflect on these discussions and to bring forward new ideas to reflect their outcome as soon as possible.

Benchmarking Awards.

18. **Ms Burton** asked the Minister for Justice, Equality and Law Reform the progress made to date in regard to the implementation of the Civil Service action plan drawn up to meet the requirements of the benchmarking process within his own Department and within the public service generally; if the Civil Service performance verification group has decided that the level of progress warrants the payment of the general round and the benchmarking award on 1 January 2004; if payments will be withheld in any sector due to failure to make adequate progress; and if he will make a statement on the matter. [30090/03]

Minister for Justice, Equality and Law Reform (Mr. McDowell): Considerable progress has been made by my Department and by organisations associated with my Department operating within the justice and equality sector on the implementation of modernisation requirements, as set out in the Civil Service action plan, under Sustaining Progress, the social partnership agreement 2003-05. Key areas of improvement include the more efficient use of financial, staff and IT resources, enhanced customer service, better staff training and development, further development of partnership, regulatory reform and commitments in the area of equality of opportunity.

In accordance with the procedures set out in Sustaining Progress, the first progress report on my Department's action plan was submitted to the Civil Service performance verification group in October 2003. On 15 December the CSPVG wrote to the Secretary General of my Department conveying its decision that the progress achieved by my Department on the implementation of commitments in its modernisation action plan warranted payment of the general round and benchmarking increases due on 1 January 2004 to all grades of staff in my Department.

A separate justice and equality sector performance verification group, chaired by Ms Olive Braiden, was established to discharge the verification requirements under Sustaining Progress for organisations in the justice and equality sector. The 14 organisations in the justice and equality sector under this group's remit are as follows: the Land Registry and Registry of Deeds; the Courts Service; the Office of the Refugee Applications Commissioner; the Refugee Appeals Tribunal, the Irish Prison

Service; the Probation and Welfare Service; the Legal Aid Board, the Office of the Director of Equality Investigations; the Equality Tribunal; the Equality Authority; the National Disability Authority; the Garda Síochána Complaints Board, the Forensic Science Laboratory; the Office of the Data Protection Commissioner; and the Film Censor's Office.

Each of these organisations submitted progress reports on the implementation of their action plans to the justice and equality sector performance verification group in October 2003. On the 17 December the justice and equality sector PVG wrote to the heads of these 14 organisations conveying its decision that the progress on action plans achieved by each of the 14 organisations under its remit warranted payment of the general round and benchmarking increases due on 1 January 2004, with the exception of grades represented by the Prison Officers' Association, in respect of which a decision as to whether payment was warranted was deferred. The PVG has continued to defer that decision while discussions in relation to the situation in the Prison Service are continuing under the auspices of the Labour Relations Commission.

The Deputy will be interested to know that the Department's and the 14 associated organisations' action plans are on the Department's website, as is the report of the justice and equality PVG on the first progress reports submitted by the 14 sectoral organisations.

With regard to the Garda Síochána, following acceptance by the four Garda staff associations of the report of the public service benchmarking body and the terms of Sustaining Progress, an agreed report of the Garda conciliation council recording such agreement was signed by all parties on 28 November 2003. A performance verification group was nominated by the Commissioner and it approved the Garda action plan on 1 December 2003. The appropriate procedure set out in Sustaining Progress in respect of the payment of the general round and benchmarking increases due on 1 January 2004 is in train following the submission by the Commissioner of the first progress report.

My Department and its associated bodies are continuing to implement modernisation commitments contained in their action plans and will be reporting to the verification groups at the end of April ahead of the 2% general round increase due on 1 July 2004.

United Nations Convention.

19. **Mr. Eamon Ryan** asked the Minister for Justice, Equality and Law Reform the action taken by him to promote the ratification of the optional protocol to the torture convention; and his plans to promote adequate monitoring of prison conditions here. [2523/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): On 18 December 2002, the third committee of the United Nations General Assembly adopted the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, OP-CAT, with Ireland's support. The EU has called upon all member states to sign and ratify the optional protocol. There are 21 signatory states to the optional protocol. The following EU member states are signatories to the optional protocol: Denmark; Sweden; and the United Kingdom.

The object of the protocol is to establish a system of regular visits undertaken by independent international and national bodies to places of detention with a view to preventing torture and other cruel, inhuman or degrading treatment or punishment. The international body is proposed to be a sub-committee of the UN Committee against Torture and Other Cruel, Inhuman or Degrading Treatment. The national bodies may consist of one or several bodies as national preventive mechanisms for the prevention of torture at the domestic level.

The question of whether to sign the optional protocol with a view to subsequent ratification is currently under consideration. My Department is reviewing national legislation to ascertain whether legislative changes would be required before signature and ratification of the optional protocol. It will be necessary to consult other Government Departments, including the Departments of Health and Children and Education and Science, regarding arrangements for the inspection of institutions for which they are responsible in which persons may be detained without their consent.

With regard to monitoring of the prison system, it is already the subject of scrutiny by independent bodies, including the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, CPT, which operates under the aegis of the Council of Europe. The CPT was established under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment in 1987. Ireland was the third country to ratify the convention, which is now ratified by 40 European States. The committee is composed of lawyers, medical doctors, prison experts, parliamentarians, etc., from the member states and carries out its task by periodic and ad hoc visits. During these visits, the committee has the right of unimpeded access at any time of the day or night to any place where persons are detained, whether it be a prison, a Garda station or a mental hospital, and are entitled to speak in private to any detained person. The CPT visited Ireland for inspection purposes in May of 2002 and its report and the Government's response to it was published on 18 September 2003. The report and the Government's response are available on the Council of Europe's website, www.coe.cpt.int. Printed copies of the report and the

Government's response have been laid before the Houses of Oireachtas.

In addition, the Government appointed in 2002 an Inspector of Prisons and Places of Detention, Mr Justice Dermot Kinlen, whose terms of reference include inspecting and reporting on prisons and other places of detention that are administered by the Irish Prison Service on behalf of my Department. Issues that he has regard to include: the attitude of staff and inmates; health, safety and well-being of prisoners; the conditions of the buildings; questions of humanity and propriety; and any general pattern which may indicate possible inadequacies in the management of the prison. The inspector has highlighted a number of concerns in his reports to me. These reports have been made available to both Houses and to the general public.

The prison visiting committees also report to me on an annual basis and their reports are also available on request. All prisoners have access to the prison visiting committee, to the prison chaplain, to the prison doctor and to the courts. A prisoner may also directly contact the European Court of Human Rights and the CPT. I am satisfied that there is adequate provision to monitor prison conditions here in an open and transparent manner.

Garda Operations.

20. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the steps he proposes to take to tackle the growing problem and increasing menace of organised crime; if he proposes to take steps to interrupt the supply of weapons to such groups; and if he will make a statement on the matter. [2513/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I have been informed by the Garda Síochána that its strategy to tackle organised crime involves the utilisation of specialised national units dedicated to the investigation-detection of such types of crime. These units are the national bureau of criminal investigation, the Garda national drugs unit, the Garda bureau of fraud investigation, the Criminal Assets Bureau and the Garda national immigration bureau, all of which operate under the control and direction of an assistant commissioner in charge of national support services.

These units investigate every aspect of organised crime and in conjunction with the special detective unit are constantly involved in operations to interrupt the flow of firearms to criminal groupings. On this latter issue, I should also add that the Minister is currently undertaking a review of firearms control policy with the intention of introducing legislation in this area. The security of weapons held legitimately by individuals or dealers will be central to this review.

The Garda Síochána in general, and specifically all national units, works in common cause in the

[Mr. McDowell.]

investigation of serious and organised crime in accordance with the strategic goals of An Garda Síochána. Legislative measures taken by the Government in recent years, backed up by significant law enforcement measures, have significantly altered the environment within which organised criminal groups operate in Ireland. The targeting of serious and organised crime will continue to be a priority and will be undertaken by the national support services targeting areas of criminality, individuals and groups operating nationally.

In his address of 9 December 2003 to the Joint Oireachtas Committee on Justice, Equality Defence and Women's Rights the Minister addressed in some detail, with particular reference to the activities of criminal gangs, the measures he intends to bring forward to enhance the investigation and prosecution of criminal offences. His address in this respect is available on the website of the Houses of the Oireachtas at www.irlgov.ie/oireachtas but a copy will, of course, be made available to the Deputy if he so wishes. The Minister intends to provide for those measures which require legislative provision in the criminal justice Bill, which he expects to publish during the current session.

I assure the Deputy that the Minister's commitment to dealing with organised crime is unwavering and he is constantly evaluating our response to this problem. In this context, the Minister will take whatever measures are necessary to deal with this menace.

Coroners Service.

21. **Mr. Wall** asked the Minister for Justice, Equality and Law Reform the progress which has been made in implementing the report of the working group on the coroner service published in December 2000; and if he will make a statement on the matter. [2504/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): In line with a commitment I gave when I met representatives of the Coroners Society of Ireland, I hope to be in a position to bring a proposal to Government, early this year, for a short Bill to amend the Coroners Act of 1962 so as to deal with a certain number of critical issues that need to be addressed as a priority. These concern the ending of the restriction on the number of medical and other witnesses at an inquest, increased sanctions for those who might refuse to co-operate at an inquest and a more coherent restatement of the scope of the provisions for mandatory inquests, which will include all deaths in custody. I remain conscious that a suitably more comprehensive reform of the coroners service, taking due account of the recommendations of the review group and developments since, is required in the medium term.

Prison Accommodation.

22. **Mr. O'Shea** asked the Minister for Justice, Equality and Law Reform if he will make a statement on his plans for the future of the Mountjoy Prison complex. [2474/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I agree with the views expressed by the Inspector of Prisons and Places of Detention and the prisons authority interim board that there is a need to replace the accommodation and facilities at Mountjoy Prison as soon as possible. There are two possible options in regard to the replacement of the outdated accommodation at Mountjoy Prison. The first is to redevelop the prison on the existing site involving the demolition and reconstruction of existing buildings. The second option is to relocate the prison to a greenfield site. My preference, as I have recently indicated, is for the relocation of Mountjoy Prison to a new site and I intend to bring this proposal to Government in the next week or so.

Human Rights Commission.

23. **Mr. Rabbitte** asked the Minister for Justice, Equality and Law Reform the progress made to date with regard to the operation of the Human Rights Commission; the number of staff now employed by the commission; the budget allocated to the commission for 2003; the services the commission is offering to the public; and if he will make a statement on the matter. [2493/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I refer the Deputy to my reply to a similar question on this matter on 25 November 2003. The Human Rights Commission has now recruited the final member of its administrative staff, which brings its staffing complement to the ten staff requested by it. The chief executive of the commission was appointed in June 2002.

The commission recently moved to its new permanent office accommodation which is located in Jervis House, Jervis Street, Dublin 1 and that will be a crucial factor which will enhance its capability to provide services to the public in line with its wide statutory mandate and remit, as outlined in section 8 of the Human Rights Commission Act 2000. In that regard, I direct the Deputy's attention to the commission's first strategic plan 2003 to 2006, which it published on 31 March 2003. The plan sets out the areas of work on which the commission proposes to focus over the next four years, and it is a key document in the process of the commission's ongoing consultation and dialogue.

The commission's budget for 2003 was €1.28 million. However, it also received an additional once off payment of €536,000 in 2003 to assist it in the acquisition of its new premises. The commission's budget for 2004 is €1.823 million.

Garda Compensation Tribunal.

24. **Mr. J. O'Keeffe** asked the Minister for Justice, Equality and Law Reform the position in respect of the establishment of the Garda Síochána compensation tribunal which was recommended in 1997; and the reason there has been so little progress in the meantime. [2378/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Garda Síochána (Compensation) Acts 1941 and 1945 provide for a scheme of compensation for members of the Garda Síochána who are maliciously injured in the course of their duty or in respect of the performance of their duties as members of the force and for the dependants of members who have died from injuries maliciously inflicted on them. Under section 6 of the 1941 Act, a member of the Garda Síochána who has been maliciously injured may sue the State only by an authorisation issued by the Minister for Justice, Equality and Law Reform.

In 1997 a committee was established to review and make recommendations on the efficiency and effectiveness of the Garda Síochána compensation scheme operating under the Garda Síochána (Compensation) Acts 1941 and 1945. The committee comprised representatives from the Departments of Justice, Equality and Law Reform and Finance, the Attorney General's Office, the Chief State Solicitor's office, Garda management and two Garda staff associations, the Association of Garda Sergeants and Inspectors and the Garda Representative Association. A medical practitioner who had experience of life assurance work was also on the committee which was chaired by an independent chairman. The committee presented its report to the then Minister on 28 August 1997. The committee made 14 recommendations which included the repeal of the existing Acts and the setting up of a new Garda Síochána compensation tribunal on a statutory basis.

The Minister has stated in his answers to Parliamentary Question No. 63 on 15 October 2003, and Parliamentary Question No. 555 on 4 November 2003, that he has taken steps to establish a Garda Síochána Compensation Tribunal, along the lines recommended by the committee set up in 1997. Following acceptance by the four Garda staff associations of the report of the public service benchmarking body and the terms of Sustaining Progress, an agreed report of the Garda conciliation council recording such agreement was signed by all parties on 28 November 2003. The establishment of a Garda compensation tribunal is one of the items included in the related pay agreement and the modernisation agenda in the Garda Síochána. Agreement had not been achievable up to then. It is intended that this matter will be finalised with the Garda associations within the next couple of months.

The tribunal will operate along the same lines as the Criminal Injuries Compensation Tribunal, the main difference being that gardaí would be compensated for pain and suffering. It is envisaged that trainee gardaí who suffer malicious injuries prior to attestation would be covered under the new scheme and that claims already refused under the existing Acts as being minor would be allowed go before the tribunal. The Minister is confident that the Garda staff associations will co-operate with the necessary legislative change.

Residency Permits.

25. **Mr. Sargent** asked the Minister for Justice, Equality and Law Reform if nationals of the new EU member states who have been deported from Ireland, having being refused asylum or for being illegally in the State will be entitled to return here after 1 May 2004; and if he will make a statement on the matter. [2525/04]

74. **Mr. Gogarty** asked the Minister for Justice, Equality and Law Reform the action being taken regarding persons from the new member states of the EU who are living here and who have applications for leave to remain or residency pending; and if he will make a statement on the matter. [2519/04]

140. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform the action that will be taken with regard to persons from the new member states of the EU who are living here and who have applications for leave to remain or residency pending. [2598/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I propose to take Questions Nos. 25, 74 and 140 together.

The EU treaties afford freedom of movement within the Union to citizens of member states mainly for economic purposes to do with the internal market in labour, services and goods. This is not an absolute right but subject to public policy, public health and public security considerations. As and from 1 May 2004, persons from the ten accession states with extant deportation orders may apply to the Minister to have those orders revoked. Each application will be considered individually in the context of the treaty rights and the reasons why the orders were made in the first instance. In addition, as and from 1 May 2004 persons from the ten accession states, who have a legal basis for residency in Ireland under the EU treaties, should have no need to pursue individual residency applications outside the treaties.

Best Practice in Policing.

26. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform if he has given consideration to the application of the Patten report and the Paris principles on best practice in

[Mr. Cuffe .]
policing in this jurisdiction (details supplied).
[2514/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I refer the Deputy to my answer today to the Priority Question No. 4 from Deputy O'Snodaigh.

Tribunals of Inquiry.

27. **Ms B. Moynihan-Cronin** asked the Minister for Justice, Equality and Law Reform when the promised tribunal of inquiry arising from the Cory report will be established; the form it will take; and if he will make a statement on the matter. [2471/04]

28. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the Government's progress to date in implementing the recommendations of Judge Cory's reports. [1839/04]

31. **Caoimhghín Ó Caoláin** asked the Minister for Justice, Equality and Law Reform when the report of Judge Cory will be published. [31081/03]

134. **Mr. M. Higgins** asked the Minister for Justice, Equality and Law Reform when the Government plans to publish the report of the inquiry being carried out by Mr. Justice Peter Cory into allegations that some members of the security forces in the Republic and in Northern Ireland may have co-operated with terrorist organisations; and if he will make a statement on the matter. [30498/03]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I propose to take Questions Nos. 27, 28, 31 and 134 together.

Following agreement reached between the Irish and British Governments at Weston Park in 2001, Mr. Justice Peter Cory, a retired Canadian supreme court judge, was appointed to undertake a thorough investigation of allegations of collusion between British and Irish security forces and paramilitaries in six cases. Two of the cases — the murders of RUC Chief Superintendent Harry Breen and Superintendent Bob Buchanan and the murders of Northern Ireland Lord Justice Maurice Gibson and Lady Cecily Gibson — relate to allegations of collusion by the Garda Síochána and these reports were submitted to the Irish Government. The other four cases — the murders of Mr. Pat Finucane, Mr. Robert Hamill, Ms Rosemary Nelson and Mr. Billy Wright — relate to allegations of collusion by British security forces and these were submitted to the British Government.

The aim of the process was to determine whether there is sufficient evidence of collusion between state security forces and those responsible for the killings in each case to warrant a public inquiry. Following receipt of Government approval, I published the two reports submitted to the Irish Government on 18

December 2003. Copies of these reports are available in the Oireachtas Library.

In respect of the killings of Lord and Lady Gibson, Mr. Justice Cory concluded that there is no evidence of collusion that would warrant the holding of an inquiry. Accordingly, no further action by the Government is required in this case. In respect of the killings of the two RUC officers, Mr. Justice Cory concluded that evidential material was revealed that, if accepted, could be found to constitute collusion. As a result, Mr. Justice Cory considers that there must be a public inquiry into these killings. It is important to note, however, that Mr. Justice Cory did not find that collusion had taken place; the nature of his investigation allowed him to conclude only that there is sufficient evidence to warrant a public inquiry.

Accordingly, in keeping with the commitments of the two Governments as part of the Weston Park agreement, I have secured Government approval for the establishment of a tribunal of inquiry under the Tribunals of Inquiry (Evidence) Acts 1921-2002, with the scope to inquire into allegations that employees of the State colluded in the fatal shootings of the two RUC officers on 20 March 1989. My Department is currently drafting specific terms of reference for the tribunal, in consultation with the Office of the Attorney General, and I intend to secure further Government approval as soon as possible to bring the necessary resolutions before both Houses of the Oireachtas.

Garda Policing Plan.

29. **Mr. Boyle** asked the Minister for Justice, Equality and Law Reform his views on whether the type of statistics used in the evaluation of the Garda Síochána policing plan 2002, contained within the Garda Síochána Annual Report 2002, stand up to international scrutiny; and if he will make a statement on the matter. [2517/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Garda policing plan sets out the strategic goals and measurable performance indicators for the Garda Síochána for the year. I am informed by the Garda authorities that the statistical information provided in the evaluation of the Garda Síochána Policing Plan 2002, contained in the commissioner's annual report for 2002, is sourced from several places, including academic research programmes, overseas national and international organisations, for example, Interpol and the UK Home Office, in addition to internal Garda research.

In the case of the statistics produced by the Garda Síochána, they accurately depict the information in question in each case and in the case of statistics sourced from other bodies, they are accurately reproduced. All statistics in the annual report are subjected to a stringent validation process before publication. In January 2003, I established, with Government approval,

an expert group on crime statistics to examine the methods of collation and presentation of crime statistics by the Garda Síochána and other organisations involved in criminal prosecution. I look forward to receiving its report in the near future.

Departmental Appointments.

30. **Mr. J. Breen** asked the Minister for Justice, Equality and Law Reform, further to Parliamentary Questions Nos. 385 of 27 May 2003 and 489 of 7 October 2003, the reason for the long delay in appointing the county registrar for County Clare; and if he will make a statement on the matter. [2382/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): A memorandum on the appointment of a county registrar to County Clare is currently with the Government. I expect that a decision will be made shortly.

Question No. 31 answered with Question No. 27.

Vetting Procedures.

32. **Ms Enright** asked the Minister for Justice, Equality and Law Reform the progress of a cross-departmental team investigating vetting arrangements here; if he will introduce comprehensive vetting procedures for the protection of children and vulnerable adults; and if he will make a statement on the matter. [31157/03]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I refer the Deputy to my reply to Parliamentary Question No. 846 of 27 January 2004.

Prison Inspectorate.

33. **Mr. O'Shea** asked the Minister for Justice, Equality and Law Reform the progress made to date in addressing the serious shortcomings in prisons identified in the report of the Inspector of Prisons and Places of Detention; and if he will make a statement on the matter. [2473/04]

66. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform his intentions with respect to implementing the recommendations of the first prison inspectorate report; and when he will put the prison inspectorate on a statutory footing. [2364/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I propose to take Questions Nos. 33 and 66 together.

The first annual report of the Inspector of Prisons and Places of Detention contains a substantial number of recommendations aimed at improving services and conditions in prisons generally, as well as specific recommendations on particular prisons inspected.

The most serious shortcomings identified by the inspector are the outdated and unacceptable conditions at Mountjoy and Portlaoise prisons

where there is still a requirement for prisoners to perform the demeaning and degrading practice of daily slopping out. The inspector's recommendations that both of these prisons be replaced in their entirety by modern prison facilities coincide fully with my own prior conclusions and those of the Prisons Authority interim board. Construction work is already under way at Portlaoise Prison to provide new gatelock and prisoner reception facilities and tenders will be invited shortly for the much needed new prisoner accommodation to replace the outdated 'D' and 'E' blocks.

There are two possible options in regard to the replacement of the outdated accommodation at Mountjoy Prison. The first option is to redevelop the prison on the existing site involving the demolition and reconstruction of existing buildings. The second option is to relocate the prison to a greenfield site. My preference, as I have recently indicated, is for the relocation of Mountjoy Prison to a new site and I intend to bring this proposal to Government in the next week or so.

Other recommendations made by the inspector are being implemented as opportunity and resources permit. Several of the more straightforward recommendations have already been implemented. A medical officer is due to take up duty in February at Portlaoise Prison and a recruitment competition to fill vacancies for psychologists will be advertised in the coming weeks. Emergency exit, assembly signs and so forth have been put in place in the Dóchas Centre and fire evacuation drills organised as required. It is intended that all precautionary and emergency procedures for fire will be examined at each institution on the appointment of the Irish Prison Service's new fire officer. An offer of appointment to the highest placed candidate in the recent competition for fire officer will issue this week.

At the prior initiative of the Prisons Authority interim board, and coinciding with the inspector's recommendations, television points have been provided in all cells at Mountjoy Prison and netting is being provided at Cloverhill Prison to frustrate the efforts of persons outside the prison who throw illicit drugs into the yards during prisoner recreation times. A comprehensive report on measures taken to implement the recommendations of the Inspector of Prisons and Places of Detention will be included in the annual report of the Irish Prison Service for 2003 which is currently being prepared.

Draft provisions for a statutory prisons inspectorate are being prepared in the context of the Prisons Bill which is under preparation in my Department at present.

Garda Complaints Procedure.

34. **Mr. Broughan** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the statement by the chairman

[Mr. Broughan.]
of the complaints board that the investigation of complaints is delayed in many cases until the accused gardaí have reached retirement age and are immune from sanctions by the board; and if he will make a statement on the matter.
[2426/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am aware of the matter referred to by the Deputy.

The issue adverted to is one of the matters that is being considered in the context of the drafting of the Garda Síochána Bill, which I will publish shortly.

Garda Stations.

35. **Mr. Deenihan** asked the Minister for Justice, Equality and Law Reform the position regarding the provision of a new Garda station at Castleisland, County Kerry; and if he will make a statement on the matter. [2509/04]

62. **Mr. Deenihan** asked the Minister for Justice, Equality and Law Reform the level of priority accorded to the provision of a new Garda station in Castleisland by his Department; and if he will make a statement on the matter.
[2375/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I propose to take Questions Nos. 35 and 62 together.

It is proposed to build a new Garda station in Castleisland, as soon as is practicable, to replace the old station which was destroyed by fire. As a first step, the Office of Public Works, which has responsibility for acquiring property for the State, was requested to source a suitable site in the town. When it has done that, consideration will be given to providing the new station. As with all such proposals, construction of the new station will depend on the availability of financial and other resources and priorities within the Garda building programme.

Crime Prevention.

36. **Mr. Gilmore** asked the Minister for Justice, Equality and Law Reform the steps being taken to reduce the access to and use by criminals of firearms, in view of the fact that the number of murders involving the use of such weapons has increased from four in 1998 to 21 in 2003; the steps he intends to take to ensure that those using such weapons are brought to justice in view of the fact that proceedings have been commenced in respect of only four of the murders in which firearms were used in 2003; and if he will make a statement on the matter. [2432/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I assure the Deputy that I share his concern in relation to the issue of firearms becoming available to criminals. I have made inquiries with the Garda authorities who have informed me that any action taken against

organised criminal groups who habitually use firearms in the course of their criminal activities is focused through intelligence-led operations.

This approach allows Garda management to utilise local divisional resources, along with specialised units, to maximum effect. I have discussed this matter previously with the Garda Commissioner and I am confident that every effort is made by the Garda Síochána to bring those engaged in crime to justice and that appropriate action is taken where sufficient evidence is available.

My Department is currently reviewing the firearms control policy with the intention of updating the legislation in this area. The security of weapons held legitimately by individuals or dealers from robbery by criminals will be central to this review.

Garda Strength.

37. **Ms O'Sullivan** asked the Minister for Justice, Equality and Law Reform the number of gardaí in the force as of 1 January 2003; the number of members who retired, resigned or otherwise left the force during 2003; the number of recruits who qualified as full members of the force during 2003; and if he will make a statement on the matter. [2478/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed by the Garda authorities who are responsible for the detailed allocation of resources including personnel that the personnel strength of the Garda Síochána, all ranks, as at 1 January 2003 was 11,895.

A total of 417 members, all ranks, have resigned, retired or otherwise left the Garda Síochána during 2003.

A total of 475 recruits graduated from the Garda College during 2003. This figure of 475 are those members who have successfully completed the student/probationer education/training programme.

The strength of the force at any given time includes those who have been attested following completion of phase three of their training but not yet graduated. Graduation takes place following the completion of the fifth and final phase of training. The strength of the force as at 1 January 2004 was 12,017.

Northern Ireland Issues.

38. **Ms McManus** asked the Minister for Justice, Equality and Law Reform the action which has been taken to implement the recommendations of the Nally report regarding the keeping of better records of North-South contacts and exchanges in intelligence matters and a written code of instructions and guidelines on intelligence-gathering and agent-handling; and if he will make a statement on the matter.
[2466/04]

50. **Ms McManus** asked the Minister for Justice, Equality and Law Reform the consideration he has given to the Nally report since his Dáil statement of 16 December 2003; if he has plans to meet the relatives of the victims of the Omagh bombing; and if he will make a statement on the matter. [2465/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I propose to take Questions Nos. 38 and 50 together.

I am advised by the Garda authorities that they have taken appropriate action in line with the recommendations in the Nally report. In my statement of 16 December 2003 I set out the findings of the report and outlined the constraints as to what I could say on the matter. The matters in question are kept under review.

In the past there have been a number of contacts on behalf of the State with the relatives and I expect further contacts will take place.

Car Theft.

39. **Mr. Sargent** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the fact that vehicles are being stolen in the State and exported; and the steps he intends to take at ferry ports to ensure that such vehicles are detected at the port from which they are exported. [2524/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Garda authorities have informed me that the stolen motor vehicle investigation unit, SMVIU, which is attached to the National Bureau of Criminal Investigation Unit is responsible for the investigation of organised theft and illegal trafficking in stolen vehicles from this jurisdiction to other EU states.

Liaison between SMVIU and gardaí stationed at all ferry ports in the State takes place on a regular basis. There is also continuous communication with the police at Holyhead, Pembroke and Fishguard ports in the UK and other relevant ports in continental Europe.

The Garda Síochána also participate in a number of Interpol and Europol sponsored initiatives aimed at combating the organised theft of motor vehicles. A number of successful operations have taken place in this jurisdiction which have resulted in stolen motor vehicles being recovered before being removed from the jurisdiction. A number of arrests have resulted from these operations.

Televising Court Proceedings.

40. **Mr. Stagg** asked the Minister for Justice, Equality and Law Reform his views on the recent suggestion by the President of the High Court that consideration should be given to televising the courts; and if he will make a statement on the matter. [2498/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I noted the views recently

expressed by the President of the High Court in relation to televising court proceedings. However, the conduct of court proceedings is primarily a matter for the Judiciary and I would be open to considering any proposals made in this regard.

Crime Levels.

41. **Mr. Costello** asked the Minister for Justice, Equality and Law Reform his views on the crime figures given in the Annual Report of the Garda Commissioner for 2002, particularly the increase in the number of reported sex offences, assaults and armed robberies; if, in view of the fact that these figures are already out of date, he has plans to ensure the speedier publication of official crime figures; and if he will make a statement on the matter. [2430/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): As the Deputy is aware, the key headline statistics for 2002 were first released in their provisional format in April 2003. The final validated statistics published recently in the commissioner's annual report do not differ significantly from those provisional figures. The statistics for provisional headline offences for 2003 were made public on 21 January 2004 and show a cumulative decrease of 2% for 2003 compared with 2002. The figures in 2003 showed a welcome and marked decrease in most categories.

Although there were increases in the categories of rape of a female, aggravated sexual assault and sexual assault in 2002, the Deputy will be pleased to note the reduction in these categories in 2003 of 19%, 54% and 7% respectively. Furthermore, cases of assault causing harm decreased by 21% in 2003 which represents the largest volume decrease of any offence in the year.

It is my conviction that this Government's firm and coherent strategy for dealing with crime is proving effective. The gardaí are being given the resources to investigate crime, the courts are being given the resources to deal effectively with criminal cases, and I will continue to ensure that those convicted of crime will serve the sentences imposed on them by the courts.

A significant number of the robberies, thefts from the person and similar type offences concern mobile phone thefts. I believe mobile phone theft will decline steeply with the introduction of the new technology that renders stolen mobile phones useless where the victim records the phone's IMEI number and informs his/her network of the theft.

I wish to point out to the Deputy that there are complicating factors in relation to the 2002 statistics, not least of which is the conclusion, based on a detailed analysis of the data, that a certain proportion of the increase in the figures for recorded headline crime is due to the increases in recording rates resulting from the phasing in of the Garda PULSE IT system. The positive benefits of PULSE can be noted in the more detailed treatment of non-headline crime

[Mr. McDowell.]

statistics in the 2002 report, which are extracted from the PULSE system for the first time.

The Expert Group on Crime Statistics which I established has been engaged for the past year on a detailed examination of the methods of collation and presentation of crime statistics, and I understand that, as part of its work, it has examined the question of the timeliness of the production of the Garda crime statistics.

As the Deputy will be aware, I have already arranged for the release of provisional statistics on a quarterly basis. My initiative ensures that members of the public, those working in the criminal justice system and public representatives have almost immediate access to this important quality of life indicator. I am informed that the delay in producing the commissioner's 2002 report was due to the volume of work involved in extracting and formulating the non-headline statistics which, as I have mentioned, were extracted from PULSE for the first time. I am further informed by the Garda authorities that work has already commenced on the compilation of the 2003 annual report and it is expected that it will be submitted significantly earlier.

Gender Wage Gap.

42. **Mr. Morgan** asked the Minister for Justice, Equality and Law Reform the measures he has taken to address the gender pay gap since June 2002; the current level of the gender pay gap and the levels for each year since 1997; if he has satisfied himself that sufficient progress is being made to address this issue; and if he will make a statement on the matter. [29848/03]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The most up-to-date figures on wage levels in Ireland show a gap of approximately 15% in the average hourly earnings of women when compared with men. This data is compiled by the Economic and Social Research Institute from the Living in Ireland survey. The ESRI research found that the greater part of the gender pay gap is because women interrupt their careers to care for children with consequent loss of job experience and promotion opportunities. Women's over-representation in low paid positions and their under-representation in senior levels were also significant factors.

The gender pay gap is an indicator of progress towards the achievement of gender equality in the labour market. Research by the ESRI indicates that the gap has been reduced from 20% in 1987, to 18% in 1994, and to 15% in 1997. Preliminary figures for 2000 indicate a further narrowing by 0.3% to 14.7% in the period 1997 to 2000. The figures indicate that women's pay levels have improved relative to men's in the period, although the rate of progress has slowed.

Our existing wage data sets do not permit annual monitoring of the gender wage gap. The national employment survey which has been introduced by the Central Statistics Office will

provide regular economy-wide data on the gender pay gap. The first results from this new survey are due for publication in mid-2004. This is a significant development and will allow us to track the gender wage gap and also to understand movements in the figure.

My Department chaired the consultative group, set up under the Programme for Prosperity and Fairness, to report to Government on actions required to address the gender pay gap. The group's report has been finalised and was formally presented to Government in November 2003. It contains a number of recommendations addressing a wide range of Government policies including child care, the development of family friendly policies, the promotion of equal opportunities policies, statutory minimum wages and taxation. The consultative group has also overseen sectoral studies on the gender pay gap in the IT — electrical and electronic, retail, food and local government sectors. My Department has recently commissioned research on the gender wage gap among graduates. It is expected that this research, which is being carried out by the ESRI, will be completed by the end of 2004.

A significant part of the work of the Department of Justice, Equality and Law Reform, including the ongoing implementation of the equal opportunities child care programme and the proposals to strengthen the provisions of the Maternity, Parental and Adoptive Leave Acts, will have a positive impact on the gender pay gap. Also relevant is the work of my colleague, the Minister of State, Deputy O'Dea, in overseeing the implementation of the Government commitment to gender balance on State boards. Currently women constitute 30% of state board nominees and 35% of Government nominees. In addition, the equality for women measure is also making an important contribution to addressing the gender pay gap through the identification of best practice on gender equality. More generally, Government support for equal opportunities in education and training and for the equal opportunities infrastructure, together with the statutory minimum wage, are important elements of our overall strategy to address the gender wage gap and to ensure equal opportunities for women and men at work.

Garda Organisational Structures.

43. **Mr. Penrose** asked the Minister for Justice, Equality and Law Reform if he has received the report from the steering group working under the SMI on Garda organisational structures; the main findings of the report; if it is intended to publish the report; and if he will make a statement on the matter. [2491/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed that the Garda SMI Implementation Steering Group is in the process of finalising a report which will be forwarded to me in the coming weeks. I will give

careful consideration to all of the steering group's recommendations and the question of publication.

Child Pornography.

44. **Mr. Sherlock** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the contents of a television programme (details supplied) broadcast on 7 December 2003 which claimed there could be a far more extensive trade here for child pornographers swapping images than those who pay to download the images; the action the gardaí are taking to deal with this situation; if he has satisfied himself that there are sufficient resources available to the gardaí to combat this activity; and if he will make a statement on the matter. [2507/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am aware of the television programme referred to by the Deputy which has been the subject of previous debate in this House. The paedophile investigation unit of the Garda Síochána is examining case details as alleged in the programme and any offences discovered will be fully investigated.

The paedophile investigation unit is located within the domestic violence and sexual assault unit which in turn forms part of the National Bureau of Criminal Investigation. I am informed that the unit, which is augmented by additional personnel from mainstream units as required, co-ordinates Garda investigations of child pornography and investigates alleged breaches of the Child Trafficking and Pornography Act 1998 brought to its attention by the Internet Advisory Board hotline, concerned citizens, Interpol, Europol and external police forces. The unit is also proactive in its work. It monitors Internet chat rooms and strives to maintain best practise in the investigation of child pornography with an emphasis on Internet investigations. I understand from the Garda authorities that the unit currently has approximately 40 cases of alleged offences on hand. A small number of cases concerning the production and distribution of child pornographic images have been successfully prosecuted in this jurisdiction and a number of suspected cases are currently under investigation.

The Deputy will be familiar with Operation Amethyst which involved substantial Garda resources on a countrywide basis. The operation was directed and controlled by personnel from the National Bureau of Criminal Investigation. Some cases detected during this operation have been successfully prosecuted while others are still being processed through the District and Circuit Courts.

Child Abduction.

45. **Mr. Costello** asked the Minister for Justice, Equality and Law Reform the steps which have been taken by the gardaí to locate the

whereabouts of a person (details supplied) who was abducted by their father; if Interpol is involved in the search; if he will allow the mother to remain here until this person is found; and if he will make a statement on the matter. [2427/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed by the Garda authorities that they are currently investigating the alleged abduction from this jurisdiction of the child referred to by the Deputy this jurisdiction. I can confirm that inquiries are being made with Interpol. However, the investigation of this matter is an operational matter for the gardaí and I am sure the Deputy will appreciate that it would be inappropriate for me to comment further on the investigation at this stage.

I understand that the mother concerned currently has an appeal against the refusal of an asylum application outstanding and is thus entitled to remain in the State pending the final determination on that application.

Human Rights Issues.

46. **Mr. Gogarty** asked the Minister for Justice, Equality and Law Reform the reason for the lack of human rights elements of police co-operation within the EU in the European arrest warrant mechanism before the Houses of Oireachtas; and the action being taken to ensure that human rights safeguards, as mandated by international human rights law, will be preserved. [2518/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The legislation giving effect in Ireland to the EU framework decision on the European arrest warrant was enacted during the last session and the European Arrest Warrant Act came into operation on 1 January 2004.

The Act contains numerous protections for arrested persons, such as a right to legal representation and interpretation services. However, section 37 of the Act covering fundamental rights reflects the provisions in Article 1.3 and in recitals 12 and 13 of the framework decision. It sets the general grounds for consideration by the High Court of European arrest warrants and provides that a person shall not be surrendered unless there is compliance with the section. The section provides for the need to respect fundamental rights, including rights under the Constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols, as well as a range of specific rights aimed at protecting the rights of certain classes of people, minorities, etc. It also includes grounds for refusal where there is a possibility of the death penalty or inhuman or degrading treatment.

Article 1.3 of the framework decision refers to Article 6 of the Treaty on European Union and provides that "the Framework Decision shall not have the effect of modifying the obligations to respect fundamental rights and fundamental legal

[Mr. McDowell.]
principles as enshrined in Article 6 of the Treaty on European Union”.

Recital 12 affirms that the framework decision respects the fundamental rights and observes the principles recognised by Article 6 of the Treaty on European Union. Article 6 states, *inter alia*, that “the Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms”. This recital also provides that a warrant may be refused where there are reasons to believe it was issued for reasons related to the person’s race, religion, sex, etc. It adds that the framework decision does not prevent a member state from applying its constitutional rules on due process, freedom of association, freedom of the press and freedom of expression in other media.

Recital 13 states that “no person shall be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment”. Section 11(3) of the Act gives effect to Ireland’s statement that European arrest warrants would be executed only for the purposes of bringing a person to trial or for the purpose of executing a custodial sentence or detention order. Ireland made that statement when the framework decision was being adopted. It ensures that persons who are not yet convicted are surrendered to face trial rather than for investigative purposes. The European Arrest Warrant Act 2003 contains comprehensive human rights safeguards.

Anti-Racism Measures.

47. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform his plans, through the Irish Presidency, to promote the proposal for an EU framework decision on racism and xenophobia. [2515/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Commission presented a proposal for a Council framework decision on combating racism and xenophobia in November 2001. It was extensively discussed at working party and other levels, including the JHA Council in February 2003. The Council instructed its relevant bodies to further examine the proposal with a view to trying to reach agreement. Subsequent discussions at official level, however, led to the conclusion that agreement was not possible on the measure.

The Irish Presidency, in the light of the outcome of earlier discussions, is exploring whether a basis exists for making progress on the proposal.

Proposed Legislation.

48. **Mr. Sherlock** asked the Minister for Justice, Equality and Law Reform the position regarding

his consideration of the recommendations of the legal advisory group on the defamation law, particularly in regard to the proposals for the establishment of a statutory press council; and if he will make a statement on the matter.
[2506/04]

Minister for Justice, Equality and Law Reform

(Mr. McDowell): In September 2002 I asked the legal advisory group to report to me on the issues involved with regard to defamation and to make recommendations. This request was on foot of a commitment in the programme for Government. I brought the report to Government in June 2003 but it is the group’s report, not a report by me to Government or a report of the Government which has made no decision in respect of the substance of the contents of the report.

The report contains some 23 separate recommendations. The group also put forward a suggested text for a new defamation Act which would completely replace the Defamation Act 1961. This is a very useful and helpful approach since we are concerned with a potential legislative outcome and it is, therefore, very informative to see how the various recommendations would translate into legislative form. One of the terms of reference for the group was to consider the nature and extent of any statutory intervention which might attach to the establishment of any entity concerned with the regulation of the press. This is a subject on which there are diverging views as to the optimum approach to be followed.

On the one hand, there is a need to achieve a form of regulation which is effective and in which the public can have confidence. On the other hand, care must be had to ensure that any regulatory framework does not trespass needlessly upon the traditional freedoms which the press enjoys in all democratic societies. Having considered the options, the group recommended the establishment of a statutory press council with functions which would include the preparation of a press code of conduct and the investigation of complaints concerning alleged breaches of that code. The report sets out, in some detail, the main features of such a council including proposals for its operation and structure. The draft defamation Bill contains a template for the legislative intervention which would be required were such an entity to be established.

The model examined by the group is neither the only nor the most obvious model for a statutory press council. There could be a body chaired by a judge, and composed of nominees of various groups to reflect the different interests involved such as the public, media owners, and journalists. The public interest might be represented in several ways including some form of proportionate selection by elected public representatives to ensure that the Government of the day could not swamp the council with its sympathisers. Other models were suggested

which I will consider carefully before bringing a proposal to Government.

There are other important recommendations in the report. For example, the proposed new defence of reasonable publication; the rebalancing of the role which judge and jury have at present in defamation actions commenced in the High Court; the Circuit Court to have jurisdiction in all defamation cases where the amount of the damages claimed does not exceed €50,000; a one-year limitation period for defamation actions and the enshrinement in legislation of a defence to be known as the “defence of innocent publication” which would be available, among others, to broadcasters, distributors, printers and Internet service providers.

The advisory group endorsed many of the recommendations put forward by the Law Reform Commission in its report on the civil law of defamation, such as making an apology, court lodgements and the rationalisation of the defences of absolute and qualified privilege. It is a mark of the excellence of the work done by the Law Reform Commission that the report which it prepared on this topic remains so seminal and so influential.

Some of the recommendations are more radical than others and will provoke considerable comment which will secure an informed and wide-ranging debate on this important topic. In consultation with my colleagues in Government, I decided the best way to proceed was to have a period of public consultation which will allow all interested parties to comment on the substance of the recommendations contained in the report. The deadline for receipt of submissions is 31 January 2004. I also held a major conference on 1 December last to facilitate an exchange of views from a cross-section of interested parties. This was well attended and thought provoking.

Following completion of the consultative process I intend to reflect carefully on the consensus that emerges on the issues and also on the best way forward on the proposals I bring to Government. I hope to bring forward proposals in the latter half of this year.

Refugee Status.

49. **Mr. Quinn** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the concerns expressed by the Irish Refugee Council that there is a real risk that a new underclass will develop if current policies on asylum seekers and refugees are not changed; his view on the concerns raised; and if he will make a statement on the matter. [2495/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The comments referred to by the Deputy were made in a document entitled *Review of Some Refugee Issues in 2003* issued by the Irish Refugee Council. I do not agree with the view that a new underclass may develop if current

policies on asylum seekers and refugees are not changed.

The Government has a wide-ranging strategy for meeting its obligations under the 1951 Geneva Convention Relating to the Status of Refugees. In so far as asylum seekers are concerned, a comprehensive infrastructure has been provided in the form of the office of the refugee applications commissioner and the refugee appeals tribunal to process asylum applications fairly. These offices are processing applications much more speedily than in the past. Accommodation and other support services such as health care education services and legal aid are also provided to asylum seekers. In 2002 some €340 million was spent on service provision to asylum seekers. While a figure for 2003 is not yet available, my Department alone will provide some €120 million for asylum processing, accommodation, legal aid to asylum seekers and related immigration services in 2004.

In response to specific points made in the IRC review, the Government does not intend to change the present policy on access to work by asylum seekers. As I have pointed out several times in reply to parliamentary questions, there are many reasons why the present policy of not allowing asylum seekers to take up paid employment should not be changed. It would not be possible under current legislation and would have a major negative impact on the Government's asylum strategy; be a major pull factor leading to a large increase in asylum applications; undermine the present legitimate entry process for immigration and employment; have potential implications for trafficking; have a negative impact on our ability to accommodate asylum applicants and provide them with a reasonable level of State services.

The IRC review also referred to the implications of placing asylum seekers in accommodation centres under direct provision arrangements. Great care is taken to ensure that these centres operate to the highest standard and all asylum seekers have full access to health and child education services. I am not convinced that the present legislative provision in the Refugee Act 1996 provides a suitable framework in which to move forward. Accordingly, I am considering whether an alternative framework might be available which would be capable of making a value-added contribution to asylum and refugee matters and, in particular, be of benefit to those genuinely in need of protection.

I am committed to the integration of refugees in Ireland. One of the key responsibilities of the reception and integration agency, which operates under the aegis of my Department, is to co-ordinate the implementation of integration policy for all refugees and persons who, though not refugees, are granted leave to remain in the State. The agency continuously helps refugees by providing information, support and advice and this support is particularly intensive for refugees

[Mr. McDowell.]
who are being resettled in Ireland as part of a Government decision.

At a policy level, the agency has now concluded a series of intensive consultations with non-Governmental organisations and service providers working with refugees and asylum seekers. As well as hosting the integration forum referred to in the IRC's review, the agency recently concluded a conference on the strategic use of the European Refugee Fund. The agency is the responsible authority for the administration of the fund in Ireland.

The agency, which has representatives from key Departments, recently hosted five regional conferences for asylum support groups with a view to developing common agendas for action. The outcome of these meetings will underpin a range of agency initiatives addressing co-ordination by all key partners, including support groups, non-Governmental organisations and service providers. The agency also operates a small grants scheme for the activities of asylum support groups, with an annual fund of €140,000.

The national anti-racism awareness programme, which operated under the aegis of my Department, co-produced a leaflet entitled *Myths and Misinformation about Asylum Seekers*. Against a background of these initiatives and the agency's ongoing focus on integration, I am committed to ensuring that no underclass emerges in Irish society. The forthcoming publication of the National Action Plan Against Racism will cover a wide range of integration measures and will aim to address issues of social inclusion and cultural diversity.

Question No. 50 answered with Question No. 38.

Criminal Gangs.

51. **Mr. M. Higgins** asked the Minister for Justice, Equality and Law Reform the measures he intends to bring forward to deal with the activities of criminal gangs in regard to his address to the Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights on 9 December 2003; when he expects the legislation will be published; and if he will make a statement on the matter. [2433/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): In my address of 9 December 2003 to the Joint Oireachtas Committee on Justice, Equality, Defence and Women's Rights I outlined the measures I will bring forward to enhance the investigation and prosecution of criminal offences with particular reference to the activities of criminal gangs. This address is available on the website of the Houses of the Oireachtas at www.irlgov.ie/oireachtas but I am happy to make a copy available to the Deputy if he so wishes.

I intend to provide for those measures which require legislative provision in the Criminal

Justice Bill, which I expect to publish during the current session.

Courts Service.

52. **Mr. J. O'Keeffe** asked the Minister for Justice, Equality and Law Reform if he supports the establishment of a permanent High Court in Cork; and if he will make a statement on the matter. [2380/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): It is a matter in law for the President of the High Court to arrange the distribution and allocation of the business of the High Court under section 10(3), Courts (Supplemental Provisions) Act 1961. As Minister, I have no role in the distribution or allocation of court business. Should the judiciary decide that the High Court should be based, temporarily or permanently, in locations outside Dublin, I would support such arrangements as I did last year when the Judiciary decided that the Central Criminal Court should sit in Limerick to hear several local cases.

Question No. 53 answered with Question No. 13.

Witness Intimidation.

54. **Mr. Howlin** asked the Minister for Justice, Equality and Law Reform the progress which has been made to date in the review of the witness protection programme; if he is considering additional measures to support witnesses who may be giving evidence in court cases involving serious charges, but who may not wish to enter the protection programme; and if he will make a statement on the matter. [2434/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Garda authorities say that the review of the procedures of the witness security programme, which includes examination of measures to support witnesses in court cases who may not wish to enter the programme, is ongoing. When received, the recommendations of the review process will be given full consideration.

Garda Recruitment.

55. **Mr. Gormley** asked the Minister for Justice, Equality and Law Reform his plans to recruit gardaí at ranks other than entrance level. [2521/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Garda authorities who are responsible for the detailed allocation of resources, including personnel, inform me that entrance to the Garda Síochána is governed by the Garda Síochána (Admission and Appointments) Regulations 1988-2001.

Those regulations do not provide for Garda recruitment at ranks other than entrance level. However, the Garda Síochána (Police Co-

Operation) Act 2003, which is not yet in force, provides for the appointment of members of the PSNI to certain ranks in the Garda Síochána and for the secondment of members of the PSNI to certain ranks in the Garda Síochána for up to three years. This legislation will allow members of the PSNI to compete for certain positions in the Garda Síochána above entry level.

Garda Complaints Board.

56. **Mr. Gilmore** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to concerns expressed by the DPP that he is unable to investigate the vast majority of files he receives from the Garda Complaints Board due to the fact that the time limit for summary prosecution has already expired; the steps he is taking to deal with this problem; and if he will make a statement on the matter. [2431/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am aware of the matters referred to by the Deputy.

The Garda Complaints Act provides that complaints can be lodged with the complaints board up to six months from the date of the alleged incident. After receipt of the complaint it must be investigated and the findings of the investigation presented to the board. At this point, if the board is of the opinion that the conduct alleged may constitute a criminal offence, it refers the matter to the Director of Public Prosecutions.

I am aware that the timescales implicit in the procedures outlined above can cause problems in the context of the time limit for summary prosecutions, and this is one of the matters that will be addressed in the Garda Síochána Bill, which I will publish shortly.

Garda Recruitment.

57. **Ms O'Sullivan** asked the Minister for Justice, Equality and Law Reform the number of recruits who have graduated from the Garda Training College as full Garda members since 6 June 2002; the number of gardaí who have retired, resigned or otherwise left the force since 6 June 2002; and if he will make a statement on the matter. [2476/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Minister has been informed by the Garda authorities who are responsible for the detailed allocation of resources including personnel that 754 recruits have graduated from the Garda College since 6 June 2002. This figure of 754 are those who have successfully completed the student-probationer education-training programme. This figure does not include those who have been attested to the force upon completion of phase 3 of their training programme and who have yet to complete the fifth and final phase of that programme.

A total of 698 members, all ranks, have resigned, retired or otherwise left the Garda Síochána since 6 June 2002.

Prison Closures.

58. **Ms Lynch** asked the Minister for Justice, Equality and Law Reform his plans in respect of the threatened closure of Spike Island Prison; if a closure is proposed, the cost savings which will be achieved by such a closure in view of the beneficial and rehabilitative work carried out by both prison staff and VEC staff at the said institution; and if he will make a statement on the matter. [30711/03]

75. **Ms Lynch** asked the Minister for Justice, Equality and Law Reform if, in light of the ongoing negotiations between the Irish Prison Service and the Prison Officers' Association and the proposed temporary closure of Fort Mitchel Prison, he is still committed to his earlier statement of 11 November 2003, to reopen Fort Mitchel Prison in the event of the above negotiations being successfully resolved; and if he will give a commitment that the reopening of Fort Mitchel Prison will take immediate effect upon the resolution of the current dispute. [1567/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I propose to take Questions Nos. 58 and 75 together.

On 11 November 2003, the Government decided to implement a number of measures to reduce prison operating costs with effect from 1 January 2004, in the event of failure to reach agreement with the Prison Officers' Association on the proposed change agenda, aimed at eliminating overtime and reducing costs. These measures included the temporary closure of the Curragh and Fort Mitchel Places of Detention.

The Curragh Place of Detention closed on 20 January and Fort Mitchel will close on 10 February 2004, if there is no agreement with the Prison Officers' Association by that date. I have already made it clear on several occasions that I fully appreciate the good work being done at Fort Mitchel and other prison institutions scheduled for closure. I personally do not want to close those institutions but, if the Prison Officers' Association is unwilling to agree reasonable terms to operate them on an economically sustainable basis, it is a course I reluctantly have to pursue. I have also indicated that if such agreement is forthcoming from the Prison Officers' Association, prison closures could yet be cancelled or reversed.

Closure of Fort Mitchel Place of Detention would yield significant savings by facilitating the transfer of prison staff to Cork and Limerick Prisons to perform work which is currently done on an overtime basis. In addition, savings would arise from non-payment of the allowance which is paid to staff for working on the island; non-operation of the daily ferry to the island; and

[Mr. McDowell.]
elimination of the above average general costs associated with operating an island facility.

Northern Ireland Issues.

59. **Mr. J. Bruton** asked the Minister for Justice, Equality and Law Reform his views on whether the IRA ever intends to decommission all its weapons. [29635/03]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Decommissioning Act 1997 and the regulations made pursuant to it provide for the decommissioning of arms held by paramilitary organisations, including the Provisional IRA, under the auspices of the Independent International Commission on Decommissioning.

The Government has welcomed past acts of decommissioning by the Provisional IRA and urges all paramilitary groups to engage fully with the commission in order to achieve the complete decommissioning of paramilitary arms.

The Government continues to proceed on the basis that the complete decommissioning of paramilitary arms is not only achievable, but is what will be required if everybody is to be convinced that the transition from violence to completely peaceful means is complete.

Proposed Legislation.

60. **Mr. Broughan** asked the Minister for Justice, Equality and Law Reform when the promised legislation to provide for the appointment of a Garda Inspectorate-Ombudsman will be published; when he expects the office to be functioning; the anticipated staffing level of the office; the funding which has been allocated in his estimates for 2004 for this purpose; and if he will make a statement on the matter. [2428/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The drafting of the Garda Síochána Bill, which will provide for the establishment of a fully independent new body with comprehensive powers of investigation to deal with complaints against members of the Garda Síochána, is at an advanced stage and I intend to publish it shortly. The Bill will also provide a statutory basis for management, performance and accountability in the Garda Síochána.

It is the Government's intention that the new body will be established as soon as possible following the enactment of the Bill. It would be premature at this stage to indicate what the likely staffing complement and budget of the new body will be.

61. **Mr. Stanton** asked the Minister for Justice, Equality and Law Reform if he intends to change section 5, subsection 1 of the Domicile and Recognition Foreign Divorces Act 1986 and

section 29 of the Family Law Act 1995; and if he will make a statement on the matter. [2360/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The provisions to which the Deputy refers no longer have effect in relation to proceedings where the relevant jurisdiction has been exercised by a court of a member state by virtue of Council Regulation, EC, No. 1347/00 of 29 May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses, SI No. 472 of 2001 refers. The council regulation in question entered into force for all member states, with the exception of Denmark, on 1 March 2001.

The provisions continue to be relevant where the pertinent status decision is not one to which the council regulation applies. The question of legislation to deal with divorces, legal separations and annulments which are granted in countries other than those to which the regulation applies is, subject to the disposal of priorities itemised in the Government legislation programme, being considered within the Department of Justice, Equality and Law Reform with a view to any amending proposals which may be necessary.

Question No. 62 answered with Question No. 35.

Freedom of Information Act.

63. **Mr. S. Ryan** asked the Minister for Justice, Equality and Law Reform when he intends to bring forward an order applying the Freedom of Information Act 1997 to the Garda Síochána; and if he will make a statement on the matter. [2496/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Garda Síochána is one of the bodies under the aegis of my Department which has not to date been made subject to the Freedom of Information Act 1997.

The Freedom of Information Act has been extended to additional public bodies on a phased basis since it commenced in April 1998. The Government has decided that this process should continue so that all bodies appropriate for inclusion are covered by end of 2005.

A working group comprising members of the Garda Síochána and representatives of the Department of Justice, Equality and Law Reform was established by the Garda Commissioner in March 2001 to examine all issues arising from the possible extension of the Freedom of Information Act 1997 to the Garda Síochána and to prepare a detailed proposal of action for consideration by the commissioner.

Following on from this, the commissioner has made a submission to my Department, analysing the issues to which any such extension would give rise. I will carefully consider this submission before coming to a final view on the matter.

Industrial Disputes.

64. **Mr. McGinley** asked the Minister for Justice, Equality and Law Reform if arrangements have been made to use troops in the event of a prison officers industrial dispute. [29358/03]

Minister for Justice, Equality and Law Reform (Mr. McDowell): At its meeting on 29 September 2003, the Government established a group comprising the Minister for Defence, the Minister for Finance and myself to deal with the evolving industrial relations situation in the Prison Service, including putting in place contingency arrangements in the event of industrial action. In line with this decision, I can confirm that a considerable amount of contingency planning has been undertaken regarding the possible use of Garda and Defence Force personnel in the event of industrial action in the prisons. I can also confirm that, in such a situation, the Defence Forces will play a significant role. Pursuant to that role, army personnel have been engaged in a familiarisation process which has included a series of visits to the prisons. The Deputy will appreciate that, for obvious operational and security reasons, I am not in a position to go into the details of the arrangements which have been put in place.

I would also refer the Deputy to my written reply to Question No. 398 on 9 December 2003.

Garda Complaints Board.

65. **Ms Burton** asked the Minister for Justice, Equality and Law Reform if he will make a statement on the recent annual report of the Garda Complaints Board. [2429/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The report of the Garda Síochána Complaints Board for the year 2002 was published last December 2003 having been laid before both Houses of the Oireachtas.

In welcoming the publication of the report, I observed that in previous reports the board had pointed up what it considered to be the shortcomings of the legislation under which it operates, and noted that in its 2002 report the board acknowledged the Government's intention to address the issue as a matter of urgency.

I will shortly publish a Garda Síochána Bill, one of the principal aims of which will be the establishment of a Garda ombudsman body to deal with complaints made against members of the Garda Síochána under a new mechanism which will address the concerns expressed by the board.

Question No. 66 answered with Question No. 33.

Legal Aid Service.

67. **Mr. Stagg** asked the Minister for Justice, Equality and Law Reform the steps being taken to reduce the waiting time for an appointment with a solicitor at the legal aid centres in view of the fact that the average waiting time is five months and that this can rise to 13 months at some centres; the additional funding which has been provided in the estimates for 2004 to reduce waiting times; and if he will make a statement on the matter. [2499/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Deputy will appreciate that under section 5(1) of the Civil Legal Aid Act 1995, it is the function of the Legal Aid Board to provide, from within its resources and subject to the other provisions of the Act, legal aid and advice in civil cases to persons who satisfy the requirements of the Act and the regulations made thereunder. In addition, under section 30 of the Act, responsibility for determining how legal services should be provided, including the location of law centres, the staffing required by these centres and the use of private practitioners, is a matter for the board.

I would also mention to the Deputy that, regarding those applicants waiting for legal services, the board operates a procedure whereby priority is accorded for certain categories of cases over other cases, for example, domestic violence, child care, child abduction and cases where there are time limits. In these cases the application is dealt with immediately and such applicants are not placed on a waiting list. I understand that during 2002 such priority cases accounted for over 20% of the total caseload handled by the board.

I can also inform the Deputy that the allocation for the Legal Aid Board in 2004 is €18.388 million. This represents an increase of almost 5% over the 2003 provision of €17.539 million. I can further inform the Deputy that in recent years the level of funding provided to the board has increased significantly. During the period from 1997 to date, the grant-in-aid has increased by 74%, from €10.563 million in 1997 to €18.388 million in 2004. In addition, sanction for the board to employ additional full-time solicitors was also received during this period. These increased resources have enabled the board to provide legal services to a greater number of people.

Asylum Applications.

68. **Mr. Quinn** asked the Minister for Justice, Equality and Law Reform the number of applications for asylum received during 2002 and 2003; the number of applications upheld by the Refugee Appeals Commission; the number of

[Mr. Quinn.]
appeals submitted to the Refugee Appeals Tribunal; the number of such appeals upheld; the number of applications for leave to remain; the number of such applications granted; the number of deportation orders made; the number of such

deportations carried out; and if he will make a statement on the matter. [2494/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The information requested is as follows:

Number of asylum applications received and the number of recommendations by the Office of the Refugee Applications Commissioner to grant refugee status, at first instance, in 2002 and 2003

	2002	2003
Number of applications received	11,634	7,900
Number of recommendations to grant refugee status issued by the Office of the Refugee Applications Commissioner*	893	345

*It is assumed that the reference in the Deputy's question to "Refugee Appeals Commission" refers to the Office of the Refugee Applications Commissioner.

Number of appeals submitted to the Refugee Appeals Tribunal and the number upheld, at appeal stage, in 2002 and 2003

	2002	2003
Number of appeals received by Refugee Appeals Tribunal*	5,151	4,710
Number of appeals upheld by the Refugee Appeals Tribunal (granted refugee status)*	1,099	825

*Substantive cases.

Number of deportation orders signed and number effected in 2002 and 2003

	2002	2003
Number of deportation orders Signed	2,430	2,411
Number of deportation orders effected	521	590

Number of applications for leave to remain received from current or former asylum applicants

	2002	2003
Number of applications received	6,887	1,272

Number of applications granted for leave to remain by category

	2002	2003
Parentage of Irish-born child	3,113	172
Marriage to an Irish national	86	132
Dependant of EU citizen	138	77
Humanitarian grounds	159	83

Proposed Legislation.

69. **Mr. Deasy** asked the Minister for Justice, Equality and Law Reform if he will be appealing the recent judgment of the High Court as it relates to the expiration of visas of legal immigrants; and if he will introducing new legislation to address the High Court ruling. [2511/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): It is intended to appeal the

High Court decision of 22 January to which the Deputy's question refers.

The Immigration Bill 2004 was published this morning and is expected to be before Seanad Éireann tomorrow. I will be asking that House, and in due course this House, to deal with the Bill as a matter of great urgency.

Garda Central Vetting Unit.

70. **Ms Enright** asked the Minister for Justice, Equality and Law Reform if he has met children's groups such as the ISPCC and Barnardos to discuss the extension of the remit of the central

vetting unit; and if he will make a statement on the matter. [30975/03]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I met the chief executive of the Irish Society for the Prevention of Cruelty to Children on 19 September 2003 to discuss Garda vetting arrangements.

I have received representations from many groups regarding the extension of the Garda vetting arrangements for persons having substantial contacts with children and other vulnerable persons. These representations, together with the views of the ISPC, have been brought to the attention of the working group established to review the system of Garda vetting.

Northern Ireland Issues.

71. **Mr. J. Bruton** asked the Minister for Justice, Equality and Law Reform if the Garda national fraud squad operations against a provisional IRA tax scam in the building trade (details supplied) has implications for the peace process or for the status of Sinn Féin therein. [29672/03]

Minister for Justice, Equality and Law Reform (Mr. McDowell): As investigations by the Garda Bureau of Fraud Investigation concerning the fraudulent claiming of repayments of revenue by subcontractors in the building industry are ongoing it is not appropriate to comment at this stage on the investigations or the accuracy, or otherwise, of the particular media report referred to in the details supplied by the Deputy.

Proposed Legislation.

72. **Mr. Deasy** asked the Minister for Justice, Equality and Law Reform when he will be introducing legislation to provide a statutory basis for sentencing principles for public order offences. [2510/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Criminal Justice (Public Order) Acts 1994 and 2003 provide a comprehensive legislative basis for the prosecution and punishment of a range of public order offences and I see no need to provide any further statutory basis for sentencing for such offences.

As I have already announced, however, I am considering including provisions for a fixed penalty procedure in respect of certain lesser public order offences in the Criminal Justice Bill, which I expect to publish this session.

Garda Equipment.

73. **Dr. Upton** asked the Minister for Justice, Equality and Law Reform the progress made to date with regard to the installation of video recording equipment in Garda stations; the number of stations in which the equipment has been installed and the number which have no such equipment; the overall number of interview

rooms in Garda stations; the number of those in which equipment has been installed; the number which will have it when the current programme is completed; the number which will have no such equipment; his views on whether it is desirable that all interview rooms should have such equipment; and if he will make a statement on the matter. [2502/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I refer the Deputy to the reply I gave to Question No. 56 of Tuesday, 25 November 2003. As I stated then, the Criminal Justice Act 1984 (Electronic Recording of Interviews) Regulations, 1997, provide for the recording of interviews in respect of suspects who are detained in custody. In 1999, the Government decided to introduce an audio-video system for the recording of such interviews and the number of stations and rooms now fitted out with the specialised equipment is such as to provide broad nationwide coverage.

I stress again that there is a total of 703 Garda stations throughout the State. Many of these are rural stations and are not equipped to accommodate the holding of prisoners and are open for a set number of hours or days per week. It was never the intention, nor is it considered necessary, that all 703 Garda stations or that every interview room in these stations be fitted out with the system. I am advised by the Garda authorities that the number of rooms and stations fitted out provides the nationwide coverage envisaged by the Government decision.

As regards the specific information sought by the Deputy on the numbers of rooms equipped, etc., I am informed by the Garda authorities that the data are being researched, and I will write to the Deputy as soon as they are available.

Question No. 74 answered with Question No. 25.

Question No. 75 answered with Question No. 58.

Job Creation.

76. **Mr. Boyle** asked the Tánaiste and Minister for Enterprise, Trade and Employment the number of new jobs provided and lost in the Cork south central constituency for 2003. [2613/04]

Minister of State at the Department of Enterprise, Trade and Employment (Mr. Fahey): The board of management of Clare LES advised FÁS on 15 December last that they were discontinuing operations effective from January 30 2004.

A meeting was held in the Dáil on Wednesday, 21 January 2004, between the Minister for labour affairs and representatives of Clare local employment service staff to discuss the imminent closure of the Clare LES. Also present were a number of other Clare public representatives including the Minister of State at the Department

[Mr. Fahey.]
of Education and Science, a union representative, two departmental officials and two representatives of FÁS.

It was pointed out that while the board of Clare LES is made up of representatives from the statutory and voluntary sectors, and the operation of the service is funded by FÁS, it is nonetheless a separate legal entity and the Minister for labour affairs has no function in relation to the internal workings of a body of this kind.

The Minister did, however, agree to ask FÁS to immediately commence an assessment of the labour market data and needs of the Clare region in the context of the closure of the LES. This assessment will include the type and level of a dedicated employment service necessary to address the needs of marginalised client groups in the region, including structures, management, staffing and other relevant requirements of any such service.

Work Permits.

77. **Mr. Perry** asked the Tánaiste and Minister for Enterprise, Trade and Employment when work permits will be issued for persons (details supplied); and if she will make a statement on the matter. [2670/04]

Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney): I am informed that work permit applications in this case have recently been approved and have issued to the employer in question.

Bullying in the Workplace.

78. **Mr. Rabbitte** asked the Minister for Defence the investigation held into allegations that members of the Air Corps based in Sligo were subjected to bullying, prior to the recent decision to terminate the helicopter service based there; if specific complaints of bullying or harassment were received; the actions taken as a result of any such complaints; if it is intended to review his decision to terminate the search and rescue service operated by the Air Corps from Sligo; and if he will make a statement on the matter. [2572/04]

Minister for Defence (Mr. M. Smith): The military authorities advise that no specific formal complaints of bullying or harassment have been received by them from Air Corps personnel who were deployed as part of the search and rescue service in Sligo. All Defence Forces personnel may avail of the Defence Forces procedures in relation to any complaints of harassment or bullying. These procedures are outlined in the administrative instruction on interpersonal relationships in the Defence Forces, which is available and applicable to all personnel. Personnel may also submit any such complaints through the redress of wrongs procedure, as provided for under section 114 of the Defence Act. The allegations referred to were published

in the media at the time and the general officer commanding, Air Corps initiated a military police investigation to establish the facts of the matter. This investigation is not yet completed.

In December 2003, when I announced the discontinuance of the Air Corps SAR service in the north west, I acknowledged the efforts of Air Corps management and staff to maintain an operational SAR service in the north west and, in particular, the dedication and commitment of key personnel in the search and rescue service. However, notwithstanding this commitment, the Air Corps was unable to provide the required service in the north west and, as a result, I advised my colleague, the Minister for Communications, Marine and Natural Resources, that he should seek to make alternative arrangements to secure the service. Arrangements are now in hand to give effect to the hand-over of the service from the Air Corps at the earliest possible date.

Defence Forces Property.

79. **Mr. Boyle** asked the Minister for Defence if his Department has retained land from the former Murphy's barracks in Ballincollig to transfer and allow for the construction of a new Garda station; and if such a transfer will have to be conducted through the new owners of the site. [2611/04]

Minister for Defence (Mr. M. Smith): An area comprising approximately 0.545 of an acre at the former Murphy Barracks has been set aside and retained by my Department, on foot of a request from the Office of Public Works (OPW) for a plot of ground to facilitate extension of the existing Garda station located on Main Street, Ballincollig. My Department is in correspondence with the OPW on arrangements for transfer of the lands concerned, including the matter of a consideration therefor.

Question No. 80 withdrawn.

Blood Sports

81. **Ms Shortall** asked the Minister for Agriculture and Food if his attention has been drawn to the large scale destruction of farm and other property, often running to thousands of euro, by the unauthorised use of such lands for the purposes of live hunting; the plans he has to safeguard the interests and property of landowners in this regard; and if he will make a statement on the matter. [2569/04]

Minister for Agriculture and Food (Mr. Walsh): The issue of entry by a hunt onto private lands is in each instance a matter for the landowner himself/herself insofar as the vindication of their rights to enjoyment of their property and the issue of trespass is concerned. There are already protections against trespass in place to which landowners may, if they so choose, seek redress and also well-established legal mechanisms for dealing with damage to private

property. It is my belief that fox hunts generally will and do respect the wishes of farmers and other landowners regarding hunts entering onto their lands by seeking the agreement of landowners prior to hunting over their property. Where issues of concern to landowners may arise, these are generally resolved at local level.

I am not aware of large scale destruction of farm or other property by fox hunts. Indeed I would make the point that it is clearly not in any event in the interests of hunts themselves to damage property in the course of their activities.

Given the foregoing I have no plans for any additional measures in this area.

Meat Imports.

82. **Ms Shortal** asked the Minister for Agriculture and Food the protections in place to ensure that imported meat from outside the EU is screened for health risks; and if he will make a statement on the matter. [2571/04]

Minister for Agriculture and Food (Mr. Walsh): Under Community law it is a requirement that imported meat from outside the EU has been sourced from an approved establishment, whether that is a slaughterhouse, cutting plant or cold store. It must also be accompanied to its destination by a commercial document or health certificate that bears the identity of the establishment from which the beef has been despatched.

Under EU harmonised rules, imports into the European Union from third countries must have been sourced in premises and in countries which are approved by the European Commission's Food and Veterinary Office, FVO. This office carries out inspections to ensure that only establishments that meet hygiene and health standards equivalent to those operating within the EU are approved. The evaluation of third countries is on the following basis: there are systems in place for the rapid detection, reporting and confirmation of list A diseases of the *Office International des Epizooties*, OIE; there is access to laboratory facilities that allow detection and confirmation to take place; there are animal disease control systems in place whose operation and outcome must be recorded and demonstrable, e.g. registration of holdings, animal identification and movement controls; there are operational contingency plans for the control of and/or the eradication of OIE list diseases; and that the import policy in the country, including its controls, as well as the animal health situation in neighbouring countries have been assessed as acceptable.

Where the FVO is not satisfied that public health requirements are being met by an approved establishment in a third country, the establishment may be removed from the EU approved list. If outbreaks of animal diseases occur in a third country, approval to export to the EU is suspended for the infected regions of the

country, or the whole country, as appropriate, until the disease risk has been eliminated.

Meat being imported into the European Community may only enter through a border inspection post, BIP, that has been approved by the FVO. That office also carries out monitoring and inspection of each member state's BIPs to ensure that the facilities and procedures for import of animal products into Europe, provided under harmonised EU legislation, are being correctly applied. In Ireland, the border inspection posts approved for administering checks on direct imports of meat from third countries are Dublin Port and Shannon Airport and these posts are staffed by officials from my Department.

In addition, importers must be registered with my Department. They must give advance notice of the arrival of meat. Imported meat must be accompanied by the appropriate commercial documentation which shows country and approval number of the establishment of production as well as a health certificate which conforms to the models set down in EU legislation. The meat must also be appropriately labelled. All consignments undergo a documentary and identity check and physical checks are carried out at frequencies laid down in EU law. Where required, sampling for laboratory analysis for the purposes of safeguarding human and animal health is carried out. Once imported, meat has met all the required conditions it is released for free circulation within the community. Copies of the BIP clearance document and the health certificate must accompany the consignment to its declared destination.

Imports failing to comply with these veterinary control checks may be detained for further examination. If non-compliance is established they are returned to the exporting country or destroyed.

Grant Payments.

83. **Mr. Ring** asked the Minister for Agriculture and Food when a person (details supplied) in County Mayo will receive payment for fourteen animals included on a suckler cow premium application for 2003, as the delay is causing major problems. [2575/04]

Minister for Agriculture and Food (Mr. Walsh): The person named applied for premium on 15 animals under the 2003 suckler cow premium scheme. In processing the application for payment, it was found that according to CMMS details one animal tag number BQQG0046F did not appear to be in the applicant's herd at the time of application. The district livestock office of my Department, together with the herdowner are working to have the information relating to this animal updated on the national beef assurance system. The application has now been processed for an 80% advance instalment on 14 animals and payment

[Mr. Walsh.]
will issue shortly. At balance payment stage the application will be processed taking account of the 15 animals.

Cattle Identification Scheme.

84. **Mr. Ring** asked the Minister for Agriculture and Food if a person who has been penalised for not having their herd register up to date during the years which come into play for de-coupling, will now be penalised for the ten years when de-coupling is introduced. [2576/04]

Minister for Agriculture and Food (Mr. Walsh): Generally, all livestock premium and arable aid cases in which penalties were imposed for breaches of regulations will be reviewed with a view to ensuring that such penalties are not carried forward into the single payment scheme which is to be established under the CAP mid-term review.

Grant Payments.

85. **Mr. Connaughton** asked the Minister for Agriculture and Food the reason a cattle grant and other grants have not been awarded in 2003 to a person (details supplied) in County Galway; and if he will make a statement on the matter. [2607/04]

Minister for Agriculture and Food (Mr. Walsh): The person named applied for premium on 17 animals under the 2003 suckler cow premium scheme. When processing the application it was found that according to CMMS records, animal tag number 181703530079 was not in the applicant's herd at the time of application. Details concerning the movement of this animal have since been updated and the animal is eligible for payment as applied on. Compliance checks with CMMS also showed that animal tag number 181952620104 was sold inside the six months retention period and would therefore require a replacement. The district livestock office of my Department has been in contact with the herdowner and a replacement animal has been nominated. The application is being processed further and payment will issue shortly.

Payment of his full entitlement under the 2003 area-based compensatory allowance scheme amounting to €2189.11 issued on 19 September 2003.

Poultry Industry.

86. **Mr. Boyle** asked the Minister for Agriculture and Food the extent to which his Department monitors poultry producing companies and the extent to which they source poultry from outside of this State. [2608/04]

Minister for Agriculture and Food (Mr. Walsh): The European Communities (Fresh Poultry Meat) Regulations 1996 provide for the approval of poultry meat processing

establishments slaughtering in excess of 200 birds per week. In all, 14 such establishments have been approved by my Department and are subject to supervision by my Department's veterinary inspectorate. There are also a further 12 poultry meat processing plants which are also subject to veterinary control by my Department.

In the period January to September 2003 some 39,000 tonnes of poultry meat was imported into Ireland. Of this, 27,000 tonnes was fresh/frozen product and 12,000 was processed product. This compares with Irish poultry meat exports of 60,000 tonnes during the same period. The majority of the poultry meat used as a raw material in these processing/manufacturing plants, and particularly in the higher value added sector of the industry, is sourced outside the country.

87. **Mr. N. O'Keeffe** asked the Minister for Agriculture and Food the position regarding the slaughtering of turkeys and geese on-farm; if his attention has been drawn to the fact that this practise is part of the country's tradition for many decades; his views on whether to change this practise is wrong, based on the fact of tradition; if a change is brought into place, if it will arise from an EU regulation; if so, if he in his capacity as Agricultural President of the EU, will seek a special derogation for Ireland in this regard; and if he will make a statement on the matter. [2628/04]

Minister for Agriculture and Food (Mr. Walsh): I am aware that on-farm slaughter of turkeys and geese is traditional in this country.

The EU Commission has introduced a package of proposals aimed at revising and updating food hygiene regulations. The proposals provide flexibility concerning the direct supply, by the producer, of small quantities of meat from poultry slaughtered on the farm to the final consumer or to local retail establishments.

In implementing this proposed legislation, I will clearly be mindful of the necessary balance between small scale traditional practices and the need to ensure consumer protection.

Suckler Cow Quota.

88. **Mr. N. O'Keeffe** asked the Minister for Agriculture and Food the outcome of contact between his officials and a person (details supplied) in County Cork in relation to their suckler cow quota and their application for additional units. [2629/04]

Minister for Agriculture and Food (Mr. Walsh): The person named originally held four suckler cow quota rights when he submitted an application for an allocation of additional quota from the 2004 suckler cow national reserve. His application was processed and he was allocated four additional quota rights and was notified accordingly. Following the subsequent contact with the person named on 19 December 2003, an

additional six quota rights were allocated to him from the 2004 suckler cow national reserve. Since he had already received four additional quota rights from the reserve, this brought his total allocation to ten premium rights, which was the maximum allocation that any applicant received from the 2004 national reserve. His total suckler cow quota was therefore increased from four, which he originally had, to 14 premium rights for the 2004 suckler cow premium scheme. A letter confirming the additional allocation and his new quota issued to him on 19 December 2003.

If the person named has more than 14 suckler cows on which he wishes to claim suckler cow premium under the 2004 scheme, he may purchase or lease in additional quota in order to qualify for payment. It should be noted that it will be essential to lodge an area aid application in 2004 if the person named wants to qualify for payment in excess of 15 livestock units.

Decentralisation Programme.

89. **Mr. Crawford** asked the Minister for Finance if he will consider Monaghan or other towns along the Border, such as Clones, for some of the remaining decentralisation jobs that as yet have not been allocated; if his attention has been drawn to the fact that it is one of the few opportunities the Government has to actually decide whether or not the border region deserves recognition; and if he will make a statement on the matter. [2564/04]

Minister for Finance (Mr. McCreevy): In advance of the announcement of details of the decentralisation programme in budget 2004, I received submissions on behalf of over 130 centres throughout the State. A total of 53 locations, including Monaghan, have been designated for the relocation of approximately 9,000 posts.

Locations for a further 1,300 or so jobs will be identified at a later stage. As I said in my budget speech, I believe the total number of posts to be relocated should be closer to 12,000 and I will examine further options in this regard once the programme is well under way.

The case for Clones and other Border towns receiving decentralised offices as well as Monaghan receiving a second decentralised office can be given due consideration in the decision making process leading to the identification of locations for the remaining posts.

Flood Relief.

90. **Mr. Stagg** asked the Minister for Finance if he will ensure that an early meeting is held between officials of the OPW and Kildare County Council to see what outstanding documentation is required in relation to flood relief schemes in Maynooth, Leixlip, Straffan and Ardlough, County Kildare; and if he will make a statement on the matter. [2565/04]

Minister of State at the Department of Finance (Mr. Parlon): A meeting has been arranged in the first week of February between the Office of Public Works and officials of Kildare county council to discuss issues in relation to flooding in Maynooth, Leixlip, and Ardlough, County Kildare.

In relation to Straffan, County Kildare, the flooding problem arises from surface water drainage. This is a matter solely for the county council.

General Government Balance.

91. **Ms Burton** asked the Minister for Finance the implications of the proposals from Eurostat to change the method of calculation of the general Government balance; the way in which the forecast general Government balance for 2004, 2005 and 2006 would be affected; and if he will make a statement on the matter. [2566/04]

Minister for Finance (Mr. McCreevy): Eurostat is expected to issue a decision shortly giving guidance as to how PPP projects should impact on the general Government balance, GGB. This decision follows the work of a Eurostat task force in which the CSO participated. I look forward to seeing the details of the new rules when they are published.

Decentralisation Programme.

92. **Mr. R. Bruton** asked the Minister for Finance if he proposes that a common pool for transfers will be formed to include autonomous executive agencies which are designated for a move under decentralisation so that those who do not volunteer to move have reasonable alternative opportunities available to them. [2567/04]

Minister for Finance (Mr. McCreevy): The issue of transfers between organisations, both for those volunteering to participate in the decentralisation programme and those who do not wish to participate, is one which the implementation committee appointed by me has been asked to address in preparing the implementation plan. The implementation committee has been asked to report to Government by the end of March 2004.

Garda Stations.

93. **Mr. Durkan** asked the Minister for Finance the position in regard to the proposed new Garda station at Leixlip, County Kildare; when it is expected that the station will become operational; and if he will make a statement on the matter. [2638/04]

Minister of State at the Department of Finance (Mr. Parlon): A revised brief for Leixlip Garda station remains under consideration by the Department of Justice, Equality and Law Reform. The Office of Public Works is not in a

[Mr. Parlon.]
position to finalise a sketch scheme pending receipt of a revised brief.

Tax Clearance Certificates.

94. **Mr. Durkan** asked the Minister for Finance when a certificate of tax free allowance will issue in the case of a person (details supplied) in County Kildare; and if he will make a statement on the matter. [2655/04]

Minister for Finance (Mr. McCreevy): I am informed by the Revenue Commissioners that a certificate of tax credits and standard rate cut-off point for the year 2004 will issue to the taxpayer on 30 January 2004 in respect of her main employment. A manager from the Kildare revenue district has telephoned the relevant employer giving details of the credits due to the taxpayer and has been assured by the employer that they will apply these credits when processing the next salary payment.

In respect of the taxpayer's second employment, the Revenue Commissioners have informed me that a certificate of tax credits and standard rate cut-off point was issued on 23 January 2004. A manager in the Kildare revenue district has telephoned the employer giving details of credits due. This information will be used by the employer when taxpayer is next being paid.

Public Service Contracts.

95. **Mr. Ring** asked the Minister for Finance if he will enter into discussions with the INTO on the proposed changes to pension terms for new entrants to the public service, in particular with regard to the proposed retirement age for teachers. [2663/04]

Minister for Finance (Mr. McCreevy): I understand the Deputy is referring to the announcement in budget 2004 of the Government decision that the minimum pension age should be increased to 65 years for new entrants to the public service, including teachers, from 1 April 2004.

In announcing the Government's decision on pension age, and also on the intended abolition of compulsory retirement age for new entrant public servants from 1 April 2004, I stated that the public service unions would be fully informed about the implementation of these particular changes in advance of their introduction with effect from 1 April 2004.

I can confirm to the Deputy that this process of information provision has commenced, and that the process includes the INTO. There are a number of issues in relation to implementation which these discussions can clarify.

The Government has decided that the changes in relation to pension age for new entrants will be implemented. Accordingly, discussions on this are not appropriate. A Bill to provide for the necessary legislative changes is included in the

Government's legislative programme for this session of the Dáil.

Emigrant Care.

96. **Mr. J. Higgins** asked the Minister for Foreign Affairs if his attention has been drawn to the findings of the recent UK census which shows that the Irish in Britain are more likely to be living in residential care than any other group, and that they are the group most likely to be providing over 50 hours per week of unpaid care to relatives, friends and neighbours. [2584/04]

Minister for Foreign Affairs (Mr. Cowen): The census of England and Wales was conducted in April 2001. It showed that 1% of the Irish in Britain were resident in hospitals or other care establishments. It also showed that the Irish have older age structures than other ethnic groups, with one in four Irish people in Britain aged 65 and over. As a result, they are more likely to need care. This is particularly true as the Irish group that went to Britain in the 1950s and 1960s grows older.

The 2001 census was the first in which a question about carers was included. It found that there are 5.2 million people providing unpaid care in England and Wales, that is, one in ten of the population. Carers were defined in the census as people looking after or giving help or support to family members, friends, neighbours or others because of long term physical or mental ill-health or disability or problems related to old age.

The responses showed that 10% of each of the groups categorised in the census as "White British", "White Irish" and "Indian" were providing unpaid care. The "White Irish" group had, by a small margin, 2.5%, the highest rate of providing over 50 hours a week of care. This reflects the older age structure of the Irish community in Britain which makes them more likely to provide care.

The Irish Government, through the Díon committee, provides significant levels of support to the older Irish in Britain. In 2003, €873,000 was spent on projects for the elderly and €119,000 on projects for returning emigrants. This represents 43% of the Díon fund in 2003. Several of these projects involve social activities which have added health benefits, helping older people to continue to live independently for longer. In addition, older Irish people have access to welfare organisations assisted by the Díon fund which provide advice on welfare and health benefits available to them.

Task Force on Emigrants.

97. **Mr. J. Higgins** asked the Minister for Foreign Affairs if the Government will fully implement the report of the task force on emigrants; and if he will make a statement on the matter. [2585/04]

Minister for Foreign Affairs (Mr. Cowen): I welcomed the task force's report which sets the

issue of emigration in a forward-looking context and provides a template for addressing the needs of the Irish abroad in the future.

The report contains 71 proposals covering a wide range of areas. I have begun to implement the report and action is currently being taken on over two-thirds of the recommendations. Some of them fall within the areas of responsibility of other Departments and I have asked those Departments to examine the relevant recommendations to determine what progress has already been made in implementing them and what further progress could be made in the future.

I was pleased to announce before Christmas that I secured an additional provision of €1 million in the Estimates for my Department for services to emigrants in 2004. This brings the overall expenditure on emigrants services this year to just over €4 million, an increase of one-third on 2003.

I intend that, in allocating the additional funds, they will be focused on improving services for the neediest and the most vulnerable among our emigrants, particularly in Britain, in line with the recommendations of the task force report.

I also intend to give priority assistance to elderly and returning emigrants, capacity building of the voluntary agencies involved and projects to promote more effective networking and information sharing between them.

During the course of the year, I intend to establish a dedicated unit in the Department of Foreign Affairs to work with the voluntary agencies at home and abroad to maximise the impact of our collective efforts.

I will continue to implement the report of the task force and to work in partnership with the governments of the countries concerned and with voluntary Irish agencies at home and abroad, to support our emigrants overseas.

Emigrant Support.

98. **Mr. Boyle** asked the Minister for Foreign Affairs the support services provided by his Department for Irish emigrants abroad. [2618/04]

Minister for Foreign Affairs (Mr. Cowen): The Government has been providing assistance to Irish emigrants in Britain, the United States and Australia for many years.

In response to concerns about the situation of Irish emigrants in Britain, the Government established the Díon committee in 1984. The Díon fund, which is administered by the embassy in London through the Díon committee, has increased substantially in the past four years — from €592,300 in 1999 to €3,570,000 this year.

My Department also gives grants to voluntary organisations in the US that provide advocacy and support to Irish immigrants. Priority is given to the provision of information, advice and outreach services for Irish immigrants. This year, my Department will provide a total of €400,000,

an increase of 33% over 2003. Increased grants will also be given to Irish welfare groups in Australia.

I was pleased to announce before Christmas that I secured an additional provision of €1 million in the Estimates for my Department for services to emigrants in 2004. This brings the overall expenditure on emigrant services this year to just over €4 million, an increase of one-third on 2003. I intend that the additional funds will be concentrated on improving services for the more vulnerable among our emigrants, particularly in Britain, who require special assistance and support.

EU Presidency.

99. **Mr. Gormley** asked the Minister for Foreign Affairs if he will avail of the Irish Presidency of the EU to support the idea of talks between FARC and the United Nations or the French Government to find a humanitarian resolution for over 800 hostages held in Colombia; and if he will make a statement on the matter. [2622/04]

Minister for Foreign Affairs (Mr. Cowen): At its meeting on 26 January 2004 the General Affairs and External Relations Council, GAERC, adopted conclusions setting out the European Union's policy in relation to Colombia. The council reiterated its full support for President Uribe's commitment to seek a negotiated solution to the internal armed conflict, including through direct engagement with those illegal armed groups who may be prepared to negotiate a peace agreement. The council insisted that the illegal armed groups cease all hostilities and engage in constructive and meaningful dialogue. In particular, while acknowledging the recent release of some hostages, the council underlined the importance of a rapid release of all remaining hostages and kidnapped persons. Such an act of humanitarian character by the illegal armed groups could be undertaken in the framework of a humanitarian agreement, and would give a positive signal of their intention to take the path of peace.

Schools Building Projects.

100. **Mr. Crawford** asked the Minister for Education and Science the position with regard to the building programme for a school (details supplied) in County Monaghan; if his attention has been drawn to the fact that this school is in a very serious situation and is already in breach of health and safety and environment pollution control; his views on whether this school should be asked to compete with others who have been grant aided both north and south of the border in its immediate hinterland; if he will give a commitment that it will be treated as a priority; and if he will make a statement on the matter. [2547/04]

Minister for Education and Science (Mr. N. Dempsey): The proposed large-scale building project for the school referred to by Deputy is listed in section 8 of the 2004 school building programme which is published on my Department's website at *www.education.ie*. This proposed project is at an advanced stage of architectural planning, i.e. pre-tender documents. It has been assigned a 'band 2' rating by my Department in accordance with the published criteria for prioritising large-scale projects.

Indicative timescales have been included in the school building programme for large-scale projects proceeding to tender in 2004. The budget announcement regarding multi-annual capital envelopes will enable me to adopt a multi-annual framework for the school building programme which in turn will give greater clarity regarding projects that are not progressing in this year's programme. I will make a further announcement in that regard during the year.

Teachers' Remuneration.

101. **Ms Shortall** asked the Minister for Education and Science if resource teachers and teacher assistants will be granted salary increases as part of the benchmarking process; and if he will make a statement on the matter. [2548/04]

Minister for Education and Science (Mr. N. Dempsey): The Public Service Benchmarking Body recommended that the payment of the benchmarking increases due with effect from 1 January 2004 and 1 June 2005 should be dependent on real and verifiable outputs from modernisation and flexibility changes.

Resource teachers are comprehended within the modernisation agenda set out for teachers in paragraphs 24.27 to 24.33 of Sustaining Progress which includes, *inter alia*, revised arrangements for the holding of parent-teacher meetings and the standardisation of breaks at mid-term and holiday periods at Christmas and Easter. Agreement has now been reached on the issue of parent-teacher meetings and discussions are at an advanced stage on the standardised school holiday periods for future years. However, a number of difficulties have arisen in regard to issues on non-compliance by certain schools with the standardised arrangements agreed for the current school year and these are currently under discussion at the teachers conciliation council which is holding a special meeting on 3 February next to address these matters. I am anxious that these remaining difficulties are quickly resolved so that the payments to teachers can be made.

Special Educational Needs.

102. **Mr. Cregan** asked the Minister for Education and Science if he will respond to a school (details supplied) in Dublin 11 and their recent request for classroom assistants, at least on a pilot basis to see if these children can be kept within the educational system which will result in

an obvious benefit to them and to society as a whole. [2549/04]

Minister for Education and Science (Mr. N. Dempsey): My Department allocates resource teaching support and special needs assistant support to second level schools to cater for students with special educational needs, including those who have been assessed as having serious behavioural or emotional disorders. Applications for such support are made to my Department by the relevant school authorities. Each application is considered on the basis of the assessed needs of the pupil(s) concerned and the nature and level of support provided is determined on the advice of the psychological service.

I understand that no application for additional special needs assistant support has been received by my Department from the school to which the Deputy refers. Any such application will be fully considered by my Department.

103. **Mr. Kehoe** asked the Minister for Education and Science the status of the application for resource hours for a person (details supplied) in County Wexford; and if he will make a statement on the matter. [2550/04]

Minister for Education and Science (Mr. N. Dempsey): My Department has received a number of applications for special educational resources, SER, from the school referred to by the Deputy including an application for the pupil in question.

SER applications received between 15 February and 31 August 2003, including the one made by this school, are being considered at present. In all, more than 5,000 such applications were received. Priority was given to cases involving children starting school last September and all these cases were responded to at or before the commencement of the current school year.

The balance of more than 4,000 applications has been reviewed by a dedicated team comprising members of my Department's inspectorate and the National Educational Psychological Service, NEPS. These applications are being further considered in the context of the outcome of surveys of SER provision conducted over the past year or so. Account is also being taken of the data submitted by schools as part of the recent nationwide census of SER provision.

The processing of the applications is a complex and time-consuming operation. However, my Department is endeavouring to have this completed as quickly as possible and my officials will then respond to all applicant schools. Pending a response, schools are advised to refer to Circular 24/03, which issued in September 2003. This circular contains practical advice on how to achieve the most effective deployment of resources already allocated for special educational needs within the school.

Child Abuse.

104. **Ms Lynch** asked the Minister for Education and Science if he will confirm the percentage of the educational fund which was set up for victims of institutional abuse spent in the UK; and if he will confirm the criteria for the allocation of the educational fund as set up for those victims of institutional abuse. [2551/04]

Minister for Education and Science (Mr. N. Dempsey): Under the terms of the indemnity agreement between the State and 18 religious congregations dated the 5 June 2002 there is provision for an education fund of €12.7 million for educational programmes for former residents of institutions and their families.

A grant scheme which is administered through the National Office for Victims of Abuse, NOVA, commenced in September 2003. To date a total of €346,402.88 has issued to successful applicants. A figure of €128,088.53 has issued to applicants that reside in Britain which represents 37% approximately of the fund spent to date.

I have made arrangements for a copy of the criteria for eligibility to be forwarded to the Deputy.

Special Educational Needs.

105. **Mr. J. Bruton** asked the Minister for Education and Science if he will confirm the initiatives his Department are implementing in opening a school to assist children who have autism in the Dublin south area, as the Department has yet to sanction permission for the school to be built; and if he will make a statement on the matter. [2577/04]

Minister for Education and Science (Mr. N. Dempsey): I am most anxious that all children, including children with autistic spectrum disorders receive education appropriate to their needs.

My Department is actively considering applications from CABAS, Dublin and Saplings, Kildare, for autistic provision in South County Dublin. My officials are liaising with my Department's inspectorate and the National Educational Psychological Service, NEPS, in this regard. A response will issue to the applicants as quickly as possible.

106. **Mr. O'Dowd** asked the Minister for Education and Science, further to Parliamentary Question No. 117 of 27 November 2003, if further progress has been made on the proposals for the Drogheda CABAS School; and if he will make a statement on the matter. [2586/04]

110. **Mr. Boyle** asked the Minister for Education and Science if his Department will guarantee support at current levels, with current expertise, whilst retaining the ongoing programme and ethos of CABAS schools. [2612/04]

111. **Mr. Stanton** asked the Minister for Education and Science the position with regard to the Drogheda CABAS school which is at pilot status up to 2004; if he will ensure the future of the facilities and the method of education at the school; and if he will make a statement on the matter. [2658/04]

Minister for Education and Science (Mr. N. Dempsey): I propose to take Questions Nos. 106, 110 and 111 together.

I would like to assure the Deputy that my Department intends to take a measured approach to considering the future of the three CABAS facilities in Dublin, Cork and Drogheda. My approach will be to ensure continuity of provision for the pupils in question. My Department appreciates the concerns of parents for greater certainty and in this regard, I wish to confirm that my Department is prepared to continue to provide funding for three CABAS facilities for the next school year 2004-05.

I hope this clarification will ease parents' concerns. My Department will, in due course, consider the reports of the inspectorate on autism specific provisions and any issues arising therefrom will be raised directly with the relevant managements.

107. **Ms Enright** asked the Minister for Education and Science when resource teaching hours will be sanctioned for a school (details supplied); and if he will make a statement on the matter. [2594/04]

Minister for Education and Science (Mr. N. Dempsey): Special education resource, SER, applications received between 15 February and 31 August 2003, including those made by the school referred to by the Deputy, are being considered at present. In all, more than 5,000 such applications were received. Priority was given to cases involving children starting school last September and all these cases were responded to at or before the commencement of the current school year.

The balance of more than 4,000 applications has been reviewed by a dedicated team comprising members of my Department's inspectorate and the National Educational Psychological Service, NEPS. These applications are being further considered in the context of the outcome of surveys of SER provision conducted over the past year or so. Account is also being taken of the data submitted by schools as part of the recent nationwide census of SER provision.

The processing of the applications is a complex and time-consuming operation. However, my Department is endeavouring to have this completed as quickly as possible and my officials will then respond to all applicant schools. Pending a response, schools are advised to refer to circular 24/03, which issued in September 2003. This circular contains practical advice on how to achieve the most effective deployment of

[Mr. N. Dempsey.]
resources already allocated for special educational needs within the school.

School Closures.

108. **Mr. Quinn** asked the Minister for Education and Science if his attention has been drawn to the fact that a secondary school (details supplied) in Dublin 4 has announced its intention to close in 2007; if his Department was consulted; if so, if it gave its consent to this decision; the steps he proposes to take to ensure alternative provision is provided in the locality in consultation with the parents and local interests; and if he will make a statement on the matter. [2595/04]

Minister for Education and Science (Mr. N. Dempsey): My Department has been advised of the proposed closure on a phased basis of the school to which the Deputy refers. You will appreciate that a secondary school is a privately owned and managed institution and a decision to close such a school is a matter for the trustees.

My main concern in a school closure is to ensure that the best interests of the pupils are looked after in the period up to the closure and that there will be sufficient pupils places in existing schools in the general area for pupils who would have normally enrolled in the closing school. This process will involve consultation with all affected parties.

Special Educational Needs.

109. **Ms Shortall** asked the Minister for Education and Science the basis upon which funding for alternative therapies are assessed and determined; if such an assessment has been carried out to date in respect of the therapy primary movement; if he will provide funding to support a person (details supplied) in Dublin 9 from a low income family with the cost of a primary movement specialist, a therapy recommended by his resource teacher; and if he will make a statement on the matter. [2596/04]

Minister for Education and Science (Mr. N. Dempsey): Responsibility for the delivery of therapy services to children with special educational needs lies with the relevant health authorities who are allocated funding for this purpose. Any issues associated with the assessment of or determination of cases for funding would be a matter for the health boards concerned.

My Department has not received any correspondence concerning therapy services for the pupil in question. My officials have been in contact with the pupil's school and have clarified the position outlined above for the school.

Questions Nos. 110 and 111 answered with Question No. 106.

School Staffing.

112. **Mr. Stanton** asked the Minister for Education and Science the total cost of approved school absences in 2003; and if he will make a statement on the matter. [2659/04]

Minister for Education and Science (Mr. N. Dempsey): The total cost of substitution for approved school absences in the school year 2002-03 was €23,335,043 for primary level and €16,873,125 for post-primary level.

This covers the cost of the employment of a substitute teacher in cases of certified sick leave, maternity leave, maternity leave in lieu, adoptive leave, adoptive leave in lieu, *force majeure*, bereavement leave and other absences for which substitution is approved.

National Council for Special Education.

113. **Mr. Ring** asked the Minister for Education and Science the reason, in relation to the new special education council which was announced on 6 January 2004, no nominees of same are from the primary level; if he will meet the INTO in relation to this issue; and if he will make a statement on the matter. [2660/04]

Minister for Education and Science (Mr. N. Dempsey): In appointing the new National Council for Special Education I put in place a group of people with a wide range of knowledge and experience in this area. In doing this I did not set out to create a council which was representative of any particular sectoral interests, as I feel that it is very important that the council should operate in a cohesive, non representative way. I have not received any request from the INTO for a meeting to discuss this issue.

Pension Provisions.

114. **Mr. Ring** asked the Minister for Education and Science if he will enter into discussions with the INTO in relation to the proposed changes to pension terms for new entrants to the public service, in particular with regard to the proposed retirement age for teachers. [2662/04]

Minister for Education and Science (Mr. N. Dempsey): I understand that the Deputy is referring to the announcement in Budget 2004 of the Government decision that the minimum pension age should be increased to 65 years for most new entrants to the public service, including teachers, from 1 April 2004.

In announcing the Government's decision on pension age, and also on the intended abolition of compulsory retirement age for most new entrant public servants from 1 April 2004, the Minister for Finance stated that the public service unions would be fully informed about the implementation of the reforms in advance of their introduction with effect from 1 April 2004. I can confirm that the process of informing the public service unions has commenced.

Since the Government has already taken its decision in relation to these changes affecting new entrants, the issue of negotiation does not arise. I must emphasise that the minimum pension age for existing public servants is not in any way affected by the Government decision.

Education for People with Disabilities.

115. **Mr. Perry** asked the Minister for Education and Science if he has received a submission from the Irish Primary Principal Network with regard to the upcoming Disabilities Bill; the progress he has made in relation to adopting the amendments; and if he will make a statement on the matter. [2671/04]

Minister for Education and Science (Mr. N. Dempsey): I have received a submission from the IPPN in relation to the Education for Persons with Disabilities Bill and have considered it in the context of the preparation of amendments for Committee Stage.

I have a number of proposals which will reduce the burden placed on principals and have reiterated the right of principals to delegate their functions to their staff. I have proposed that principals will have a right to the assistance of special educational needs organisers in carrying out their duties if they feel that is required. I would also draw the Deputy's attention to section 12 of the Bill which, following amendments accepted at Committee Stage, provides that the resources necessary for the preparation and implementation of education plans will be made available.

The definition of "disability" within the Bill has been amended to provide that the Minister for Education and Science can specify conditions such as ADHD, dyslexia and dyspraxia in regulations to ensure that they come within the scope of the definition.

The amendments I have proposed and the matters I have agreed to re-examine for Report Stage substantially address the IPPN's concerns.

Prospecting Licences.

116. **Mr. Hogan** asked the Minister for Communications, Marine and Natural Resources if he will provide the necessary finance to carry out a site investigation on the property of a company (details supplied) in County Kilkenny in view of its stated objection to the proposed route of the M9 road; his views on whether this report should be carried out to verify the existence of the volume, quality and value of minerals in that area which are the subject of a licence or may be subject to a licence in the future in order to allow his Department to assess the validity of the objection as well as to quantify accurately the extent of potential compensation in order to ensure that the Bennettesbridge community are not necessarily disrupted or affected by the consideration of a new route

arising from the above objection; and if he will make a statement on the matter. [2606/04]

Minister for Communications, Marine and Natural Resources (Mr. D. Ahern): The type of site investigations requested are not carried out by, or on behalf of, the Department. Current Government policy is to promote exploration and mining by private enterprise, and consequently the viability of potential mineral deposits must first be established by a minerals developing company at its own expense before any application for a mining lease is considered by the Department.

Regarding the mine site at Maddoxtown and its environs, the Department has no reason not to accept the company's expert's reports that viable deposits of minerals exist. The Department may need to commission consultants to advise it on the relevant issues, including the question of the quantum of compensation due for loss of royalties, if matters progress to that stage.

The Department has no role in assessing the validity of third party objections.

Foreshore Licences.

117. **Mr. Boyle** asked the Minister for Communications, Marine and Natural Resources the status of foreshore being made available in Passage West, County Cork to assist development proposals. [2610/04]

Minister for Communications, Marine and Natural Resources (Mr. D. Ahern): My Department received an application in July 2000 for a foreshore lease for the reclamation of 4.46 acres at Passage West, County Cork for the purposes of a development comprising a hotel, riverside bar and restaurant, technology centre and office block, apartments and a car park.

In accordance with normal procedures, the Department obtained the advice of the Valuation Office on the fair commercial rental valuation of the foreshore in question and communicated the details to the project proponents. The project proponents have since requested that the amount in question be reduced. However, the Valuation Office has confirmed that it considers the amounts it recommended to be appropriate.

Sports Funding.

118. **Mr. Boyle** asked the Minister for Arts, Sport and Tourism the grant support made by his Department to sporting organisations in the Cork south central constituency in 2003. [2609/04]

Minister for Arts, Sport and Tourism (Mr. O'Donoghue): Under the national lottery-funded sports capital programme, which is administered by my Department, grants are allocated to sports clubs and also to voluntary and community organisations and, in certain circumstances, to schools, colleges and local authorities. This programme is administered on a county rather than a constituency basis. Under the 2003

[Mr. O'Donoghue.]

programme, grants totalling €5,545,400 were allocated to 68 organisations in the County of Cork.

Infectious Disease Screening.

119. **Ms Shortall** asked the Minister for Health and Children the advice his Department has received from the World Health Organisation in relation to the screening of refugees, asylum seekers, immigrants and or other groups for communicable diseases; the policy adopted by his Department in this regard; and if he will make a statement on the matter. [2570/04]

Minister for Health and Children (Mr. Martin):

No specific policy advice issued was by WHO to Ireland in respect of immigrant groups and screening for communicable diseases. Irish policy in this regard is informed with reference to WHO and EU advice generally in respect of communicable diseases, particularly in respect of global TB and HIV control. Policy is formulated on the basis that asylum seekers have the same right to medical treatment as the rest of the population and within the ethical guidelines for medical practice set out by the Medical Council. Screening policy is based on an epidemiological assessment of the communicable disease risks which affect these populations in particular and international best practice in the diagnosis, management and control of these diseases.

Currently the position in relation to screening is that screening in respect of specific infectious diseases is offered to asylum seekers on a voluntary and confidential basis, free of charge, shortly after their arrival in this country. The purpose of screening is to detect and treat certain infectious diseases in the interest of the asylum seekers themselves and their families, as well as the community in general.

The approach adopted in relation to communicable disease screening for asylum seekers is reviewed on an ongoing basis by a group representative of the directors of public health and the Department of Health and Children. The current guidelines produced by this group in relation to infectious diseases screening recommend screening for TB and hepatitis and, where appropriate for HIV, polio and varicella zoster, chicken pox. The guidelines do not preclude other investigations deemed necessary on clinical or public health grounds.

Operational responsibility for health screening for asylum seekers lies with the individual health boards, which have appropriate regional and local management structures in place to manage delivery of the health screening programme.

Hospital Services.

120. **Mr. Ring** asked the Minister for Health and Children when the Western Health Board first received a letter of referral from the GP of a person (details supplied) in County Mayo

regarding their need for a hip operation; the length of time this person was waiting to be assessed; the number of times this person was seen by the consultant; and when they can expect to be called for their operation. [2578/04]

Minister for Health and Children (Mr. Martin):

The provision of hospital services for persons resident in County Mayo is a matter for the Western Health Board. My Department has asked the chief executive officer of the board to investigate the position and reply directly to the Deputy.

Health Board Services.

121. **Mr. G. Mitchell** asked the Minister for Health and Children if the South Western Area Health Board will provide a handrail for a person (details supplied) in Dublin 12; and if he will make a statement on the matter. [2588/04]

Minister of State at the Department of Health and Children (Mr. Callely):

As the Deputy will be aware, the provision of health services in the Dublin 12 area is, in the first instance, the responsibility of the South Western Area Health Board acting under the aegis of the Eastern Regional Health Authority. My Department has, therefore, asked the chief executive of the authority to investigate the matter raised by the Deputy and reply direct to him as a matter of urgency.

Post Mortem Inquiry.

122. **Caoimhghín Ó Caoláin** asked the Minister for Health and Children the status of the Dunne inquiry; if the inquiry is in difficulty in view of the fact that it has missed its deadlines for reporting; when it is expected to report; and if he will make a statement on the matter. [2601/04]

Minister for Health and Children (Mr. Martin):

The post mortem inquiry is a non-statutory inquiry chaired by Ms Anne Dunne SC. Since the beginning of 2003, the inquiry has been concentrating on the investigation of the post mortem policy, practice and procedure of the three main paediatric hospitals, i.e. the National Children's Hospital, Tallaght, the Children's University Hospital, Temple Street and Our Lady's Hospital for Sick Children, Crumlin. Up to mid-October, the inquiry had heard 56 hospital and non-hospital witnesses at oral hearings and had accumulated almost 3,500 pages of transcripts of oral evidence.

The chairman has informed me that the inquiry has received considerable co-operation from each of the hospitals with which it is presently dealing and that the inquiry's non-statutory nature has not thus far significantly hampered its substantive work. The chairman is mindful of the need to have her report completed as soon as is reasonably practicable following the completion of the oral evidence.

Medical Cards.

123. **Ms Shortall** asked the Minister for Health and Children if it is still the policy of his Department that persons whose sole income is from social welfare qualify for a medical card regardless of the extent to which that income is in excess of the medical card income guidelines; if not, when did this policy change; if so, the reason persons in the Northern Area Health Board area are being refused medical cards when their only income is from social welfare; if instructions will be sent to all health boards outlining this policy in full; and if all benefit payments from the Department of Social and Family Affairs will be included in the schedule of qualifying payments as set out in the medical card guidelines for 2004. [2602/04]

Minister for Health and Children (Mr. Martin): Entitlement to health services in Ireland is primarily based on residency and means. Under the Health Act 1970, determination of eligibility for medical cards is the responsibility of the chief executive officer of the appropriate health board. Other than for persons aged seventy years and over who are automatically entitled to a medical card, medical cards are issued to persons who, in the opinion of the chief executive officer, are unable to provide general practitioner medical and surgical services for themselves and their dependants without undue hardship.

Income guidelines are drawn up each year by the health board and authority chief executive officers to assist in the determination of a person's eligibility for a medical card and these are revised annually in line with the consumer price index, CPI. However, it should be noted that the guidelines are not statutorily binding and even though a person's income exceeds the guidelines, a medical card may still be awarded if the chief executive officer considers that his or her medical needs or other circumstances would justify this. It is open to all persons to apply to the chief executive officer of the appropriate health board for health services if they are unable to provide these services for themselves or their dependants without hardship.

It should be remembered that health board chief executive officers have discretion in relation to the issuing of medical cards and also that a range of income sources are excluded by the health boards when assessing medical card eligibility. Many allowances such as carers' allowance, child benefit, domiciliary care allowance, family income supplement and foster care allowance are all disregarded when determining a person's eligibility. Given these factors and the discretionary powers of the CEOs, having an income that exceeds the guidelines does not mean that a person will not be eligible for a medical card, and a medical card may still be awarded if the chief executive officer considers that a person's medical needs or other circumstances would justify this.

I am conscious that increases in social welfare rates in recent years have given rise to a situation where such rates may exceed the income guidelines for a medical card. Because of this situation, my Department has written to the chairman of the chief executive officers' group on a number of occasions, most recently on 5 November 2003, asking that he advise the CEOs of my concern that medical card holders should not be disadvantaged by virtue of increases in social welfare payments which may be announced in the forthcoming budget. They were asked to ensure that increases in social welfare payments do not lead to medical card holders losing their medical cards by reference to the income guidelines and to make every effort to ensure that both medical card holders and applicants are made fully aware that increases in social welfare payments will not disadvantage them when applying to hold or retain a medical card.

My Department has asked the chief executive officer of the Eastern Regional Health Authority to examine the issue raised by you and to reply directly to you in the matter.

Health Board Allowances.

124. **Mr. O'Dowd** asked the Minister for Health and Children the number of applications made and granted for each year since 1997 for domiciliary care allowance for each of the counties in the North Eastern Health Board area; the average waiting time for each county; and if he will make a statement on the matter. [2603/04]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): This information is not readily available to my Department. My Department has asked the chief executive officer, North Eastern Health Board to investigate the issues raised and respond directly to the Deputy as a matter of urgency.

Health Services Funding.

125. **Mr. Boyle** asked the Minister for Health and Children if the construction of a recent private consultants facility on the grounds of Cork University Hospital was assisted in any way through public funds. [2619/04]

Minister for Health and Children (Mr. Martin): This is a matter for the Southern Health Board and my Department has asked the chief executive officer of the board to reply directly to the Deputy. My Department did not provide any funding towards this facility.

Services for People with Disabilities.

126. **Mr. Durkan** asked the Minister for Health and Children when a residential placement can be made to facilitate a person (details supplied) in County Kildare whose child has special needs; and if he will make a statement on the matter. [2652/04]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): The provision of health related services, including residential care, for people with physical and/or sensory disabilities is a matter for the Eastern Regional Health Authority and the health boards in the first instance. Accordingly, the Deputy's question has been referred to the chief executive officer of the Eastern Regional Health Authority with a request that he examine the matter and reply directly to the Deputy as a matter of urgency.

Hospital Procedures.

127. **Mr. Durkan** asked the Minister for Health and Children when a person (details supplied) in County Kildare will be admitted for surgery for the removal of cataracts; and if he will make a statement on the matter. [2656/04]

Minister for Health and Children (Mr. Martin): Responsibility for the provision of health services to persons residing in County Kildare rests with the Eastern Regional Health Authority. My Department has therefore asked the regional chief executive of the authority to investigate the matter raised by the Deputy and to reply to him directly.

General Practitioner Co-operatives.

128. **Mr. Stanton** asked the Minister for Health and Children the amount of funding made available by his Department to establish doctor co-operatives around the country; the places at which such co-operatives have been established; his further plans in this regard; if he will sanction the establishment of a doctors co-op in east and north Cork; and if he will make a statement on the matter. [2664/04]

Minister for Health and Children (Mr. Martin): The funding provided for out of hours co-operatives between 2000 and 2003 totalled €46.5 million including an additional amount of €4.143 million in 2003 for further expansion. The following table gives a breakdown of each board's allocation under this heading.

Health Board	Amount allocated (€million)
	€
Eastern Regional Health Authority	5.57
Midland Health Board	5.213
Mid-Western Health Board	5.028
North Eastern Health Board	6.638
North Western Health Board	4.905
South Eastern Health Board	7.123
Southern Health Board	6.988
Western Health Board	4.869
Totals	46.501 million

The total funding available in 2004 amounts to €24.048 million. These funds have been included into health boards' base allocation for the continued provision of services under this heading. This dedicated funding is exclusive of the fees paid to participating general practitioners.

At present there are out of hours co-operatives operating in all health board areas. These are at various stages of expansion and development. In one board area, the North Eastern Health Board, there is a region wide co-op. Generally, co-operatives operate either a full or limited out of hours service for both private and medical card patients.

It should be noted that the geographical areas to be covered by co-operatives and any expansion are decisions for the relevant health board to make, having regard to the strategic, financial and other issues involved. Of the additional funding provided in 2003, €0.857 million was provided for the Southern Health Board for an expanded service in its area. It would be a matter for that board to decide on further expansion in its area.

Medical Cards.

129. **Mr. Carey** asked the Minister for Health and Children if persons with MS are entitled to medical cards as a right and long term illness cards; if they may avail of the drugs subsidisation scheme; and if he will make a statement on the matter. [2665/04]

Minister for Health and Children (Mr. Martin): Under the Health Act 1970, a health board may make arrangements for the supply without charge of drugs, medicines and medical and surgical appliances to persons suffering from any of the following conditions, who are not already medical card holders, for the treatment of that condition under the long term illness scheme: mental handicap, mental illness, for persons under 16 years only, phenylketonuria, cystic fibrosis, spina bifida, hydrocephalus, diabetes mellitus, diabetes insipidus, haemophilia, cerebral palsy, epilepsy, multiple sclerosis, muscular dystrophies, parkinsonism, thalidamoid and acute leukaemia.

The Deputy will be pleased to note that multiple sclerosis disease is included in the list of illnesses covered by the terms of the LTI.

The assessment procedures for the granting of an LTI card are the responsibility of each individual health board. Persons who suffer from any of the above illnesses may apply directly to their local board for admission to the scheme.

There are a range of other schemes which provide assistance towards the cost of approved drugs and medicines for individuals with significant ongoing medical expenses. People who cannot, without undue hardship, arrange for the provision of medical services for themselves and their dependants may be entitled to a medical card. Eligibility for a medical card is solely a matter for the chief executive officer of the relevant health board. In determining eligibility,

the CEO has regard to the applicant's financial circumstances. Health boards use income guidelines to assist in determining eligibility. However, where a person's income exceeds the guidelines, a medical card may be awarded if the CEO considers that the person's medical needs or other circumstances would justify this. Medical cards may also be issued to individual family members on this basis. Non-medical card holders, and people with conditions not covered under the LTI, can use the drugs payment scheme. Under this scheme, no individual or family unit pays more than €78 per calendar month towards the cost of approved prescribed medicines.

Health Board Services.

130. **Mr. Carey** asked the Minister for Health and Children if the practice of health board doctors carrying out assessments on children under one year to identify possible abnormalities has been discontinued; and if he will make a statement on the matter. [2666/04]

Minister for Health and Children (Mr. Martin): The Eastern Regional Health Authority and the health boards are responsible for the provision of health services, including child health developmental checks, within their functional areas.

The information requested by the Deputy has not been provided in full by the health boards and the ERHA in the time available. This information will be forwarded to the Deputy as soon as it is received.

Rail Network.

131. **Mr. Boyle** asked the Minister for Transport when it is envisaged that his Department will sanction the Cork suburban rail proposals. [2621/04]

Minister for Transport (Mr. Brennan): Irish Rail's medium term investment programme is currently a matter of discussion between my Department and the company. The development of services within the Cork area is part of these discussions. I expect to receive specific proposals from Irish Rail on the development of these services shortly.

The Deputy will, however, be aware that Irish Rail has already commenced the operation of a commuter rail system in the Cork area, since December last, with the provision of a commuter service between Mallow and Cork, upgraded services to Cobh and improved services between Tralee/Killarney and Cork.

Garda Discipline.

132. **Mr. Costello** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the serious public concern expressed at the claims regarding the Garda made on a television programme (details supplied) of 8 January 2004, particularly the

suggestion by a retired Circuit Court judge that members of the Garda had committed perjury in his court; the steps he intends to take to end any abuses by members of the force and restore public confidence in the Garda; and if he will make a statement on the matter. [2583/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I have already responded in this matter to a question from Deputy Haughey on Tuesday, 27 January 2004. My position is clear. Any allegations of serious wrongdoing by members of the Garda Síochána, such as those broadcast on the Prime Time programme, are of serious concern to me. Some of these cases were previously reported and in the public domain, and either have been or may be dealt with in the courts or by the existing complaints and disciplinary mechanisms, and I will not comment on the specific details of each case.

I regard it as essential that there should be in place a mechanism for dealing with such cases which commands public confidence. In this regard I will shortly be publishing a Garda Síochána Bill, the draft scheme of which was approved by Government and published in July 2003, one of the principal aims of which will be the establishment of such a mechanism which will address the acknowledged shortcomings of the existing law and procedures in this area.

The Garda Síochána Bill will provide for the establishment of a fully independent ombudsman body which will have wide powers to investigate complaints made against members of the Garda Síochána. The new body will also be able to investigate policies and practices of the Garda Síochána, where such policies and practices may be the cause of complaint.

I am informed by the Commissioner that a senior Garda officer has been appointed to examine all matters that featured in the programme, and to report with recommendations. I will consult with the Commissioner further on this matter in due course.

Traffic Management.

133. **Ms Shortall** asked the Minister for Justice, Equality and Law Reform when the promised computer system for penalty points will be in operation; and if he will make a statement on the matter. [2139/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The gardaí are working in partnership with Fujitsu Consulting to develop and implement the fixed charge processing system, which provides for the computerisation of the Garda element of penalty points processing. It also provides for integration with the courts service and Department of Environment and Local Government systems.

The gardaí have indicated that the electronic system is planned to commence in Quarter 2 of 2004, initially by way of pilot, and that the full

[Mr. McDowell.]
range of offences can be implemented on completion of the pilot.

Question No. 134 answered with Question No. 27.

Garda Recruitment.

135. **Mr. Rabbitte** asked the Minister for Justice, Equality and Law Reform when the last public recruitment campaign for membership of the Garda was undertaken; the number of applications received and the number of such applicants accepted for training; when the next recruitment campaign is planned and the expected intake; if his attention has been drawn to concerns expressed by some people who wish to apply, at the delay in launching another recruitment campaign; if he will look at the situation where leaving certificate students cannot apply until they have actually taken their leaving certificate and agree to accept applications subject to reaching the appropriate level in the exam; and if he will make a statement on the matter. [2553/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Minister has been informed by the Garda authorities who are responsible for the detailed allocation of resources including personnel that the last recruitment competition for entrance to the Garda Síochána was advertised in April 2003. The Civil Service Commission administered this competition on behalf of An Garda Síochána.

The commission received a total of 6,783 applicants, all of whom sat Stage 1, which consists of three written tests. Subsequently, from the written test, a total of 2,389 applicants were placed on a panel to undergo Stage 2, which includes a written communication exercise and a competitive interview. Stage 2 is currently ongoing.

No applicants to date from the 2003 competition have been admitted to the Garda college. It is expected that the first intake from the 2003 competition will be admitted to the Garda college on 26 April 2004.

No date has been fixed for a new recruitment competition. Recruitment to the Garda Síochána is governed by the Garda Síochána (Admission and Appointments) Regulations 1988 — 2001. These are statutory regulations and Regulation 5(1) (d) precludes the commissioner from allowing a person to be admitted as a garda trainee unless the person has before the first day of September in the year in which the said advertisement was so published, obtained a grade not lower than D in at least five subjects, including Irish, English and Mathematics, in the leaving certificate examination of the Department of Education and Science or in another examination which, in the opinion of the

Minister, is of a standard not lower than the standard of that examination.

There are no proposals to change this regulation.

Citizenship Applications.

136. **Ms Shortall** asked the Minister for Justice, Equality and Law Reform the status of a person (details supplied) in Dublin 11; if a decision has been made on this person's application of December 2002 for naturalisation; if this person will be entitled to an Irish passport in the event of being granted naturalisation; and if he will make a statement on the matter. [2554/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): An application for naturalisation by the person referred to by the Deputy was received in the citizenship section of my Department on 24 April 2003.

The average processing time for applications for naturalisation is approximately 15 to 18 months at this point in time. Consequently, it is likely that the application of the person concerned will be finalised in the latter half of this year. If the application is successful and the person concerned is granted a certificate of naturalisation, he will be entitled to apply for an Irish passport.

As soon as I have reached a decision on the matter I will inform both the applicant and the Deputy of the outcome.

Garda Strength.

137. **Ms Lynch** asked the Minister for Justice, Equality and Law Reform the total membership of the Garda at the latest date for which figures are available; the progress made to date with regard to the commitment to recruit an additional 2,000 gardaí; the current annual capacity of the Garda Training College at Templemore; if he has plans to extend the college or otherwise increase training capacity; and if he will make a statement on the matter. [2462/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Minister has been informed by the Garda authorities who are responsible for the detailed allocation of resources, including personnel, that the personnel strength of the Garda Síochána, all ranks, as at 26 January 2004 is 11,959.

In April 2002, the Government agreed to increase the approved strength of the force by 200 to 12,200. Recruitment was carried out during 2003 with a view to bringing the strength of the force to 12,200 by 31 December 2004.

The programme for Government states that the Government will complete the current expansion of the Garda Síochána and increase recruitment so that numbers will increase by a further 2,000. While it will not be possible to increase numbers beyond the approved strength

of 12,200 for as long as the cap on public service numbers remains in place, the Minister has made clear in this House, however, that as soon as budgetary circumstances permit he will progress the issue of increasing the strength of the force to 14,000 as provided for in the programme for Government for achievement by 2007. In this context the Minister will address any training issues that may arise as a result.

The Garda College has accommodation on a weekly basis of 400 single rooms. These are utilised on a weekly basis to cater for student and course accommodation. The student garda “living out” programme that has been developed to cater for increased numbers of Garda trainees, enables Garda students to be accommodated off campus and within the environs of Templemore and can accommodate a further 300 students per week.

A total of 690 Garda trainees were taken into the Templemore Garda College in 2003.

Juvenile Offenders.

138. **Ms Lynch** asked the Minister for Justice, Equality and Law Reform if he will make a statement on the implementation to date of the juvenile justice provisions of the Children Act 2001; and if he will make a statement on the matter. [2436/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Children Act 2001 introduces a wide range of innovative measures that will provide a statutory framework for the future development of the juvenile justice system in accordance with modern thinking and best international practice. The Act also amends the Child Care Act 1991 by providing for the detention in special care units of non-offending children with challenging behaviour, establishes the Special Residential Services Board to ensure the efficient and co-ordinated delivery of services to young children in detention, and re-enacts and updates provisions in the Children Act, 1908 protecting children from abuse by persons who have the custody, charge or care of them. The Act is a very complex and comprehensive piece of legislation and, for those reasons, provisions under the Act are being implemented on a phased basis, as was envisaged at the time of enactment.

Responsibility for implementing the Children Act 2001 lies with three Departments, Justice, Equality and Law Reform and Education and Science in respect of juvenile offending, and Health and Children in respect of children who are non-offending but out of control. The National Children's Office is co-ordinating the cross-departmental aspects of the implementation of the Act.

The first commencement order under the Act in respect of my Department was signed by my predecessor on 23 April 2002. The order, which came into force on 1 May 2002, provided for, *inter*

alia: the payment of compensation by parents in respect of offences committed by their children — section 113 of the Act; a court order which would require parents to exercise proper and adequate control over their children — section 114 of the Act; the establishment of the Garda diversion programme on a statutory basis and the introduction of a “Diversion Conference” — sections 17 to 51 of the Act — based on restorative justice principles as pioneered in New Zealand. To date, in excess of 100 of these conferences have taken place country wide; and the introduction of a curfew for children found guilty of offences — section 133 of the Act. The position in relation to further commencement is as set out below.

It is an underlying concept of the Children Act to expand the options a court will have at its disposal when deciding on how to deal with a young offender. These options are an essential feature of the Act as they will allow effect to be given to the principle that detention for young offenders will be a last resort. Thus, the Act generally envisages committals to custody of young offenders being availed of only in situations where other alternative diversions and community-based options have been resorted to and have failed.

The successful implementation of the community based options in the Act will require a very significant input from the probation and welfare service. In this context, the probation and welfare service, as part of its planning for implementation of the Children Act 2001, engaged trainers from the Department of Child, Youth and Family, New Zealand for the intensive training of all professional staff as facilitators for family conferences to be convened and managed in accordance with the requirements of the Act as well as providing day seminars for all probation and welfare officers. The service will provide ongoing training through its staff development unit as required.

From September 2003 to date, 14 additional probation and welfare officers have taken up duty and a response to other offers of appointment is awaited. It is the intention that, subject to an adequate number of staff being recruited, community sanctions provided for in the Act will commence to be implemented in 2004.

Under the Children Act, I, as Minister for Justice, Equality and Law Reform, will be obliged to provide separate detention facilities for 16 and 17 year old boys and girls who are committed to custody by the courts either on remand or under sentence. The provision of appropriate custodial facilities is a priority for the Irish Prison Service. The primary objective of these detention centres will be to provide a secure but supportive environment in which young offenders can develop the personal and social skills necessary to avoid future offending.

[Mr. McDowell.]

In line with this, a new facility for male juveniles in this age group will open at St. Patrick's Institution in the near future. This unit, which was designed by a multi-disciplinary team, will include a custom-designed facility for the delivery of education, recreation, medical and therapeutic services. The longer-term provision of a dedicated facility on a greenfield site for 110 juveniles — 90 male and 20 female — is also being considered. Having considered a report by the Commissioners of Public Works and the recommendations made and having conferred with the director general of the Irish Prison Service, I decided some time ago that the proposed development of such a facility at Newlands Villa, Naas Road, Clondalkin, Dublin 22, will not now proceed. The identification of another site for the proposed juvenile detention facility is now being pursued in consultation with the director general of the Irish Prison Service and the Office of Public Works.

Human Rights Issues.

139. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform the steps he intends to take to improve human rights here after Amnesty's report, *Human Rights Begin at Home*, in which Ireland was condemned for misconduct by the police and the violation of rights carried out by prison authorities; and if he will make a statement on the matter. [2597/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The recently published Amnesty International report refers to general EU human rights policy and contains proposals with regard to human rights issues both within the EU states and worldwide in the context of the Irish and Dutch Presidencies of the EU Council during 2004.

In so far as the report deals with the area of justice and home affairs, for example, judicial co-operation, the European arrest warrant, police co-operation, racism and discrimination, a common European asylum system, immigration and borders, violence against women and human trafficking, the views of Amnesty International as set out in the report have been noted. Other aspects in the report are matters for the Minister for Foreign Affairs.

Question No. 140 answered with Question No. 25.

Crime Levels.

141. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform if he will make a statement regarding the bank raids that took place on 16 January 2004 at banks in Blackrock, County Dublin, in close proximity to the Garda station; and his views on the Garda response. [2599/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed by the Garda authorities that on the afternoon of 16 January 2004, the National Irish Bank in Blackrock was raided by two males, resulting in the theft of a sum of money. I am further informed that on the same afternoon two raiders entered the adjacent Allied Irish Bank and made their escape with a sum of money. I am informed that gardaí were on the scene within a few minutes and that both these crimes are under active investigation.

The Deputy will be aware that Blackrock Garda station is now situated at the junction of the Blackrock bypass and Sweetmans Avenue while the two institutions involved are situated at the top of the Main Street on Rock Hill approximately a quarter of a mile distant from the Garda station. The investigation of these crimes is an operational matter for the gardaí and I am sure the Deputy will appreciate that it would be inappropriate for me to comment further at this stage.

Question No. 142 answered with Question No. 6.

Asylum Applications.

143. **Mr. Boyle** asked the Minister for Justice, Equality and Law Reform the status of a person (details supplied) in County Cork; and if a final decision on their status is likely to be made soon. [2620/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The person in question entered the State on 15 November 2001 and claimed asylum. The Refugee Applications Commissioner recommended that his claim be refused and he was informed of this recommendation on 1 August 2002. He appealed this recommendation on 23 August 2002. The Refugee Appeals Tribunal affirmed the recommendation and he was informed of this decision on 21 November 2002.

In accordance with section 3 of the Immigration Act 1999, he was informed on 14 April 2003 that it was proposed to make a deportation order in respect of him and was given the following options: to make written representations within 15 working days to the Minister for Justice, Equality and Law Reform setting out reasons he should be allowed to remain in the State or to voluntarily leave the State or to consent to deportation. An application for leave to remain was received from the person's legal representatives on 8 May 2003. I expect the case file to be submitted to me for consideration shortly.

Closed Circuit Television Systems.

144. **Cecilia Keaveney** asked the Minister for Justice, Equality and Law Reform if there is a

scheme available for community groups towards closed circuit television; and if he will make a statement on the matter. [2623/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): It is not, understandably, possible for the Garda Síochána to install CCTV systems in all areas that have sought them. Some applications for CCTV systems received by the CCTV advisory committee, established by the Garda Commissioner to advise on all matters regarding CCTV systems, relate to relatively small schemes which, while of importance to the local community, cannot be regarded as a national Garda priority.

To this end, a grant-aid scheme has been launched to facilitate community based groups which wish to install their own local CCTV system. Grant assistance of up to €100,000 will, subject to the availability of funds, be obtainable from the Department towards the cost of such schemes. It will be up to the community groups, in conjunction with the relevant local authority to install, maintain and monitor the community based CCTV schemes.

The following are some of the conditions required to be met before an application for funding can be considered. Approval for grant assistance to individual CCTV schemes will depend on the availability of funds. All valid applications received will not be automatically entitled to grant aid. Awards will be at the discretion of the Department, subject to the availability of funds and the number of valid applications received. It is not possible to determine the actual level of funding that will be available for grant assistance under this scheme. The 2004 CCTV budget amounts to just over €4 million and includes expenditure in relation to maintenance of current Garda schemes as well as the implementation of current and planned schemes.

The Department has received a significant number of expressions of interest — in excess of 200 — in the community based CCTV scheme. An application prospectus has been prepared by the Department which provides information on how to apply for grant-aid funding, outlines the application process and identifies the main issues that applicants will need to consider. Copies of this prospectus are available on request from the Department's Garda administration division.

A code of practice, drawn up in co-operation with the Office of the Data Protection Commissioner, and detailed technical specifications, drawn up by the Garda Síochána, are almost complete. When both the code of practice and the technical specifications have been finalised, the Department will issue copies of same to all communities which expressed an interest in the community based CCTV scheme

and any applications subsequently received will be evaluated and processed. It is anticipated that the technical specifications and the code of practice will be finalised early this year.

Crime Levels.

145. **Cecilia Keaveney** asked the Minister for Justice, Equality and Law Reform the number of aggravated robberies which have taken place in a district (details supplied) in County Donegal during the six months to 23 January 2004; and if he will make a statement on the matter. [2624/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed by the Garda authorities that there is no offence categorised as aggravated robbery. I assume the Deputy is referring to robberies of an establishment-institution of which there were three in the Garda district referred to by the Deputy during the six month period ending 23 January 2004. These incidents are still under Garda investigation. As I am sure the Deputy will appreciate the investigation of these incidents is an operational matter for the gardaí and it would be inappropriate for me to comment further.

Crime Prevention.

146. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of incidences in which intimidation of witnesses has occurred in the past 12 months; the action or actions taken arising therefrom; and if he will make a statement on the matter. [2632/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I have had inquiries made with the Garda authorities and the information sought by the Deputy is outlined in the following table.

Intimidation of witnesses 2003.

Convictions Obtained	3
Cases before the Courts	6
Awaiting direction from DPP	3
No proceedings directed by DPP	2
Files being prepared for DPP	1
Non co-operation by Injured Party	3
Complaint withdrawn in Court.	1
Still under investigation	3
Total Incidents reported to Gardaí	22

Crime Levels.

147. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of killings, non-fatal shootings, beatings or stabbings which have been recorded as being attributable to the activities of organised criminals throughout the country in the past 12 months; if those involved

[Mr. Durkan.]
have been changed in each case; and if he will make a statement on the matter. [2633/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed by the Garda authorities that the crime statistics are not compiled in such a manner as to provide the information sought by the Deputy. The crime recording system does not distinguish between offences which are attributable to the activities of organised criminals and those which are not.

Garda Deployment.

148. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the degree to which sufficient patrol cars are available to meet requirements in the constituency of Dublin north west; and if he will make a statement on the matter. [2634/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I have been informed by the Garda authorities which are responsible for the detailed allocation of resources that Garda management is satisfied that there are sufficient patrol cars supplied to both Dublin metropolitan region, north and Dublin metropolitan region, west. There are 159 vehicles of various types, including motorcycles, currently allocated to these two DMR divisions.

Crime Prevention.

149. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of organised crime bosses or organisations that have ceased or have been put out of business in the greater Dublin area in the past 12 months; and if he will make a statement on the matter. [2635/04]

157. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if the principals of all known criminal organisations operating throughout the country have been questioned or arrested in the past 12 months; and if he will make a statement on the matter. [2645/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I propose to take Questions Nos. 149 and 157 together.

I am informed by the Garda authorities that the number of organised criminal groups is determined each year using the European Union definition of organised crime to compile the EU Situation Report on Organised Crime. The most recently completed situation report identified 17 major organised crime groups in this country. Approximately half of these groups operate in Dublin but the Deputy will appreciate that the position in relation to gangland activity including the composition of various groups does not remain static.

The Garda authorities have further informed me in relation to the activities of the Criminal Assets Bureau and the National Bureau of Criminal Investigation that it is not the practice or policy to comment on particular operations carried out by these and other national units.

However, the Deputy will be aware that these units continue to target successfully the activities of criminals, including those who may be affiliated to organised crime groups. For example, I am informed by the Garda authorities that they can indicate that more than a dozen organised crime groups were investigated in 2002. The Garda Síochána arrest and charge individuals in accordance with the law but do not categorise such arrests by reference to so-called “gangland” activity.

Garda Deployment.

150. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the extent to which Garda strength has been increased in each of the stations throughout County Kildare since June 2002; and if he will make a statement on the matter. [2636/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I have been informed by the Garda authorities which are responsible for the detailed allocation of resources, including personnel that the personnel strength — all ranks — of each Garda station in County Kildare as at June 2002 and currently is as set out hereunder:

Station	June 2002	26/Jan/2004
Naas	80	80
Clane	5	6
Kill	3	3
Celbridge	19	19
Maynooth	14	15
Kildare	29	27
Newbridge	29	29
Robertstown	3	2
Kilcullen	3	3
Carbury	2	2
Monasterevin	3	3
Rathangan	3	3
Athy	18	16
Castledermot	1	2

Station	June 2002	26/Jan/2004
Ballytore	1	1
Ballymore Eustace	1	1
Station	June 2002	26 Jan 2002
Leixlip	19	26
Kilcock	6	5
Total	239	243

Garda Stations.

151. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the position in regard to the proposed new Garda station at Leixlip, County Kildare; and when it is expected that the station will become operational. [2637/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I refer the Deputy to my reply to Question No. 910 on Tuesday, 27 January 2004, which set out the position in relation to this matter. Accordingly, I am not in a position to say when the station will become operational.

Missing Persons.

152. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of persons currently listed as missing; if this number has increased or decreased in recent times; and if he will make a statement on the matter. [2639/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I regret that it has not been possible in the time available to compile the information requested by the Deputy. I will contact the Deputy again when the information is to hand.

Crime Prevention.

153. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the new measures he has taken to combat the activities of drug barons; and if he will make a statement on the matter. [2640/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed by the Garda authorities that they have initiated a number of strategies designed to address the issue of organised criminal networks involved in criminal activities, including drug trafficking. These measures include generic strategies utilised on an ongoing basis as well as new measures formulated in response to emerging issues and trends.

In general terms, the Garda Síochána addresses the issues of drug trafficking through the following measures: conducting intelligence driven operations against criminal networks involved in drug distribution at both a national and international level; undermining the structures and systems which support this activity; and depriving criminal organisations of the proceeds arising from drug trafficking and related activities.

The Garda national drugs unit, operating under national support services, has the primary responsibility for addressing national and

international drug trafficking. This responsibility is discharged in co-operation with other enforcement agencies, most notably the Revenue service, as well as other national units and district and divisional drug units.

Current strategies designed to address the present situation concerning drug distribution are outlined in the recently published annual policing plan 2004. This document sets out fourteen strategic goals and eight policing priorities. The policing priorities include strategies specifically designed to address both organised crime and drug distribution. Strategic goal two specifically relates to drug misuse and includes the following elements: co-ordination of district policing plans; continued implementation of the National Drugs Strategy 2001-2008; inter-agency co-operation; information dissemination on substance misuse and related items; and support to both local and regional drug task forces.

In regard to the measures which I will bring forward to enhance the investigation and prosecution of criminal offences, including drugs offences, I refer the Deputy to my address of 9 December 2003 to the Joint Oireachtas Committee on Justice, Equality, Defence and Women's Rights where I addressed the issue in some detail, with particular reference to the activities of criminal gangs. I will be happy to make a copy of this address available to the Deputy if he so wishes.

Courts Service.

154. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if he will provide sufficient funding to the Courts Service to facilitate the refurbishment and replacement of various courthouses throughout the country; and if he will make a statement on the matter. [2641/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): Under the Courts Service Act 1998, the Courts Service, which is responsible for the day to day management of the courts, is independent in the performance of its functions. I am responsible for ensuring that the service is adequately funded and, in this regard, €97.49 million is provided in 2004.

Having regard to the statutory independence of the Courts Service, the Deputy will appreciate that it is a matter for the service to decide how the funding provided is specifically allocated. The funding provided allows the Courts Service to progress the implementation of its strategic plans and policies and I am confident that the level of funding provided is adequate, not only to

[Mr. McDowell.]
maintain existing levels of service, but also to provide for improvements in services and in court accommodation.

Deportation Orders.

155. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if information is available regarding the welfare or whereabouts of non-nationals deported from this country who might be deemed to be at risk in their homeland; and if he will make a statement on the matter.

[2642/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): At the outset, it should be stated that the Minister for Justice, Equality and Law Reform is obliged to consider the issue of risk to a person before, not after, a deportation order issues in respect of that person. There are legislative and procedural safeguards to ensure that persons are not returned to countries where they are at risk.

The Immigration Act 1999 sets out the procedures involved in deporting a person. Where the Minister proposes to deport a person he or she is given the options of making representations within 15 working days setting out the reasons they should not be deported, that is, be allowed to remain temporarily in the State, leaving the State before the order was made, or consenting to the making of deportation orders.

Where representations are made setting out reasons a person should not be deported, the Minister is obliged to consider of number of factors as specified in section 3(6) of the Immigration Act 1999, as amended. These factors include considerations relating to the common good, the person's individual family and domestic circumstances and humanitarian considerations. Moreover, the Minister is also obliged to consider the prohibition on refoulement which is contained in section 5 of the Refugee Act 1996,

as amended. This means that a person shall not be expelled from the State or returned in any manner whatsoever to a State where, in the Minister's opinion, the life or freedom of that person would be threatened on account of his or her race, religion, nationality, membership of a particular social group or political opinion.

Crime Levels.

156. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of instances in respect of which offences were committed by persons while either on bail or on temporary or early release from prison; and if he will make a statement on the matter. [2644/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The precise information requested by the Deputy is not readily available. The compilation of these statistics would require a disproportionate and inordinate amount of staff time and effort to prepare and could not be justified in current circumstances where there are other significant demands on resources.

Question No. 157 answered with Question No. 149.

Garda Deployment.

158. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of extra gardaí now available for duty in each of the Dublin divisions as compared with the numbers in June 2002; and if he will make a statement on the matter. [2646/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I have been informed by the Garda authorities which are responsible for the detailed allocation of resources, including personnel, that the personnel strength — all ranks — of each division in the Dublin metropolitan region as at June 2002 and currently is as set out hereunder:

Division	June 2002	26 January 2004
D.M.R. North Central	578	634
D.M.R. South Central	638	679
D.M.R. North	614	575
D.M.R. South	524	535
D.M.R. East	545	518
D.M.R. West	617	624
Total	3,516	3,565

Crime Prevention.

159. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the steps he has taken to combat the menace of crime, organised or otherwise, in Dublin and throughout the country; and if he will make a statement on the matter. [2647/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed by the Garda

Síochána that its strategy to tackle organised crime involves the utilisation of specialised national units dedicated to the investigation-detection of such types of crime. These units are the National Bureau of Criminal Investigation, the Garda National Drugs Unit, the Garda Bureau of Fraud Investigation, the Criminal Assets Bureau and the Garda National Immigration Bureau, all of which operate under the control and direction of an Assistant

Commissioner in charge of national support services.

These units investigate every aspect of organised crime and in conjunction with the special detective unit are constantly involved in operations to interrupt the flow of firearms to criminal groupings. On this latter issue, I should add that I am currently undertaking a review of firearms control policy with the intention of introducing legislation in this area. The security of weapons held legitimately by individuals or dealers will be central to this review.

The Garda Síochána in general, and specifically all national units, work together in common cause in the investigation of serious and organised crime in accordance with the strategic goals of the Garda Síochána. Measures taken to combat crime, in general, include: CCTV systems which have proved to be a very effective deterrent; Garda youth diversion projects that adopt a multi-agency partnership approach to tackling crime and anti-social behaviour at community level; and a new city centre policing initiative was launched on 9 June 2003 by the Assistant Garda Commissioner for the Dublin metropolitan region. This initiative provides high visibility policing presence in specific target areas in the north and south inner city centre areas. It targets issues of concern such as public order, assaults, street theft, shoplifting, addicts, beggars and general vagrancy.

The Criminal Justice (Public Order) Act 2002 gives significant additional powers when dealing with drunken disorder. All sections of the Intoxicating Liquor Act came into operation in 2003.

Criminal Legal Aid.

160. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the total cost of free legal aid provided in criminal cases in each of the past five years; and if he will make a statement on the matter. [2648/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The cost of criminal legal aid between 1999 and 2003 is set out below.

	€million
1999	22.45
2000	25.11
2001	25.19
2002	28.88
2003	37.35

Prison Closures.

161. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of prison places likely to be lost in the course of the closure of the Curragh and Spike Island prisons; the way in which it is intended to make up this loss; and

if he will make a statement on the matter. [2649/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I refer the Deputy to my answer to Question No. 16 today where I indicated that the net loss of accommodation following the closures and the opening of new facilities in the Midlands and Limerick Prisons will be of the order of 25 spaces. I will reiterate that the closures have been forced upon the Prison Service because of the failure to reach agreement on reforming prison work practices. If we can resolve these fundamental difficulties, then the opportunity is there to transform the prison estate.

Prison Accommodation.

162. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the optimum number of prison places required over the foreseeable future; and if he will make a statement on the matter. [2650/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): It is difficult to predict precisely the number of spaces which we will need in the future. A number of factors will impact on the demand side, including the level of crime and the number and duration of sentences imposed by our courts. There are also underlying socio-economic factors and population trends which may ultimately have an influence on crime and imprisonment.

The issue of future prison capacity is currently being addressed. The Government is committed in its agreed programme to continue with the modernisation of prisons and to the provision of sufficient places. A review of prison space requirements and a new capital building programme to meet the requirements for the next ten to 15 years is underway. I hope to bring these proposals to Government in the near future.

Some requirements are already clear. Additional accommodation will be required for female prisoners. There is also an urgent acknowledged need to refurbish older facilities to provide both better accommodation and to reduce the usage of multiple occupancy cells.

Prison Building Programme.

163. **Ms Burton** asked the Minister for Justice, Equality and Law Reform the location, with regard to his comments that he wishes to see Mountjoy Prison razed to the ground, at which he proposes to replace same; the timescale for the replacement of Mountjoy Prison; and if the likely replacement site is the site of the proposed national stadium at Abbotstown in Dublin 15. [2672/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I agree with the views expressed by the Inspector of Prisons and Places of Detention and the Prisons Authority Interim

[Mr. McDowell.]

Board that there is a need to replace the accommodation and facilities at Mountjoy Prison as soon as possible.

There are two possible options in regard to the replacement of the outdated accommodation at Mountjoy Prison. The first option is to redevelop the prison on the existing site involving the demolition and reconstruction of existing buildings. The second option is to relocate the prison to a greenfield site. My preference, as I have recently indicated, is for the relocation of Mountjoy Prison to a new site and I intend to bring this proposal to Government in the next week or so. I should add that at this juncture, no alternative site has been identified.

Planning Issues.

164. **Mr. O'Dowd** asked the Minister for the Environment, Heritage and Local Government when he intends to change the planning regulations in relation to one-off housing; and if he will make a statement on the matter. [2587/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): Overall Government policy on one-off rural housing is set out in the national spatial strategy, NSS, which was published in November 2002. The rural settlement policy framework contained in the NSS aims to sustain and renew established rural communities, while strengthening the structure of villages and smaller settlements to support local economies, ensuring that key assets in rural areas are protected to support quality of life and ensuring also that rural settlement policies are responsive to the differing local circumstances in different areas.

It is vitally important that there is certainty and consistency in the implementation by planning authorities of Government policy in this matter through their own development plans and in the operation of the development control system under planning legislation. This is the purpose of the guidelines under the Planning and Development Act which I intend to bring forward to deal with this issue. These are at an advanced stage of preparation and I hope to issue them as soon as possible.

Local Authority Funding.

165. **Ms Shortall** asked the Minister for the Environment, Heritage and Local Government the funding his Department has provided to Dublin City Council in each of the past three years for extensions to their existing housing stock; the number of extensions in each of these years that this represents; if he has had discussions since taking office with the city council regarding the level of unmet need in this category; the outcome of these discussions; and if he will make a statement on the matter. [2604/04]

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): Information requested on funding is set out in the following table:

Year	Amount
	€
2001	2,315,800
2002	845,400
2003	3,275,700

Information in relation to activity under the extension provision scheme for each local authority is published in my Department's quarterly and annual housing statistics bulletin, copies of which are available in the Oireachtas Library.

Local authorities, including Dublin City Council, have delegated authority to provide extensions under the scheme at a cost of up to €75,000 without the prior approval of my Department. It is a matter for Dublin City Council to determine the eligibility of individual applicants, and to determine the level of the annual programme under the scheme.

Departmental Appointment.

166. **Cecilia Keaveney** asked the Minister for the Environment, Heritage and Local Government when a vacancy (details supplied) in County Donegal will be filled; and if he will make a statement on the matter. [2605/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): An overall country-wide package of measures involving the reorganisation of the national parks and wildlife service of my Department is being implemented following agreement with the main trade union involved last year. In this context, arrangements are in hands for the recruitment of additional conservation rangers through the Civil Service and Local Appointments Commissioners. Provision for specific conservation ranger coverage of the area in question will be made within the revised overall organisational arrangements.

Age Restrictions.

167. **Mr. Boyle** asked the Minister for the Environment, Heritage and Local Government the reason job advertisements for the position of part-time tour guides within the heritage service have age restrictions, and whether this is in compliance with existing legislation. [2614/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): I refer to the reply to Question No. 492 of 11 November 2003 which confirmed that advertised age restrictions are consistent with current legislation. The Government recently announced that it proposes to introduce legislation which will amend current age restrictions on the recruitment and

retirement of civil servants with effect from 1 April 2004.

Local Government Elections.

168. **Mr. Boyle** asked the Minister for the Environment, Heritage and Local Government the reason new town councils for Ballinacollig and Carrigaline cannot be established in time for local government elections in 2004. [2615/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): The development of a proposal for the establishment of a new town council is a matter for the local community in the first instance and thereafter a decision on whether to proceed further with such a proposal is a reserved function of the relevant county council, following a public consultation process. Part 17 of the Local Government Act 2001 allows for the first elections to such town councils to proceed independently of the normal local election cycle. I hope to be in a position to commence these and other relevant provisions of the Act during the course of the year.

Local Audit Committees.

169. **Mr. Boyle** asked the Minister for the Environment, Heritage and Local Government the number of local authorities which have established local public account committees as permitted under recent local government legislation. [2616/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): The establishment of local audit committees is a matter for consideration by each individual local authority following the commencement of section 122 of the Local Government Act 2001 on 14 November 2002. As yet my Department has not compiled detailed information regarding the establishment of these committees by local authorities.

Waste Water Disposal.

170. **Mr. Boyle** asked the Minister for the Environment, Heritage and Local Government if his Department encourages or discourages the use of septic tanks for household waste water treatment; and the number of households which continue to use this form of treatment. [2617/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): In issuing standards for on-site waste water treatment systems, the Department seeks to ensure the use of an appropriate system in each case, rather than the use of one method of waste water disposal over another. In a circular letter of 31 July 2003 on groundwater protection and the planning system, the Department also directed local authorities attention to the need for more information within development plans on the location and potential vulnerability of groundwater resources and for clear policies on

how development in different areas will be approached based on the available information.

Local authorities were also requested to ensure that effective regimes for the proper assessment of site conditions as well as the design, installation and maintenance of on-site wastewater treatment and disposal facilities are put in place, as well as appropriate monitoring and enforcement mechanisms that ensure that those which carry out approved development meet their obligations to adhere to the terms of planning permissions.

The Department in its circular letter to each planning authority on 8 January 1992 issued the current standard for the use of septic tanks for household waste and water treatment as set out in recommendation SR6, 1991, which was drawn up by the National Standards Authority of Ireland.

The Environmental Protection Agency, EPA, has published a draft manual on treatment systems for single houses in 2000 which was designed to help planning authorities, builders and others to deal with the complexities of on-site systems, including packaged systems. I understand that the EPA is currently reviewing the draft manual in the light of comments received from interested parties. My intention is to call up the revised EPA manual, when available, in technical guidance document H — drainage and waste water disposal — on the national building regulations. I also understand that the National Standards Authority of Ireland, NSAI, intends, at that stage, to withdraw SR6, 1991 in favour of the revised manual.

Planning Issues.

171. **Caoimhghín Ó Caoláin** asked the Minister for the Environment, Heritage and Local Government if it is intended to retain or to alter the retail planning guidelines; and if he will make a statement on the matter. [2626/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): I refer the Deputy to the reply to Questions Nos. 919 and 999 of 27 January 2004.

Restoration Project.

172. **Mr. Ring** asked the Minister for the Environment, Heritage and Local Government the consideration which has been given to the restoration of Moorehall, Lough Canna, County Mayo, following the report commissioned into its structural condition; the funding which has been provided for it; the report's recommendations which have been taken on board by his Department; and the position in relation to the Moorehall project. [2631/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): Moorehall is in the ownership of Coillte Teoranta. Any development proposals for the property are a matter, in the first instance, for determination by

[Mr. Cullen.]

Coillte. Following a structural report on the property in 2001, commissioned by the former Department of Arts, Heritage, Gaeltacht and the Islands, it was estimated the full restoration of the house would cost in excess of £5 million. The purpose of that report was to assist a local community group in the preparation of a business plan for the property. It is not envisaged that my Department should provide funding for the development of this project.

Social Welfare Benefits.

173. **Mr. Ring** asked the Minister for Social and Family Affairs the reason unemployment assistance to a person (details supplied) in County Mayo was stopped; and if it will be restored immediately. [2574/04]

Minister for Social and Family Affairs (Mary Coughlan): The person concerned was in receipt of unemployment assistance from 29 September 1999. In the course of a review of his entitlements, it came to light that the person concerned is engaged in self-employment. He was requested to provide details of his earnings, but failed to do so. His unemployment assistance payments were, therefore, suspended and his claim was subsequently closed with effect from 12 December 2003. He was informed of this by letter and advised that he could make another claim at any time.

Following receipt of correspondence from the person concerned, an appointment was arranged for him with a social welfare inspector on 12 January 2004 to discuss his entitlements. The person concerned failed to attend. If the person concerned makes a new claim, details of his income, as requested by the inspector, will be required. The question of backdating his claim to the date on which his payments were suspended can be considered at that stage.

174. **Mr. Ring** asked the Minister for Social and Family Affairs the reason a person (details supplied) in County Mayo did not receive the Christmas bonus 2003 or the fuel allowance for 2003/2004. [2590/04]

Minister for Social and Family Affairs (Mary Coughlan): The Christmas bonus and the free fuel allowance are payable to persons in receipt of pensions and long-term payments only. The person concerned was in receipt of disability benefit which is a short-term payment and did not qualify for either payment.

175. **Mr. Durkan** asked the Minister for Social and Family Affairs if an exceptional needs supplementary payment can be made in the case of a person (details supplied) in County Kildare who has special needs in regard to heating requirements; and if she will make a statement on the matter. [2653/04]

Minister for Social and Family Affairs (Mary Coughlan): The supplementary welfare allowance scheme which is administered by the health boards provides for a single payment to help meet essential, once-off, exceptional expenditure which a person could not reasonably be expected to meet out of his or her weekly income. These payments are made at the discretion of the health boards and neither I nor my Department have any function in deciding individual cases.

The South Western Area Health Board was contacted on behalf of the individual concerned and has advised that an exceptional needs payment to the value of €200 issued in October 2003 in respect of assistance with heating costs. A recent application for another payment to further assist with heating costs was refused. The health board is satisfied that the level of assistance already provided is appropriate to the circumstances of the case. The individual in question has been informed of her right to appeal against this decision.

176. **Mr. Durkan** asked the Minister for Social and Family Affairs if rent allowance can be offered to a person (details supplied) in County Kildare in view of the fact that they are unemployed and unable to meet rent repayments; and if she will make a statement on the matter. [2654/04]

Minister for Social and Family Affairs (Mary Coughlan): The supplementary welfare allowance scheme, which is administered on behalf of my Department by the health boards, provides for the payment of a weekly or monthly supplement in respect of rent to eligible people in the State whose means are insufficient to meet their accommodation needs.

The South Western Area Health Board was contacted and has advised that there is no record of an application for rent supplement from the individual in question. If he wishes to make an application for rent supplement he should contact the community welfare officer at his local health centre so that an assessment of his circumstances can be carried out in order to determine whether or not he has an entitlement to a rent supplement under the terms of the supplementary allowance scheme.