



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Wednesday, 13 October 2004.

Visit of Bulgarian Delegation ... ..	325
Leaders' Questions ... ..	325
Requests to move Adjournment of Dáil under Standing Order 31 ... ..	332
Order of Business ... ..	333
Planning and Development (Amendment) (No. 2) Bill 2004: First Stage ... ..	340
Membership of Committees: Motion ... ..	341
Ministerial Rota for Parliamentary Questions: Motion ... ..	341
Proceeds of Crime (Amendment) Bill 1999:	
Order for Second Stage ... ..	341
Report and Final Stages ... ..	342
Ceisteanna—Questions	
Minister for Agriculture and Food	
Priority Questions ... ..	376
Other Questions ... ..	384
Adjournment Debate Matters ... ..	399
Civil Service Regulation (Amendment) Bill 2004:	
Order for Second Stage ... ..	400
Second Stage ... ..	401
Referral to Select Committee ... ..	452
Message from Seanad Éireann ... ..	452
Private Members' Business	
Health Services Motion ( <i>resumed</i> ) ... ..	452
Adjournment Debate	
School Accommodation ... ..	485
Hospital Services ... ..	488
Health Board Funding ... ..	490
Social and Affordable Housing ... ..	493
Questions: Written Answers ... ..	497

## DÁIL ÉIREANN

*Dé Céadaoin, 13 Deireadh Fómhair 2004.  
Wednesday, 13 October 2004.*

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

*Paidir.  
Prayer.*

### Visit of Bulgarian Delegation.

**An Ceann Comhairle:** Before proceeding with business I wish on my own behalf and on behalf of the Members of Dáil Éireann to offer a céad míle fáilte, a most sincere welcome, to Professor Ognian Gerdjikov, Speaker of the National Assembly of the Republic of Bulgaria, and Members of the Assembly who are here with us in the Distinguished Visitors Gallery.

I express the hope that you will find your visit enjoyable, successful and to our mutual benefit.

### Leaders' Questions.

**Mr. Kenny:** The Tánaiste will be aware of the tragic case of little Roisin Ruddle — go ndéanfaidh Dia trácaire uirthi — 15 months ago. Following that tragic case where that child was sent home from Our Lady's Hospital in Crumlin, the Minister for Health and Children set up an independent inquiry to review a report which was conducted by the health board. Neither report has been published.

We now have another circumstance where two children have been sent home, one of whom, I understand, was gowned and ready for surgery. This is appalling and God forbid that anything will happen to either of those two children or any other child in this circumstance.

I put it to the Tánaiste that the Government of which she is a part has not learned any lesson in the past 15 months. Both the internal report and the departmental report should be published forthwith. Will the Tánaiste give an assurance to the parents of children all over the country that unlike the last time when the Government said it would take steps to ensure this would never happen again, that she, as Tánaiste and Minister for Health and Children, will deal with this matter today and explain to the House why it is that a child waiting and gowned for surgery was suddenly sent home?

This is simply not good enough. It means the Government in which she is the Minister for Health and Children has not learned any lesson in the past 15 months. Will she ensure these two

reports are published, explain the circumstances of what happened here and make arrangements so this will not happen again?

**The Tánaiste:** The report in respect of the late Roisin Ruddle has not yet been completed. I understand it is imminent and it will be published.

In regard to the two cases the Deputy mentioned, I understand they happened because of a shortage of intensive care nurses in Crumlin hospital. There is a worldwide shortage of paediatric intensive care nurses.

**Mr. F. McGrath:** The Tánaiste said here last night that we have enough nurses.

**An Ceann Comhairle:** Allow the Tánaiste to continue without interruption. The Deputy is not the leader of the Fine Gael Party.

**Mr. F. McGrath:** She said that we have enough nurses.

**The Tánaiste:** What I said yesterday was that Ireland has the highest proportion of nurses——

**Mr. F. McGrath:** The Tánaiste said we have enough nurses, but they are gone.

**An Ceann Comhairle:** I will have to ask the Deputy to leave the House if he does not cease interrupting.

**Mr. F. McGrath:** We do not have enough nurses or enough beds. That is the reality.

**An Ceann Comhairle:** I will ask the Deputy to leave if he does not stop interrupting.

**Mr. F. McGrath:** The Tánaiste should stop the spin.

**The Tánaiste:** Ireland has the highest proportion of nurses to the population in all the OECD countries. That is a fact.

**Mr. F. McGrath:** They are not working in Ireland.

**The Tánaiste:** Ireland, like many other countries, has a shortage of intensive care nurses for paediatrics. There is a global shortage. Representatives of the hospital have been overseas recruiting in the Middle East, Poland and in other places and they have to recruit nurses who can speak English. It takes six and a half years to train an ICU nurse for paediatrics——

**Mr. F. McGrath:** The Tánaiste has been in power for eight years.

**An Ceann Comhairle:** If the Deputy interrupts once more, he will have to leave.

**The Tánaiste:** ——four years' training plus two and a half years to qualify in intensive care.

[The Tánaiste.]

Therefore, such nurses, unfortunately, cannot be found quickly.

**Ms McManus:** These are here, but they have left the system.

**An Ceann Comhairle:** Allow the Tánaiste to continue without interruption.

**The Tánaiste:** I appeal to Deputies not to play politics with a very sad situation.

**Deputies:** Hear, hear.

**Mr. G. Mitchell:** To say we are playing politics with this issue is outrageous.

**The Tánaiste:** I will be talking to the authorities in Crumlin hospital today. That is what Deputy Kenny asked me to do and I will do that.

**Mr. Kenny:** Nobody on this side of the House would play politics with children's lives. I assure the Tánaiste of that. I do not want to see a situation where the Tánaiste, as Minister for Health and Children, or the Government she represents would reduce health care to the level of consumer provider. Children who need life-saving surgery are not consumers. They need healing and a Government that will do its duty.

It is not good enough to say the hospital authorities have been recruiting in Poland and the Middle East. They have, as have other hospital authorities. I am aware that the existing staff of ICU nurses in Our Lady's Hospital, Crumlin are quite prepared to do the extra shifts to ensure no child will be sent home like the two, to whom I referred, on the basis of an alleged shortage of intensive care nurses. However, the fact is that the hospital authorities will not pay the nurses because they do not have the resources to do so.

In the past eight years €44 billion has been spent on health services. When the Tánaiste speaks to the hospital authorities in Crumlin hospital today, I want her to ask them if it is clear that the intensive care nursing staff are quite prepared to do these shifts and work the extra hours to ensure no child will suffer like this, but that the hospital authorities are unable to pay them because they say they do not have the resources to do so. I ask the Tánaiste to please deal with this and I will support her on this.

**The Tánaiste:** What we are talking here about are patients and in this case two young children. There is no question of resources being an issue. This is not an issue of resources. As the Deputy said, we are spending over €10 billion a year and have spent more than €44 billion over the past number of years.

**Ms O. Mitchell:** It was spent badly and not well planned.

**The Tánaiste:** It is not a resource issue and I will talk to the hospital authorities today in regard to this matter.

**Mr. English:** It is a resource issue; it is a case of mismanagement.

**Mr. McCormack:** The Government is saving money for the election.

**An Ceann Comhairle:** I ask the Deputy to allow the Tánaiste to continue.

**The Tánaiste:** This is a sad and serious situation. It has arisen before. We want to ensure that it does not arise again. That is why it is important that we get the nurses we require from wherever. Hopefully, we can train them from our nursing population but I understand it takes six and half years. It takes an awful long time to train a nurse to the standard required to work in ICU paediatrics—

**Ms McManus:** They are here but have left the service.

**The Tánaiste:** There is a global shortage of such nurses all over Europe and all over the United States.

**Ms McManus:** They are here but have left the service because of pay conditions.

**An Ceann Comhairle:** I remind the Deputy that she is not the leader of the Fine Gael Party.

**The Tánaiste:** Nurses are paid better in Ireland than they are almost anywhere in the world.

**An Ceann Comhairle:** I would prefer if the Tánaiste did not answer questions by way of interruption.

**Ms McManus:** Yet none of them wants to work in the service.

**The Tánaiste:** They are paid better here.

**Mr. Rabbitte:** I ask the Tánaiste what is going on in the Department of Foreign Affairs. The senior Minister seems to want to jettison the PDs and replace them with Sinn Féin and the junior Minister wants to jettison the UN target for overseas development aid even before negotiations start with the Department of Finance.

The Tánaiste will know that the Taoiseach gave a solemn commitment at the UN Summit in 2000 that the target would be met by 2007. The mid-term target was 0.45%. It was not realised and only 0.41% was reached, but consistent progress was being made at that time. When the Government reversed engines after the general election of 2002 and broke every solemn promise into which it had entered, its first cut was €32 million from the budget for ODA. In the event, it turned out to be €40 million.

Yesterday at the Committee on Foreign Affairs, on a motion tabled by my colleague, Deputy Michael Higgins, there was all-party support for the timeframe to be reinstated and alarm to be expressed at the manner in which this matter is being handled by a Minister of State, admittedly still wet behind the ears. Was the Tánaiste consulted on this and did the Cabinet agree that we were departing from the target established and policed by former Minister of State, Deputy O'Donnell? The target was let slip since. Are the poor and hungry of the developing world now to be the subject of the latest cut by this Government in spite of a solemn commitment on which the Taoiseach campaigned across the world for votes from the African states to have this country elected to the Security Council? Will the Tánaiste state whether this target will now be reinstated?

**The Tánaiste:** The Government has not reneged on the target and it has made no decision to that effect. It took a decision prior to the Taoiseach's announcement at the United Nations in 2000 that we were committing ourselves to reaching that target. We are seventh in the world in terms of our spending on ODA and have increased our spending more than three-fold. When the Deputy was last in office, it was €142 million, and it is now just under €0.5 billion annually. The Government remains committed to substantially increasing our overseas development aid and to the poorest countries of the world.

**Mr. Howlin:** A solo run again.

**Mr. Rabbitte:** If the Tánaiste is rededicating the Government to achieving the target by 2007, I simply welcome it.

**Mr. J. O'Keeffe:** She did not say that.

**Mr. Rabbitte:** However, she did not say that. The Minister of State responsible is present. The Tánaiste is now seeking to——

**Mr. J. Breen:** A friend of the Deputy's.

**Mr. Rabbitte:** A close friend. She is now seeking to indicate that he was on a solo run. He is the Minister of State handling this issue. Before negotiations commence with the Minister for Finance and his Department, the towel has been thrown in on what was a solemn commitment. We have gone around the world quite properly boasting of our achievement in this regard. I know where we rank among the European states in terms of our contribution and we ought to be proud of it. There are particular historical reasons why this is appropriate for Ireland. Is the Government rededicating itself to the timeframe for the achievement of our goal in this regard? We have not made the mid-term target and in 2004 we are likely to slip below the 2003 figure of 0.41%.

The Government committed to a certain percentage of ODA in the programme for Govern-

ment, in Sustaining Progress and in this House, and the Taoiseach made a commitment at the UN summit. Is the Tánaiste reinstating that particular commitment and timescale? I am not seeking any prevarication from her in this regard.

**The Tánaiste:** As the Deputy acknowledged, we have probably slipped even below 0.41%. This is because of the growth in GNP. We would clearly reach it very quickly if we saw——

**Ms McManus:** Give less because we have more.

**Caoimhghín Ó Caoláin:** Less is more.

**The Tánaiste:** That is actually the reality.

*(Interruptions).*

**Mr. Howlin:** The wealthier will get richer.

**The Tánaiste:** No, there are large sums of money involved and there are also capacity issues, as everybody has acknowledged.

**Ms Burton:** For six years, the capacity issue——

**The Tánaiste:** As I said, the Government has not reneged on the commitment we made in 2000.

*(Interruptions).*

**An Ceann Comhairle:** The Tánaiste, on Deputy Rabbitte's question.

**Mr. M. Higgins:** We are too rich to meet our commitment.

**An Ceann Comhairle:** We will move on. I call on Deputy Sargent.

**Ms Burton:** The Government cannot organise the hospitals and now it cannot——

**The Tánaiste:** We had no commitment when Deputy Michael Higgins was in power.

**An Ceann Comhairle:** Allow Deputy Sargent without interruption.

**Mr. Sargent:** We need clarity on a very important matter. From time to time we in this House claim to represent those who are disadvantaged. This is such a time when we will be asked to represent people, many millions of whom live on less than a dollar a day. It is strange that they often live in countries to which asylum seekers in this country are deported.

The Secretary General of the United Nations, Mr. Kofi Annan, will be in Ireland tomorrow. I am not sure if he has been following this debate but he will probably be thanking the Government for its commitment of 0.7% of GNP by 2007, clearly made by Cabinet decision. He will probably be thinking about the Taoiseach's speech at the UN millennium summit in New York in 2000

[Mr. Sargent.]

and his speech at the World Summit on Sustainable Development in Johannesburg in 2002, at which he clearly stated the following:

The decline in global ODA in the 1990s is shameful, indefensible and inconsistent with the commitments given at Rio. I re-iterate Ireland's absolute commitment to achieving, by 2007, the UN target of spending 0.7% of GNP on Overseas Development Assistance.

The Taoiseach is away at present handing out sweets to children in Vietnam, which is very laudable, while at home the Minister of State at the Department of Foreign Affairs, Deputy Conor Lenihan, is busy telling us that, in effect, the Taoiseach was fibbing and that the commitment was not a commitment at all but some kind of wish on his part. Deputy Conor Lenihan is also implying the Taoiseach misled the UN by appearing to give leadership regarding overseas development aid so we could secure a seat on the UN Security Council. This is a very serious matter in which the Tánaiste needs to take a leadership role.

**An Ceann Comhairle:** The Deputy's two minutes have concluded.

**Mr. Sargent:** It is important to reiterate that the Tánaiste has already stated the Progressive Democrats will not tolerate a change in Government policy. Is the lowering of our ODA target an incidence where she will not tolerate a change? Is the Progressive Democrats prepared to walk as a result?

**Mr. Eamon Ryan:** What are they in power for?

**The Tánaiste:** As I stated, the commitment was made by Cabinet decision. When the Taoiseach made the announcement at the UN millennium summit in 2000 and subsequently at the World Summit on Sustainable Development—

**Mr. M. Higgins:** Johannesburg.

**The Tánaiste:** —he was doing so on the basis of a Government commitment and decision. That decision has not been reneged on and has not been changed. We acknowledge, given our current position, that it will be difficult to reach the set target by 2007—

**Ms Burton:** No.

**The Tánaiste:** —but the Government must sign on for multi-annual funding that is clear in this particular area. That is what I want to see.

**Ms Burton:** It would not be difficult.

**Mr. Sargent:** The Government did it four years ago. It is a question of whether the Tánaiste will commit once again to a figure of 0.5% of GNP by 2005, 0.6% of GNP by 2006, and 0.7% of GNP

by 2007. That is what the people want to hear if this Government policy is to have any meaning at all. We know the National Roads Authority, for example, receives multi-annual funding. Is it not the case that overseas development aid should also be subject to it? Will the Tánaiste indicate to the development agencies that they will receive funding and that we will reach our target of 0.7% of GNP by 2007? I know the former Minister of State, Deputy O'Donnell, would want an answer to this. She has said there has been no champion of ODA in the Department of Foreign Affairs since 2002. Does the Tánaiste agree with this and, if so, will she rectify the problem?

**Mr. Cuffe:** Deputy Conor Lenihan should stand up.

**The Tánaiste:** There are many champions of ODA and I would like to think I am one. There are many people in this House—

**Mr. Eamon Ryan:** The Tánaiste has failed for the past two years.

**An Ceann Comhairle:** Allow the Tánaiste to continue without interruption.

**The Tánaiste:** I share the Deputy's view on multi-annual budgeting. It is important, for a host of reasons, that we have clear decisions on this matter. It is not good enough that we would not. My strong view is that we cannot abandon one commitment without having an alternative commitment.

Earlier this year and certainly when we dealt with the Estimates last year, we envisaged that we would meet the target of 0.41% this year. As it happens, because the growth rate is higher than envisaged, it will probably slip below that. These targets are difficult because they are based on predicting what growth rates might be at the time the Estimates are negotiated and to a large extent are a victim of our success. If the economy was in decline we would probably have reached it quite a while ago.

There is cross-party support for a strong commitment to additional resources and multi-annual budgeting in this area. As we approach the Estimates for 2005 the Government should bear that in mind. I hope we will.

#### **Request 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. I will call on the Deputies in the order in which they submitted their notices to my office.

**Mr. Healy:** I seek the adjournment of the Dáil under Standing Order 31 to raise a matter of urgent importance, namely the failure of the Government to proceed as promised with the Clonmel flood alleviation scheme, leaving resi-



dents in flood prone areas in fear of their homes and businesses being flooded in a situation where they cannot get insurance cover.

**Ms McManus:** In accordance with the terms of Standing Order 31, I seek to move the adjournment of the Dáil to discuss the following specific and important matter of public interest requiring urgent attention: the deferral of cardiac operations on children at Our Lady's Hospital for Sick Children in Dublin; the shortage of intensive care nurses at the hospital and the low availability of beds due to those staff shortages; the need for an urgent debate in this House on the situation; and the need for a comprehensive statement in response from the Minister for Health and Children.

**Mr. Gogarty:** I seek the adjournment of the House under Standing Order 31 to debate a matter of urgent national importance, namely the ongoing increasing assaults, some of them fatal, by a growing minority of young people on other young people; the causes of such often casual violence; the remedies and deterrents, if any, for these senseless attacks; and to debate seriously whether all of the needless deaths and serious injuries are simply part of human nature or part of a more serious malaise in modern-day Irish society, which is aggravated by current Government policy.

**Dr. Cowley:** I seek the adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely the disgraceful situation of an elderly woman who has become blind while waiting for an eye appointment in Galway, which was cancelled on seven occasions at short notice and without explanation between 29 May and 2 October 2004.

**An Ceann Comhairle:** Having considered the matters raised, I do not consider them to be in order under Standing Order 31.

### Order of Business.

**The Tánaiste:** The Order of Business shall be as follows: No. 19a, motion re membership of committee; No. 19b, motion re ministerial rota for parliamentary questions; No. 23, (a) Proceeds of Crime (Amendment) Bill 1999 — Order for Report, Report and Final Stages; No. 3, Civil Service Regulation (Amendment) Bill 2004 — Order for Second Stage and Second Stage; and No. 4, Safety, Health and Welfare at Work Bill 2004 — Order for Second Stage and Second Stage.

It is proposed, notwithstanding anything in Standing Orders, that Nos. 19a and 19b shall be decided without debate. Private Members' business shall be No. 39, motion re health services (resumed), to conclude at 8.30 p.m.

**An Ceann Comhairle:** There is one proposal to put to the House. Is the proposal for dealing with No. 19a, motion re membership of committee,

and No. 19b, motion re ministerial rota for parliamentary questions, without debate, agreed to?

**Caoimhghín Ó Caoláin:** First, as regards No. 19b, motion re ministerial rota for parliamentary questions, it is indicated in the accompanying missive that the date for rescheduling Education and Science questions is 26 October. However, I understand that the Dáil will not be in session on that date. I am bringing that to the attention of the Tánaiste because it only invites a revisitation of the proposition already before us at this point.

Second, I ask the Tánaiste to raise with the Government Chief Whip the matter of the attachment indicating that all spokespersons of the relevant Departments within this proposition are happy with the proposition. I can affirm that not all the spokespersons have even been consulted. I ask Deputy Kitt, in his role as Chief Whip, to ensure that will not be repeated.

**An Ceann Comhairle:** Is the proposal agreed? Agreed.

**Mr. Kenny:** Yesterday evening we had an extraordinary statement from the Minister for Foreign Affairs conditioning the electorate for the association of the Fianna Fáil party with Sinn Féin in Government. Is there a proposal to amend the legislation underpinning the Good Friday Agreement? The Taoiseach is in Vietnam and I do not know whether the statement by the Minister for Foreign Affairs had the *imprimatur* of the Government, whether he was speaking for the PDs or on behalf of the Government.

**An Ceann Comhairle:** The Deputy should confine himself to legislation. First of all, is there legislation promised?

**Mr. Kenny:** I cannot interfere in any way with the way the people vote. The Taoiseach says the president of Sinn Féin is a liar.

**An Ceann Comhairle:** This matter does not arise on the Order of Business. The Deputy will have to find another way of raising it.

**Mr. Kenny:** The Minister for Justice, Equality and Law Reform says the IRA and Sinn Féin are involved in criminal activity in Dublin port.

**An Ceann Comhairle:** Is legislation promised, Tánaiste?

**Mr. Kenny:** The Government seems to have changed its tune on the release of the killers of Jerry McCabe. I want to know if the statement by the Minister for Foreign Affairs has the Government's *imprimatur*.

**An Ceann Comhairle:** Deputy Kenny should allow the Tánaiste to answer his question on legislation.

**Mr. N. Dempsey:** Deputy Kenny is talking about a cosy alliance on that side with Sinn Féin.

**Mr. C. Lenihan:** Deputy Kenny had the Wolfe Tones at his party.

**An Ceann Comhairle:** Is legislation promised?

**The Tánaiste:** No. There is no legislation promised. Deputy Kenny is well aware of my views on Sinn Féin. In addition to their links with the IRA, I think their economic policies would destroy the country. I see, however, that Deputy Ring suggested Fine Gael should go into Government with them. Maybe Deputy Kenny should start with his own house first.

**Mr. D. Ahern:** Where is Deputy Ring this morning?

**Mr. J. O’Keeffe:** The Tánaiste will not be in that coalition.

**Mr. Sargent:** Deputy Ó Caoláin will be the Minister for Justice.

**Mr. F. McGrath:** And Deputy Ferris will be the Minister for Defence.

*(Interruptions).*

**An Ceann Comhairle:** I ask Members on the Government side to allow Deputy Rabbitte to speak without interruption.

**Mr. Rabbitte:** Is the Tánaiste aware of a Bill published in 2000 by my colleague, Deputy Quinn, that would enshrine in law the UN target of 0.7% of GNP to be spent on overseas development aid? Given the difficulties she is having keeping Fianna Fáil in line, would she be minded to introduce a Bill to that effect, since the Opposition cannot sponsor legislation that involves a charge on the Exchequer?

On a number of occasions, the Taoiseach has made heavy work of answering whether or not a one-paragraph Bill to revise the constituencies will be brought before the House at an early date. What is the Tánaiste’s disposition in that matter?

**The Tánaiste:** The Minister for the Environment, Heritage and Local Government intends to bring that legislation to Government over the next two or three weeks. I am not familiar with Deputy Quinn’s Bill regarding overseas development aid. I would probably be more positively disposed to that Bill if Deputy Quinn had a better record in this area when he was at the Department of Finance.

**Mr. Sargent:** I understand that the Minister for Communications, Marine and Natural Resources has been sent a Garda file on over fishing, which he will be aware of himself. Off the coast of County Meath there has been considerable over

fishing of razor shellfish, which have all gone now.

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

**Mr. Sargent:** I do. Will processing the fisheries (amendment) Bill be speeded up? Will legislation be introduced to deal with this urgent matter? It will not be possible to continue benefiting from this resource if it is overfished. Will the Tánaiste indicate whether the legislation will be brought forward, or will it be delayed on the basis of this Garda file? Will we have another investigation?

**The Tánaiste:** The legislation will be taken in this session.

**Mr. Crawford:** I wish to raise two items. First, under the Tánaiste’s own remit of health, I wish to inquire about the alcohol products (control of advertising) Bill, with regard to the control, advertising, sponsorship, marketing practice, sale and promotion of alcohol. Second, it will be necessary to speed up the introduction of the forestry (amendment) Bill.

**The Tánaiste:** The alcohol products (control of advertising) Bill will be introduced early next year, as will the forestry (amendment) Bill.

**Mr. Quinn:** Will the Tánaiste indicate when the building control Bill is likely to be taken? It has been promised for a long time.

**The Tánaiste:** I dealt with the matter yesterday. It will be the middle of next year.

**Caoimhghín Ó Caoláin:** Yesterday the Tánaiste indicated she would be in a position to reply to my question regarding the second report of Justice Henry Barron into the British bombings of Dublin in 1972 and 1973 and whether the matter would be referred to a sub-committee of the justice committee, as the first report from Justice Barron was addressed. Will she advise the House on the position regarding this report?

**The Tánaiste:** I checked the matter and I understand that, when answering questions on 29 September, the Taoiseach indicated the report was imminent and would go to the committee.

**Mr. G. Mitchell:** In regard to the Safety, Health and Welfare at Work Bill, will the Tánaiste consider publishing the report she received proposing the setting up of a public safety authority in advance of the Dáil debate in view of my ongoing concerns about the safety of Luas?

**The Tánaiste:** Is it the O’Hare report?

**Mr. G. Mitchell:** I am not sure because the report has not been published.

**The Tánaiste:** I am not aware of a report.

**An Ceann Comhairle:** The Deputy should submit his question to the appropriate Minister.

**The Tánaiste:** It is a matter for the Minister for Enterprise, Trade and Employment. A report on the issue was drawn up by the former president of Dublin City University.

**Mr. G. Mitchell:** Does the Tánaiste intend publishing the report?

**The Tánaiste:** The Minister said he will publish it.

**Ms Shortall:** I asked the Taoiseach last week about two pieces of transport legislation and he said he would check the matter. Has the Tánaiste got the information? The first is the rail safety Bill which was stalled in committee more than 15 months ago. What is the reason for the delay and when can we expect Report Stage? The second Bill is the road traffic Bill which has been published for several months. It is intended to regularise the situation in regard to penalty points. What is the reason for the delay in taking Second Stage of the Bill and when can we expect to see it?

**The Tánaiste:** The second Bill is a matter for the Whips. The first Bill is before committee and I do not know the reason for the delay. I will inquire whether amendments from the Minister are awaited.

**Ms Shortall:** I asked these questions last week. The Taoiseach could not answer them but he said he would check the reasons for the delay. Will the Tánaiste undertake to come back to me tomorrow on these issues?

**The Tánaiste:** On the second Bill, it is a matter for the Whips to provide the time. I will inquire why the other Bill cannot move to Report Stage.

**Mr. J. Higgins:** On a morning when the Minister of State, Deputy Conor Lenihan, was probably wishing he was back stalking the deer in Killybeg National Park, our spirits were raised by Deputy O'Donnell bagging him all over the developing world.

**An Ceann Comhairle:** A question appropriate to the Order of Business.

**Mr. J. Higgins:** What is the position regarding the Diplomatic Relations and Immunities (Amendment) Bill, which the Minister might need in the next few days, and the third level students support Bill to place all student support schemes on a statutory footing?

**The Tánaiste:** It is not possible to say when the Diplomatic Relations and Immunities (Amendment) Bill will be taken. I suggest the

word "handbagging" is not compatible with a Bill of that kind. It is rather sexist.

**Mr. J. Higgins:** I did not say that.

**Mr. Durkan:** What is the intention in regard to the Bill to replace the Official Secrets Act or will it remain a secret?

**The Tánaiste:** Late next year.

**Mr. Rabbitte:** I want to draw the Tánaiste's attention to the fact that the Abbotstown centre Bill has been promised each session since 2002. When will the Bill be brought before the House?

**The Tánaiste:** I will inquire about ground rents, Deputy Quinn, to see whether it can be kept going. I am told this session.

**Mr. J. Breen:** Last week I asked the Taoiseach about the deliberations of the all-party committee on the Constitution in regard to property rights. Will legislation be required to have the report implemented or is it the Government's intention to implement this important report?

**An Ceann Comhairle:** Is legislation promised?

**The Tánaiste:** No.

**Mr. J. Breen:** Legislation is not required.

**The Tánaiste:** A constitutional referendum is not necessary.

**Ms Lynch:** Based on the Tánaiste's commitment, does she envisage that an amendment to the redundancy Act will be necessary in order to ensure the former employees of IFI will be paid all their entitlements? As it appears there is a threat to this, does the Tánaiste envisage amending the redundancy Act?

**The Tánaiste:** Legislation in that area is not envisaged.

**Ms Lynch:** Will the Tánaiste live by her commitments that employees will be paid in full?

**An Ceann Comhairle:** The Deputy should submit a question to the appropriate Minister.

**The Tánaiste:** People received their statutory redundancy in full and the remainder depends on the proceeds from the liquidation.

**An Ceann Comhairle:** We can only discuss matters appropriate to the Order of Business.

**Mr. Howlin:** I want to ask about two different pieces of legislation. The Tánaiste referred to the ground rents Bill. A Bill equally long in gestation has been the Whistleblowers Protection Bill, which was replaced on the Order Paper for this Dáil, having passed Second Stage. Is it the Government's intention to proceed with the



[Mr. Howlin.]

Whistleblowers Protection Bill introduced by my colleague, Deputy Rabbitte, or will it be withdrawn, because otherwise it is pointless having it on the agenda?

On separate legislation, is the declaration of the previous Minister for Transport that legislation would be introduced to change the procedure in regard to speed limits being set nationally as opposed to locally unless local authorities complied with his diktat being proceeded with?

**The Tánaiste:** The Whistleblowers Protection Bill, a Labour Party Bill, is at Committee Stage.

**Mr. Howlin:** It is nowhere.

**The Tánaiste:** It has passed Second Stage and is awaiting Committee Stage. There has not been a decision to remove it but I will speak to the new Minister with responsibility in that area. I said in the House before it ran into serious legal difficulties, and a view was taken that perhaps we should deal with the matter on a sectoral basis because of the implications for global——

**An Ceann Comhairle:** The content of the Bill cannot be discussed. I call Deputy Cowley.

**Mr. Howlin:** I asked a second question.

**The Tánaiste:** To what did the second question relate?

**Mr. Stagg:** A Cheann Comhairle, on a point of order, is it new practice that you actually interrupt the Taoiseach or Tánaiste when they are trying to reply.

**An Ceann Comhairle:** If a question is out of order, the Chair must intervene and treat both sides of the House equally. If the Tánaiste is out of order, the Chair must intervene.

**Mr. Stagg:** A new practice has been introduced of interrupting the Minister.

*(Interruptions).*

**An Ceann Comhairle:** I call Deputy Cowley.

**Mr. Howlin:** The Tánaiste is answering my question.

**The Tánaiste:** I do not believe legislation was promised on the matter.

**Mr. Howlin:** The previous Minister announced it.

**The Tánaiste:** There is nothing here about it.

**Dr. Cowley:** Is there impending legislation to outlaw the ceiling on the recruitment of nurses? It appears that four nurses cannot be employed

in Mayo General Hospital and people must travel 1,000 miles a week to avail of services. Essential services in hospitals have been discontinued because nurses cannot be recruited.

**An Ceann Comhairle:** The question is not appropriate to the Order of Business.

**Mr. Sherlock:** As the National Roads Authority are agents of the State, is there provision in this House to raise matters relating to the plans or programme of the authority?

**An Ceann Comhairle:** It is not appropriate to raise matters that are the responsibility of the National Roads Authority in regard to its day-to-day operations.

**Mr. Sherlock:** Is there provision for legislation or is there any provision in legislation to deal with the matter?

**The Tánaiste:** In general operational issues are matters for these authorities. Overall policy can be discussed in committee or in this House with the Minister. The way to deal with specific issues is through inviting the chief executive to one of the committees.

**Ms McManus:** It is clear the Tánaiste and Minister for Health and Children is not very well-informed about the nursing situation, where there are 700 vacancies, 20 of which are in Our Lady's Hospital in Crumlin. Will she consider informing herself of the situation and bringing forward the nursing Bill which has been on the list of legislation for some time and is urgently needed if she is going to address the serious situation where there are so many hundreds of nurses——

**An Ceann Comhairle:** Deputy McManus has made her point.

**Ms McManus:** There is evidence of children being sent home with serious cardiac conditions——

**An Ceann Comhairle:** The Deputy must allow the Tánaiste to answer her question.

**The Tánaiste:** The recruitment of nurses does not require legislation but that Bill will be ready next year.

#### **Planning and Development (Amendment) (No. 2) Bill 2004: First Stage.**

**Mr. Gogarty:** I move:

That leave be granted to introduce a Bill entitled an Act to amend the Planning and Development Act 2000 to make provision for a mandatory requirement to preserve and list public rights of way, including, in particular, rights of way which give access to the seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility.

**An Ceann Comhairle:** Is the Bill opposed?

**Minister of State at the Department of the Taoiseach (Mr. Kitt):** No.

Question put and agreed to.

**An Ceann Comhairle:** Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time.

**Mr. Gogarty:** I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

#### **Membership of Committees: Motion.**

**Minister of State at the Department of the Taoiseach (Mr. Kitt):** I move:

That Deputy Trevor Sargent be discharged from the Select Committee on Environment and Local Government and Deputy Ciarán Cuffe be appointed in substitution for him.

Question put and agreed to.

#### **Ministerial Rota for Parliamentary Questions: Motion.**

**Minister of State at the Department of the Taoiseach (Mr. Kitt):** I move:

That, notwithstanding anything in the resolution of the Dáil of 6 June 2002, setting out the rota in which questions to members of the Government are to be asked, questions for oral answer, following those next set down to the Minister for Foreign Affairs, shall be set down to Ministers in the following temporary sequence:

Minister for Arts, Sports and Tourism

Minister for Communications, Marine and Natural Resources

Minister for Education and Science

whereupon the sequence established by the resolution of 6 June 2002 shall continue with questions to the Tánaiste and Minister for Health and Children.

Question put and agreed to.

#### **Proceeds of Crime (Amendment) Bill 1999: Order for Report Stage.**

**Minister of State at the Department of Health and Children (Mr. B. Lenihan):** I move: "That Report Stage be taken now."

Question put and agreed to.

#### **Proceeds of Crime (Amendment) Bill 1999: Report and Final Stages.**

**An Ceann Comhairle:** Amendment No. 1 arises out of committee proceedings. Amendments Nos. 1, 2, 3, 9, 10 and 13 are related and will be taken together.

**Mr. Costello:** I move amendment No. 1:

In page 3, between lines 14 and 15, to insert the following:

1. Money realised on the making of disposal orders under the Principal Act as amended by this Act shall be used for community development purposes in disadvantaged areas.

All of us will agree that this Bill, which was published originally in 1999 when it was intended to set up a separate corruption assets bureau, is a continuance of the very valuable proceeds of crime legislation enacted in 1996. A second piece of legislation in 1999 established the Criminal Assets Bureau, which has done sterling work in the fight against crime. They are probably the most effective and influential pieces of legislation that deal with crime, particularly drug barons, in recent times. The legislation originated as a consequence of the assassination of Ms Veronica Guerin, the eminent journalist who reported widely on the activities of criminals, particularly those who were involved in the distribution and sale of drugs, money laundering and so on. The legislation is directed essentially at dealing with those activities and with ill-gotten ills in other fields of criminality. It has been very successful and has resulted in the seizure of significant quantities of drugs from time to time.

When that legislation was debated we received some figures from the Minister for Justice, Equality and Law Reform, Deputy McDowell, who subsequently published a press release in August 2003 giving the up to date situation regarding the amount of money that had been seized. The figures are probably considerably better now but at that time there were figures of €48 million on which there were final orders, €21 million with regard to interlocutory and interim orders and interest demanded was in excess of €71 million with over €46 million collected. In addition, social welfare savings amounted to more than €1.4 million. A considerable amount of money has been seized in one fashion or another. The legislation specified that all seized assets, including money, must be retained or frozen for a period of seven years and could not be disbursed in any manner, to the Exchequer or elsewhere.

Seven years had passed by the end of 2003 so the freezing period has been unfrozen for the first 18 months or thereabouts. This legislation proposes that the seven-year freezing period can be reduced by voluntary agreement. Once this legislation is enacted, a considerable amount of money and assets will accrue to the State from

[Mr. Costello.]

the seizure of the ill-gotten gains of criminals. My amendment proposes that these moneys be ring-fenced for disbursement to the communities from which they have largely been extracted. There are disadvantaged communities all over the country but particularly disadvantaged urban areas in Dublin city, which suffered the hardest hit in terms of heroin and other drug abuse and addiction.

There has been general agreement in all the discussions to date on this legislation and in public statements which have been issued that such an action would be a tremendous morale boost for local communities which have been at the receiving end of criminal activities and where the lives of young people caught up in the web of addiction have spiralled out of control. These communities have witnessed a lot of crime, families have been disrupted and lives have become chaotic. We know there is a shortage of facilities in many areas because the mid-term review of the national drugs task force is being undertaken. I am a member of my local drugs task force in the north inner city and this and other local forces state continuously that the funds have not been coming through from what was promised in the RAPID programme and otherwise to address the projects, programmes, awareness, treatment and rehabilitation needs in those areas. It would be wonderful to be able to say to those communities that there is a serious intent to ensure the money which has been taken out of the communities will be returned through investment in community projects to fight the terrible problem of drug abuse and other disadvantages which afflict them.

The last time we discussed this matter, the Minister for Justice, Equality and Law Reform, Deputy McDowell, said he would speak to the Minister for Finance. I do not know if the Minister for State, Deputy Brian Lenihan, has any knowledge of this. The Minister did not disagree with the points we were making on that occasion. There have been numerous areas in which funding has been ring-fenced, for example, to deal with water charges and with regard to money accruing from betting for the benefit of the horseracing and greyhound industries, a decision which was taken in this session. It is possible to do it. By and large, the Department of Finance throws cold water on the notion of ring-fencing money for particular purposes. It wants all funds to go into its deep maw to be dispersed as it and the Minister for Finance think proper. While that may be good as a general rule, it is not good enough in all circumstances. In emergency circumstances or ones where there is need to take a particular approach, it is quite appropriate to ensure this funding does not go into the Exchequer but is redirected towards communities.

The Government has slipped backwards in terms of its investment in disadvantaged communities and we have lost many community employment schemes, the jobs initiative and var-

ious programmes to tackle educational disadvantage. The Breaking the Cycle initiative was only piloted and was not extended in the manner originally planned and local drugs task forces cannot employ people because they do not have a regular budget. They cannot continue their current projects because they do not know whether they will have funding for them. Most projects have been scaled down or jettisoned and do not reach full fruition.

In the final Stages of this legislation I make a final appeal to the Minister to accept amendment No. 1 which is the most important of the amendments I have tabled. Other colleagues have tabled similar amendments. The Minister should take his courage in his hands and agree with us and persuade the Minister for Finance to ring-fence the funding that will come on stream, for injection back into local communities. A portion of the dormant accounts fund has been ring-fenced for particular purposes, so why can the same not be done here? There is nothing against it in principle and it would be an enormous morale boost for the communities. It would convince them that the Government cares and is willing to put its money where its mouth is and provide them with some of the resources they need to fight back, build up their communities, deal with young people at risk and provide needed services. It would restore their confidence that the Government supports them and will provide resources to fight the terrible problem of drug abuse once and for all.

**Mr. J. O'Keeffe:** The Minister of State should take this opportunity to deal with some general points in his response. Why are we dealing with amendments to the Proceeds of Crime (Amendment) Bill 1999 at this late stage of 2004? When it takes five years for a Bill to meander its way through the arcane processes of the legislative system, the public must look sideways at us and wonder whether we do our job at all. The Minister of State should tell us why this Bill was not given priority and brought to a head over this period.

I have only recently returned to dealing with the justice portfolio, but my eyebrows were raised higher than my hairline when I saw I was faced with a 1999 Bill. I raise this matter in the context that we are discussing a Bill that makes further provision for the recovery and disposal of the proceeds of crime and provides further powers to the CAB. Of all recent developments in the fight against crime, the CAB is worthy of high praise. I am delighted that some fellow Corkmen, Barry Galvin on the legal side and Fachtna Murphy on the Garda side, were involved with the setting up of the CAB. Those of us who have been impressed by the record of the CAB feel it is fair to ask why legislation giving it greater powers and dealing with the disposal of funds acquired by it was not given priority by the Government. I wish to put on record my admiration for the work of the CAB. When we see a job well done, it is important to take the opportunity to record our

admiration and praise of it and of those involved in it. I encourage those currently involved with the CAB to continue their good work.

My amendment arises from the need for the perception that funds being seized by the CAB will be put to a purpose with which the public can identify. It proposes a redefinition of the phrase "drug related initiatives". The idea is to enable the Minister for Justice, Equality and Law Reform to ensure the proceeds of crime seized by the State are applied to appropriate organisations and initiatives focused on redressing the damage caused by those in drug related activities.

It would be no harm for the Minister to confirm and put on the record of the House the up-to-date figures on the activities of the CAB. Much of the money with which the country is awash arises because Ireland is awash with drugs and much of the activity of the CAB is related to those involved in flooding the country with them. It is important therefore that funds received should be directed along the lines proposed by me and similarly minded colleagues. The Minister for Justice, Equality and Law Reform should have appropriate powers in this regard. Of course, the Department of Finance will object. I served as a Minister of State in that Department at one time and I am well aware of the Department's attitude, which is understandable. However, I am trying to introduce a broader perspective into the discussion.

It is a natural Pavlovian reaction on the part of the Department of Finance to shy away from any question of ring-fencing. It would prefer to keep its finger in the pie at all stages so that it can control the tap if necessary. We will be told that ring-fencing is not appropriate in the circumstances and that there is no general case for it. However, there are examples of ring-fencing where the Government or the Oireachtas has felt it appropriate to provide for it. Deputy Costello mentioned the dormant accounts fund which is appropriate because the ring-fencing of those funds is exclusively for areas of educational, social and disability disadvantage.

I was involved with the passing of the National Lottery Bill 1986. Section 5 provided for the disposal of lottery proceeds and they were, therefore, ring-fenced. There are other examples.

One of the few creditable changes the Government made was the plastic bag tax, which I strongly supported. I do not raise this from the point of view of heaping praise on the Government, although I operate on the basis of giving praise where it is due. If one in 1,000 of the Government's actions is worthy of praise, I will give it.

**Mr. B. Lenihan:** The previous Government introduced the levy.

**Mr. Costello:** It was of the same hue.

**Mr. J. O'Keeffe:** It was the same outfit. The Government parties have been in power since

1997. Reshuffles and everything else do not break the continuum.

**Mr. Costello:** They are in different chairs.

**Mr. J. O'Keeffe:** The Government parties have been responsible since 1997 and they will be reminded of that before they metamorphose the outfit into Sinn Féin. However, that is another issue.

**Mr. B. Lenihan:** There was an election in between.

**Mr. J. O'Keeffe:** The plastic bag tax was a good idea but it was ring-fenced.

Under legislation the National Pensions Reserve Fund is allocated 1% of GNP annually. The provision of 0.7% of GNP for overseas development aid is a similar provision and it was highlighted at an Oireachtas Joint Committee on Foreign Affairs meeting yesterday, which I was glad to attend because of my continuing strong interest in that area. That was supposed to be ring-fenced but it depends on the Estimates. However, there are precedents for ring-fencing and it will not be sufficient for the Minister of State to state the Department of Finance does not like the general principle. It has been conceded in many areas and the proceeds of drug activity should qualify for prioritisation for ring-fencing.

I also refer to amendment No. 9, which provides for a reduction in the time the moneys must be held. I am concerned because the current provision of seven years is too long. A connection in the mind of the public between seizures of funds and their disposal seven years later will be lost. I appreciate a reasonable holding time is needed but it should be less than seven years. The Minister for Justice, Equality and Law Reform reduced the Statute of Limitations in regard to tort and personal injuries. His original proposal was one year but, under pressure from the Opposition, he ultimately agreed to two years. He had, however, proposed a shorter time.

The basis for my amendment is proposals by my colleague, Deputy O'Dowd, who has developed thinking on this issue, which he has outlined in the House over the past year or two. He examined the issues of ring-fencing seized funds and using them for a specific purpose and disposal time. The CAB has been successful in retrieving and selling assets. I hope the Minister of State will support a reduction in the time involved and will discuss what would be appropriate. Three years would be ideal.

Acceptance of ring fencing and a shorter time limit would open up a discussion on the establishment of a statutory framework for spending the money. It should be expended in the drugs area where it will have an influence on discouraging the use of drugs.

**Aengus Ó Snodaigh:** I tabled three amendments similar to those of the previous speakers.



[Aengus Ó Snodaigh.]

They provide that the proceeds of crime confiscated by the CAB should be ring-fenced. Deputy Jim O’Keeffe has outlined part of the reasoning behind the proposal but I would go further and provide that the money should be used for community development in economically disadvantaged areas rather than concentrating the money solely on the prevention of drug activity because, in doing so, drug prevention will be addressed through a longer term strategy, which has been identified by the National Crime Council and other bodies. Concentrating on economic disadvantage is one of the best ways to prevent drug abuse and drugs crime and that is why I tabled my amendments.

The money that could potentially be released would have major benefits for areas that have been identified by the Government in the past through the RAPID and CLÁR programmes. These areas are significantly economically disadvantaged and they experience most drug crime. Most of the CAB’s activity has been concentrated on these areas and, therefore, the money should be ring-fenced to tackle the underlying problems in these areas and to give them a boost to put them on a par with other communities.

Existing law together with this legislation provide that the property seized should be disposed of to the benefit of the Exchequer and the Minister for Finance can spend the proceeds as he or she sees fit. That is the main provision we would like amended. People expect and also deserve that the money should be ploughed back into the working class communities hardest hit by crime. Children in such communities are most at risk of coming into conflict with the law and ending up on drugs or unemployed and disadvantaged.

We need to break that cycle and the money seized under this legislation has the potential to do so. Between 1996 and 2003, the CAB obtained seizure orders worth more than €73 million. That is a significant amount to plough back into economically disadvantaged areas. I presume the CAB will continue its work to target drug barons and crime lords who are the scourge of working class and other communities throughout Ireland and that proceeds will continue to be generated so that a fund will be available from which moneys can be drawn down to support work that is under way and to accelerate rebuilding of communities under the RAPID programme, which has virtually ground to a halt.

Sinn Féin’s amendments have not been tabled simply to cause further debate. We proposed similar measures on Committee Stage. The Minister and some of his Cabinet colleagues have always argued against ring fencing, though as Deputy Jim O’Keeffe pointed out it continues to occur in quite a number of areas. It is a pity the Minister is not in the House. On Committee Stage, he gave a commitment to approach the Minister for Finance to discuss the proposal of three Opposition parties and to determine whether there was a way to ring-fence this type

of funding. Deputy Jim O’Keeffe mentioned the dormant accounts fund, 52% of which is ring-fenced and allocation to RAPID areas and drugs task forces guaranteed. Lottery moneys are also earmarked for specific purposes including funding of sports activities, health services and Irish language programmes. Money from motor taxation is ring-fenced for local authorities to defray the costs of water charges, which is an odd one. Only last week, the Minister for Finance extended provisions for ring fencing moneys for the horse and greyhound-racing fund. Whatever people say about that, ring fencing is a facility that is available to Government and it should be employed in the legislation before us to ensure that moneys seized by the Criminal Assets Bureau are used productively to benefit disadvantaged communities.

On Committee Stage, the Minister insisted that as spending €1 on old-age pensions is just as valuable as spending €1 on deprived inner-city areas, we should funnel the money directly into the Exchequer and trust the Minister for Finance. The most recent figures on poverty in the State prove conclusively that we should not trust the Government to spend money as it has not used the funds that have been available to close the poverty gap. As the Government has failed to invest in communities most in need, we want legislative provisions to ensure that money is set aside for specific projects in disadvantaged areas. The criteria for determining what constitutes an economically disadvantaged area are already established and set out in the RAPID and CLÁR programmes. Crime lords and drugs barons generated the additional moneys at issue by targeting deprived communities. It should be considered that the moneys came from these areas and do not constitute tax revenue owed to the State. This is additional money that should be spent on projects in the areas in which people were targeted in the first instance. I hope the Minister will take these points on board.

On Committee Stage, the Minister said he would consider the points we raised and speak to the Minister for Finance. On this side of the House, we have proven that ring fencing is possible. The Minister also said on Committee Stage that he would consider introducing provisions to strengthen the fight against white-collar crime and corruption in particular. He made this commitment on the basis that the Bill before us is presented in place of separate and dedicated proceeds of corruption legislation promised in the programme for Government. The Minister indicated he was considering a provision to make it an actionable wrong to unjustly enrich oneself by means of a corrupt act with the effect that one would therefore expose oneself to civil liability where one did so. Such a provision would have allowed a person or persons to bring an action on behalf of a community to recover the proceeds of unjust enrichment. No amendments have been brought forward to give effect to such a provision today. Can the Minister of State explain why?

Will further legislation come forward to deal with that specific area? We tend to come back to enact short, separate Bills to address matters that could have been dealt with in legislation previously before the House. The Minister originally promised to amend this Bill.

The public perception was that money seized by the Criminal Assets Bureau would be ploughed back into the areas that have been most disadvantaged by the crime lords and drugs barons. We are not asking for anything beyond the provisions most reasonable people in the State would expect to be made.

**Mr. F. McGrath:** I welcome strongly the debate on the Proceeds of Crime (Amendment) Bill. I support the amendment, which is very important as it gets to the heart of the issue of the proceeds of crime and aims to make practical provisions for the communities that were ripped off in the first instance. We must realise that communities ripped off by people involved in drugs require investment and the support of every Member of the Oireachtas.

In a previous day job I worked for many years in the north inner city where I saw the difficulties many people have to deal with. Of those who live in disadvantaged communities, 90% are fantastic people against the odds. The other 10% are involved in anti-social behaviour because of drugs problems, crime and family dysfunction. We must not lose sight of the fact that against the odds many working people are doing a magnificent job with their children and families.

I agree with Deputy Ó Snodaigh's amendment that seeks to provide that funds realised on the making of disposal orders should be used for community development purposes in economically disadvantaged areas under the Principal Act as amended by this legislation. There are examples of good practice in this area. Some years ago, the magnificent Breaking the Cycle programme was introduced to tackle educational disadvantage by targeting money and investment at four year olds. Just 33 of the poorest schools in the state implemented the programme but cynics asked what it had done in terms of academic attainment after four or five years. I worked in one of the schools involved and saw the positive effects of the programme. It changed the atmosphere in the school by reducing the amount of violence and tension there. Children from very dysfunctional families wanted to come to school every day and at 4 p.m. when some of the after-school projects were finished the caretaker and I had to round them up and send them home. They were enjoying school and the focus on after-school activity.

The few extra euros put into such services yield positive results. While I accept that at the next step one must address reading levels and academic achievement, one cannot begin to educate children if they arrive at school at 9 a.m. hungry and having come from extremely violent situations or ones in which there are drugs. It is an

extremely difficult job to do, which is why critics of the Breaking the Cycle programme should wake up and realise the good it has done.

Drugs are spreading rapidly through society in rural as well as urban areas. A year ago, €20 million worth of drugs was confiscated in part of my constituency. There is a culture of violence and intimidation of whole communities associated with drugs. It is not acceptable that people should be intimidated in their maisonettes and flats by five or six people involved in the drugs game. This issue forms part of the debate as does investing in development in economically disadvantaged areas. We must target resources allocated for children at risk. Between 300 and 600 of pupils in primary schools this morning urgently need help with emotional and social problems. We must intervene when such children are four, five or six years of age because they are lost to us by the time they reach 12 years of age and often end up in Mountjoy Prison by the time they reach 16 or 17 years of age. We must use money confiscated from criminals and drug barons in these areas. Spending money on children at risk is good for them, society and the taxpayer. If we can intervene and prevent children ending up in Mountjoy Prison it would be a worthwhile project.

The term "disadvantage" has been used a great deal in today's debate and, in particular, in the amendments. We must ask ourselves the fundamental question of why, following ten years of economic boom and massive wealth, we continue to have communities which are deemed disadvantaged. There are times when I am annoyed by the use of the term "disadvantage" when speaking of particular communities. Perhaps the word "neglected" or some other word could be used. Why is it particular communities continue to feel totally excluded? Why is it most of the people living in such communities do not receive a decent week's wages and that even those working receive only low salaries or the minimum wage? We as a society and, in particular, the Government must examine our conscience and ask why given the economic boom and the upturn in our economy many communities still feel totally excluded. Many parts of my constituency and parts of the Minister of State's constituency are in that category. We must address this issue.

One can set up 20 poverty groups and 20 other agencies to examine the causes of poverty but I guarantee that the provision of proper education, decent housing and employment would bring an end to poverty. The low level of unemployment at 5% provides us with an opportunity to do so now. The economic debate is over as far as I am concerned. We must now focus on how we will distribute resources in a fair and positive way to people in the communities. That is important. The recent incident at Dunsink Lane raised issues such as discrimination against Travellers and problems of anti-social behaviour, violence and intimidation of communities. I believe the issues

[Mr. F. McGrath.]

involved there relate mostly to policing in the area.

The Criminal Assets Bureau is relevant in the context of the amendments. It is a fantastic agency and is something for which Deputy Gregory and I pushed for many years. We believed that the finances of those who exploit others particularly by way of drugs should be confiscated and re-invested in education and housing. I also encourage the Government to invest some of that money in leisure activities. Many talented children in disadvantaged areas do not play rugby or other games and we are losing them as possible sports people in the future. That is important in the context of tourism and our international relationship with other countries. Thousands of children in poor areas are being left out because they do not have the required resources, such as the two cars of middle income families, which would enable them to be dropped to and collected from football matches. Often, they have to rely on voluntary workers in their communities to bring them to the games. We are losing out on the talent of many children in the area of sports and the arts.

Deputy Gregory will be aware that many children in the inner city in particular are involved in writing and playing music, which is good. They are the type of projects we should be supporting as specified in amendments. I support amendment No. 2 and hope it will be taken on board.

**Mr. Gregory:** I support the amendments which call for the ring-fencing of money confiscated by the Criminal Assets Bureau and its redirection into disadvantaged communities. Deputy Finian McGrath got to the heart of the matter when he posed the fundamental question of why we still have deprived, disadvantaged communities after years of affluence. We continue to be reminded week after week by the media of how affluent a society we have become and that we are one of the most affluent countries in Europe and the developed world. Yet, the gap between rich and poor is widening and disadvantaged communities remain drug ridden.

I attended a meeting of a community policing forum last night in Store Street Garda station. The forum was set up on the initiative of the local drugs task force in the area. When the Garda were asked for a report on drug seizures in the north inner city they, unfortunately, provided a litany in terms of the supply of heroin and cocaine at a variety of locations across the north inner city, the centre of the capital of what we are told is one of the most affluent countries in the world. The fundamental issue facing us is the redirection of money confiscated by CAB into disadvantaged areas. While there is a strong moral argument for doing so, it is the very least that should be done.

Deputy Finian McGrath and others spoke of the Breaking the Cycle disadvantaged education scheme. It is one of the scandals of this country

that a scheme which was so beneficial to children in drug task force areas in particular, the pilot scheme of which proved extremely successful, has been ignored. Perhaps it was ignored because it was not the product of Fianna Fáil initiative, I do not know. Teachers from the schools using it say it was the most beneficial scheme ever introduced. We must introduce change at pre-school and primary school level. If we do not grasp that opportunity we will continue to have debates on where money confiscated by CAB should be spent. While there is a strong moral argument for doing so it is not a critical issue. Unfortunately, the critical issues are not being tackled.

The Criminal Assets Bureau was established in the aftermath of the murder of Veronica Guerin at a time when some criminal gangs in the country were out of control. Some of those gangs have since been removed from the scene. I remain critical that the Criminal Assets Bureau has lost its focus. It has not remained focused on the issue for which it was primarily established — to deal with organised and drug related crime. The end result — I do not blame the Criminal Assets Bureau for this — is that there are now more drugs around than ever before. Cocaine has become a major problem and heroin remains a serious problem.

The meeting of the community policing forum last night shows that communities in these areas want to play their part in dealing with the drugs problem in particular. These people came together in a police station, something almost unheard of in the north inner city until this initiative took place. Prior to that meeting, they met in halls and marched on drug dealers. They had no faith in the police, the State or anyone because they had been neglected for so long. That perception has changed and people are prepared to work with the police, the city council and various agencies in tackling this problem.

It would be a marvellous gesture if the long-standing demand that the money involved was ring-fenced and put back into these communities was met. That has been sought since 12 o'clock the foundation of the Criminal Assets Bureau. It has been put to many Ministers — I am not singling out the current Minister, who might prefer to call himself the Minister for justice and inequality, because he thinks there are benefits in inequality and that it is good for the economy. That is the philosophy of this Government, particularly the Progressive Democrats element, and it sustains the ever-widening gap between rich and poor. I had hoped the Minister would be here to address this issue.

The Minister stated that the revolving door in prisons no longer exists. A case arose, however, at the meeting of the community policing forum last night. People from the Ballybough area were alarmed at a series of break ins in the area, particularly against elderly people living alone, a frightening issue for them. The suspect was arrested by the gardaí but it transpired that he was unlawfully at large, he had been in prison, was let out on



temporary release and did not return to Mountjoy. He was re-arrested and deposited in Mountjoy Prison. Senior gardaí present at the meeting of more than 200 residents expressed alarm at the activities of this individual. The guy was arrested, was unlawfully at large, was sent back to Mountjoy and he was no sooner there, believe it or not, than he is released again. This was announced at the meeting last night. The gardaí themselves were not aware of what happened — there seems to be no communications between the Garda stations responsible for arresting these people and depositing them in Mountjoy and the authorities in Mountjoy. The individual who was causing havoc in Ballybough is now back out and the people whose homes were broken into and other elderly people in the area live in fear. The revolving door that the Minister for Justice, Equality and Law Reform, Deputy McDowell, told us was long since closed clearly is not closed. I had hoped he would be here so I could raise this issue with him.

**An Ceann Comhairle:** I am reluctant to intervene but we are moving away from the amendments before us.

**Mr. Gregory:** I accept that but I gave a commitment at the meeting last night that I would raise this issue with the Minister.

**An Ceann Comhairle:** I suggest the Deputy finds another way to do that.

**Mr. Gregory:** I have done it now and I appreciate the leeway given by the Ceann Comhairle. This is an important issue and I hope the Minister of State, Deputy Brian Lenihan, raises it with the Minister for Justice, Equality and Law Reform.

I support this amendment and hope the Minister will find some way to implement it. It is a long-standing demand of community and residents' groups and drugs task force organisations. If it was implemented it would be seen as a significant gesture by the Government to redirect money taken out of these communities back to where it came from.

**Minister of State at the Department of Health and Children (Mr. B. Lenihan):** Deputy Jim O'Keeffe asked why a Bill initiated in 1999 is coming before the House now. Second Stage of this Bill was completed in 2000 and it was not proceeded with at that stage pending the outcome of a number of court challenges to the primary legislation, the Proceeds of Crime Act 1996. Following those court cases and further consultation with the Criminal Assets Bureau, a number of additional proposals for inclusion in the Bill were made as Government amendments on Committee Stage. For the most part, the amendments relate to matters that have been brought to the Minister's notice by the Criminal Assets Bureau arising from its experience in the operation of the legislation. Following the interim report of the

planning tribunal, it was decided to incorporate measures relating to the seizure of assets in that context. We are dealing with a substantially revamped Bill.

Amendments were tabled on Committee Stage relating to the ring-fencing of money obtained by the Criminal Assets Bureau for community development purposes in certain areas and to fund programmes to discourage people from using drugs. The matter was raised with the Minister for Finance in late 2002 and the Department of Finance refused to countenance a change in policy at that stage. In March 2004, the matter was again put to the Minister for Finance and again the Minister indicated that he could not support the earmarking of revenue for any specific project. The earmarking of funds constrains the Government in the implementation of expenditure policy. If it was agreed that earmarked revenues should fund projects in communities affected by drug abuse, it would set a precedent that would make it difficult to refuse other representations that might be made in the future to earmark revenues for other specific purposes.

**Mr. Costello:** The precedent already exists.

**Mr. B. Lenihan:** It has also been pointed out that if certain revenues were earmarked for particular projects within the overall fight against drug abuse, any project thus funded would be dependent on revenue collected. That is where the analogy with other earmarked arrangements falls down. We cannot say with any degree of certainty how much will accrue to this fund.

**Aengus Ó Snodaigh:** We said additional money.

**Mr. B. Lenihan:** A fall in revenue might imply a fall in expenditure on a particular project. After Committee Stage, and against the background of those strong views, the Minister for Justice, Equality and Law Reform again raised the matter with the Department of Finance and the response was another resounding negative. The Department's policy on this issue has clearly not changed and is not likely to.

**Mr. J. O'Keeffe:** No, no, no.

**Mr. B. Lenihan:** There is a point that puts this discussion in context. As of today, a final order for approximately €1 million has been successfully made following the completion of the seven year period. That is the only money that has accrued to the Exchequer to date, although, as Deputy Ó Snodaigh pointed out, in excess of €70 million has been frozen in either interim or final orders so we can anticipate that a substantial fund will accrue to the Exchequer in the coming years. As of today, however, the total sum that has accrued is €1 million and that would not go far in tackling the problems that were so eloquently outlined by different Deputies in the House.



[Mr. B. Lenihan.]

On educational disadvantage, the Government has piloted the very successful schools completion programme on a national basis and a substantial amount of Exchequer money was invested in that. There were also programmes in which local drugs task forces were involved and the amounts involved are out of all proportion to the amount involved in this fund to date. I accept that more money will accrue in time.

Deputy Jim O'Keeffe raised the separate issue of reducing the seven year period to three years. That would release more money but the matter was examined at length on Committee Stage.

There are two reasons for the seven-year limitation period. First, as Deputy Jim O'Keeffe identified, there is the question of the rights which a third party might have to some of the property. The other reason is a constitutional issue identified by the Attorney General. The primary purpose of the proceeds of crime legislation is not to enrich the Exchequer with expropriated property but to freeze proceeds of crime to deprive those concerned of the benefits of criminal proceeds.

The most constant criticism of the legislation has been that it penalises individuals without the individual affected being convicted of an offence. A reduction of the period between the interlocutory order and the disposal order to three years might render the legislation more open to challenge on the grounds that it is a penal confiscation without due process. The shorter the period before the forfeiture stage, the greater the chance that the forfeiture might be deemed penal. While a period of seven years does not overcome all the relevant periods under the Statute of Limitations, it addresses the great majority of them. As Deputy O'Keeffe pointed out, the Statute of Limitations has been reduced to two years in the case of claims in tort for personal injury. Longer limitation periods generally arise in respect of claims for personal property such as money and claims founded on contract. The generality is that a period of six years is the relevant period and there are extensions of that period for persons with a disability, and minors and so forth. At the end of seven years, any contractual claims against real property will have been defeated, albeit claims by mortgagees and other claims against real property will not require to have been defeated in that time.

The period of seven years was very carefully selected as a desirable timespan during which contractual claims could be defeated. The new provision for consent disposal order in section 7 of the Bill allows for the seven year period to be reduced with the consent of all parties involved. The Attorney General has advised against any further dilution of the provision. We are in the hands of the Attorney General in this matter. I am sure Deputy O'Keeffe is well aware the legislation was challenged extensively in the court and has been subject to several robust challenges. It is important that a robust form is designed in order for it to withstand these challenges. That is

the reason I cannot agree to Deputy O'Keeffe's amendment to reduce the seven year period to three years.

Many Deputies commended the Criminal Assets Bureau on its work and I join in the tributes which have been paid. Deputies Ó Snodaigh, Finian McGrath and Gregory made a very strong case for the allocation of moneys to areas which are being devastated by drug abuse. I remind Deputy Gregory that the problem of cocaine use seems to cross all social boundaries and it is not restricted to any one social category but ideally the Government would wish to invest moneys as much as possible in areas that have been devastated by the effects of drug abuse. The Minister for Finance and his Department take the view that this matter cannot be ring-fenced.

Deputy Ó Snodaigh raised the question of the unjustified enrichment by persons who have engaged in political corruption. The Minister referred to that matter on Committee Stage. He said he wished to pursue the issue of a provision to tackle the position where someone, by means of some corrupt act, is able to benefit from the enhancement of the value of a property arising from the corrupt act. An example was given of a person who bribes a local government official to allow him build 60 rather than 50 houses on an estate. The mechanism would provide for a procedure to pursue the additional profit generated by the bribe. The Minister gave an undertaking to pursue the matter and introduce an amendment on Report Stage if such was found to be possible.

In the intervening period since Committee Stage, the draft head of a new provision has been drawn up. To ensure the robustness of the provision so that it will stand up to the type of scrutiny to which it is likely to be subjected, the Attorney General has indicated that senior counsel should examine the provision from both a constitutional and technical point of view. The matter has been referred to senior counsel. I can confirm that the proposal as currently envisaged is along the lines outlined by the Minister to the committee. There will be an effort to try to take into account the views expressed by a number of Deputies on Committee Stage on this issue. In keeping with the undertaking given on Committee Stage and subject to the further views of counsel on the proposal, it is intended to move an amendment in the Seanad on that subject. The matter will then be referred back to this House in due course for consideration.

**Mr. Costello:** The Minister of State's reply is somewhat disappointing, considering the efforts made on this side of the House by Labour Party, Sinn Féin and Fine Gael Members on Second and Committee Stages. The Minister of State said the issue of ring-fencing the funding was raised in late 2002 and in March 2004. Has the matter been raised with the new Minister for Finance and, if so, has the new Minister for Finance indicated his views on the matter? If it has not been raised with

the new Minister for Finance, perhaps the Minister of State will consider the concerns expressed in this House and ask the Minister for Justice, Equality and Law Reform to raise the matter with the Minister for Finance before the Bill goes to the other House.

This issue has been the nub of much discussion and debate. Everybody is in favour of what has been achieved by the original proceeds of crime legislation and in the working of the Criminal Assets Bureau. Everybody is anxious to see the extra powers which are included in this rather belated amending legislation introduced as soon as possible. The one thing missing is a provision for where the money will go. There is a lack of commitment by the Government to ensure that the money is earmarked.

It makes no sense for the Minister of State to say such a provision would create a precedent and that the Department of Finance does not wish to create a precedent. Many precedents have been created and they have been listed in the House today. The plastic bag levy is ring-fenced; the national lottery money is ring-fenced for particular purposes; the dormant accounts funds are ring-fenced; the pension reserve fund is ring-fenced; and the 0.7% of ODA funding, if we ever get it, is ring-fenced for a particular purpose. I do not understand why there is a problem with deciding that this money, which comes from the ill-gotten assets and gains of people who have committed the worst forms of criminality on disadvantaged communities in areas where so much money is needed, should go to those communities, which have been starved of resources across the board. Even if a problem did exist, this would be an example of a case where a precedent should be established. The Minister of State should take the proactive rather than the negative approach.

I am somewhat confused by the figures quoted by the Minister of State. He stated there has been a final order for only €1million to date. Does that final order cover the full gamut of the period since the legislation was established in 1996? How much money has gone into the kitty, to the Exchequer? I would like to query how that tallies with what the Minister said in a press release.

**Mr. B. Lenihan:** It is a seven-year limitation period.

**Mr. Costello:** We know about the seven year limitation period but that is now well past. Seven years from 1996 is 2003. That period finished over 12 months ago and we are now in the final quarter of 2004. A press release issued by the Minister for Justice, Equality and Law Reform in August last year stated that from its statutory inception in October 1996 to 31 December 2002, the Criminal Assets Bureau obtained interim and final restraint orders to the value of over €48 million and €21 million respectively. Will the Minister of State explain what is a final order? In the same period, taxes and interest demanded were in excess of €71 million, with over €46 million col-

lected. In layman's language that means the Exchequer got €46 million and there was a final order that provided for the €48 million. In addition, social welfare savings amounted to over €1.4 million. Where is the money going, given that the Minister of State has said there has been only one final order granting €1 million?

**Mr. B. Lenihan:** I did not say that.

**Mr. Costello:** The Minister of State did say that. I took a note of it.

**Mr. B. Lenihan:** The Exchequer has got €1 million.

**Mr. Costello:** Therefore there is a good deal more money out there. We want it made clear what money has accrued since the establishment of the Criminal Assets Bureau that is available for disbursement.

I am not satisfied with the Minister of State's response which is inadequate. I hope he will go to the Minister about it. In regard to the item I raised with the Minister last week, that is, the spate of burglaries that took place in the Clonliffe area, can he give us some reassurance? He gave me a long reply on how the matter had been addressed. As he is aware one of those responsible was arrested on 2 October and released on 6 October. My information is that this person had been involved in certain drug activity. I have tabled a question to the Minister for Justice, Equality and Law Reform on the matter so I expect a reply.

**Mr. J. O'Keeffe:** It is clear from this discussion, because of the seven year retention period, that effectively all that has accrued to the Exchequer to date for disposal, since the establishment of and the fine work of the CAB, is €1 million. That is disappointing news to many of us who wanted to see a direct relationship between the expenditure of the moneys seized and the activities of those from whom it was received, but that connection is lost because of the length of time involved before the money appears. We have been talking about ring-fencing and where we would like to see the money spent. Essentially what transpires is that so far very little money is available for any expenditure, whether community related, disadvantaged areas or otherwise, or drug related initiatives. I would like to see a particular focus on discouraging people from taking drugs.

I take the Attorney General's point. He has highlighted problems from the constitutional point of view, third party rights and so on. I would like an assurance from the Minister of State that this issue will be kept open. I understand the caution of the Attorney General, that is his job, however, I consider that a seven year period is a barrier to the moneys being spent on the ground. That only €1 million is available out

[Mr. J. O’Keeffe.]  
of €70 million on hand is directly related to that seven year period.

There is also the power of the Department of Finance in regard to ring-fencing and all the arguments have been made. On Committee Stage the Minister appeared to be convinced there was a case to the extent that three visits were made to the god on high on Merrion Street, the Minister for Finance and his officials, and the answer was, no, no, no. All we can do is point out that there are precedents and because of the priority we established in regard to where the moneys should be spent there should be ring-fencing. For that reason I join colleagues in forcing this issue to a vote.

**Aengus Ó Snodaigh:** It is regrettable the Government has refused on this occasion to take the opportunity to ring-fence this money. It was always intended to be additional money to top up what was spent. The problem in the past was that whenever additional money was mentioned, for example, when the national lottery was established, it was intended to be additional money rather than mainstream money. The argument the Minister of State made was that projects could not depend on it. There are projects and whole areas of policy which are dependent on the national lottery succeeding — there is no guarantee of revenue from the lottery, especially with the establishment of the European lottery. A mistake was made with the national lottery funding, but it should not be made in regard to this money which should be ring-fenced and should be additional.

While only €1 million has accrued to the Exchequer to date, from the CAB figures for confiscation orders, in 2009 there will be €54 million available for these projects. That is just one block. I do not have the figures for the other years. If as Deputy Gregory said, the CAB continues to lose its way and target tax evaders, despite the fact that the courts found against it on a few occasions, and goes down the road of tackling corruption, banking scandals and white collar crime, much more money can be collected. It is not as if the pool of money will lessen over time. There should be more money if CAB does its work. This opportunity will be missed if the Government does not take this on board. The only people who will suffer are those who have been disadvantaged by crime in the first instance. This was answered by society’s attitudes towards Government. We now have an opportunity to take one small step to address disadvantage and the inequality that has been brought upon these areas. It is a scandal the Government will not ring-fence this money as it has done for the horse and greyhound racing fund.

**Mr. F. McGrath:** I wish to speak specifically to Deputy O’Keeffe’s amendment No. 3, which is an important part of the strategy in dealing with the whole issue of the proceeds of crime and the con-

cept of discouraging people from taking drugs and assisting in the rehabilitation of drug users. We have to examine why young people get involved in drugs. The usual answers are low self-esteem, personal problems, low self-worth, major problems in their lives and not feeling any sense of value in society. Those are the reasons children and young people get involved in drugs. There is also the adventure side in that they are looking for a buzz and something different.

Given that prevention programmes are an important part of the strategy, some money from CAB and the proceeds of crime should be invested in sensible prevention programmes. I do not mean little campaigns such as putting up a poster in a school but serious personal development programmes for children as young as four, five and six years of age who come from dysfunctional families and who need a lift as regards their self-esteem and their self-worth. There are many programmes in primary schools and these can be used in a progressive way. If some of the money and the resources is used to assist them this would do much to prevent more young people getting involved in drugs.

**Mr. Gregory:** I wish to make two brief points. The amount of money is not the issue, rather it is that drug dealers accumulated their assets at the direct expense of communities in drug-ravaged areas. Therefore, the moneys involved should be returned to those communities as additional funding by whatever mechanism can be found to do so. It is a simple matter and it is beyond me why such a mechanism cannot be found. I regret that the Minister of State’s response seems to be that the Government is not prepared to look for such a mechanism to bring this about.

Will the Minister of State address the issue of the person charged with a series of house break-ins who, having failed to return from temporary release, was put back in prison only to be almost immediately given further temporary release back into the same community in which he has been causing havoc for the past few months?

**Mr. B. Lenihan:** The Deputy will have to deal with that, subject to guidance from the Chair, by way of parliamentary question or motion of the House. The officials of the Department of Justice, Equality and Law Reform are in the House to deal with the legislation before us today and do not have details to hand on operational matters connected with the Garda Síochána. Therefore, I am not in a position to answer the Deputy’s question. However, the matter was raised by Deputy Costello on the Adjournment of the House last week.

**Mr. Costello:** The Deputy can read the reply.

**Mr. B. Lenihan:** The Deputy can read the reply on the progress to date.

Deputy Gregory also raised a fresh issue on which I have not been briefed and am not in a position to deal with now.

**Mr. Gregory:** I tabled a series of questions last week on the same issue. However, since then, the individual in question has again been released.

**Mr. B. Lenihan:** The Deputy will have to pursue the matter elsewhere since it does not arise in this discussion.

Deputies have not yet noted that the assets frozen to date under the Act did not derive from the activities of drug dealers.

**Mr. Costello:** They came from criminal assets.

**Mr. B. Lenihan:** Nevertheless, I share Deputies' concerns that the problems created by drug dealers should be a high priority, which point I have not stressed until now. The fundamental point is that if we earmarked this fund, we would add additional layers of bureaucracy to the allocation of funds, which would be unjustified unless significant and quantifiable added value in excess of the additional administrative costs could be shown. Ring fencing would add nothing to the sums realised for the Exchequer. Rather, it would

absorb resources in itself by setting up another parallel bureaucracy to disburse funds associated with drug task force areas. On that ground alone, we cannot accept ring fencing.

**Mr. J. O'Keeffe:** That is a typical Department of Finance answer. The Minister of State wants everyone to keep their paws off the money.

**Mr. Costello:** The Minister of State's response does not cut any ice. We have given him the examples and precedents whereby money has been ring-fenced. The point made by speakers today is that such funding would give to communities which have been devastated by criminal activities, mainly drug dealing, a considerable morale boost. If the Government were seen to be so concerned about doing something that all the funds from the Criminal Assets Bureau were ploughed into these communities, it would give them the confidence to fight back against the devastation which has taken place. Since we are referring to additional funding, as well as a financial benefit there would also be a morale and confidence boosting effect as a result of such an action by the Government.

Amendment put.

The Dáil divided: Tá, 54; Níl, 68.

Tá

Allen, Bernard.  
Boyle, Dan.  
Breen, Pat.  
Broughan, Thomas P.  
Bruton, Richard.  
Burton, Joan.  
Connaughton, Paul.  
Costello, Joe.  
Cowley, Jerry.  
Crawford, Seymour.  
Crowe, Seán.  
Cuffe, Ciarán.  
Deenihan, Jimmy.  
Durkan, Bernard J.  
English, Damien.  
Gilmore, Eamon.  
Gogarty, Paul.  
Gormley, John.  
Gregory, Tony.  
Hayes, Tom.  
Healy, Seamus.  
Higgins, Joe.  
Higgins, Michael D.  
Howlin, Brendan.  
Kehoe, Paul.  
Lynch, Kathleen.  
McCormack, Padraic.

McGrath, Finian.  
McGrath, Paul.  
McHugh, Paddy.  
McManus, Liz.  
Mitchell, Gay.  
Morgan, Arthur.  
Ó Caoláin, Caoimhghín.  
Ó Snodaigh, Aengus.  
O'Dowd, Fergus.  
O'Keeffe, Jim.  
O'Shea, Brian.  
O'Sullivan, Jan.  
Pattison, Seamus.  
Penrose, Willie.  
Perry, John.  
Quinn, Ruairí.  
Rabbitte, Pat.  
Ryan, Eamon.  
Ryan, Seán.  
Sherlock, Joe.  
Shortall, Róisín.  
Stagg, Emmet.  
Stanton, David.  
Timmins, Billy.  
Twomey, Liam.  
Upton, Mary.  
Wall, Jack.

Níl

Ahern, Dermot.  
Ahern, Michael.  
Andrews, Barry.  
Ardagh, Seán.  
Blaney, Niall.  
Brady, Johnny.  
Brady, Martin.  
Brennan, Seamus.  
Browne, John.

Callanan, Joe.  
Callely, Ivor.  
Carty, John.  
Collins, Michael.  
Coughlan, Mary.  
Cowen, Brian.  
Cregan, John.  
Curran, John.  
Davern, Noel.



Níl—*continued*

Dempsey, Noel.  
 Dempsey, Tony.  
 Dennehy, John.  
 Devins, Jimmy.  
 Finneran, Michael.  
 Fitzpatrick, Dermot.  
 Fleming, Seán.  
 Fox, Mildred.  
 Gallagher, Pat The Cope.  
 Glennon, Jim.  
 Grealish, Noel.  
 Hanafin, Mary.  
 Harney, Mary.  
 Healy-Rae, Jackie.  
 Jacob, Joe.  
 Keaveney, Cecilia.  
 Kelleher, Billy.  
 Kelly, Peter.  
 Killeen, Tony.  
 Kirk, Seamus.  
 Kitt, Tom.  
 Lenihan, Brian.  
 Lenihan, Conor.  
 McEllistrim, Thomas.  
 Moloney, John.

Moynihan, Donal.  
 Moynihan, Michael.  
 Mulcahy, Michael.  
 Nolan, M. J.  
 Ó Fearghaíl, Seán.  
 O’Dea, Willie.  
 O’Donnell, Liz.  
 O’Donovan, Denis.  
 O’Flynn, Noel.  
 O’Keeffe, Batt.  
 O’Keeffe, Ned.  
 O’Malley, Fiona.  
 O’Malley, Tim.  
 Parlon, Tom.  
 Power, Peter.  
 Power, Seán.  
 Sexton, Mae.  
 Smith, Brendan.  
 Smith, Michael.  
 Wallace, Dan.  
 Wallace, Mary.  
 Walsh, Joe.  
 Wilkinson, Ollie.  
 Woods, Michael.  
 Wright, G. V.

Tellers: Tá, Deputies Stagg and Durkan; Níl, Deputies Kitt and Kelleher.

Amendment declared lost.

Amendment No. 2 not moved.

**Mr. J. O’Keeffe:** I move amendment No. 3:

In page 4, between lines 14 and 15, to insert the following:

“‘drug related initiatives’ means voluntary and State funded programmes established to discourage people from taking drugs, or established to assist in the rehabilitation of drug users;”.

Amendment put and declared lost.

**An Ceann Comhairle:** Amendment Nos. 4, 14 and 19 are related and will be discussed together.

**Mr. J. O’Keeffe:** I move amendment No. 4:

In page 5, between lines 17 and 18, to insert the following:

“(c) For the avoidance of doubt, ‘criminal conduct’ shall be construed as involving conduct irrespective of whether that conduct has resulted in a criminal conviction.”.

This is an amendment of some consequence in that it is an attempt to extend the definition of what exactly amounts to criminal conduct. My concern is that the Minister’s approach to the Bill has been very narrow in establishing that criminal conduct means conduct which constitutes an offence or more than one offence. I would like to broaden that definition. There is a strong case for a broader definition of criminal conduct. The question I pose is whether there is a case for establishing a definition of criminal conduct irrespective of whether such conduct has resulted in a

criminal conviction. That is the bottom line. The safe, conservative approach that might even be advised by the Attorney General is that we should begin from the point of criminal conduct meaning somebody against whom there is a criminal conviction. My concern is that many people engaged in criminal conduct are never caught or convicted. That is the reason I propose we include in the legislation the wording “For the avoidance of doubt, ‘criminal conduct’ shall be construed as involving conduct irrespective of whether that conduct has resulted in a criminal conviction”. Compared with the dictionary definition of criminal conduct, my proposed wording would more accurately reflect the correct interpretation of what constitutes criminal conduct. These are the words chosen by the Minister of State. They do not focus on criminal conviction but on criminal conduct.

A person who has not been convicted could clearly say there is no conviction against him or her and, therefore, such conduct does not amount to criminal conduct. That would bring us to the question of onus of proof. There would have to be some evidence of criminal conduct but perhaps not beyond a reasonable doubt that would be necessary to establish a criminal conviction. If there is some evidence of criminal conduct, could we not provide for this definition in the Bill and leave it open to the person against whom moves have been made to establish that he or she has not been involved in criminal conduct? It is essentially a question of onus of proof.

Under the Bill, as amended, are we saying there must be a criminal conviction to establish criminal conduct? In a sense I put forward my proposal for discussion. I do so in the knowledge that I anticipate from a strict interpretation of the wording that the safer approach might be to limit

the application to somebody against whom there is a conviction. However, would that allow somebody against whom there is considerable evidence of such conduct, perhaps much of it circumstantial and not sufficient to met the conviction bar, go free? Is there a case for a somewhat broader definition of criminal conduct in such circumstances? Otherwise, many people who should be dealt with by the Criminal Assets Bureau may be let free. That is the reason I put forward the amendment.

**Mr. B. Lenihan:** In a sense, Deputy Jim O’Keeffe has answered his question by anticipating the answer, although I advise him I will not be as unsympathetic to some of his future amendments as I am to this one.

When this matter was discussed on Committee Stage, an undertaking was given to consider the Deputy’s proposal. What he has proposed is to add to the definition of criminal conduct the proviso regardless of whether that conduct has resulted in a criminal conviction in both the Criminal Assets Bureau Act 1996 and the Proceeds of Crime Act 1996. The intention of the Deputy is not without merit. However, the 1996 legislation operates as a civil forfeiture procedure to pursue the proceeds of a person’s crimes rather than seeking to obtain a conviction against that person.

Having considered the matter further, it is the view of the Attorney General that inclusion of the references proposed in the Deputy’s amendments should be avoided in the 1996 legislation lest that balance which exists between the civil forfeiture scheme operated under those statutes would in any way be tainted with the criminal scheme that operates under the Criminal Justice Act 1994. I hope this clarifies the issue for the Deputy and he will reconsider his amendment.

I want to deal with a matter, to which I did not reply, raised by Deputy Costello in our consideration of the previous section. There was some astonishment that the amount that has accrued to the Exchequer to date under the legislation is approximately €1 million. The position is that a period of seven years must elapse between the obtaining of the first order and the time when the moneys accrue to the Exchequer. In that interim period, the moneys are treated as an internal accounting matter, a suspense account of the Criminal Assets Bureau, but are not in any way vested in the Exchequer.

**Mr. J. O’Keeffe:** I thought there was a need for debate on this area. I am concerned we may be allowing some people to get away with actions they should not be allowed to. I appreciate the point that I anticipated would be raised by the Minister of State and the Attorney General. I will leave the issue aside for further debate, perhaps in the context of a further review of this type of legislation in future. I will not press the amendment.

Amendment, by leave, withdrawn.

**Acting Chairman (Dr. Cowley):** Amendment No. 6 is related to amendment No. 5 and they may be taken together by agreement.

**Mr. J. O’Keeffe:** I move amendment No. 5:

In page 5, between lines 37 and 38, to insert the following:

“(iii) is—

(I) adversely possessed by a third party, or

(II) is subject to a letting agreement, or

(III) is the subject of a trust, or

(IV) is otherwise occupied or inaccessible, with or without leave of the person.”.

This is an issue on which I focused on Committee Stage. I was concerned there may be many circumstances where the owner of property which would be the subject of seizure might not have full access to or control over it. This might be done deliberately. It might be by way of setting up trusts or otherwise with a view to putting some type of safety net around the property. If we amend the legislation as I suggest, it would mean the use of such devices would not prevent the Criminal Assets Bureau getting at the property of such criminals.

The first point I want to cover is the arrangements that might be made to put a property in the name of another person, a man of straw, or, alternatively, in the name of a trust that would have been actively set up by a criminal for the clear purpose of avoiding the efforts of the CAB to seize the property. It was from that point of view I tabled the amendment. The Bill, as drafted, covers some situations where the property concerned would be subject to an injunction. Essentially, that is all part of the same process where properties might be in the possession of others but beneficially owned by the criminal.

I spoke about these people being innovative. They could set up an adverse possession arrangement, long-term leases or other such devices clearly for the purpose of evading the efforts of CAB to seize the property concerned. The purpose of my amendment is to ensure the necessary powers are given to power to CAB to enable it to get beyond such phoney trusts and men of straw and seize the ill-gotten gains of such criminals.

**Mr. Costello:** I formally support the Deputy’s amendment.

**Mr. B. Lenihan:** Section 3 of the Bill amends section 1 of the Proceeds of Crime Act 1996 which deals with third party possession of property, and the new provisions of the Bill explicitly provide that a person remains in possession or control of the property for the purposes of the Act even if the property has been lawfully seized

[Mr. B. Lenihan.]  
from the person or is subject to a restriction by order of the court.

The Bill covers circumstances where the property has been seized by any member of the Garda Síochána or the Revenue Commissioners and where the property is subject to an interim or an interlocutory order which prohibits disposal of, or dealing with, the property. However, on Committee Stage Deputy Jim O’Keeffe correctly highlighted that the Bill does not allow for circumstances in which the owner may not have full access to or control over the property while still being the legal owner. His amendment proposed to widen the existing provisions to cover circumstances in which the property is in the possession of other persons while still in the ownership of the person against whom the Criminal Assets Bureau is obtaining an interlocutory order. It was considered that this amendment would effectively strengthen the existing provisions. I commend the Deputy on raising this matter.

On Committee Stage, Deputy O’Keeffe’s amendment was accepted in principle subject to receiving the advice of the Attorney General and the parliamentary counsel on the precise wording. The Government amendment is a reworded version of the Deputy’s amendment based on that advice but the substance remains the same. The Minister is most grateful to the Deputy for highlighting this oversight. I trust that the Government amendment is acceptable to the Deputy and that he will withdraw his amendment.

There is one difference of substance in the wording proposed by the Government and that of Deputy Jim O’Keeffe. It relates to the circumstance of adverse possession. Essentially, what the Deputy is trying to address is a form of fraudulent conveyance whereby the asset owner attempts to divest himself of the property by using the camouflage of a trust or letting arrangement. However, adverse possession is not an arrangement as such but an inference the court draws regarding particular circumstances. It must be subject to adjudication by the court.

The advice of the Attorney General was that the term “adversely possessed” should not be used as it would give rise to confusion over the circumstances of a particular case of adverse possession. The advice received is that the phrase “or otherwise occupied by another person or is inaccessible” captures the intent of Deputy Jim O’Keeffe’s proposal. The substance of his proposal has been accepted but the wording regarding adverse possession was deemed unsatisfactory. I can see the point because, while a letting or trust requires a positive act, an adverse possession claim does not. It is an actual dispute about the circumstances and therefore the term “adverse possession” is somewhat inelegant. I thank the Deputy for raising the point because it brings about a change of real substance which adds to the legislation.

**Mr. J. O’Keeffe:** In the circumstances, I am happy that the thrust of my amendment is accepted. A principle has been established that will result in a better Bill and more focused powers for the CAB to deal with the circumstances in question.

I accept the advice of the Attorney General on the wording. If he feels his formulation is a better way of giving effect to what I am trying to achieve, I am prepared to accept the Minister’s amendment, formed on the Attorney General’s advice, and I will withdraw the Fine Gael amendment.

Amendment, by leave, withdrawn.

**Mr. B. Lenihan:** I move amendment No. 6:

In page 5, line 38, to delete “or is to the like effect,” and substitute the following:

“or is to the like effect,

or

(iii) is subject to a letting agreement, the subject of a trust or otherwise occupied by another person or is inaccessible.”

Amendment agreed to.

**Acting Chairman:** Amendment No. 7 in the name of Deputy Costello. Amendments Nos. 8 and 11 are related and they may all be discussed together, by agreement.

**Mr. Costello:** I move amendment No. 7:

In page 6, to delete lines 31 to 34.

These amendments relate to interim orders, interlocutory orders and court procedures that would be followed in dealing with them. I am raising this issue in light of the recent Supreme Court decision in the *McK. v. F.* case regarding normal court procedures so we can obviate against future challenges in this respect. CAB does not really have a good record on the basis of some of its challenges.

The wording I am seeking to delete would reverse the Supreme Court decision and would seem to undermine normal court procedures, which would be undesirable. Obviously, we have responsibly to uphold existing Supreme Court decisions and normal court procedures. Furthermore, it is important that whatever process we put in place will stand up legally under the European Convention on Human Rights.

Section 4(d) inserts the following subsection: “(7) An application under subsection (1) may be made by originating motion.” Instead of making an application by an originating notice of motion, which is of limited application, applications should be brought by CAB by way of normal proceedings and normal detailed pleadings. This would allow a case to be set out in some detail in normal court proceedings such that it would not

be a meagre, scanty half-page motion. It would also facilitate defence.

The Supreme Court upheld the application of normal procedure in the *McK. v. F.* case but the Minister's amendments, which he introduced on Committee Stage, seek to reverse the court's decision. Will the Minister of State explain why he wishes to reverse that considering that the Supreme Court may wish to reassert its decision at any given time? No doubt, this would give rise to an enormous number of challenges.

I propose that we leave the Supreme Court decision in place. If we do not, it is likely that CAB's position will be weakened, thereby giving rise to further legal challenges. There is already an extant Supreme Court decision outlining the matter. CAB has lost a number of cases that it took in the courts in the not too distant past. We should think very carefully before we depart from normal court procedures dictating how we provide detailed pleadings. I do not see the advantage of not following them. What is the advantage of presenting a bare motion when we can present some detail through normal procedures, adhere to the Supreme Court decision and ensure we are in line with the thinking of the European Court of Human Rights and the European Convention on Human Rights?

**Mr. B. Lenihan:** Deputy Costello's contention that we are reversing the Supreme Court decision is a little strong. The Supreme Court had to make a decision, in the absence of rules of court, on the appropriate order under the proceeds of crime legislation. Of course the rules of court provide that in the absence of any specific provision by the Oireachtas or the rules of court, procedure by way of plenary summons and statement of claim is the normal procedure in the High Court. Therefore, we are not reversing the Supreme Court decision but making a deliberate decision on what form of procedure should be followed in the proceedings in question.

Earlier legislation did not prescribe any form of procedure and the rules committee did not see fit to adopt any form of procedure, therefore the Supreme Court had to determine the form of procedure. We are reversing the effect of the Supreme Court decision rather than the decision *per se*, but the Supreme Court did not pass any decision on the wisdom or otherwise of proceeding with a particular form of procedure.

Procedure by way of notice of motion grounded on affidavit is not a meagre, scanty, half-page application. Rather, insisting from the outset that the person involved be notified of the matter is a stronger protection for the person whose property is sought to be seized because the affidavit is a sworn document setting out the precise circumstances of the case. In a procedure by way of plenary summons and statement of claim, there is no such guarantee. It is, as the Deputy pointed out, simply an originating writ followed by a set of allegations. It does not have to be verified on oath by affidavit. There is a procedural

distinction in the practice of the High Court between a plenary procedure and a procedure by way of notice of motion. A plenary procedure proceeds with the service of the plenary summons and then the delivery of a statement of claim. As Deputy Jim O'Keeffe knows, the pleadings can proceed at quite a leisurely fashion, so it can take some time to bring the matter before the High Court. When one originates proceedings by way of notice of motion grounded in an affidavit, however, they are made returnable to a definite court list on a definite date. In matters affecting the property rights of individuals it is important that these matters are brought as expeditiously as possible before the court forum. That is what this form of procedure that we are legislating for allows. In fact, it is the procedure that is used, for example, in enforcement proceedings under the planning legislation. The procedure of a notice of motion grounded in affidavit allows the applicant, in seeking to enforce a provision of a planning permission or an aspect of the planning code, to invoke the jurisdiction of the court in an expeditious manner and bring the matter before the court as speedily as possible. The procedure by way of plenary summons under the rules does not allow that. Because of that, on Committee Stage, amendments were tabled whereby applications for interim, interlocutory and disposal orders are to be made by originating motion.

Concerns were raised by the Deputy and a commitment was given by the Minister to re-examine the effects of the wording. The purpose of the Government amendments, however, was to have the matter in the courts list at the earliest opportunity, with the full case of both parties set out in a formal manner on oath. The wording used in the Government amendments tabled on Committee Stage will ensure a procedure by way of motion grounded on affidavit and the defendants will be obliged to respond to proceedings on affidavit, thus avoiding what can often be the dilatory procedure of notices for particulars, replies to particulars and the discovery of documentation. Of course, the court can still order that.

When the matter comes before the court there may be a conflict on the affidavits that are filed by the respective parties — the Criminal Assets Bureau and the respondent to the application. At that stage the judge has full power under the rules to say that the matter will have to proceed to a plenary hearing because of the nature of the conflicts involved, or an order of discovery of documents may be required in respect of particular measures. All of that is part of the jurisdiction of the court, which can still do that. The procedure by way of originating a motion based on affidavit is the format of planning injunctions and applications under the Waste Management Act.

Deputy Costello rightly referred to the Supreme Court decision in *FK v. AF and JF*, where the court decided that in the absence of rules, a section 3 application had to be made by way of plenary trial. That is unsatisfactory,



[Mr. B. Lenihan.]

however, because it allows proceeds of crime issues to be pleaded in general terms, so that the parties are not really aware of the case to be made until the trial opens. The practice of the Criminal Assets Bureau has always been to have an initiating motion in parallel with the plenary proceedings.

Without the inclusion of the amendments that were agreed on Committee Stage, the bureau could simply proceed by way of writ only. It is considered that this approach would be unfair to a defendant. One sees the same circumstance in repossession proceedings brought by banks and financial institutions, where they have to proceed by way of special or summary summons with an accompanying notice of motion grounded on affidavit. So there is a summary way of bringing the matter before the court because of the serious consequences it has for the debtor in that particular case.

The approach taken by the Minister in this respect is correct. The effect of the agreed amendments would be to have the matter in a court list at the earliest opportunity with the full case of both parties set out in a formal manner. I understand very well why Deputy Costello raised the issue because it was the subject of a Supreme Court decision. It is quite understandable that he would raise it.

**Mr. Costello:** I thank the Minister of State for his detailed response which is very reassuring. I wanted to ensure that there would not be fresh challenges to the legislation by departing in any way from court proceedings, considering also that we are talking about the seizure of assets and property which can affect people's livelihoods and careers. It is an extremely serious matter. There are few matters more serious than activities undertaken through interlocutory and interim injunctions by the Criminal Assets Bureau and, therefore, there should not be further challenges somewhere along the line to the procedures that are now being instituted.

I accept what the Minister of State has said, but I hope he is correct in stating that this will not happen. There have been quite a lot of challenges to the manner in which the CAB has operated in the recent past. The bureau has not been able to uphold its procedures in the courts. It has lost most of those challenges which have interfered with the workings of CAB because the bureau has overstepped itself in the exercise of its powers. I hope we are not in any way opening up the possibility of fresh challenges in the courts.

Considering that after seven years we have only got €1 million, after all the interim, interlocutory and final orders, it does not seem to be moving too fast at present. There would be no harm in moving it up a little bit.

The Minister of State referred to the question of assets and why only €1 million had been realised up to now but I wish to clarify the position. There is a huge amount of money in the sys-

tem, but where is it frozen? Whose bank account is it in? Is it available in so far as interest can accrue from it to the State? What sort of limbo is it in once the restraining orders have been issued? If the money is actually there, given the orders that have been made to date — even if the final order has not accessed money for the Exchequer — is there any reason that money could not be made available? Is there any circumstance under which there could be a final challenge to it at that point? All that is left is the seven-year period, while the money has gone into hibernation for years. Effectively, therefore, even though it is not physically deposited in the Exchequer, the money is within its grasp. The money may not technically be available to the Exchequer but in practice, substantially, it is there. Is that correct?

**Mr. B. Lenihan:** Deputy Costello is so experienced in debating Bills presented by the Minister for Justice, Equality and Law Reform that he deserves an honorary law degree at this stage. He never fails on technicalities.

**Mr. Costello:** I am delighted to see that the Minister, Deputy McDowell, is on top of his brief with a 1999 Bill.

**Mr. B. Lenihan:** We cannot borrow on the back of the Criminal Assets Bureau. The position is that third parties could of course claim rights to the moneys right up to the end of that period, or at least within the relevant limitation period that applied to them. Therefore, it is not vested in the Exchequer until that seven-year period has elapsed. The practical point is that an increasing amount of this money will be falling to the Exchequer in the years ahead. In a sense, the reason the sum is so low now is that the first seven years have had to pass. Earlier in the debate, Deputy Costello mentioned that the CAB has now been in operation for eight years. The early cases took some time to come before the courts in obtaining the necessary orders. That seven-year period has now passed and there will be an increasing amount of produce for the Exchequer out of these particular funds which are within the management of the Criminal Assets Bureau.

Amendment, by leave, withdrawn.

Amendments Nos. 8 to 11, inclusive, not moved.

**Mr. J. O'Keeffe:** I move amendment No. 12:

In page 8, line 1, to delete "4.—(1)" and substitute "4A.—(1)".

This is a drafting amendment which will improve the Bill.

**Mr. B. Lenihan:** The amendment takes account of the fact that the copy of the Bill printed following Committee Stage omitted to include the intended capital "A" in the newly inserted section

4A in the proposal for consent disposal orders. I am grateful to Deputy O’Keeffe for his keen eye in spotting the error.

Amendment agreed to.

Amendments Nos. 13 and 14 not moved.

**Mr. B. Lenihan:** I move amendment No. 15:

In page 10, line 4, after “subsections” to insert “(1),”.

On Committee Stage, amendments were agreed to section 14 of the Criminal Assets Bureau Act 1996 which deals with search warrants. One of the changes contained in the new provisions is the replacement of the term “criminal activities” with the phrase “criminal conduct”. This reflects the change in the revised definitions contained in other relevant statutes and provides for consistency in this regard. On Committee Stage, it was noted that the new phrase “criminal conduct” was to be inserted in place of “criminal activities” where it is referred to in subsections (1), (2) and (4), but the reference in subsection (1) was omitted in the final stamped copy of the amendments. Accordingly, a commitment was given to include the omission on Report Stage, which is the purpose of the amendment.

Amendment agreed to.

**Acting Chairman:** Amendments Nos. 16 and 17 are related and will be discussed together.

**Mr. B. Lenihan:** I move amendment No. 16:

In page 10, line 19, after “period” to insert “, not exceeding 14 days,”.

The Bill amends the search warrant provision contained in section 14 of the Criminal Assets Bureau Act in regard to search warrants. One of these changes inserts a new subsection (c) which provides that the time limit which will apply to a search warrant will be one week but allows for the possibility where the judge may apply a different time limit if appropriate in the particular circumstances. This would allow a case to be made when applying for the search warrant for seeking a longer time limit if, for example, a number of search warrants were sought in different areas of the country and co-ordination were required to allow them to be executed simultaneously.

On Committee Stage, concerns were raised by Deputies Jim O’Keeffe, Costello and Ó Snodaigh about the absence of an upward time limit on the time during which a search warrant might be acted upon. A commitment was given to consider the issue further. Deputy Jim O’Keeffe has an amendment proposing a month, but the Minister has gone a bit further and considered that the appropriate period should be 14 days. The Minister proposed an amendment to allay the concerns expressed on Committee Stage. The net effect of the amendment is that the period to be specified in the search warrant will be one week

but may be longer if a judge deems it appropriate. In any event, an upward limit of 14 days will apply. This is a lower margin than suggested in the debate. The Minister is grateful to the Deputies for their constructive approach to this issue and trusts the amendment is acceptable.

**Mr. J. O’Keeffe:** What is involved is a balance in regard to search warrants. The House is aware of the issue of timing of search warrants. Much debate has arisen recently in regard to a particularly controversial case. It raises the question of balance between the powers of the State and the powers of citizens. I am of the view that there must be an upper limit for the execution of search warrants. I also appreciate that the Garda and others must be given sufficient time to execute search warrants, especially if there is an effort to have a co-ordinated approach.

We are dealing here with serious constitutional matters. Article 40.5 of the Constitution reads as follows:

The dwelling of every citizen is inviolable and shall not be forcibly entered save in accordance with law.

The doctrine of proportionality will apply to any such law we implement. If we infringe on that protection, a court would look at a situation where a search warrant that was of excessive length would not stand up to the constitutional test. From that point of view, I am pleased the Minister accepts there is need for an upward time limit. We are then into the question of whether it should be 14 days or a month. I selected a month because I understand it was the time limit CAB proposed. If the Minister, on the advice of the Attorney General, feels a 14-day time limit is better in the circumstances, I am prepared to go along with that.

While on the issue of search warrants, I want to take the opportunity to point out how seriously we must think about the provisions applying to search warrants. We must also consider seriously the way in which search warrants are dealt with. If we are giving powers to State bodies, we should give a loud and clear message that this power must be exercised and used with due care and due proportionality. I am especially focusing on an issue that was drawn to my attention yesterday when search warrants were issued on behalf of the Dúchas underwater heritage unit. Someone I know who is a pillar of the community had his house visited by members of the Dúchas underwater heritage unit because there was some allegation that he had been deep sea diving. He has been deep sea diving all his life. Four people from Dublin, accompanied by four members of the Garda Síochána, spent the entire day searching his house and business, at what cost I cannot imagine. I will raise the matter with the Minister with responsibility for Dúchas. It is necessary that such statute powers should be used with due care, discretion and proportionality. Given what I know about this incident, it appears to be an out-

[Mr. J. O’Keeffe.]

rageous abuse of power in a situation where the items recovered after this very expensive dawn search amounted to a piece of worm-riddled ship timber, a lump of ship’s coal and a forged iron spike. I am merely putting down a marker that I will pursue this matter elsewhere.

In the context of the Bill, we must strike the right balance and set an upper limit. I am pleased the Minister accepted my proposal that there must be an upper limit. I proposed a month on the basis that this was what the CAB required. However, if the Minister, on the advice of the Attorney General, feels a 14 day limit is safer constitutionally, I am prepared to accept it.

**Mr. Costello:** I welcome the change. I am pleased it is 14 days rather than a month because a search warrant is an important document. As Deputy Jim O’Keeffe said, if there are question marks over how, where and why they are issued, it is important to set down a timeframe. I prefer two weeks rather than a month.

**Aengus Ó Snodaigh:** I welcome the fact the Minister took this issue on board. I would like the time limit to be seven days. In this day and age it would be possible to have co-ordination when executing search warrants within seven days if the Garda Síochána or any other authority co-ordinated their efforts before applying for a search warrant. It is a sad day, but at least there is an upper limit, which is welcome.

Amendment agreed to.

Amendment No. 17 not moved.

**Mr. J. O’Keeffe:** I move amendment No. 18:

In page 12, line 9, after “case” to insert the following:

“, in any event, not exceeding one month”.

**Mr. B. Lenihan:** The proposed amendment seeks to put a limit of one month on the provision regarding orders to make material available. This is not the same position that applies to the previous amendment regarding search warrant provision because here one is dealing with an order to make material available for an investigation. It is not desirable to have an upper limit in that instance. The arguments that apply in the case of a search warrant provision cannot be logically applied to this provision. If one puts a limit on this provision, it could be a device to avoid making the material available. By delaying and allowing a time limit to expire, a person might seek to frustrate the authorities and avoid production of the material. It is a different type of provision which requires a person to give material, it is not concerned with a search of a person’s property.

**Mr. J. O’Keeffe:** Since two of my amendments have been accepted, I shall bow to the wisdom of the Minister of State on this one. It is not my intention to limit the powers of the Cabinet.

Amendment, by leave, withdrawn.

Amendment No. 19 not moved.

**Mr. B. Lenihan:** I move amendment No. 20:

In page 16, between lines 16 and 17, to insert the following:

“‘exported’, in relation to any cash, includes its being brought to any place in the State for the purpose of being exported;”.

On Committee Stage, an amendment to section 43 of the Criminal Justice Act 1994 was introduced. This section is an interpretation section and a new subsection (1) to replace the present subsection is inserted. The new subsection contains an expanded definition of “cash” and a new definition of criminal conduct and proceeds of crime. However, the amendment failed to maintain the definition of “exported” contained in existing legislation. While the new section does not require a definition of “exported”, other parts of the new amended legislation still do. The omission was an oversight in the stamped copy of the amendment and a commitment was given on Committee Stage to reintroduce the definition of “exported”. That is the purpose of the amendment.

**Mr. J. O’Keeffe:** I agree that the amendment improves the Bill and strengthens the powers which it provides. I support the amendment.

Amendment agreed to.

Bill reported with amendments, received for final consideration and passed.

*Sitting suspended at 1.35 p.m. and resumed at 2.30 p.m.*

## Ceisteanna — Questions.

### Priority Questions.

#### Beef Industry.

1. **Mr. Timmins** asked the Minister for Agriculture and Food her plans to assist in the development of the beef industry; and if she will make a statement on the matter. [24693/04]

**Minister for Agriculture and Food (Mary Coughlan):** The focus of the beef industry has been to broaden and expand its market reach at EU retail level, shifting its orientation away from international commodity markets and into the higher priced internal EU marketplace. It has also eliminated its dependence on export



measures such as intervention. This contrasts sharply with the situation that prevailed throughout the 1990s when the industry exported 50% of its products into non-EU markets. Last year, this share dropped to just 17% while the EU share increased proportionately. Non-EU markets continue to be important outlets for Irish beef and the maintenance of an appropriate export refund policy, which I keep under close review, is a key ingredient in the promotion of beef in third countries. I will continue to press hard for the re-opening of traditional third country markets and I was especially pleased to announce the re-opening of the Algerian market last week.

Increased sales into continental Europe coincided with the emergence of an EU market deficit in beef for the first time in 25 years, together with falling production levels aligned with a strong recovery in consumption. Ireland is now well placed to consolidate this position and to move further up the value chain, having demonstrated the quality and safety of Irish beef through its broad appeal to EU customers. A targeted approach based on quality production represents the best and most profitable way forward for the Irish industry. This is particularly the case in the aftermath of decoupling when the market will be the sole determinant of the nature and scale of output from the sector. In such a context, there will be a need for even greater emphasis on good breeding policies, payment related to quality, sophisticated and integrated supply and purchasing systems.

Ireland will shortly be among the first EU countries to classify beef carcasses by mechanical means. This will not only enhance the producer processor supply chain but will also provide wider benefits to the industry as Ireland consolidates its position as a supplier of top quality beef to consumer markets of the European Union. The installation of mechanical grading machines is supported by a grant scheme from my Department.

**Mr. Timmins:** I thank the Minister for her reply and wish her well in her new portfolio. I am sure she will make a competent success of it. She has had luck on her side since she entered politics and is fortunate now that I am moving on and will not be the Fine Gael spokesperson on agriculture. I also wish the Ministers of State, Deputy Browne and Deputy Brendan Smith, well. The Minister of State, Deputy Browne, has experience and has done much good work, while the promotion of the Minister of State, Deputy Brendan Smith, promotion was long overdue.

I remember the first occasion I took part in questions to the Minister for Agriculture and Food. The media spokesman for one of the farmers' representative groups said then that he knew about modulation and decoupling and held the line firmly against them. I was therefore a little surprised in recent months by the welcome for them by farm organisations and farmers given that they were so trenchant in their opposition to

them for so long. Perhaps there is a lesson to be learned in that.

I am delighted the Minister emphasised a quality product. Does she agree that we cannot emphasise enough the importance of a quality product and a market for it? Does she agree it is important that when matters are evened out, we review modulation funding and consider the use of some of that money to encourage quality production? We should also consider the expansion of Bord Bia to market our produce abroad, especially to the higher echelons of the EU market.

Farmers are tired of the annual difficulty with the factories every autumn. The factories give out one story and the farmers another. Will the Minister consider a beef summit — one may have been set up by a previous Minister and still exist — that will bring the factories and the farmer together? To paraphrase the old song, they should be friends. It is to their benefit to work together. Farmers will not produce beef if they do not receive a satisfactory price and if they do not produce, the factories will be out of commission.

**Mary Coughlan:** I thank the Deputy for his good wishes. Unfortunately our wonderful relationship will end after Question Time. I wish him every success in his new portfolio.

We all agree that quality is paramount. It is the only way to obtain the prices we deserve. Beef prices have been quite strong this year.

I am delighted to see the balance has come back into the EU market where there is greater potential for us. The EU retail market is important and can, justifiably, obtain a good price on the basis of quality.

The Deputy is correct. Every year we have this autumnal difficulty between farmers and the factories. Unfortunately, Ministers cannot become involved in the commercial aspect. However, we are all *au fait* with the concerns expressed by the farmers and people involved in commercial activities. As a result of decoupling, we can expect changes in orientation. Perhaps farmers receiving the single farm payment will consider anew the best farming methodology and, as a consequence, be able to obtain a good and fair market value price for beef. I am not aware of any merit in trying to bring the organisations and producers together because, by tradition, one likes to stand on the outside looking in and giving out about the price. It might be easier to solve the Northern Ireland problem than this difficult situation.

However, the Deputy is right that there are concerns to be addressed. I cannot interfere in the commercial aspect, but the Department will keep a watching brief. The Government has the view that we must also introduce some competition into the market with our live exports.

2. **Dr. Upton** asked the Minister for Agriculture and Food if her Department has investigated or considered the results of a Garda investi-



[Dr. Upton.]  
gation into a fraud involving the certification of beef for the Russian market at a processing plant in Leinster; and if she will make a statement on the matter. [24695/04]

**Mary Coughlan:** My Department has asked the Garda to investigate certain practices in a licensed beef processing plant. This action was taken following preliminary results of an investigation conducted by a team from within my Department.

The nature of the investigation that led to the involvement of the Garda centred on the company's compliance with the terms of specifications for the non-EU market concerned. Such specifications are additional to those that apply in normal trade within the EU and form part of certification procedures agreed between the exporting and importing countries. In the case referred to, the issue relates to the extent to which the company in question adhered to these specifications. It would not be appropriate for me to comment further on the matter while the Garda investigation is ongoing.

**Dr. Upton:** I wish the Minister every success in her new portfolio. I am delighted to be joined by a woman in this area and to see a woman looking after agriculture in this country. I congratulate the Minister of State, Deputy Browne, on his new portfolio and Deputy Brendan Smith on his promotion to Minister of State. It is also appropriate to wish Deputy Timmins well in his new portfolio. I am sorry we will no longer exchange views on agriculture matters in committee.

I appreciate the Minister cannot offer extensive comment on the question since it refers to a Garda investigation. However, how much beef was involved in the scam? There are shades of the beef tribunal about this case. Ireland recently mended fences with Russia on exports following the BSE crisis and it is a great shame, having successfully reopened that market, that this should happen. The consequences for agriculture and the beef industry in particular are serious. When will there be an outcome from the Garda investigation? I appreciate this is outside the Minister's control but she may have information on that.

**Mary Coughlan:** I share the Deputy's concerns and disappointment regarding this case. The Department carried out a preliminary investigation and asked the Garda bureau of fraud on 5 October to carry out an investigation. I assume that will be concluded as quickly as possible to address the issues.

I have been advised a substantial proportion of the beef in a particular category did not meet the criteria set down. However, I emphasise the Department's vigilance in light of this disappointment. Examinations were carried out in other plants that have certification for that market and I have been assured there is no evidence of widespread breaches. Significant diplomatic and other

efforts were undertaken to reopen this lucrative market, to which Ireland exports a significant volume of meat. A great deal of work and negotiation was undertaken and any infringement or undermining of that market will be dealt with strenuously by the Department.

**Dr. Upton:** Was any of the beef exported? I appreciate this involved a breach of certification but it would be much more serious if the beef involved left the State. If so, what action has been taken? Is action being taken to rebuild bridges with Russia?

**Mary Coughlan:** The company in question has been suspended indefinitely from supplying to this country. Controls relating to all aspects of this trade have been tightened in every plant that has certification. The European Commission has been informed.

There was an export and we have been advised the beef did not meet the age or sex criteria and some of it exceeded the 36 months condition. We have advised everyone possible and there are ongoing discussions between ourselves and the Commission. I do not have a quantity but I will advise the Deputy if that information becomes available.

**Dr. Upton:** Has the exported beef been recalled from the Russian market?

**Mary Coughlan:** I will have to get back to the Deputy on that.

### Farm Household Incomes.

3. **Mr. J. Breen** asked the Minister for Agriculture and Food the action that will be taken in view of the fact that meat factories are reducing the price of beef and lamb paid to the farming community and in view of the resultant hardship and loss of income for producers. [24692/04]

**Mary Coughlan:** The price paid by meat processors for animals is a commercial issue in which I have no direct role. Nonetheless, it is in the interests of the meat industry and the food supply chain that a fair return from meat sales is available to both primary producers and processors. In this regard the decision to decouple direct payments from their associated production from next year will realign production with market expectations and the market will be the sole determinant of the nature and scale of output from the sector.

Beef prices have been satisfactory in 2004, with R3 steer prices 11% higher compared with the same period last year. Beef prices are showing the usual seasonal decline and the downward pressure on price is also in part due to poor returns from Russia where prices have dropped significantly and to a weakness in the UK market for particular cuts. The focus has switched in recent years to the higher value EU market where returns are forecast to improve in the longer term as the effects of decoupling across the community

take effect. Given the growth in intra-Community sales, Ireland is well placed to consolidate its EU market position and to move further up the value chain, particularly given the emergence of an EU market deficit in beef for the first time in 25 years.

Russia remains the key third country market for Irish beef and I am pleased to announce the reopening of the Algerian market, traditionally an important market for Irish beef. This will be a welcome additional outlet for Irish beef, particularly in the autumn period.

Sheep prices have remained stable compared to last year. Recent average prices for lamb are running slightly below last year's level due to higher levels of supply, which are 10% ahead of last year's total. Greater emphasis on good breeding policies, payment related to quality, sophisticated integrated supply and purchasing systems, together with more competitive processing structures are key to maximising long-term returns from cattle and sheep.

**Mr. J. Breen:** I join other Members in wishing the Minister and the two Ministers of State the best of luck in their new portfolios.

Farmers are experiencing severe hardship. The price of cattle reduced by €140 in July and August and fell a further €30 last month. Will the Minister ask the Competition Authority to investigate the prices factories are paying for beef and lamb?

The new EU Agriculture Commissioner is opposed to live cattle exports. Will the Minister guarantee their continuation?

I refer to the modulation fund. Medium and small producers were forced to sell their weanlings this year without a premium. Will the Minister ensure small farmers will receive money from the fund to compensate them for the loss of this premium because they could not afford to maintain weanlings?

Will the Minister also ensure more than two days' notice is given to farmers for on-farm inspections? This is causing considerable hardship for farmers. Farmers should be given two weeks' notice because most of them have one man operations. They experience hardship in rural areas when they are told a herd check will be carried out within two days because help is scarce. They should be given at least two weeks' notice and I ask the Minister to ensure that happens.

**Mary Coughlan:** Modulation is an issue for further consideration and I am anxious to ensure those most in need will be facilitated.

The Government very much favours live exports. Ireland has a tremendous animal welfare regime, which exporters and farmers have lived up to and adhered to strictly. I appreciate that the weanling trade is absolutely paramount for farmers along the western seaboard and in County Clare in particular. Given that there are still difficulties with the ships providing the service to export live cattle, the Department will

maintain a close watching brief to ensure this trade is protected.

With regard to the notification of on-farm inspections, the necessity for holding them at short notice is slightly superfluous on the basis of decoupling. My predecessor, Deputy Walsh, was most anxious to secure a 14 day notice period for inspections and we will try to the best of our ability to ensure that happens.

The Deputy is correct that prices are an issue of concern to many Members. The Department would step over the mark if it interfered in the commercial aspect of production. While I do not have a direct role, the Department will maintain a watching brief on this issue.

**Mr. J. Breen:** Will the Minister ask the Competition Authority to investigate the prices paid by the factories?

**Mary Coughlan:** I will have to consider that.

*Question No. 4 withdrawn.*

#### **Bovine Diseases.**

5. **Dr. Upton** asked the Minister for Agriculture and Food the resources being used to counter the growing incidence of Johne's disease; the number of cases of the disease to date in 2004; and if she will make a statement on the matter. [24696/04]

**Mary Coughlan:** It should be stressed that Johne's disease is widespread in other EU member states and worldwide. It is a chronic infectious disease of cattle which gives rise to gradual wasting and loss of condition and is caused by infection with mycobacterium avium subspecies paratuberculosis, or MAP. Most cattle are infected early in life. While adult animals can become infected, it is rare for them to do so. Usually, such animals have other problems including deficiencies of the immune system. The disease has been notifiable in this country since 1955.

Until 1992, strict import conditions were instrumental in ensuring that Johne's disease was relatively rare in Ireland. Since 1993, the increase in the number of cattle being imported with the advent of the Single Market has contributed to a significant increase in reported instances of the disease. Whereas a total of 92 animals were diagnosed in the 50-year period from 1932 to 1982, in 2002 and 2003 100 and 150 animals, respectively, were diagnosed as having Johne's disease. Figures on the incidence of Johne's disease for 2004 have not been collated. It can take up to six months to obtain results from samples submitted for culture due to the extremely slow growth pattern of the organism involved. In general, farmers appear to be more aware of the disease. The increased volume of samples, particularly of blood, being submitted for analysis suggests that an increasing number of farmers are actively managing the disease on their own farms.

[Mary Coughlan.]

I recognise the need for an effective national strategy to arrest and reverse the incidence of the disease. In an effort to raise awareness and to promote higher standards of hygiene management practices and calf rearing, the Department published two booklets on Johne's disease in 2002. One is aimed at farmers while the other addresses the private veterinary practitioner. All farmers with breeding animals received a copy of the booklet by post during 2002. The booklets detail the precautions individual farmers should take to keep the disease out of their herds and highlight that effective control measures centre on calf-rearing practices. In addition, it is prudent for any prospective purchaser to seek private certification of freedom from Johne's disease from a vendor of cattle imported from abroad or sourced within this country. As the effect of this approach is to protect the purchasing herd, farmers are urged generally to take such a precaution.

Until early 2003, my Department's approach was to slaughter the affected animals and, on occasion, other animals in the herd and pay compensation. When it became apparent that this approach was ineffective, it was dispensed with and a strategic review of mechanisms to tackle the disease was initiated. It is clear that nothing less than a fully integrated strategy involving all of the relevant stakeholders, in which each plays a defined role, will be effective. Accordingly, the review has involved consultation with all of the relevant interests. The process generated a number of very useful proposals of a practical nature.

It is clear that the effective tackling of Johne's disease can only be achieved over a number of years. The strategy being developed will, therefore, involve short and long-term elements. In conjunction with others, my Department is finalising a number of the short-term elements and will shortly revert to stakeholders on them. Once this has been done, all elements of the new national strategy will be quickly drawn together. As research, evaluation of a number of diagnostic and screening methods and interim provision of diagnostic support at the Central Veterinary Research Laboratory will be features of an effective national strategy, and €240,000 has been allocated for these purposes in 2004.

**Dr. Upton:** I thank the Minister for her extensive reply. One of the problems with MAP is the likelihood of subclinical infection, particularly if an infection already exists at the primary herd level. Is an active monitoring programme in place to take blood samples, as the Minister suggests can be done through the Central Veterinary Research Laboratory? I appreciate that the time-scale to culture the particular micro-organism involved is very long and that clinical symptoms may have emerged over a six month period. It is nevertheless important to invest in research to assure everybody, particularly farmers, that there is an effective and rapid detection method to stop

the disease progressing in a herd and to permit the removal of infected animals as quickly as possible.

The Minister did not answer an important aspect of my question. In the United Kingdom there is a considered view that there is a tenuous link with certain human illnesses. While that is not confirmed, there are various shades of opinion on the matter which it is very important to consider. We must address the disease at farm level to ensure its impact is minimised and take on board all the latest research findings in case of any possible transmission to humans. We have learned some very tough lessons in this regard from other animal diseases.

**Mary Coughlan:** I agree with the Deputy. As I am not a veterinarian or from a diagnostic field, I will leave the matter in the hands of the experts, of which Deputy Upton is one. Overall, it is not a matter of finding a simple solution to a difficult problem. I am very anxious to ensure the proper implementation of a national strategy. It is my intention to introduce the strategy as soon as possible and, hopefully, by the end of the year. The Deputy is correct to say that screening is very important which is why the evaluation of diagnostic and screening methods is paramount in the context of research.

As the Deputy referred to concerns expressed about a tenuous connection to human health issues, I take this opportunity to inform the House that the Department consulted with the EU Commission on the matter. A report of its scientific committee on possible links was published by the Commission in 2000. According to the report, there was insufficient evidence from which to draw any firm conclusion. The Department referred the matter to the Food Safety Authority of Ireland also, which was of the same view as the Commission. We will continue to monitor scientific evidence as it becomes available to the Department.

### Other Questions.

#### Bovine Diseases.

6. **Dr. Upton** asked the Minister for Agriculture and Food her views on the discovery in recent weeks of another case of BSE in an animal born after the imposition of the ban on the use of meat and bonemeal in animal feed; the number of such cases discovered since the ban was imposed; the number of BSE cases to date in 2004 and the way in which this compares with the same period in 2003; if she has satisfied herself with the measures in place to combat BSE in animals born before and after the ban; and if she will make a statement on the matter. [24479/04]

**Mary Coughlan:** I assume the Deputy's question refers to the incidence of BSE in animals born after enhanced control measures on meat



and bonemeal, specified risk materials and the processing of mammalian waste were introduced in 1996 and 1997. I am aware of the case to which the Deputy refers which involves a cow born in 1998 and identified on a farm in County Mayo. Epidemiological investigations are carried out into the feeding regimes of all herds in which BSE is identified with particular attention being paid to herds in which the disease occurs in animals born after the feed controls were re-enforced in 1996 and 1997. The investigation in this particular case is ongoing.

The diagnosis of BSE in a small number of animals born after 1997 is to be expected. To date, six animals born after 1997 have been diagnosed with BSE. My Department had always foreseen the likelihood that on occasion individual cases would arise due to circumstances specific to particular farms and in contrast to the general trend as the incidence of the disease in the national herd receded. There is no basis for suspecting that the case mentioned or other such isolated cases are indicative of a systemic failure in controls or of a reversal of or deviation from the overall positive trend in the incidence of BSE in Ireland.

In 2004, 100 cases were confirmed to 9 October compared with 144 in the same period in 2003. This is a reduction of 30%. Of confirmed cases, 96% occurred in animals born prior to the introduction of the additional controls. The shift in age profile of BSE cases as well as a reduction in case numbers indicates that the additional controls introduced in 1996-97 have been effective in significantly reducing the exposure of animals born subsequently to the infectious agent. It is expected that the incidence of the disease will continue to decline as cows born prior to 1998 leave the system.

**Dr. Upton:** It is of some concern that in the period since the ban was imposed a total of 13 cases have occurred in animals born in 1997, 1998 and 1999. Admittedly, the cases occurred sporadically around the country. There is a need for thorough investigation, particularly in the most recent case in respect of which it appears the ban should have been in force for quite a number of years. If the ban had been effective it would no longer have been reasonable to associate the disease with meat and bonemeal. Is it that meat and bonemeal are somehow or another getting into the feed chain?

Can the Minister assure me that the Department is monitoring all relevant research and developments in this area? If all infected meat and bonemeal has been removed from the feed chain why then is BSE still emerging? Is the Department actively pursuing the research line in that regard?

**Mary Coughlan:** Given the nature of the disease and its publicity in terms of concern regarding the health of the national herd, the Depart-

ment was actively involved in monitoring and controlling the issue. I took the opportunity to brief myself on the matter and have been advised that when introducing the controls in 1996-97 the Department was of the opinion that there would be occasions when the disease would arise. The information available to me is that six animals, four born in 1998 and two born in 1999, have been diagnosed as having BSE. I am delighted with the reduction in the incidence of BSE by 30%. It indicates that the control measures are working. The Department always foresaw the likelihood of individual cases arising. Such cases are strenuously analysed taking into account the concerns expressed by the Deputy. The specific case the Deputy mentioned is ongoing and the investigation will be thorough. Any lessons learned will be taken into account in the context of the overall management of the disease.

**Dr. Upton:** Is there any connection country-wide in terms of the cases identified post-1997? In other words, are there pockets of the country where such incidences are recurring more frequently taking particular account of animals born in 1997? Is there a geographical link?

**Mary Coughlan:** To the best of my knowledge, there is no geographical link. Such a possibility would have been taken into consideration when compiling research. The disease is quite sporadic.

**Mr. Crawford:** I congratulate the Minister on her appointment to such an important portfolio. I know she has been in her new Ministry for only a short time but has she considered the lunacy of taking out a farmer's total herd? I am aware of a case close to the Border in County Monaghan in which a farmer lost a herd he had personally built up. Had that farmer lived one mile further down the road in Northern Ireland, on the same island and within the EU, only one animal and its cohorts would have been taken out.

I was on the Government side of the House when the policy for the destruction of full herds was introduced. However, we have moved on somewhat since then as have our counterparts in Europe. Perhaps the Minister will reconsider that decision.

**Mr. J. Brady:** I, too, wish the Minister and her two Ministers of State well in their new portfolio. They are three very able people and I wish them well in the years ahead.

Like Deputy Crawford I know of a neighbour who recently lost his herd of 900 stock. The infected animal was closer to his neighbour's stock than to some of his. This crazy decision to take out a whole herd affects not only the taxpayer but the farmer and his family.

**Mary Coughlan:** I am aware that another Deputy may raise this matter at a later stage. The Department reviewed the policy quite recently. Members will be aware a report compiled by the



[Mary Coughlan.]

FSAI's sub-committee on BSE found that all existing controls and regulations are strictly complied with. There is no added food safety value of a cull, something of which Deputies have spoken. We cannot under estimate the trauma imposed on a farmer who loses an animal as a result of any type of disease.

Members will be aware of the great campaign a number of years ago — some of us were on the other side of the House then — which sought to address the issue of market value as opposed to compensation payments. That matter has been dealt with. Ireland is particularly vulnerable as an exporter and in that regard we must ensure no herd is tainted. On that basis, the considered view is that we should not allow the existence of a herd, which had a perceived or real problem were we to take out only the animal infected. For example were we to take out only one or two animals and its cohorts a farmer whose herd is publicly acknowledged as having the disease may encounter difficulties. That concern must also be taken into consideration.

Given the statistics indicate a reduction in the number of animals with BSE and its potential impact on our very valuable export trade the necessity for strict controls can be reviewed on an ongoing basis. While I take on board the expressed views of the farmers' organisations, equally I take cognisance of Members' views. In that regard, these matters will be reviewed on an ongoing basis. However, I cannot give a guarantee on the floor of the House that there will be a policy change in this area.

### Dairy Industry.

7. **Mr. Deenihan** asked the Minister for Agriculture and Food her proposals to assist with milk prices; and if she will make a statement on the matter. [24450/04]

**Mary Coughlan:** The price paid to farmers for milk is a commercial matter between milk producers and the purchaser. A combination of the international market for dairy products, the product mix and efficiency of the processor, as well as the overall operation of the EU price support mechanisms determines price.

This year has been a relatively good one for the dairy industry with milk prices in Ireland remaining steady. There has been strong demand for dairy products on the EU and international markets and while there have been reductions in export refund levels, this reflects the improved level of demand for EU exports. I hope the current period of strong markets for dairy products will continue into the future. For my part, I will carefully monitor market developments to ensure that all EU market management mechanisms available are utilised in the best interests of all involved the dairy industry in Ireland. At the same time, it is essential that the industry achieves the maximum degree of efficiency along the producing and processing chain.

**Mr. Deenihan:** I join my colleagues in congratulating the Minister on her appointment. I am sure she will be effective in the Department of Agriculture and Food over the next two years.

There is a great deal of concern, which I am sure the Minister's colleague shares, regarding the price of manufactured milk and liquid milk. The price of liquid milk has been greatly affected by imports from Northern Ireland. Approximately 15% of our liquid milk now comes from Northern Ireland and that is suppressing the price of milk here. The suppliers of liquid milk are deeply concerned about this.

The Minister may be aware we use approximately 100 million gallons of liquid milk and approximately 1 billion gallons of manufactured milk. As the Fischler proposals factor in, export refunds have been reduced and intervention prices for skimmed milk have been considerably reduced. There is a fear that the price of milk could reduce considerably. The average price for liquid milk is 92 cent per gallon. I am sure Members will remember that 20 years ago liquid milk cost £1.08 per gallon. While much of the policy in this area is decided by Europe there are many things that can be done here in terms of marketing and encouraging manufacturers to make more use of and diversify from milk constituents. Does the Minister foresee the Department having a direct input in that regard? Does the Minister have a plan to offer more options to manufacturers so they can keep the price of milk up?

**Mary Coughlan:** There are concerns. Change leads to trepidation in all industries and the dairy industry is no exception. We are satisfied that the dip in prices, 0.6%, is small given the change that has taken place. My predecessor, Deputy Walsh, involved the dairy industry in the Prospectus report where we looked at greater efficiencies, reducing costs and the most effective ways to get a return on investment. The Minister met everyone involved in the sector and the findings have been discussed. The implementation of the findings in the report will be of importance in ensuring this valuable sector will be in a competitive position to deal with the change taking place. We will analyse the effects that change will have in combination with the changes in the Commission. At the moment we are satisfied that things are going well this year for the dairy industry but we are keeping an open mind on the matter.

**Mr. Crawford:** Is the Minister prepared to encourage consumption of milk? The liquid milk trade is under pressure. If we compare the price of a litre of milk and a litre of water, which costs nothing to produce, a major effort is being made to sell water.

Will the Minister make every effort at the world trade negotiations to ensure products are produced on the same basis? I was on a farm in the United States where steroids were clearly being used and production was massively

increased. Deputy Browne, the Minister of State, was with me and it was clear that we are not competing on an equal basis.

**Mary Coughlan:** The Minister of State might have a greater insight about what the Deputy was doing in the United States but obviously his sojourn was productive. There are issues of grave concern that have been regularly discussed. There are degrees of acceptance of beef production practice all over the world. It will be difficult to deal with those issues but we will do our utmost to ensure that we form an alliance on the question. Sometimes these affairs are outside the national remit, they are European issues, but we will strenuously argue the case when it comes to market fairness.

The dairy industry has had a good run in recent years. The concerns relate to efficiency and effectiveness. The Deputy asked how we could increase consumption of liquid milk. Some of the creameries are looking at marketing. At the ploughing championships we saw the research that is being done to encourage young people to drink milk. In my previous role we were anxious to ensure milk was part of the school diet. It is easier said than done with all of the competition but a number of the creameries have looked at the potential and taken on board new ideas to be pro-active in the market.

I laughed when the Deputy said how much it costs to produce a pint of milk. It must cost at least twice as much to produce a good pint of quality water — new water schemes cost several million euro. It is important, however, that we encourage young people to move away from obesity resulting from soft drink consumption, among other things. As Deputy Deenihan said, it is incumbent on people in the trade to ensure they get that market share, and that must be supported from all perspectives, including the health value of liquid milk.

**Dr. Upton:** I draw to the Minister's attention a substantial difference between the prices of different brands of milk — it can be up to 15 cent in the supermarket. That could be investigated under a different heading.

**Mary Coughlan:** I know exactly what the Deputy means. It is terrible to be a woman who goes to the shop and knows what is going on in the country.

### Live Exports.

8. **Mr. Crawford** asked the Minister for Agriculture and Food the steps which have been taken to reopen the live cattle trade in Libya and Egypt; the country or countries from which they are now sourcing their needs; and if she will make a statement on the matter. [24506/04]

**Mary Coughlan:** The live cattle trade is an important and valuable dimension to total trade in agricultural products. It provides a balance to

the beef trade and a valuable outlet for farmers at particular periods during the year in the disposal of calves and weanlings. The live trade is a critical component to overall competition in the beef trade. Access to all markets is intrinsic to free and open competition and it is my policy that there should be free and open access to all markets both within the EU and in third countries for Irish beef and cattle.

The Republic of Ireland has considerable trade in live cattle to EU destinations, notably the Netherlands, Italy, Spain and Northern Ireland. There is also a considerable trade in live cattle to Lebanon. Last year total live exports amounted to some 221,000 animals, equivalent to 12% of domestic slaughterings. While the live trade has been less buoyant this year, this signifies a better return on price at slaughter plants and a strong export market for beef.

My Department will continue its efforts to ensure that difficulties associated with commercial live exports to Libya can be overcome. An agreement signed with Libya in June 2000 provided that Ireland would be officially listed as a source country for all Libyan tenders for the supply of live cattle. Since then, the Libyan Foreign Minister indicated that it had not been possible to import live cattle because of what he called logistical problems. Efforts at diplomatic and technical level are continuing to ensure that the agreement signed with Libya is fully implemented.

With regard to Egypt, while efforts were made to re-open that market to live cattle from Ireland, the Egyptian authorities opted to lift the ban for beef only. The BSE-related ban continues to apply to live cattle. The Egyptian market was previously a large-scale market for Irish beef, taking close on 154,000 tonnes at its peak. The current position is that the Egyptian market is open to Irish beef but for commercial reasons and in view of demand for Irish beef within the EU, traders are opting instead to supply these markets.

**Mr. Crawford:** I see the Minister has the same script writer as her predecessor.

**Mary Coughlan:** He tells the truth.

**Mr. Crawford:** The Minister did not tell us much. The Minister was asked where Libyans are sourcing their products at present. It is important that we know what the opposition is and why we are not getting in there. The Libyan market was supposedly opened up in 2000 and the market in Egypt got a few tonnes of beef at the same time but nothing has happened since. I am not criticising the Minister but she mentioned that she was on this side of the House when BSE was rampant and I remember her party telling us how easy it was to open these markets. During that crisis we kept the live trade to Egypt going in a difficult situation.

Farmers are being badly hit with regard to beef prices. There is difficulty in selling cattle at a

[Mr. Crawford.]

reasonable price. In that context, several people have asked me the reason the Libyan market is being ignored and no effort is being made to penetrate those markets. The old saying is that to keep a market live, one must have a live market. We need to have some opposition to the present meat regime which seems to have a monopoly on price decisions.

The Minister is new to the Department. We look at what is possible and at how the prices can be supported by other means than just the meat factories.

**Mary Coughlan:** If it were easy to do, then I assure the Deputy it would be done. Those on this side of the House are great advocates of the live export trade. I do not agree with the Deputy's view that it is difficult to sell beef at present. Our trade has changed from being almost completely live export to high quality beef production, which is very important. There has been a deficit in the EU. The Department, Bord Bia and the farming organisations have done much work with the commercial processors to access those good markets. There has been a difficulty with the Italian market which provided great opportunities for Ireland's beef sector, but the situation has improved considerably as a result of much work, and a better price is now being achieved for Irish beef products.

I am an advocate of the live export trade. The Libyan issue is causing some difficulties. Ireland has been officially listed. Libya subsequently issued some tenders for the supply of beef and Ireland was one of the countries included. A number of Irish companies submitted bids at the time but were unsuccessful. The Deputy asked whether efforts are being made. They are still being made at both a diplomatic and veterinary level to secure permission from the Libyan veterinary authorities for Irish beef to be imported. This has not been successful to date but the Government will renew its efforts in that regard. On the question as to where Libya sources its beef, I do not have an answer for the Deputy but if that information is available to me, I will forward it to him.

**Mr. Crawford:** Will the Minister inform the House what is the price available for O and R grades in the meat factories? That will give some indication of the difficulties being experienced.

**Mr. J. Brady:** Many new markets have been opened in recent years. In particular, the market in European countries for live weanlings has been significant. I do not expect the Minister to have an answer now but will she inform the House as soon as possible of the amount of beef exported to European countries both as live weanlings and dead beef?

**An Leas-Cheann Comhairle:** I suggest the Deputy table a question. The Minister may reply.

**Mary Coughlan:** As the Deputy will be aware, 500,000 tonnes of beef are exported. Deputy Crawford asked a question on prices for O grades. I know the price of R3 steers but I am stuck on the price of O grades. If the Deputy listens to the farming news on RTE, he will learn the price at the marts and at the factories.

**Mr. Crawford:** That is the reason I am looking for a live trade.

**Mr. Timmins:** I say fair play to the Minister.

**Mary Coughlan:** I have not had time to record it but some of the other Deputies may be able to inform the Deputy. It is a while since I bought anything in a mart or have been involved in the industry. I imagine the Deputy knows the answer.

#### Alternative Farm Enterprises.

9. **Mr. Eamon Ryan** asked the Minister for Agriculture and Food the way in which she proposes to promote the bio-fibre sector within farming here. [24555/04]

**Minister of State at the Department of Agriculture and Food (Mr. Browne):** I thank the Deputies for their kind words and good wishes.

The main bio-fibre crops relevant to Irish farming are flax, hemp and miscanthus. Hemp has many processing possibilities and can be used for fibre, fuel and oil production. In a series of hemp production trials at its Oak Park research centre in the late 1990s, Teagasc obtained consistently high yields of biomass and fibre. However, no commercial development followed this work as no significant home market for the raw material could be found. Teagasc has developed an agronomy package for the crop and is ready to promote its production among farmers but can only do so if a profitable outlet can be established.

Flax was widely grown in Ireland, especially in the north of the country, early in the previous century, but the costs and water pollution risks associated with traditional water retting systems became unacceptable. It was therefore concluded that it would not be possible to establish flax production in Ireland based on dew retting alone. Technology may become available in future that would help overcome this problem and this is being kept under review by Teagasc scientists in Oak Park.

Miscanthus is a perennial plant that has given high dry matter yields in many countries. Its main potential uses in Ireland would be as fuel or in board mills, but to date neither of these uses can be exploited profitably. Moisture levels are high at harvest but, nevertheless, the crop could be grown by many farmers with Teagasc guidance if there were a market for the material.

The production and processing of flax and hemp are governed within the EU by the common organisation of the market for these crops. Notwithstanding that EU aid for the growing and processing of these crops into fibre under certain



conditions is available, only small areas of both crops are grown in this country at present for the reasons I have already outlined.

In summary, a number of bio-fibre crops could be grown by Irish farmers. The limiting factors are the lack of home-based industries that would use these crops as raw materials and the cost of exporting such low-density produce to foreign markets.

**Mr. Sargent:** Ar dtús ba mhaith liom gach rath a ghuí ar an Aire, an Teachta Coughlan, agus Airí Stáit, an Teachta Browne agus an Teachta Brendan Smith. Go n-éirí go geal leo sa Roinn.

I am glad to hear the Minister of State's reply, given that it takes into account a number of bio-fibre products. As a result of her visit to the national ploughing championships I am sure the Minister will be aware of the level of interest in diversification from the traditional farm enterprises which are running into serious market difficulties.

Apart from the trials and the statement about the lack of a home-based industry to take advantage of the raw materials, will the Department be proactive in encouraging farmers, through Teagasc and other advisory mechanisms, to familiarise themselves with the potential and to realise some of that potential? Does the Department liaise with the Department of Enterprise, Trade and Employment in respect of the lack of home-based industry to take advantage of these raw materials? I take it that the Minister of State was referring to crops rather than to bio-fibres as such because wool would also be part of the equation in the bio-fibre sector. Is there any proactive promotion of that sector, given the need for diversification in agriculture beyond the traditional food sector?

**Mr. Browne:** The Department continuously reviews this area. I note what the Deputy has said. Substantial EU support is available in area aid. For example, €383 per hectare is paid in area aid payments and €90 per tonne is available for processing, but this has still not encouraged farmers to become involved in this area.

The European Commission will report on this sector in early 2005. The Department will make a substantial input into this report because in our view, the present system is not working to Ireland's advantage. The Government will make its views known to the Commission and will seek for substantial changes to encourage Irish farmers and other sectors to consider the potential in this area.

**Mr. Sargent:** I am sure the Minister, Deputy Coughlan, is keenly aware of the loss of employment in her area. I suggest that the bio-fibre sector be considered when replacement industry is being considered as it is traditional in that area. I suggest a trial and pilot scheme to integrate farming and industrial development as there is a tradition of textiles that should be fostered.

**Mr. Browne:** This team in the Department will consider all aspects of farming and the suggestions made by the Deputy will be taken on board.

**Mr. Timmins:** Deputy Sargent reminded me of something when he talked about diversification, technology and the increased input into the bio-fibre sector. I noticed recently from GM studies that sheep dip can be used to grow a certain wool, which is easier to use with dye and so on. While Ireland is not a cotton growing country, the production of genetically modified cotton has increased dramatically in recent times, and farmers often vote with their pocket. I am sure Deputy Sargent would not advocate that we go down the GM route——

**Mr. Sargent:** I did not say that.

**Mr. Timmins:** ——and I am not necessarily saying so either, but given that the issue is dealt with by the Departments of the Environment, Heritage and Local Government, Health and Children and Agriculture and Food, does the Minister agree we need to debate this issue in a logical and open manner?

**Mr. Browne:** As Deputy Sargent said, in regard to industry and commerce, and energy and natural resources, for which I had responsibility previously, the various Departments, including mine, need to become actively involved to deal with the issue of farmers wishing to diversify. I will open a conference tomorrow morning in Wexford on bio-fuels. Obviously, it is of major interest to farmers who are looking at alternative industry and we will continue to support that.

#### **Food Industry.**

10. **Mr. Wall** asked the Minister for Agriculture and Food her plans to promote research into further adding value to food commodities; and if she will make a statement on the matter. [24505/04]

**Minister of State at the Department of Agriculture and Food (Mr. B. Smith):** I thank Deputies on both sides of the House for their good wishes and kind remarks.

Under the National Development Plan 2000-2006 significant funding is provided for specific food related initiatives, including capital investment, marketing, human resources and research and development. Investment in research and development, innovation and new product development are key to maximising the food industry's competitiveness and ability to respond to changing market requirements. The national development plan provides funding for food research both through the food institutional research measure and by way of funding for in-company research.

The food institutional research measure administered by the Department provides funding for public good food research. The programme and its predecessor have, over a ten year period, pro-



[Mr. B. Smith.]  
 vided the Irish food sector with a significant research base in science and technology and a cadre of highly qualified researchers. The measure is available to universities, institutes of technology and Teagasc. Since 2000 over €55 million has been allocated to 114 projects. The themes funded include food safety, new and innovative products, food ingredients, flavourings, consumer foods and nutrition and health. Almost €28 million has been paid on foot of research completed to date. As a follow on to the awards announced in September, the Department is arranging for a specific call for research proposals in the area of food safety and is considering an initiative to target research, which would be of benefit to the speciality food sector.

The in-company research measure is administered by Enterprise Ireland which has allocated almost €20 million since the commencement of the national development plan for the purpose of in-company research and technology transfer. Recent interest in the measure has focused on the areas of nutritional and functional foods. The Department will continue to work with Enterprise Ireland to ensure that the Irish food industry scales up investment in research and development activity, which will have substantial spin-off benefits for the sector's competitiveness and for the wider economy.

**Dr. Upton:** I thank the Minister of State. I am pleased to hear of the commitment to ongoing investment in research and technology. It will be more critical than ever given the change in the direction that agriculture inevitably will have to take post Fischler. Serious consideration will have to be given to small producers and how to support them in terms of research, development and innovation. They are in a different category from the large multinationals and will not be able to stand alone. They need a different level of support to allow them develop and grow. What is the Minister of State's view on our science and agriculture graduates who are well trained, and in whom we have invested a good deal of money? I am beginning to appreciate that it is not always easy for them to get jobs in the food development area. Perhaps that issue could be looked at with a view to having it refocused and redirected.

**Mr. B. Smith:** We are fortunate to have research centres of excellence such as University College Cork, the Teagasc dairy research centre at Moorepark and the National Food Centre in Dublin. Greater opportunities will be available for graduates and specialists in those areas to carry out further research. The Department will issue a bid for more proposals for further research. The Department and Enterprise Ireland have set up a small working group to examine initiatives based on research produce coming forward which would assist the Irish food industry to scale up investment in research and development activity. That will have substantial spin-off bene-

fits for the sector's competitiveness and for the wider economy. The food institutional research measure, through the Relay project which is administered by Teagasc, allows the centres to disseminate the information to all interested bodies. The result is not confined to those who carry out the research but is available to the entire food industry and all interested parties. It is an important factor that research which is funded by the taxpayer and carried out by the institutes of technology or Teagasc is available to the entire industry.

#### **Farm Retirement Scheme.**

11. **Mr. Murphy** asked the Minister for Agriculture and Food her plans to carry out a review of the early retirement scheme for farmers; and if she will make a statement on the matter.  
 [24438/04]

**Mr. Browne:** As part of the expenditure review process established in 1997 under the strategic management initiative, my Department is completing an expenditure review of the early retirement scheme. The purpose of the expenditure review is to analyse systematically whether the scheme is meeting its objectives so as to inform future decisions regarding priorities on expenditure programmes. The review will be laid before both Houses of the Oireachtas in due course and I will study its findings carefully.

**Mr. Timmins:** I am sure the Minister of State is well aware of the difficulties for those who availed of the farm retirement scheme and feel they have lost out. While I realise there is only so much cake on the plate, I ask the Minister of State to meet this group to see whether anything can be done for them. With the advent of the single farm payment, many have lost out and, in many respects, are penalised for farm practice. While the freedom to farm is fine, there are many groups which have been disenfranchised and will lose out and there will be increasing discontent. I ask the Minister of State to be aware of the discontent, to keep in touch with the groups to see how the injustices, through nobody's fault, can be addressed. During the past few weeks I have encountered a few farmers, whom one would have thought were well off and doing well, who are in genuine difficulty. We always speak about a section of the agricultural community which portrays the poor mouth.

**Mr. Browne:** I am well aware of the group to which the Deputy refers. The group originated in Wexford and I have met it on a number of occasions. It speaks about the increased rate of payment, index linking and the retirement pension. I accept there are anomalies and we will take those on board with a view to seeing what can be done. I assure the Deputy we will give the matter favourable consideration.

**Dr. Upton:** I encourage the Minister to State to view this question sympathetically because, in fairness, many retired farmers were unaware of the negative consequences that would follow on down the line for them, such as non-indexation. I appreciate it is outside the control of this country specifically as it is an EU matter. I ask the Minister of State to look sympathetically at those issues and to discuss them with the retirement group to hear its point of view and appreciate the difficulties being encountered.

**Mr. Sargent:** The Minister of State will realise that while the group may have originated in Wexford it is countrywide at this stage and we have all received representations. Like other Deputies, I urge the Minister of State not only to meet the group but to recognise that among its number are people who are selfless in terms of wishing to allow young people make a career from farming. Given the demographic profile of farmers, who are generally older than other professions, it should be recognised they are looking at the common good and hope to help farming in general. In that context they should be met and their interests viewed sympathetically.

**Mr. Browne:** I assure Deputies that we will review the situation sympathetically. There are some road-blocks at EU level and in the Department of Social and Family Affairs which we need to get over. However, given that the Minister for Agriculture and Food has come from that Department, I am sure she still has some contacts there and we can do so.

#### Grant Payments.

12. **Mr. Hogan** asked the Minister for Agriculture and Food when REPS 3 payments will be made; and if she will make a statement on the matter. [24443/04]

**Mr. B. Smith:** The issue of REPS 3 payments commenced on 23 September 2004. Processing of applications and approval of payments is proceeding on a continuing basis. By the end of this week, REPS 3 payments amounting to €8.1 million will have gone out to more than 1,350 farmers. The vast majority of applications have been processed within the target periods agreed with the farming organisations in the protocol on direct payments to farmers.

I strongly encourage farmers to consider joining REPS 3 in the light of the substantially increased payments now available to them. The new scheme includes reduced penalties, requires less planner involvement and is presented in more farmer-friendly documentation. I also urge farmers who are already in REPS 2 to take up the opportunity to transfer to REPS 3 at the first opportunity.

**Mr. Timmins:** I thank the Minister of State for his reply. He is working quickly because this issue has been causing difficulty for some months. As

the Bible says, "only say the word and my soul shall be healed". The Minister of State has done just that.

**Mr. Sargent:** I welcome the Minister of State's reply. Will he comment on the difficulty many intensive farmers in Dublin North, many of whom are involved in horticulture, are having in gaining access to the REP scheme despite seeking opportunities to do so? Will the Minister of State more closely examine the cases of some intensive farmers who are over a barrel in respect of the market forces they face? Can the Minister advise how such farmers can move towards the REP scheme?

**Mr. B. Smith:** I am not in a position to reply directly to the Deputy's question but if he brings specific details to me I will be glad to have them considered by the Department.

#### Animal Diseases.

13. **Mr. Naughten** asked the Minister for Agriculture and Food the plans she has to review the compensation schemes for farms locked up by tuberculosis or brucellosis. [24425/04]

**Mary Coughlan:** The compensation regime for the TB and brucellosis eradication schemes was improved significantly with the introduction of the on-farm market valuation scheme, which became fully operational from April 2002. This scheme provides for compensation to be paid to farmers on the basis of live market valuations of all TB and or brucellosis reactor animals by qualified independent valuers. The arrangements allow for the rejection of the first valuation either by the farmer or the Department and for a valuation to be undertaken by another valuer. Where either the farmer or the Department further rejects the appeal valuation, the case can be referred to an arbitration panel set up to deal with these matters.

Apart from the market valuation element, farmers whose herds are affected by these diseases may, subject to conditions and the circumstances involved, also qualify for assistance under the income supplement, hardship or depopulation grant schemes. The overall compensation arrangements are working well and I have no plans to change them. However, my Department keeps the compensation schemes under ongoing review.

**Mr. Crawford:** I welcome the changes to some degree but there are problems from time to time depending on the state of the stock, for example, whether animals are in calf, freshly-calved or otherwise. It is sometimes difficult to get agreement with the Department in this context. I am aware of a case in which a herd went down just after Christmas and the previous year's production was more in the farmer's favour than the current, yet the Department insisted on taking account of the current year with the result that the farmer lost €6,000. There must be some

[Mr. Crawford.]

degree of common sense and flexibility. This case occurred two years ago when bad weather conditions prevailed and the farmer's production fell dramatically but the lower production level was taken into account. Will the Minister examine this issue?

**Mary Coughlan:** I am glad the Deputy has recognised that we have moved from the flat rate to the valuation system. According to the figures to the end of September of this year, some 5,611 valuations took place involving 24,596 bovine animals. Of those, just 1.5% of the first valuations were appealed with 0.2% going towards arbitration. Therefore, in comparative terms, there is quite a degree of satisfaction. I appreciate that on individual cases there may be outcomes that are disputed.

At the risk of being accused of being facetious by the leader of the Labour Party, I cannot avoid the opportunity to remark on an altercation Deputy Crawford and I had in the House when he implored me to take into consideration the current valuation for farm assist grants. What goes around comes around. To be fair there have been changes.

**Mr. Crawford:** At least the Minister remembered—

**Mary Coughlan:** I always remember.

**Mr. Crawford:** —although she did nothing about it.

**Mary Coughlan:** In regard to individual farms and farmers, one cannot make up for personal, not to mention financial, loss. If there are particular concerns, I ask the Deputy to bring them to my attention and I will do what I can to ensure the system is fair.

*Written Answers follow Adjournment Debate.*

#### **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 Crowe — the need for the Minister to report on the conditions under which NTL is withdrawing its services from many areas of the Dublin South West constituency; (2) Deputy Neville — the review of the care and treatment of a person (details supplied) at the Mid Western Regional Hospital; (3) Deputy Costello — the need for the Minister to provide paid legal representation for a family (details supplied) at the Morris tribunal; (4) Deputy Broughan — the urgent need to ensure that An Post pensioners are paid their due pension increase under the national pay agreement; (5) Deputy Sargent — the need for the Government to respond favourably to the application from a school (details

supplied) for two prefabricated classrooms to be in place by June 2005 to accommodate pupil and teacher numbers; (6) Deputy McManus — the deferral of cardiac operations at Our Lady's Hospital for Sick Children in Dublin and the shortage of intensive care nurses at the hospital; (7) Deputy Walsh — to make an update available on the affordable housing scheme for Clonakilty, County Cork; (8) Deputy Howlin — the policy of the Government and the Minister for Justice, Equality and Law Reform in deporting families with Irish-born children who have established long term residence and deep ties in Ireland; (9) Deputy Cuffe — the need to discuss the future and possible closure of a college (details supplied) in County Dublin as this college is one of only two such teacher training colleges in Ireland; (10) Deputies Healy and Hayes — the need to address staff concerns over the impending changes at Our Lady's Hospital, Cashel, County Tipperary and to ask the Minister to approve funding for staff and equipment to enable the completed health care units to open; (11) Deputy Upton — the need for the Minister expand on his comments on "Today with Pat Kenny" on Monday October 11 and if he agrees that the illegal dump at Grand Canal Harbour, Dublin 8 needs urgent attention; (12) Deputy Ring — the need to ask the Minister to provide the funding for a project in County Mayo considering that the facility has planning approval; (13) Deputy Gregory — the need to address a serious outbreak of burglaries in the Ballybough area of Dublin 3, the arrest of a suspect who was returned to Mountjoy Prison and then almost immediately released again on temporary release; (14) Deputy Andrews — to ask the Minister if he is aware of the stand-off between residents and builders at a site (details supplied) which has resulted in the suspension of Dún Laoghaire — Rathdown County Council's construction of social housing at the site; (15) Deputy Gogarty — the reason a person (details supplied) was not told by health board officials that there was a sibling (details supplied) in foster care and the reason an investigation into alleged abuse at a residential institution was not proceeded with; and (16) Deputy Crawford — to ask the Tánaiste and Minister for Health and Children to urgently provide additional funds to the North Eastern Health Board to support the elderly and disabled and especially for extra subvention beds and home help and carers.

The matters raised by Deputies Sargent, McManus, Crawford and Walsh have been selected for discussion.

#### **Civil Service Regulation (Amendment) Bill 2004: Order for Second Stage.**

Bill entitled an Act to provide for the amendment of the Civil Service Regulation Act 1956, to provide for the application of the Unfair Dismissals Act 1977 to certain civil servants, to provide for the application of the Minimum Notice



and Terms of Employment Act 1973 to civil servants, to provide for the amendment of the Ministers and Secretaries Act 1924, to provide for the amendment of the Prosecution of Offences Act 1974, to provide for the amendment of the Public Service Superannuation (Miscellaneous Provisions) Act 2004, to provide for the alteration of the title of the Secretary to the President and to provide for matters connected with the matters aforesaid.

**Minister of State at the Department of Finance (Mr. Parlon):** I move: "That Second Stage be taken now."

Question put and agreed to.

### **Civil Service Regulation (Amendment) Bill 2004: Second Stage.**

**Minister of State at the Department of Finance (Mr. Parlon):** I move: "That the Bill be now read a Second Time."

I am pleased to introduce the Civil Service Regulation (Amendment) Bill 2004. The purpose of the Bill is to strengthen the management of the Civil Service to meet modern needs and requirements. Its main aim is to give Ministers and heads of office specific formal authority for the management of Civil Service staff.

It is a key requirement of any approach to management that those who are charged with directing an organisation or enterprise must have control over it. There is no point in expecting organisations to be efficient in the use of resources or effective in meeting their objectives, unless the managers of those organisations are in a position to supervise all aspects of the organisation and the work of the people employed in it.

The Civil Service Regulation Act, the legislation governing personnel management in the Civil Service, is nearly half a century old. The structures it established in the 1950s for control of the Civil Service by Ministers and the Government have served their purpose well, but they were framed in a very different world from that of today. The time has come for change. It is no longer tenable to require that Governments must take a decision to dismiss every civil servant, regardless of how junior, and to involve the Minister in charge of a Department in every disciplinary proceeding, whether it is a serious or a relatively minor matter.

Chief executives in private sector employment perform these personnel functions and a system of industrial relations law and practice is in place to provide reasonable checks and balances. The Civil Service should be brought into step with practice elsewhere in the economy, taking account of the special circumstances that apply to public service employment. Senior managers in the Civil Service should be allowed to exercise the same kind of authority and responsibility in the human resource area to make sure that their Departments and offices serve the public interest. This is the purpose of the present Bill.

The Bill is one of the last milestones on the road to implementation of the human resources programme set out in Delivering Better Government under the strategic management initiative.

Under SMI, it was agreed that the public service must make a substantial contribution to national development, be efficient and effective in delivering high quality services to the public and establish a strategic approach to planning service delivery. The policy document Delivering Better Government expanded on this framework and extended the modernisation process from the Civil Service to the broader public service.

The framework of management of staff which will be put in place by this Bill was first identified in Delivering Better Government and sketched out, in principle, in the Public Service Management Act 1997. We are now in a position to give effect to the scheme of management which was first contemplated in 1996. The enactment of this Bill will throw the switch. However, it must be stressed that significant progress has been made in modernising the public service. The evaluation of the progress of the strategic management initiative in the Civil Service by PA Consulting in 2002 concluded that the Civil Service is a far more effective organisation today than it was a decade ago and that much of this change can be attributed to the initiative itself.

The planning and management system presented in the 1997 Act has played a large part in achieving this. For example, the introduction of strategy statements based on the development of business plans for Departments has clarified their roles and objectives, and has allowed them to allocate staff and other resources to meet those objectives. This has given organisations a much clearer view of how they should go about their business. However, the evaluation by PA Consulting also concluded that implementation remained incomplete and that accelerated progress was required, particularly in human resource management. The Bill makes a strong contribution in this area by implementing the key changes in personnel management originally presented in the 1997 Act.

The framework for the Bill has come from the senior managers in the Civil Service. The implementation group of Secretaries General established under the strategic management initiative endorsed a set of human resource policies which set out a comprehensive strategy to modernise human resource management in the Civil Service. Much of this strategy has been put into effect by administrative means. However, two important elements required legislation because of the nature of the changes required. The first, the Public Service Management (Recruitment and Appointments) Act 2003, was signed into law by the President recently and will enable the modernisation of recruitment practice in the Civil Service. This Bill is the second and final item of legislation. With its enactment, the Civil Service will have in place the range of reforms which the



[Mr. Parlon.]

senior Civil Service has identified as essential to the effective management of Departments.

It is important to stress that the Bill, with the Public Service Management (Recruitment and Appointments) Act 2003, was agreed with the Civil Service unions in Sustaining Progress. In drawing up the proposals for legislation, the public service unions have been fully consulted about the measures. I am sure that the unions will work in conjunction with management to implement the reforms and make them fully effective. I also stress that the changes being introduced in this Bill are another clear indication that the benchmarking agreement set out in Sustaining Progress has been worthwhile and that real, practical changes are being made in the way the civil and public service operates and will continue to operate in the years ahead.

There have been complaints that there has been no reform in return for the implementation of the report of the benchmarking body in the Civil Service. The charge is that the unions took the pay increases and were asked for nothing substantial in return. The introduction of this legislation, a central part of the modernisation programme in Sustaining Progress, is one of the central elements in response to these criticisms. The other elements are verification of co-operation with flexibility and ongoing change, satisfactory implementation of the agenda for modernisation, maintenance of stable industrial relations and the absence of industrial action in respect of matters covered by the agreement. The Government sought and obtained real reforms as part of the price of the benchmarking awards. These reforms are now coming on stream. I am confident the Government and the public will see real dividends from the changes being put forward in the Bill and the other measures in the modernisation programme.

The measures in this Bill will be effective because they are straightforward. The Civil Service Regulation (Amendment) Bill 2004 will amend the 1956 Act to allow the heads of Civil Service departments and offices to manage the middle-ranking and junior staff of those departments and offices without reference to Ministers or Government. It achieves this aim by specifying disciplinary powers in the human resources area in a clear and direct manner. I will shortly outline the main elements of the Bill for the benefit of Deputies, but the essence of the Bill is contained in the proposal to make the Minister the appropriate authority in disciplinary matters for the grades of principal officer and above and to make the head of office the authority for the grades from assistant principal and below.

On the one hand, it could be argued that this is not a significant change. Of course it is the case that civil servants can be dismissed and disciplined. However, instead of these steps having to be considered by officials, Ministers and, in the case of dismissals, the Government, in what can often be a lengthy and complex process, the

changes in the Bill will mean that both the responsibility and the necessary power lies with individual office holders. This is a simple but significant change. The delegation of disciplinary powers to senior managers in the Civil Service is a step which lies at the heart of the measures in the Bill and it is this which will ensure real progress in the way Departments manage human resource issues.

It must be put clearly on the record that most civil servants work well and efficiently in the public interest. In Ireland, we have a Civil Service with a long tradition of honesty, impartiality and integrity which is exercised for the benefit of the country. Every working day, I am conscious of the huge commitment of the staff I meet in Departments and offices. This is my experience of staff at all levels of the Civil Service. I am sure Deputies will endorse this view. However, where it is clear that there is a problem, underperformance must be tackled quickly. The Bill will allow managers to apply appropriate sanctions to the small number of civil servants who do not perform their duties to an acceptable standard. I do not want to give the impression that the point of this Bill is to allow Ministers or Secretaries General to discipline or dismiss people without fair and reasonable procedures being followed. There is a wider human resource dimension to the measures the Government is now introducing that must be taken into account.

A modern, professional Civil Service requires professional human resource management. A working environment must be created which allows staff to perform to the best of their ability. In line with the best human resource practice, staff must be encouraged and supported in their work. Much has happened in this area. The introduction of the performance management development system is now well advanced in reviewing work done and planning what must be done in light of the Department's business plan and strategy statement. Following the agreement in Sustaining Progress, discussions are under way with the staff unions on how best to use PMDS in assessing individual performance. In line with best HR practice, the full introduction of PMDS will help to create the systems and procedures needed to support management in implementing the new powers contained in this Bill.

In cases where underperformance is an issue, the aim of Civil Service management will be to address it, in the first instance, by training or development. Indeed, the Bill stipulates that the manager may not proceed to apply sanctions unless he or she has tried and failed to raise performance to a specified level by means of training or development. However, if those measures are unsuccessful, the person may be subject to a wide range of sanctions, including reduction in pay, demotion and dismissal. I am sure Deputies will agree that an approach of this nature is essential to the effective functioning of any organisation.

I will now set out the main provisions of the Bill to give Deputies a broad overview of what is

being proposed. The Public Service Management Act 1997 introduced the framework for modern management practices in the Civil Service. That Act established a framework within which, subject to the Civil Service Regulation Act 1956, managerial responsibility, including powers of dismissal, for staff below the level of principal officer would be given to Secretaries General. The Public Service Management Act 1997 also envisaged that Secretaries General could delegate most personnel functions, other than dismissal, to senior civil servants. However, the practical implementation of these powers and functions is constrained by the Civil Service Regulation Act 1956, which reserves most disciplinary functions to Ministers. In the term used by the Act to describe the person who exercises the powers set out in the legislation, the Minister is said to be the appropriate authority.

This Bill will remove the constraint on the implementation of the Public Service Management Act 1997 framework by making each Secretary General the appropriate authority for civil servants below principal officer level. This will mean that he or she will be responsible for managing all matters pertaining to the appointments, performance management, discipline and dismissal of those civil servants. The Minister in charge of the Department will continue to be the appropriate authority for civil servants at and above principal officer level. To protect those civil servants who are dismissed by a Minister or a Secretary General, the Bill will extend the scope of the Unfair Dismissals Acts to those officers. In view of the changes being made in the Bill, it is appropriate that civil servants have the same right of appeal against dismissal as a person employed in the private sector. In addition, in order to remove inconsistency between the rights of civil servants and the rights of private sector employees, the Bill will bring civil servants within the scope of the Minimum Notice and Terms of Employment Acts. This initiative will give civil servants the same rights to notice of dismissal as private sector employees.

The range of possible disciplinary sanctions, which now comprise reduction in pay, reduction in rank and dismissal, will be broadened to include suspension without pay. Civil

*4 o'clock*

Service managers considered that this was an important and appropriate

addition to the range of measures available. The penalty of suspension without pay will be distinct from the current power to suspend a civil servant pending the outcome of a disciplinary investigation. That power will continue to be used in cases where allowing the accused officer to remain at work while the investigation is under way might prejudice the operation of a Department or office. One notable change, which will be effected by the Bill, is that the hardship payments made to civil servants who are on suspension without pay pending an investigation may be varied or halted. This is being done to ensure the appropriate authority can change or stop the pay-

ment if circumstances justify that. The full range of disciplinary sanctions, which may now be used only in cases of culpable misbehaviour, will be available in cases where underperformance cannot be remedied. Every effort will be made to raise performance to a satisfactory standard, but the sanctions will be available where these measures fail. Detailed procedures will be issued by the Department of Finance for the use of sanctions against underperformance, and these will be discussed with the unions representing Civil Service staff interests. The Bill will also increase the options available to Civil Service managers. It will allow managers to engage civil servants for fixed terms and specific projects.

In addition to these major reforms which will have universal application in the Civil Service, I take the opportunity presented by the Bill to make a number of legislative changes which will improve administration in specific areas of the Civil Service. To this end, the Bill will amend the Prosecution of Offences Act 1974 to facilitate the delegation of authority in matters relating to appointments, performance management and discipline of staff in the Office of the Director of Public Prosecutions from the Taoiseach to the Director of Public Prosecutions. Given the new framework being outlined in the Bill, it is no longer appropriate that the Taoiseach should be the authority for staff in that office and the Bill will rectify this.

The Bill also amends the Ministers and Secretaries Act 1924 and the Prosecution of Offences Act 1974 to transfer responsibility for local State solicitors from the Attorney General to the Director of Public Prosecutions. Most of the work of these solicitors is done on behalf of the Director of Public Prosecutions and it is a more rational assignment of responsibility to have them report to the DPP than the current arrangement. This arises from a recommendation of the Nally report in 1999 in which the study group found that the vast bulk of the work carried out by local State solicitors was prosecution work. The Bill will also amend the Presidential Establishment Act 1938 to change the title of the "secretary to the President" to "Secretary General to the President", and the Public Service Superannuation (Miscellaneous Provisions) Act 2004 to effect some minor drafting and technical amendments to that Act such as the listing of Eirgrid.

I will describe the Bill's provisions in detail. Section 1 contains provisions naming the Act as the Civil Service Regulation (Amendment) Act 2004 and requiring that the Act be read as one with the previous Civil Service Regulation Acts. As the Unfair Dismissals Acts and the Minimum Notice Acts are also amended, there are similar provisions for those Acts.

Section 2 provides for the commencement of the provisions of the Act. The Act, other than Parts 6 and 7, will come into operation in whole or in part on a day or days appointed by order of the Minister for Finance. Part 6, which relates to the Director of Public Prosecutions, will come

[Mr. Parlon.]

into operation on such day or days as the Taoiseach may appoint by order or orders. Part 7, which relates to pensions provisions, is deemed to have come into operation on 1 April 2004.

Sections 3 and 4 define terms which are used in the Bill. Section 5 allows the Government to designate a person to be the head of a scheduled office in a case where one has not been appointed and provides that only the Government may dismiss a head of a scheduled office.

Section 6 replaces section 2 of the Civil Service Regulation Act 1956. The effect of this is to delegate the power to discipline civil servants, with the exception of those who are appointed by Government, from the political to the administrative level. In general, Ministers in charge of a Department or office will be the authority for staff in that office at and above the level of principal officer while the administrative head will be the authority for staff below that level. An important exception will be the personal staff of Ministers. Regardless of their grade, these staff will be subject to the authority of the Minister they serve. This is being provided because these assistants and advisers are personally appointed by Ministers and it would not be appropriate to involve senior civil servants in the application of discipline in these cases.

The powers which are delegated to Secretaries General under this section may be delegated, in turn, to other civil servants within the Department. This is already provided for in the Public Service Management Act 1997. Whether and how to delegate is a matter for the Secretary General but it is not difficult to envisage the circumstances in which it would be reasonably appropriate. Many Departments and offices are large organisations in which thousands of civil servants work in dozens of locations. Deputies will see that there will be a need to delegate disciplinary authority to a manager closer to the individual civil servant than the Secretary General of the Department in terms both of physical location and position in the management structure.

Section 7 replaces section 5 of the Civil Service Regulation Act 1956. The new section provides that the Government is the dismissing authority for all established civil servants but provides that the Government may delegate that authority. In general, the Minister in charge of a Department may dismiss a civil servant at or above the rank of principal officer on the written recommendation of the Secretary General of that Department. The Secretary General may dismiss any civil servant below the rank of principal officer. The personal staffs of Ministers are an exception. Regardless of their grade, these members of staff will be subject to dismissal by the Minister they serve. Another exception is the chief executive of the Courts Service who will be subject to dismissal by the board of the Courts Service. As the Constitution requires the strict separation of Executive and judicial powers, it is necessary to ensure the dismissal of the chief executive of the

Courts Service should not be a matter for decision by either the Minister for Justice, Equality and Law Reform or the Government.

Section 7 also provides for the appointment of civil servants for a fixed term or for the duration of a particular project. This will allow Secretaries General the flexibility to engage people for specific periods or jobs. It is an important new flexibility in the management of the Civil Service.

Section 8 allows for the recruitment of persons over the age of 65. While civil servants recruited before 1 April 2004 have a mandatory retirement age of 65 years, this provision will allow them to apply for jobs in the Civil Service after they have retired. If they are successful, they will be subject to the same terms and conditions as any other civil servant recruited after 1 April 2004, that is, they will have no mandatory retirement age. The sole exception to this rule is the Prison Service which will remain subject to a mandatory retirement age. The section will also allow any other person aged 65 and over to apply for positions in the Civil Service. The removal of arbitrary restrictions on the employment of people because of their age alone is an important reform which will generate opportunities for people over the age of 65 and increase the pool of expertise at a time when there are increased labour market pressures.

Section 9 allows Secretaries General to vary or stop a subsistence payment which is being made to a civil servant who is suffering financial difficulty during a period of suspension without pay while a disciplinary investigation is being conducted. This discretion is necessary because circumstances can change in the course of a suspension. For example, if it becomes clear that an officer under investigation has significant additional income, it will obviously be right to stop or vary the subsistence payment. If an officer under investigation were to be subject to increased hardship because the investigation went on for longer than planned, then it would be right to increase the level of the payment.

Section 10 provides the range of disciplinary measures available to management. Currently, these measures are limited to demotion and reduction in pay. This section will add suspension without pay to that list. This measure is distinct from the suspension which precedes an investigation in that it will be a penalty in its own right. It will give managers the option of removing disruptive influences from a workplace and of imposing a penalty which gives a clear and public signal within the workplace that an infraction has been dealt with. The section also provides that penalties may be mitigated or stopped at the discretion of the appropriate authority. The civil servant on whom it is proposed to impose a penalty has the statutory right to make representations on his or her behalf before the penalty will be imposed. In addition, a disciplinary code is in place in the Civil Service which ensures that accused officers get a fair hearing, adequate representation and a chance to have any disciplinary



proceedings reviewed by an independent appeals board which can recommend that the proposed penalty be amended or dropped. The Civil Service disciplinary code is currently being reviewed and it will be the subject of discussion with the unions representing civil servants in the course of the review. The purpose of the review is to ensure the code offers management an effective set of procedures for investigating allegations of misconduct while ensuring the accused officer gets the benefit of the highest standard of natural justice.

Section 10 will also allow managers to apply disciplinary measures against staff who underperform. These measures may only be applied when coaching, training and other developmental tools have failed to achieve a significant improvement.

The intention is to provide a set of measures that can be used as a last resort, not to relieve managers of their obligation to support and encourage staff in working to the best of their ability. When these sanctions are being applied, it must be clear that managers have done their best to manage their staff before the question of sanctions arises.

It would be unreasonable to expect management to exercise the new power without adequate guidance. Accordingly, new internal procedures will be put in place to assist managers in tackling underperformance. Work has begun in the Department of Finance on this. The issues will also be discussed with the Civil Service unions. However, I stress that the procedures will be issued quickly. We cannot allow a situation develop whereby powers on the Statute Book cannot be used because discussions on guidance documents drag on.

Section 10 introduces a new safeguard for civil servants who have been subject to some disciplinary sanction by protecting the superannuation benefits they accrued before the imposition of the sanction. At present, if a civil servant is demoted or has his or her pay reduced and he or she is not restored to his or her original rank or rate of pay before resignation or retirement, pension entitlements are based on the lower rank or rate of pay. It is unfair to deprive officers of entitlements they have earned prior to behaviour or performance that has merited sanction. Accordingly, it has been decided to introduce this protection which will ensure that the benefits and entitlements earned up to the date of the sanction are preserved.

Section 11 inserts a Schedule into the Civil Service Regulation Act which will provide for the operation of the amended Act in the Courts Service and the Houses of the Oireachtas. The effect of inserting the Schedule is to treat the Houses of the Oireachtas Commission and the board of the Courts Service as Ministers of the Government for the purposes of the Act. That is to say, they will be the appropriate authority for civil servants at and above principal officer level. This is being provided because it would be inappropriate to

involve Ministers in the administration of the Courts or the Houses.

Sections 12, 13 and 14 amend the Staff of the Houses of the Oireachtas Act 1959 and the Houses of the Oireachtas Commission Act 2003 to bring their procedures into line with the general scheme of authority set out in this Bill. The amendments provide that the commission will be the dismissing authority for officers at principal level and above in the Office of the Houses of the Oireachtas and that the Secretary General of the Houses of the Oireachtas will be the dismissing authority for officers below principal level.

Section 15 revokes provisions in other legislation for the delegation of the powers exercisable by a Minister of the Government under the Civil Service Regulation Acts 1956 to 1996. In general, the effect of these delegations will be achieved by the commencement of the Bill.

Section 16 introduces transitional arrangements to provide for the continuation of any proceedings, procedures or measures already commenced under sections 5 to 9, inclusive, and 13 to 16, inclusive, of the Civil Service Regulation Act 1956. Those sections relate to dismissing, reverting, retiring, suspending, disciplining and withholding remuneration from civil servants. This provision will ensure that any proceedings which are in train on commencement will continue as if the Act had not been commenced.

Sections 17 and 18 of the Bill provide for the extension of the Unfair Dismissals Act to civil servants who were not dismissed by Government. This will give those civil servants the right to appeal their dismissal on the same basis as employees in the private sector. Decisions of Government to dismiss civil servants are excluded from this extension because it is inappropriate to subject the decisions of Government to review by a tribunal that is equivalent to a lower court. However, this does not mean that those civil servants dismissed by Government will not have an avenue of appeal. It is a feature of our legal system that civil servants have the right to seek a judicial review in the High Court of an administrative decision that affects them. Nothing in the Bill will affect this right. Accordingly, a civil servant dismissed by Government will continue to be entitled to seek to have that decision reviewed by the High Court. The same is true of civil servants dismissed by a lesser authority than Government, although they must make a choice of pursuing their appeal through judicial review or the Unfair Dismissals Act. They may not use both channels.

Sections 19 to 22, inclusive, apply the Minimum Notice and Terms of Employment Act to civil servants. This means that civil servants will have to be given between one and eight weeks' notice of their dismissal, depending on their length of service.

Section 23 provides for the changing of the title of Secretary to the President to "Secretary General to the President". Section 24 amends section 6 of the Ministers and Secretaries Act 1924 to



[Mr. Parlon.]

provide for the transfer of responsibility for local State solicitors from the Attorney General to the Director of Public Prosecutions. This reflects actual managerial responsibility in that the State solicitors work under the aegis of the Director of Public Prosecutions rather than the Attorney General. Section 25 amends section 3 of the Prosecution of Offences Act 1974 to reflect the transfer of responsibility effected by section 24 of the Bill. Section 26 provides the Director of Public Prosecutions with the power to direct local State solicitors to perform, on behalf of the director, any particular function of the director in any particular case. Section 27 provides the Director of Public Prosecutions with the power to appoint the staff of the Office of the Director of Public Prosecutions.

Section 28 is a technical provision amending the Public Service Superannuation (Miscellaneous Provisions) Act 2004 to clarify the original wording of a provision in that Act. The section also inserts "EirGrid" into the bodies listed in Schedule 1 to that Act as a body to which the definition of "public service body" does not apply.

I emphasise that the Bill brings the management of the Civil Service into the 21st century by introducing a modern framework of administration. It is not an isolated initiative but a significant element of the programme of public service modernisation which was agreed with the public service unions in Sustaining Progress. It is a central part of the changes brought about by that agreement. For too long, the Civil Service has had to work with a legal framework designed for a different era. This Bill heralds an entirely new approach. I look forward to seeing the Civil Service implement these changes. I am confident that the improvements in human resource management will be noticeable and rapid and that the measures in the Bill will bring practice in the service into line with the best human resource methods that apply elsewhere in the economy. I welcome the Bill as an important public service modernisation measure and commend it to the House.

**Mr. R. Bruton:** The changes in this Bill, while welcome, at best deserve one cheer from the House. The real issue is why it has taken seven years to introduce this set of proposals. The Minister of State admitted in his comments that the proposals came directly from the Public Service Management Act 1997. Seven years later, we are now throwing the switch, to use his own term. It seems bizarre that we should have to wait so long for what he regards as a key priority, namely, reforming the delivery of public services.

In the past seven years the public service has expanded by 60,000 people. It is almost 30% bigger than it was seven years ago when the then Minister for Finance, Deputy McCreevy, took office, yet we are told that the key to making the public service more efficient was put on the back

burner. The Government pushed ahead with recruitment but the legislation to throw the switch was not introduced for seven years.

When the Minister of State referred to the crucial issue of procedures for dealing with underperformance, he admitted that new internal procedures would have to be put in place. He said:

Work has begun in the Department of Finance on this. The issues will also be discussed with the Civil Service unions. However, I stress that the procedures will be issued quickly.

They are not yet ready and will be issued quickly only after seven years and after this legislation is passed. The Minister of State also had the cheek to say that: "We cannot allow a situation develop whereby powers on the Statute Book cannot be used because discussions on guidance documents drag on." Having allowed it drag on for eight years, he has the cheek to lecture those in the public service and tell them they are not allowed to have discussions.

The area of reform is certainly important territory. The changes in this Bill are certainly necessary but are far from sufficient to trigger a serious programme of reform in the public service. The priorities for public service reform are well known. We require the delegation of responsibility to local managers. We need to set real targets and publish them and report regularly on their achievement. Management information systems must be put in place to do that. We need to introduce strong performance appraisal systems in which people will have confidence. They should be up and running and used regularly to influence behaviour. We need to introduce more choice among alternative suppliers for the customers and clients of public services. We need to introduce performance-related rewards so that people who display outstanding performance are rewarded for their efforts.

The Minister of State quoted from the strategic management initiative report by PA Consulting, which just proves the old saying that the devil can quote Scripture in defence of his case. He quoted the report to prove what wonderful progress he is making but this could not be further from the truth. Any serious reading of the document would suggest that there has been a deplorable lack of progress on all the key ingredients for public service reform. On the degree of accountability for delivering public services Ireland lags far behind other areas, including those close by, such as Northern Ireland. Every day we can see examples of this, whether in health, education or other public service sectors. Accountability is almost nil compared to the standards being observed in other countries. Countries that are strongly embracing reform are introducing not only public accountability but the stimuli to improve matters. They have established systems of competition for service delivery, along with rewards for success that are already in place. In addition, they have well-developed, continuous

improvement processes through which they have genuinely turned many of their public service bodies into learning organisations. We are light years behind that so it is about time people on the Government side of the House woke up to the reality.

While the Minister of State quoted so glowingly from the Strategic Management Initiative report by PA Consulting, I wish to cite other parts of it. On page 59 of the document, the report states "Problems continue to exist in relation to performance. 65% of respondents believe that under performance is still left unchallenged with only 10% believing that it is challenged. Many senior managers to whom we spoke argued that they did not have the tools to reward excellence, to improve performance where it is deficient and to tackle non performance".

The report went on to state, "In relation to that, managers cited organisation culture, tradition and potential IR implications as being the main constraints". It went on to mention devolution: "While most Department offices are now in the process of evolving a more strategic approach to HR, it is not clear to us that the implications of this fundamental shift have been internalised within all Departments or offices".

The reports continues:

Senior managers with whom we spoke consistently expressed frustration and disappointment about what they perceived to be the slow pace of change in the HRM agenda. Two of the most frequently articulated concerns were managing performance and recruitment. In relation to recruitment, areas of perceived inflexibility included securing sanction for posts and atypical recruitment, particularly in relation to potential staff. We observed little evidence of progress in devolving responsibility for HRM to line managers — indeed, little evidence on the part of line managers of an eagerness or capacity to absorb such a role. Manpower planning is virtually non-existent as a matter of routine practice.

If the Minister of State had read this document before he put his script together, he would have seen that it underlines not only the lack of reform but the strong belief among people within the public service that this reform is too slow and is not giving confidence to those at the core of quality public service delivery. It is a bitter disappointment to have had to wait seven or eight years for this legislation. I realise the Minister of State can say, rightly, that he was not around at the time, but he is left here as the spokesman for Ministers who failed to deliver on their responsibilities.

The difficulty is that instead of tagging a lead in driving public service reform some Ministers have been among the most serious scoundrels in undermining the qualities of reform we want to see. Ministers have openly and brazenly ridden roughshod over good practice in public service decision making. Although I am sorely tempted

to do so, I will not go into matters such as the Punchestown equine centre again.

**Mr. Parlon:** Why not?

**Mr. R. Bruton:** In that case, virtually every rule in the book was flung out as Ministers sought to cosy up and do a deal in their own interests. In the case of the Kenmare marina, a Minister was told what to do by the Taoiseach's office. The marina later had to be demolished because proper planning had not been put in place. In the case of Stadium Campus Ireland, wildly ambitious plans resulted in huge costs to the taxpayer, yet we did not deliver anything in the end. In the process, we held back the potential serious delivery of services from many voluntary organisations in the area. I could mention electronic voting or any of the myriad cases we have seen where Ministers decided for short-term political reasons they wanted to bend all the rules and push ahead with their process without observing any prudence.

The Bill rightly provides for disciplinary measures, including the removal of people. It seems, however, that under this Government people who are incompetent and do crass things, such as those I have described, get promotion. That is the approach to public service management and discipline that is coming from the Cabinet table. This cavalier approach at the highest level of Government, both to financial and public service management, breeds cynicism within the public service. It is hard for Ministers to credibly appeal for and insist on better value for money from public servants if they show that in their own approach they have such feet of clay when it comes to delivering value for money through their own decisions.

Leaving aside these political strokes, there is the bigger issue of the way in which the decentralisation programme has been handled. As far as I know, every party in this House supports the objective of a successful decentralisation programme. What divides Opposition and Government, however, is that the Opposition wants to see this done in a strategic way. We want to see a proper plan and that good forethought has been put into it. We want to see it succeed. What happened with decentralisation? It was deliberately introduced under the cover of the budget statement, which meant that all the traditional systems for ensuring scrutiny of decisions of this nature were cast aside. There was no Government memorandum, which would have been circulated to various Departments and agencies. No consultation of any public servants occurred and no strategic plan was introduced to underpin the announcement. No business case has been presented for any of its elements to either unions or management in any of the agencies involved. No one has seen it. No risk assessment has been conducted on how it will affect services. No human resource plan has been developed to underpin it. No assessment whatsoever of the fin-

[Mr. R. Bruton.]  
 ancial implications has been put forward. None of the locations has been justified against the criteria of successful regionalisation, which everyone knows must be a key feature if this plan is to work. No answer has been given to those who fear a huge loss of organisational memory — these who believe that the dispersal of the policy making core of Departments will seriously undermine our capacity to offer good governance. It flies in the face of best international practice.

**Mr. Parlon:** The Deputy should read the Flynn report, which deals with all of those issues. Flynn has no such concerns.

**An Ceann Comhairle:** Please allow the Deputy to speak without interruption.

**Mr. R. Bruton:** It would be worth the Minister of State's while to come along and hear experts in the field at the hearings we have been having on this matter. He would learn that people who have wide experience in this sector are tearing their hair out. Senior public servants and people who have been advising the public service are dismayed at what the Government is willing to do.

**Mr. Parlon:** The suggestion is plain enough.

**An Ceann Comhairle:** I have asked the Minister of State to allow Deputy Richard Bruton to continue without interruption. While a passing reference by Deputy Bruton to decentralisation is in order, a whole debate on it is not in order on this Bill.

**Mr. R. Bruton:** I wish to put a question to you, a Ceann Comhairle. If we are saying to public servants in this Bill that they must be accountable for their decisions, must take decisions with proper prudence and that if things do not work out they will be held accountable, should not the House say, in the very same way, to Ministers who are proposing a decentralisation programme that will radically change the public service, that they should also have proper forethought, proper strategic statements and should be held accountable?

**An Ceann Comhairle:** We cannot have a detailed debate on decentralisation.

**Mr. R. Bruton:** I had to write to you, a Ceann Comhairle, to trigger a debate on the issue. It was only having written to you and your willingness to allow the issue to be raised in the House that the Government was shamed into having hearings in the Committee on Finance and the Public Service, which it voted down beforehand.

**An Ceann Comhairle:** The Deputy is moving well away from the Civil Service Regulation (Amendment) Bill.

**Mr. R. Bruton:** I commend the Chair on this occasion for assisting the House.

**An Ceann Comhairle:** It could have been brought into any debate in the House.

**Mr. Parlon:** More than 7,000 civil servants have already applied to move and the number is growing on a daily basis.

**An Ceann Comhairle:** This is a debate on the Civil Service Regulation (Amendment) Bill and not on decentralisation. Passing reference to decentralisation is in order but I ask the Minister of State not to interrupt the Deputy who is entitled to make his contribution. The Minister of State will have an opportunity to reply.

**Mr. Bruton:** The greatest disservice that can be done to the cause of decentralisation, serious devolution of power and serious public service reform is to push ahead with short-term, politically motivated changes that have not been thought through and which will leave many towns and villages throughout the country bitterly disappointed if it does not work. The standards of foresight, responsibility and proper financial procedure that we ask public servants to deliver ought to be taken on board by Ministers.

There is a problem with much of the human resource system in place in the public service. There needs to be a much more radical attempt to reform it before proceeding with many other elements about which the Government is talking. Today, for example, we were discussing the Estimate to introduce a new devolved recruitment system. I would have much more confidence in a devolved recruitment system if we had proper modern human resource management standards in the Civil Service and public service and if we had confidence that the system is strong and robust and when it is devolved it will continue to be strong and robust and built on sound principles. The quotations I gave from the document suggest it is not strong or robust and that the notion of devolving it down could undermine the capacity to do many of the things we want to see in the delivery of public service reform. There is a great danger in what the Government is doing without having a proper discussion.

I had to smile when the Minister of State said this is one of the key elements in the payment of benchmarking. This is throwing the switch for a decision taken seven years ago and which the Minister of State describes as the critical element in the payment of benchmarking. It is implicit in the whole direction of reform. Anyone who wants to see any sort of professionalism within the public service recognises that this is the way to go and it will not cost €1.3 billion. As the Minister of State said, it is essentially about making Ministers the appropriate authority for the grade of principal officers and above and making the head of offices the authority for the grade of assistant



principal officer and below. This is not something that will warrant huge payments.

The Minister of State referred in his speech to the charge that the unions took the pay increases and were asked for nothing substantial in return. No one made that charge. The charge is that the Government failed to introduce any reform package. The unions were entitled under the benchmarking arrangement to get these payments because it was part of the deal. However, it was up to the Government to introduce the reform agenda that would drive change. We found there was not a single element of reform introduced by the Government. Between the time the benchmarking commission reported and the payments were made, there was no substantial negotiation about a reform agenda. There was no union push beyond any position. The whole thing slid effortlessly into place. There was no drive to reform our system to make it more productive or efficient, to make people more accountable and to devolve power further down the system. None of this agenda was pushed or accelerated on the back of the benchmarking award. This is why the Minister of State and his Government colleagues stand accused of wasting the opportunity of benchmarking.

Benchmarking was and is a great opportunity to utilise and reform public services. It was leaving behind the notion of being paid on the basis of relativity. It was leaving behind the notion of being paid for co-operation with modernisation and change alone. Instead a whole new direction was being taken. This would be based on what one could earn in other sectors and on a reform agenda to get productivity up to high standards of best practice. Benchmarking was about achieving best practice, but that is not how the Government saw it. It buried all the evidence surrounding benchmarking, none of which was released, and there was no aspiration to best practice driving the Government's motivation, even though the commission said that 75% of the award must be made conditional on a drive to reform and achieve best practice in delivery.

The Government sold short the whole agenda. The Minister tried to say that people were complaining about the unions. No one complained about the unions. The unions did their job and did it right to defend their members. The issue is that if it commits taxpayers to €1.3 billion, the Government is responsible for deriving value for it and putting the reform agendas on the table to warrant it. This is why the Government has been so lacking in regard to benchmarking and public service reform. Public service reform must be a priority for any new Government that takes office. No one is convinced that we got value for money for the 125% increase in the health budget and the 25% to 30% increase in public service numbers. People want to see vibrant and strong public service reform, which has not been forthcoming from the Government. The Government has undermined its credibility to try to deliver this and bring the public service with it.

There needs to be new thinking about the way public services are delivered. A more competitive and enterprising drive needs to be brought to the delivery of public services. Innovation needs to be embraced and those who achieve excellence should be rewarded. We need to give much more voice and choice to the clients of public services and we need to build it on solid financial foundations. This is the challenge for a new Government coming into office, I hope, sooner rather than later. Sadly, we have grown up with procedures in this House that stand in the way of the sort of approach to modern governance and modern public service reform we so crave.

Budget day is one of the charades of this House, which encourages short-term thinking. It focuses attention on the urgent rather than the important. It narrows the concentration to incremental change instead of facing up to the need for root and branch reform. It ignores long-term issues as it grapples with short-term thinking. It ignores the long-term implications of many of the new schemes that are tacked along, many without any serious evaluation, as we have seen in the case of provision for medical cards for those over 70 years of age, where the actual cost turned out to be ten times what was expected.

We must reform our financial procedures. Proper outcomes and performance indicators should be integral to any Estimates procedure. Our Estimates procedure is a joke. If the Government wants to be the driver of public service reform, decisions on €30 billion public spending must be made in this House. There are no performance indicators and outcomes are not judged when making decisions. This is not a modern approach to financial management. The Minister should commit himself to reform in that area as well as the changes he is making in the area of personnel management.

It is time to begin to embrace seriously public service reform and make it the priority. I would like to see another round of benchmarking that on this occasion would result in delivering quality services to those who need them. If there were to be a second round of benchmarking and if costs were imposed on the taxpayer, we should see very tangible results. For example, every local unit, whether a school, hospital or Garda station, should be responsible for reporting on how it has deployed its resources, what are its performance targets and how it is delivering against those targets. We would also want to see every unit committing itself to a continuous improvement process and to have the resource from a parent Department to support on a technical basis this type of ongoing improvement process. That is what has succeeded in private and voluntary sector organisations to deliver the type of change that is needed.

We should be willing to say that the money that is made available each year would go to those who are embracing and delivering on reform in that way. We should hold back money that only goes to serious reform agendas and organisations



[Mr. Bruton.] that are delivering that level of improvement and accountability. This House could also contribute to public service reform in the same manner, by changing its own financial procedures and insisting on accountability from Departments before Votes are granted. The House should insist on seeing the improvement process in place and that there is a reward for those agencies which are stepping up to the mark and delivering reform. There is an opportunity for a new Government to embrace this agenda in a serious and committed way in partnership with those in the public service to deliver change for the better. We must put behind us, however, the cynical, political approach that has, unfortunately, characterised many spending decisions in recent years and the public service relocation plan.

**Ms Burton:** This Bill, as the Minister of State, Deputy Parlon, said, is part of a package of reforms for the Civil Service, some of which were initiated during my tenure as Minister of State from 1992 to 1997. The strategic management initiative, in particular, which kicked off the process was started by the then Taoiseach, Mr. Albert Reynolds, and developed by his predecessor, Deputy John Bruton. The reform process has been ongoing for a long time. Although this Bill will receive little public scrutiny or attention, it is part of a series of legislation which may fundamentally change the character of the Civil Service.

It is important that the Bill should be subject to scrutiny. In his speech, the Minister of State stated regarding the personnel functions in the Civil Service that the corresponding functions are performed by chief executives in private sector employment and that a system of industrial law and practice has been put in place to provide reasonable checks and balances. The fundamental philosophy which underlies the Minister for State's approach to this Bill is that the private sector and the Civil Service are similar and ought to be the same. From both a management and a philosophical point of view, the Minister of State has it wrong. In the private sector there are inherent checks and balances, which is the law of profit and loss. Public companies have shareholders and financial analysts follow the companies' performance. A company, whether public or private and provided it is operating within the parameters of law with regard to environmental constraints and so on, will live or die depending on how it husband its resources and sells its products or provides its service.

A Civil Service organisation or a Department, however, basically provides public services which are funded by the taxpayer through taxation and public resources. Despite all the reforms the Minister of State has introduced, the one area where the Government has failed to deliver is with regard to accountability and value for money. Although it is introducing swinging new powers for executives at various levels in the

public service to fire staff if they are deemed to underperform, no similar assessment is possible by any of the accountable bodies, whether the Dáil, committees or any public structure. The most senior staff in the Civil Service, those above the grade of principal officer, can be held accountable for their underperformance but will answer to Ministers who will look for political performance rather than customer service delivery performance.

One might say that the Government is subjected to a periodic test of the acceptability of its actions by means of general elections. It is a crude and rude system by which the people give their verdict and everybody here must go through it. This Bill establishes a system whereby senior management in the Civil Service will have seriously enhanced powers, which many would agree they should. The other Bill that recently went through the House gave senior management the power to hire civil servants, now they will have the power to fire them. The power of hiring and firing will reside with departmental Secretaries General and chief executives of State agencies and public bodies. That is a fundamental change in the tradition of public service. One must ask, therefore, what limits will be imposed to prevent the potential abuse of these extensive powers and how senior management in the Civil Service will be accountable in the future. What can will these senior managers carry if they, to use the language of the Bill, underperform?

I draw the Minister of State's attention to the annual reports of the Comptroller and Auditor General. I see the Ceann Comhairle looking at the time but I want to mention a couple of examples which cut to the heart of the concept which the Government parties have developed that the Civil Service should be like a private company. The Department of Education and Science entered into an agreement with a number of religious orders regarding people who had suffered abuse while in institutions in the earlier and middle parts of the last century. The House was told on numerous occasions that the likely cost of that deal would be approximately €200 million.

**An Ceann Comhairle:** The Deputy's comments are outside the scope of the legislation.

**Ms Burton:** The most recent report of the Comptroller and Auditor General shows that the likely cost of this deal will be €828 million and may be as much as €1 billion. The then Minister for Education and Science——

**An Ceann Comhairle:** I ask the Deputy not to continue down that line of comment. She is outside the scope of the legislation.

**Ms Burton:** I am not. The Minister of State's statement was littered with references to this Bill being about correcting underperformance in the public service. There are multiple reports from the Comptroller and Auditor General detailing

matters ranging from the deal with religious institutions to the fiasco of electronic voting, but no provision is made in this Bill for underperformance at the top level in the Civil Service by Secretaries General.

**Mr. F. McGrath:** Hear, hear.

**Ms Burton:** It seems it is the small people who when they underperform will be enabled, through the performance management development system, to improve their performance and if they fail to do so they will be fired. In the case of underperformance of Secretaries General who cost the taxpayer significant sums of money because of fiasco programmes they oversaw, to whom will they be accountable? What accountability and underperformance constraints will apply to those people? We know what will happen to the current Government when the people get an opportunity to comment on the underperformance of Fianna Fáil and the Progressive Democrats. We also know what happened last June. However, an area not addressed by the Minister is what will happen to the Civil Service bosses.

If the Minister is introducing performance based management in the Civil Service where the Ministers have the ultimate authority, what sort of system is he introducing to deal with underperforming Secretaries General and people above the level of principal officer? These are the senior managers who command the budgets. They have the ear of the Minister and can make proposals and disposals. What underperformance criteria relate to this group of public servants? The Dáil deserves to know this, but the answer is not in this Bill.

The Bill states that the new section being inserted by section 7 provides that: "Every established civil servant shall hold office at the will and pleasure of the Government." This is an old phrase re-imported into this legislation from the Ministers and Secretaries Act as I understand it. Will the Minister explain what this provision means and the reason it was necessary to bring this archaic phrase into this new Bill which is meant to deal with the new dawn in the public service? It seems the Government is covering its back because it intended to limit the reforms in this Bill and could not find a more imaginative way of expressing the relationship between civil servants and Government. Therefore, civil servants shall hold office at the will and pleasure of the Government.

Another serious absence of the Bill is a whistleblowers' charter. The Minister of State is aware that his party leader has acknowledged the efforts of the Labour Party in this respect and that she has referred on a number of occasions to the serious problems in the public service due to the absence of such a charter.

Powers are provided in this Bill to deal with underperformance. One good aspect of the Bill is that general employment legislation rights will be

available to people in the public service. However, what will happen to people who become whistleblowers because they see something which is wrong and wastes taxpayers money taking place in a Department? If these whistleblowers go through the normal channels, those channels provide no mechanism for their reports because the people making the decisions are in the top grades and superior to them. As a consequence of this Bill, their superiors will have the power to fire them after a period of due process.

We must remember that the Civil Service is a hierarchical organisation. If implemented in the wrong way, this Bill will constitute a powerful mechanism for bullying where the cause of a dispute relates to a difference of opinion as to the rights or wrongs of a situation. No anti-bullying codes are provided in the Bill. The good aspect of the Bill is that we have extended employment law into the Civil Service. However, as the Civil Service is a hierarchical structure, what will happen where there is a serious difference of opinion and disagreement as to the propriety of an action and a civil servant feels compelled, in the public interest, to make that known?

Unless this Government is prepared to amend the Bill to introduce both anti-bullying provisions and protection for whistleblowers, the balance in the Bill will err seriously in favour of Civil Service bosses. It will lack protection for conscientious civil servants who identify problems, thereby leading to a whistleblowing situation. It is wrong that this legislation is being introduced without these two factors being addressed. I worked in the Civil Service many years ago and I, and anybody who worked in it, know how hierarchical a structure it is and how difficult it is for those on the lower grades to make their views known.

Let us look for example at the experience of local authorities where, unfortunately and particularly in the Dublin area, there has been serious wrongdoing. Those issues have been highlighted by various tribunals and indicate some appalling practices that have happened in a certain local authority. It is obvious from the tribunals that many people employed in that local authority either knew or had suspicions that something was wrong. However, because the person primarily involved in some of the matters outlined by the tribunals was in a senior position, staff lower down were not in a position to bring their concerns into the public domain.

The Minister must take a further step and make the necessary provisions to protect whistleblowers. This Bill provides the opportunity to introduce the concept of protection for civil servants who feel obliged in the public interest to disagree with superiors, especially now that superiors will have ready powers to fire those people. The balance of rights must be addressed in this respect. Considering the length of time the Government has taken to produce this legislation, it is a pity this has not been done.

I know from the Minister of State's demeanour that he sees this as a bit of joke. However, I do

[Ms Burton.]

not know if he has ever worked in the Civil Service or in private industry. I have worked in both. I know that where we have a hierarchical organisation, it can be difficult for people to exert their right to disagree and make suggestions etc. The Civil Service is that type of organisation. It is not like a multinational company or a large private Irish company where a proposal may be put forward and be accepted or rejected and where people can move and make decisions quickly. The Minister of State's comparison of Civil Service structures to company structures is flawed because they are different types of organisations.

Two clear problems also arise in the context of the reform of the health service and the effort to provide better local government through the local authorities. Again, these are not addressed in this Bill. Nowadays, most young people and graduates expect to change employment often and to work for a few years in different positions before moving on. Why has the Government done nothing about facilitating external recruitment to the Civil Service, specifically at the highest level? Have we had an ambassador or a Secretary General of a Department who has not been recruited directly from the Civil Service? The Department of Justice, Equality and Law Reform appointed some new people to positions in the Prison Service. However, as far as I am aware, almost all those appointed came from within the Department. If one is looking to shake up the Civil Service to make it more efficient and achieve better value for money, it is absolutely crucial that new blood should be introduced, particularly young people who expect career movement and not to hold one job for their lifetimes. Recruitment into the public service at more senior levels should be facilitated with perhaps an emphasis on people who have worked abroad or in other jobs in Ireland previously. Despite promises on benchmarking and other issues, I wonder why the Government has not facilitated such recruitment.

The Minister of State referred to disruptive influences in the Civil Service and the power to dismiss officials. Will he outline what he means?

5 o'clock It is important that the Civil Service should provide value for money, civil servants should work efficiently and senior management in this hierarchical structure should act fairly towards their subordinates. Checks and balances should be provided in this regard.

Deputy Finian McGrath is present and I am reminded of the issue of a teacher who may have performance problems. This is one of the most difficult issues for school principals to address and it is also an issue that causes the greatest distress to parents because if children are in the class of an underperforming teacher, particularly for one or two years at primary level, it is difficult to remedy the deficit. However, at the same time, a balance must be struck by giving the underperforming teacher an opportunity to improve while

respecting the rights of children who only get one crack at primary education.

Various sections in the Bill refer to negotiations with the trade unions about training and development where underperformance has been identified. What work has been done in this area? What does training and development involve? Developments in primary teaching have been unsatisfactory for the most part thus far. A great deal of grief has been caused for principals while teachers deemed to be underperforming have not benefited significantly. They enter a limbo of various sanctions and exploration of improvement that might be undertaken while they continue to teach. If that is the model the Minister has in mind to address underperformance in the Civil Service, I have grave doubts that it will work.

This may be part of the negotiation process and the Minister of State said this is a work in progress within the Department. How much work has been done? More dynamic models are available than those that have been adopted up to now in the Civil Service. Is the legislation being introduced without having these issues worked out? If not, a great deal of grief will be caused.

Bullying is also a feature of management in hierarchical structures. The stress that bullying can cause for people who are otherwise performing to the best of their ability is dreadful. Bullying is particularly hard on men and women in middle management posts. What thought has gone into the legislation? It is silent on critical issues such as the rights of whistleblowers, bullying and achieving efficiency and fairness for the staff of a hierarchical organisation.

I refer to hiring and firing. The Government is retaining its rights on private office appointments. Would it not be good for all political parties if fitness for the appointment had to be demonstrated? The qualification process for Minister's advisers and other appointees should be transparent so that where people are associated with political parties and are appointed to a technical advisory role to a Minister, it should not be a cover for appointing additional constituency agents. These people should bring insights and skills to assist the Minister in running his or her Department as opposed to providing extra constituency manpower for him or her. The Government had ducked the issue, which is an awful pity. Advisers and other appointees have been helpful in numerous instances to the process of Government but, in others, they have been used as extra political staff in the Minister's office via a back door route.

**Mr. Boyle:** I wish to share time with Deputies Ó Caoláin and Finian McGrath.

The Minister of State said this was one piece in the jigsaw to deliver wholesale reform within the Civil Service. However, the Government has chosen, perhaps for reasons of *realpolitik*, to adopt a piecemeal approach to reform of the Civil Service. Reform is a loaded term and questions need to be asked about what reform is being



delivered and to whose benefit. The Minister of State put a great deal of faith in the strategic management initiative in his contribution. Questions must be asked about what SMI has delivered and to whom benefit has accrued.

The Bill together with other legislation has changed the nature of participation in the Civil Service. The Government wants to achieve a private sector climate within Departments. This, however, could lead to a climate of fear for those who work at lower levels where performance is related to the ability to remain in a job. If that is the attitude being adopted within the Civil Service, I fear for the quality of what it delivers to the public. The benchmarks that should be measured are public service and quality. The Ombudsman's office deals with complaints about the quality of public service while the Committee of Public Accounts, of which I am a member, along with other State agencies examine how the Civil Service is performing its role.

The legislation together with previous legislation threatens the future quality of the public service and it is only right that the Opposition should raise questions. Particular concerns were raised earlier by Deputies Burton and Richard Bruton about who would be wielding the whip in the context of future Civil Service job allocations. The role being given to Ministers and Secretaries General is very unwieldy. A kind of Faustian pact might be entered into by a Minister and the Secretary General of his or her Department where their political and personal livelihoods, respectively, were bound up with each other. One can imagine a scenario developing in which a Minister might put pressure on a Secretary General or in which a Secretary General might suggest that people in certain positions should be put to one side or disposed of to enable the Minister to further a policy agenda. That is not a climate worth encouraging within the Civil Service.

In the general environment in which civil servants below principal officer level operate in 2004, they are made to feel like pieces on an administrative chess board. They know very little about the nature of their work, where they are likely to be doing it or how effective changes in the culture will be brought about. If the Government was really interested in Civil Service reform, it would counteract the damaging idea which has obtained since the foundation of the State that we are well served by generalism. In a technological age and an increasingly globalised world, it should be apparent that we require specialists who have acquired expertise and civil servants who are people-centred in delivering public services.

Whereas that is where change is required within our Civil Service, the Government appears to be indicating it would like more of the same but with different mechanisms of control. Given their backgrounds and the level of educational achievement required to qualify for the public service, it is quite insulting to modern civil servants to imply that their role is about pen pushing

or paper shifting. The reality of delivering public services involves dealing directly with the public. I see very little in this or recent legislative provisions to indicate that the Government is genuinely interested in effecting the changes I have outlined.

The Civil Service and Local Appointments Commission, which will become the Commission for Public Service Appointments, recently made presentations to the Committee of Public Accounts and the Committee on Finance and the Public Service. Despite being a vital cog in the wheel of the Government's decentralisation programme which is itself intended to go to Youghal in County Cork, only two of its 150 staff members have indicated a willingness to move. That is indicative of where civil servants see themselves in the context of the Government's policies. Civil servants are not being considered in human terms, but are being looked at as chess pieces which can be moved hither and thither.

The powers being granted to Ministers and Secretaries General are dangerous in several ways. If implemented, they would allow political considerations to weigh paramount over the idea of public service. While the Minister may consider that sufficient safeguards have been put in place, it is probable that circumstances will occur in which a civil servant is asked or forced to move due to a perception of how his or her actions have had a political impact. I see nothing in this Bill to offer protection in such circumstances.

The Bill offers belated protection to civil servants by giving them access to wider labour legislation, in particular the Unfair Dismissals Act and the Minimum Notice and Terms of Employment Act. Currently, there is a significant gap in terms of the Equality Act while political opinions and association with political groupings are not governed by any legislation. It is not difficult to envisage a scenario in which people might be forced to justify independent acts which are seen to compromise or offend a Minister or Secretary General. There are no provisions under which to extend protection to such people to safeguard their future employment prospects.

It must be recognised that there are some useful changes in the Bill. The proposal to appoint civil servants for fixed terms or the duration of particular projects is welcome as going some way toward challenging the concept of generalism which has affected the Civil Service. The benefit of these provisions will be to provide the service with access to people with particular skills for a certain time period. The proposal to allow the service to benefit from the experience of those over 65 is also welcome. Against these changes we must consider the exemptions in the Bill which seem almost entirely to be political. That those employed exclusively for political reasons in Departments are exempted from the provisions of this Bill raises significant questions. I would like to see legislation to restrict the number and use of such people.



[Mr. Boyle.]

Anecdotally, we are informed that the tasks carried out in practice by civil servants working on behalf of Ministers can include the reading of death notices and the sending letters of bereavement to members of families in his or her constituency. When such nakedly political and useless activity happens within the Civil Service in the absence of a legislative framework to control it, the Dáil has not done a good day's work.

**Mr. Parlon:** Where does that happen?

**Mr. Boyle:** It has been accounted for in the past.

**Mr. F. McGrath:** Laoighis-Offaly.

**Mr. Parlon:** Under former Governments maybe.

**Mr. Boyle:** The civil servants in the Minister of State's Department probably put up road signs recommending Parlon country. I cannot not say for sure.

**Mr. F. McGrath:** It was not under the Independents anyway.

**Mr. Parlon:** It did not happen.

**Mr. Boyle:** I am disappointed that one of the last acts of the previous Minister for Finance was the introduction of a code which failed to control the departure of civil servants to the public sector. A significant flaw in the Bill before us is the failure to prevent senior civil servants who leave from using the Civil Service to head hunt and take key, experienced people out. Hopefully, this issue can be addressed on Committee Stage by way of amendment.

**Caoimhghín Ó Caoláin:** In the note on this legislation from the Department of Finance to the office of the Government Chief Whip, it was pointed out that when the Bill was published on 17 September it was approximately nine months behind schedule. While many other Bills are much further behind schedule having been awaited for years in some cases, it is unacceptable that this legislation is overdue by such a length of time. The more timely publication of this Bill by Government might have allowed for a more thorough consideration of the issues involved.

The schedule referred to by the Department of Finance is contained in the Sustaining Progress agreement. In the context of the Public Service Management Bill, I pointed out that such is the nature of the process which produced Sustaining Progress and its predecessor agreements as operated by the Government, that we in the Oireachtas are effectively excluded.

We do not have the benefit of direct dialogue between Government, trade unions and the employers. This is especially regrettable in the context of this legislation which concerns those

directly employed by the State on behalf of the people. As a member of the Joint Oireachtas Committee on Finance and the Public Service, I find that objectionable. I am sure the Minister of State shares my view.

I fully accept and endorse the right and responsibility of trade union leaderships to negotiate on behalf of their members. However, I question whether the current practice of that process is inclusive. I am aware from speaking with ordinary grassroots trade union members that many feel alienated from the process and view their leadership as remote and often unaccountable. The process needs to be more open and elected representatives need to have an input. I also caution trade union leaders against an approach which relies on negotiations with employers and Government and neglects the necessity to build the strength of the trade union movement and its individual components. That is a point which perhaps applies more to unions outside the public service. Nevertheless, it is an important one to make and I hope it will be noted.

I have pointed out on several occasions in this Chamber that the lower grades in the Civil Service are staffed by some of the worst paid workers in this State. That is a damning indictment of this institution and all who serve in it. That is not only a disgrace but is an issue which needs to be addressed immediately. If it is not rectified, make no mistake that it will be extremely difficult to continue to attract people to Civil Service jobs which pay much less than many equivalent positions in the private sector. To that extent, the modernisation programme of which this Bill is a part will have limited value.

It is important to point out that parliamentary assistants who work for elected Members of both Houses of the Oireachtas are paid derisory sums. That is not only an issue about which we should scream to the high heavens for redress, we should do so in embarrassed tones. The Civil and Public Services Union, which represents most civil servants, voted 2:1 in 2003 to reject the Sustaining Progress agreement. The Minister of State should take note of this point. It was not surprising that it did so given that between 1988 and 2001, the net pay increases for clerical officer grades was 109% while increases in the same period for Secretaries General was 203%. The gap widened throughout that period and that is a disgraceful reflection on the failure of successive Governments during that period. Do not lose sight that the parties which formed these Governments, some of which occupy the Opposition benches, knew full well and damn well what people were paid for their labour, efforts and support in these Houses. That is shameful. Notwithstanding the increases under Sustaining Progress which led the CPSU to endorse the updated deal this year, low pay within the lower grades of the Civil Service remains a problem which must be addressed.

Another major issue for civil servants which has been referred to by other Members is relo-

cation. We are talking about relocation and not real decentralisation which I see in a wider sense as involving devolvement of powers through the various tiers of governance in this jurisdiction. The manner in which the Government has mishandled the relocation process is causing real concern among thousands of civil servants and, let us not forget for a moment, their families. The body attempting to implement the plan has been given what was described very frankly by Mr. Phil Flynn at a meeting of the Oireachtas Joint Committee on Finance and the Public Service last week as a Herculean task, which it certainly is.

This is not the ideal context in which to implement a modernisation programme. This is hardly the ideal backdrop to all we are trying to address here. I regret that the mishandling of decentralisation by Government has sent out the wrong signal to civil servants. I have no doubt that the majority of them are willing to be active participants in what should be positive initiatives by the State which would benefit citizens, including real decentralisation of the type of which I have just spoken. However, for that to happen, we need real consultation, participation and planning. The Minister of State gave the impression that he was aware of all the issues involved, yet his former senior Minister when sitting beside him in this House told him in no uncertain terms that he knew damn all about it.

**Mr. Connaughton:** It was good for the local elections.

**Caoimhghín Ó Caoláin:** However, the Minister of State was not the only one in the dark because everyone else knew damn all about it as well. That is a fact. We were here to witness that act played out on the floor of this Chamber.

**Mr. Connaughton:** Perhaps it was not so good.

**Caoimhghín Ó Caoláin:** Despite the mess created by this Government, which clearly was not entirely the fault of the Minister of State because he was treated like a mushroom by being kept in the dark and fed plenty of you-know-what, I hope a positive outcome will yet emerge and that civil servants who relocate will do so in a frame of mind which proves real decentralisation can work and that they can become new, vibrant and active contributing members of the new communities of which they and, I emphasise, their families will become a part.

Like the public service management Bill, this legislation comes at a time when many branches of the public service are not properly staffed and unable to fulfil their functions properly. This is especially the case in local government. The public is, correctly, more concerned about delivery — or non-delivery as is more the case these days — than they are with the nuts and bolts of the management and operation of the service.

I will not detain the House. I will review each section of the Bill with a view to tabling whatever

amendments I deem appropriate on Committee Stage. I have no difficulty in supporting the passage of the Bill to Committee Stage.

**Mr. F. McGrath:** I welcome the opportunity to speak on the Bill, the main purpose of which is to amend the Civil Service Regulation Act 1956 to allow certain provisions contained in the Public Service Management Act 1997 to take effect. Before dealing with the details of the legislation, I thank and commend all the civil servants who do valuable work in the interests of the State. I pay tribute to Mr. Seán Whelan, the Irish ambassador to Turkey, who died on Sunday last. He served this State well for many years. He previously worked in the Department of Foreign Affairs and was a valuable civil servant at United Nations and EU level. I commend him and express my sympathy to his family. Seán Whelan was a classic example of a civil servant who served his country at both national and international level. I offer my sympathy to his mother, Sadie Whelan, and his brother, Dónal Whelan. We are talking about civil servants who serve this State so it appropriate that we express our condolences to the Whelan family in Nenagh, County Tipperary.

This Bill amends various Acts to introduce human resource management changes. Civil servants, other than those dismissed by the Government, will be brought within the scope of the Unfair Dismissals Act, a change that is welcome. Civil Servants will also be brought within the scope of the Minimum Notice and Terms of Employment Acts. Disciplinary action may be taken in cases of under-performance, something to which I will return.

The range of possible disciplinary sanctions will be broadened to include suspension without pay and will provide that hardship payments made to civil servants on suspension without pay may be varied or halted. Also, civil servants, established and unestablished, may be employed on contract. People aged 65 may be engaged in the Civil Service.

When we talk about civil and public servants, we should look at their role in society. They serve civic society, the citizens of the State, not a private company. Civil servants across all Departments do an enormous amount of work and they are the backbone of the State and the economy. For too long, too many people have made snide remarks about civil servants. The vast majority of civil servants do an excellent job and I commend them. Whether they work in the public, civil or education service, they have made a massive contribution to the State.

Sadly, I have heard a great deal of talk about political corruption since I was elected but there are also question marks over city officials. As a back bench TD, I regularly hear constituents say that while there is plenty of talk about the corruption of politicians, there is not enough talk about the corruption of officials, a belief held by many people. I have no direct evidence but the stories

[Mr. F. McGrath.]

I hear, particularly about planning, raise fundamental questions. The vast majority of civil and public servants know there is a need for reform and they want to be involved in that change. Consultation and accountability are the way forward.

There are those within the Civil Service who have problems. Deputies earlier spoke about the education service, an area where we must support those working while delivering the service to the children. We hear of burn-out but we do not hear much about rust-out. It is the opposite to burn-out but equally devastating to the well being of those who experience it. Its main characteristics are apathy and learned helplessness, a protective belief that, as a worker, one is powerless and totally the victim of a neglectful work organisation. The main causes of rust-out are remote but there are work organisations that reinforce what happened in the past. Those who have rusted-out have lost the challenge and excitement of work, have poor relationships with their colleagues, put in the minimum effort and see things as unchanging. Like those who are burnt out, they do not constructively confront but regularly condemn employers who offer no creative alternatives. Typical symptoms are job dissatisfaction, apathy, hopelessness, frequent absenteeism and an uncaring and cynical attitude about work and work organisations. There is avoidance of responsibility and new challenges, isolation from other members of staff, depression and highly protective self esteem. We must face up to this when we are dealing with reform in the public service.

This applies to the private sector as well. Many people claim to be human resource managers but they are not focused on the staff. If the staff are not happy they will not be productive. Some human resource managers have no idea what the person on the shop floor is thinking. There is no need for modern jargon, these problems are solved the old fashioned way, by treating people with respect, looking after them and getting most out of them. I know that from working with people in disadvantaged areas. Frontline staff will give more and be more supportive if they are looked after.

I do not apologise for calling for an extra allowance for teachers who work in disadvantaged areas, they should be rewarded for their extra contribution to society, dealing with dysfunctional children and social problems. Those on the front line of the public services should receive incentives to reward them for their work and to keep them there. A major problem for me as a principal teacher in the north inner city was replacing the brilliant junior infant teachers who would leave within two or three years because of housing or personal issues or because they were intimidated by the environment. There must be an incentive to keep quality people working with the poorest kids in society.

We do not take civil servants and public service seriously. The conference on child care today was an example. Trained staff in that area start on

€18,000 while a construction worker on a site will get €35,000. Good luck to those construction workers but why are we only giving €18,000 to people who will work in disadvantaged areas? It is because society does not value them and that is a major mistake this Government is making. We cannot allow a situation where such people are paid low wages, it is all part of this debate. If we are serious about reform, we must look after these workers.

Section 8 provides for the appointment of persons who have attained the age of 65 years to the Civil Service as new entrants, a welcome change. It buries the idea a person who has reached 65 years is no longer of value to the State. People of this age have a major contribution to make and we should never hesitate to ask them for help. Many people aged between 65 and 80 have made major contributions in working with people with disabilities and have come up with radical and creative ideas for services and relationships with people with intellectual disabilities. These are resources that could be used and we should never say to people that they must clock out at 65.

Section 10 allows disciplinary action to be taken in cases of under-performance where a civil servant has failed to respond to training and development measures aimed at improving performance. Strategies should be in place as part of the solution if a person is burned out or is not suitable for a job in the public service. Every manager and human resources manager in the Civil Service should have a strategy in place based on compassion and looking after the person as well as on the delivery of service.

I welcome the debate on the Civil Service. I disagree strongly with some of the provisions of this Bill but overall I welcome the discussion on the legislation. I thank and commend our civil servants for their valuable work.

**Mr. Connaughton:** I am delighted to have the opportunity to speak on this important but not very far-reaching Bill. On many occasions over the past 20 years in this House, I have heard proposals for reform of the Civil Service. I had the good fortune of being closely linked to the Civil Service when I spent five years in Agriculture House in the 1980s. My view of the Civil Service apparatus was changed during those five years. Before that time I thought it was easy to blame everything on civil servants but it is true to say that especially at the higher levels of the Civil Service, a great deal of work is done and there is considerable initiative and imagination.

I am pleased the relevant Minister of State, Deputy Parlon, is present. Given the circumstances in the country in 2004, with a tiger economy which is moving forward at a good rate, issues that created trouble for us ten or 20 years ago, such as unemployment, are not problems today. Other matters have taken over. In any country, the civil service is the engine and the energy provider. Policy for this country is decided in these Houses and by health boards and county



councils. Once policy is enunciated, it is then a matter for the Civil Service to deliver it. The last thing I wish to do is criticise civil servants. I have no reason to do so and I have seen at first hand the remarkable devotion in time and energy of civil servants to the State.

I see nothing wrong with many of the reforms announced by the Minister of State. As far as my party is concerned, in so far as they go, there will be no trouble on this side of the House because many of them are long overdue, but I wish to speak about other matters related to this Bill.

It is important to offer opportunities in the Civil Service for those over 65. Many people at every level in the Civil Service have much to contribute at 65. I am glad to think their services can be used. Even ten or 20 years ago, this policy would be regarded as depriving a young person of a job but, fortunately, that is not a problem today. The immense experience which those men and women have built up over the years is important. We should be grateful such experience is available to the State at this level.

I do not object to the provision to give Secretaries General the power to hire and fire staff. I see nothing wrong with it and regard it is an important step forward. My hope is that good safety nets will be installed for all civil servants so that they will not be fired unjustly. It should be an open and transparent method of hiring. I assume the provisions in the Bill will ensure that and I look forward to it being implemented in that manner.

In discussing the Civil Service, one must discuss benchmarking. When the former Minister for Finance delivered the Budget Statement last December, he tarnished the image of many civil servants. Whether the Minister of State, Deputy Parlon, knew what he was going to say on that occasion does not make a difference because that is a bit of a tussle between the two of them. On that occasion when he announced the decentralisation of 10,300 Government jobs, there was no one in the country as much in support of that announcement as I was. I said that during the debate at the time. I had no hesitation in supporting the proposal because that is what was wanted. It was a step in the right direction.

Budget day was a most unusual occasion on which to make this announcement but there were other political reasons such as getting the election wheels working for June, which did not happen. Announcements of this nature do not make a difference to elections. The Minister of State covered Offaly and Laois with posters and the Government did not do that well in the election.

**Mr. Parlon:** It was only one poster but it got a great deal of publicity.

**Mr. Connaughton:** The Government started with 26 seats and finished with 19, so decentralisation did not do it much good. Civil servants were railroaded. Nobody told them nor said a word to them before the announcement was made in the

House. No other democracy in Europe would treat its civil servants in that manner. Every civil servant facing relocation will have important considerations to deal with. It makes no difference who one is or at what stage in life one is at, people must be consulted. There will need to be a well-managed process which has been properly researched. Plans of this size could take a number of years to complete. The very people in the eye of the storm must be consulted and that did not happen. The Minister of State had nothing to do with that because the Minister for Finance said he did not know about it. However, the Minister and the Government knew.

That background has given decentralisation a bad name for which there is no need. Decentralisation has been done before. The Army headquarters in Renmore and Michael Davitt House in Castlebar were successful. It was announced with great fanfare that 89 jobs in the National Roads Authority were to go to Ballinasloe. The commission set up to process applications for the decentralised jobs received one application for decentralisation to Ballinasloe. It is not because there is anything wrong with Ballinasloe or Youghal but because there was no consultation, good, bad or indifferent, with civil servants. I do not know what needs to be done to rectify the situation but I will never forgive a Government that gave decentralisation a bad name. Fine Gael will watch the Government over the next year or two to see if the proposal can be brought back on track. Time will tell. While I will not take up the time of the House, what has happened is a shame. We talk about the national spatial strategy. Moving 10,000 civil servants and their families out of Dublin city would breathe a new sense of life into many communities who would benefit from their professionalism. For political reasons it was decided to announce it and see what would happen. Now the chickens have come home to roost. This is a topic we shall return to again. Unless the Government has a better answer than that proposed, it will be a failure.

As far as the Bill is concerned, Sustaining Progress was part of the deal. I understand the unions have agreed to it and the path has been cleared for the implementation of the Bill. As far as benchmarking is concerned, a major opportunity was lost on the previous occasion. This has nothing to do with the unions. What else would the unions do but fight the case for their members. As Deputy Richard Bruton said earlier, it is the Government that governs and dictates the state of play. That did not happen on the previous occasion. The Minister of State knows better than anybody else that the carrot and stick approach to all matters is important. The balance in between is what gets us the success we would all wish. I understand the final phase of benchmarking will be paid in June or July 2005. I would like to hear the views of the Government on whether there is any connection with changes in the Civil Service so far as that date is concerned. I make it clear that I want it



[Mr. Connaughton.]

to be paid. Not only do the lower income groups in the Civil Service want the final phase of benchmarking, they want much more.

**Mr. Parlon:** I thought the party of which the Deputy is a member opposed it initially.

**Mr. Connaughton:** We opposed it for a very good reason. We never opposed it being paid to people. That was never said. It was the agreement and the level of performance at which it would be paid, which is what the Minister of State is talking about. He is talking about underperformance. There was an ideal opportunity to connect the two at that stage but it was not done. So far as underperformance is concerned, the Bill provides a wider range of options to the Secretaries General, as I read it, for demotion, loss of income and so on. I assume that will have its own effect.

An important issue about the Civil Service is that a service be delivered with great dignity to people. No matter what the office, the public expects a certain level of customer relations. In fairness to most of the civil servants with whom I have dealt, they could not be more obliging or more efficient. On more than one occasion, however, members of the public have informed me that they were not taken seriously by the various people with whom they dealt. I would like to think in a Bill such as this when new powers are being given to the Secretaries General that this issue would be revisited. Above all else, this is a bridgehead that the Civil Service must build with the public. Whether in county councils, urban councils or health boards, there is an onus to deliver the service in a humane way. People expect to be dealt with in such a fashion. If at any time that does not happen, I sincerely hope there will be somebody to ask why a particular dealing with a member of public was not carried out in a more humane manner.

I have been a member of the Committee of Public Accounts for the past two years. Every Thursday a State body or Department is invited to come before the committee and we interview the witnesses. Generally, huge sums of money have been lost in one form or another. While it is accounted for, most of the time it appears as if it is a *force majeure* business that it is something that happened. The money was lost and it does not appear that anybody was individually accountable for it. That is the basis of the Bill and what the Minister of State is trying to get at, or what I think he is trying to get at. I could be here until 7 p.m. relating all the various items I have seen coming through the Committee of Public Accounts where, for whatever reason, major mistakes were made involving large sums of taxpayers' money. I am not sure if lessons were learned from the experiences. This is not silly talk. Those cases have been researched by the Comptroller and Auditor General, documented and debated.

I shall cite one case to give an idea of what can happen — the Expo exhibition in Hannover in 2000 in which the Office of Public Works was involved. The principle behind it was excellent. It was the world trade fair at which Ireland was at its best and stood with the best of the world. Nobody will quibble with the €6.5 million earmarked for the structure. That was when the wheels began to come off the wagon. Somebody suggested the structure should be built in such a way that it could be taken apart, brought back to Ireland and erected here. Soon several groups were involved. I understand several meetings took place and when all the details were drawn up, no less than 26 different groupings were involved. The idea was that the structure would be shipped back to Ireland.

In the meantime, it became known that a number of educational institutions wished to buy it. The College of Art and Design in Dún Laoghaire put in a tender for just more than €2 million and was successful. That sum was paid by the Department of Education and Science to, I assume, the Office of Public Works. It was then discovered the structure could not be taken down. Nobody had thought about whether it was demountable, in other words, if it could be taken apart. The position then worsened considerably. Given that it could not be taken down, the college could not get it and its money was gone.

We had a building in Hannover that nobody wanted and for which there was no planning permission because the area was rejigged. The college in Dún Laoghaire was down  
6 o'clock €500,000 and the building was still in place. I understand that it was knocked down recently and put in a dump. Who decided on the design of the structure? I do not wish to waste the time of the House on all the detail as it has been well debated at the Committee of Public Accounts. Somebody should take responsibility for the reason that building could not be dismantled and taken back to Ireland. That was the deal and it ended up costing us €9 million. That is the kind of accountability I am talking about and I have not received an answer yet. For example, €12 million was spent to house asylum seekers but, because of local objections, the accommodation was not used and €500 per day was spent on security. Who is looking after the tax payers' money in those cases and who will stand up and accept responsibility? It is against that background that I hope this limited but useful Bill will pass through the House without difficulty.

However, if the Minister of State thinks this is a fundamental reform of the Civil Service, we will have a great deal of trouble because we need much more accountability. I wish the Civil Service well and I sincerely hope its many fine people will decide to spend their working lives in the service rather than moving to private enterprise because we want to retain the best and brightest. That is why Bills such as this are important to them and to the country.

**Dr. Twomey:** The main purpose of this Bill is to amend the Civil Service Regulation Act 1956 to allow certain provisions in the Public Service Acts from 1997 to take effect. The Public Service Management Act 1997 introduced a broad framework for modern management practices in the Civil Service. The Bill and the amendments it makes date back to 1997. The explanatory memorandum outlines that the Bill will bring civil servants within the scope of the Unfair Dismissals Act 1977 and the Minimum Notice and Terms of Employment Act 1973 and brings about new systems of disciplinary action in the case of under performance. Moreover, the range of such possible disciplinary sanctions will be broadened.

Given the amount of time it takes the Government to get things done, perhaps it should be the subject of disciplinary action as a result of its under performance. It is high time that we dealt with this legislation to make the 1997 Act work. Whatever the view of the Minister of State and the Minister, the officials in the Department of Finance are obviously anxious that this Bill passes through the House as soon as possible. An agreement has already been reached between the Government and the trade unions on the introduction of the Bill and on major reforms of Civil Service management as part of Sustaining Progress but the Government has dragged its heels on introducing the legislation.

The Department of Finance should be concerned about this Bill because it is so heavily linked to the benchmarking process. A strange situation could develop whereby the legislation which backs up the 1997 Act and the agreement on benchmarking in Sustaining Progress — the final payment of which is due in June 2005 — might not itself be in place until 2005. No wonder the officials in the Department of Finance find this a strange situation to have to deal with.

Fine Gael has been heavily criticised for some of its comments on benchmarking, with Government parties claiming that the party objected to the payments. However, the original purpose of benchmarking was related to the performance of the Civil Service rather than its just being the pay award that it is starting to look like. As it stands, it has nothing to do with how civil servants work. Rather, there was an agreement between the Government parties and the unions that this was a performance issue.

However the awards have been made despite the fact that the legislation that backs up many of the agreements, already made between the Government and the Civil Service unions is static while these awards must be paid out. I used to sit on the Joint Committee on Finance and the Public Service and when we examined the background details to the benchmarking awards we found it unusual that lower paid civil servants were awarded the lower rates of benchmarking, whereas the higher rates of payments were given to more senior and higher paid civil servants. One would think that the information that brought about these decisions would be placed in the

public domain or at least made accessible to officials. However, the information was shredded and is now unavailable for anyone to view under any circumstances.

It is an example of bad Government when it uses spin in such circumstances and Oireachtas Members cannot do what they are supposed to do. The Government established a process of benchmarking, asking a panel to ascertain why some people should be awarded 8% while others get 30%. It then made the awards official and proceeded to destroy all the information that was gathered to make the judgments. The legislation that has followed to back up the pay awards will now just about get through the Oireachtas before the last payment is due. That is an example of under performance, which is a serious issue to take into account when we examine how we govern the country. It is not enough for the Government to put a spin on Fine Gael's questioning of its approach.

The Civil Service is a fantastic organisation that provides teachers, doctors and administrators who give a superb service. They are the people who keep the country going and we should not sully their reputations and standards with this sort of tomfoolery. We should be clear about how we follow through on legislation that has been agreed with the civil servants and everything should run together in what is called joined-up Government rather than what exists which is very far from that.

**Mr. Parlon:** Fine Gael would want to get its policies joined up. It criticised benchmarking at first and now it is praising it from a height.

**Dr. Twomey:** There is nothing wrong with the principle of benchmarking as a performance indicator. The Minister of State is introducing legislation concerning the performance of civil servants even though the awards have been paid over the past two years. Civil servants deserve their benchmarking awards, particularly those with whom I have dealt in the health service. However, they do not deserve it being dealt with in a haphazard and lackadaisical manner.

Members of the public believed they would get a better service from civil servants as a result of benchmarking but they are now being charged more and more for services. For example, we have some of the highest charges in the world for freedom information requests. A person who reads about benchmarking and reform of the Civil Service and requests information from public bodies will find that we have some of the highest charges in the world. It is easy to see how people can get angry about this.

**Mr. Parlon:** That is not true. All personal information is totally free of charge.

**Dr. Twomey:** Not all freedom of information requests are for personal information. Much of the information that is sought is in regard to how

[Dr. Twomey.]

the Government works. That is not personal information — it is information people have to pay for.

The level of access to Government services is another issue that was to inform a range of reforms that have simply not happened. Many of the complaints to public representatives concern access to public services by telephone, personal call or in writing.

They simply do not get the reply they need. For instance, voice mail is rarely returned to members of the public. This angers people when they see huge levies placed on them such as planning charges. These charges are part of so-called “better local government” which relates to the idea that local government was supposed to be more accessible.

We have to change because every organisation must evolve with the changing circumstances around it. We must always strive for change, but we are not seeing that happening. It is not happening so that the general public can say that this is a better public service. This is not the fault of the people who work in the service. More than 95% of public servants are dedicated to their work. Many work long beyond the hours that they are requested to work. This sort of thing is not doing them any favours. There are organisational problems in every organisation. However, why should there be any reason to change things when there seems to be no will in the Government to institute these changes?

This is not about penalising civil servants and making them the scapegoats for the lack of joined-up Government. What the Minister is saying is what he must do. This Bill, benchmarking, better local government; all of these aspects are about delivering a better service that the people simply do not feel they are getting. When Fine Gael asks these questions, it is a cheap shot to wrongfully use the resources of Government to put out counter-spin. In many respects that is what happened. A spin was put out that Fine Gael was against the Civil Service, it was opposed to benchmarking—

**Mr. Parlon:** That was a fact at the time.

**Dr. Twomey:** It was not a fact at the time. It was always—

**Mr. Parlon:** The Deputy was up there in the backbenches.

**Acting Chairman (Mr. Glennon):** The Deputy without interruption please.

**Dr. Twomey:** Maybe that is what is wrong. Maybe the Cabinet members and the Government backbenchers did not question what the Minister was doing, which is why legislation is slowly working its way through the House. Just to save him the embarrassment of having to publish the legislation after the last benchmarking

payment, a little pressure has been put on. The Minister knows there was correspondence from his Department to the Houses of the Oireachtas to try to get this speeded up before such a situation might actually occur. That is why we see ourselves trying to make these changes as quickly as possible, before such a thing should happen.

The broader context of this debate is that we believe there can be better local government. We believe that better service can be delivered to the people. We also believe that the vast majority of civil and public servants are happy to see reform happening. We should be doing much better at the moment. All of us either have young children or elderly parents, we will grow old, God forbid many of us will get sick and we will need some form of care and attention from the State. There are many civil servants who work in the front line in providing services to the public. There are many civil servants who do much work in the background. It is of such importance to the lives of all citizens and they feel strongly about this. The Government should therefore explain to the people why it is doing this rather than wait for a party from the Opposition to point out what good Government is all about, and then put a negative spin to destroy what we feel is our purpose as Members of the Houses of the Oireachtas.

Look at what happens when we do not challenge what is happening around us. This morning we heard about the children who died as a result of what is happening in Crumlin hospital. Crumlin hospital is in major need of refurbishment to the point that it practically needs to be rebuilt. The vast majority of the research carried out in Crumlin, on children’s diseases, genetic diseases and other illnesses that are specific to children, is paid for by donations to the research institute where one can set up a standing order called the Kitty for Crumlin. The hospital relies on the public goodwill to provide the sort of health care our children need. The hospital itself provides fantastic service and this is why we support the idea of benchmarking for those who work in these hospitals. It is to look after the doctors, nurses, porters and the administration staff. However, the building itself is a disgrace, considering that Ireland is supposed to be a first world country. That is our tertiary hospital and a hospital that serves all of Ireland. When Deputy Martin was Minister for Health and Children, he went out and saw this hospital for himself. However, it does not seem to have made such a lasting impression that he felt there needed to be anything done about it.

This is what makes people like me angry about what is happening in Government. These are the vital issues that must be taken on board; not having a cheap shot at whether we approve of benchmarking or whether we object to it. We have to move forward on this. We must make sure that our teachers are happy with the job that they are doing, that the changes expected in a modern society come about. We must ensure that people who work in the health service know what is



expected of them. They are already doing what is expected of them as far as I am concerned. We must also give that support to our public and civil servants. We need to move a little faster on the sort of legislation we are debating here. We have been lectured on wasting taxpayer's money and on what is efficiency and value for money. However, we must begin to see action.

Even the Minister for State at the Department of Foreign Affairs has managed to embroil himself in a controversy, by not knowing whether he is supposed to be in agreement or in disagreement with the Cabinet on how much of our GNP is to go towards overseas development aid. At every opportunity, the same Minister of State likes to take a cut at doctor's charges, what we do and how we look after our patients. At least we answer the phone when people call us. That is the sort of service that people look for. They just want to get their queries answered and good local government delivered to them. They want a good level of service whether it is in education, health or any other service provided by the State. All they ask is that these services are delivered when they request them.

**Mr. Connolly:** It is a suitable time to congratulate Deputy Twomey on his elevation to the front bench today and to wish him the best of luck in the future. There is still much talent staying here in the backbenches.

**Mr. Crawford:** Staying there?

**Mr. Connolly:** Yes. I welcome the opportunity to speak on this Bill. It goes a considerable distance towards streamlining old management practices with regard to appointment, disciplining and dismissal of civil servants below the rank of principal officer. It amounts to a delegation of functions formerly in the remit of the Minister to Secretaries General of the various Departments. It constitutes the implementation of a major reform and modernisation of procedures, as it introduces a degree of flexibility into the employment and dismissal processes in the Civil Service.

Since the Celtic tiger materialised in the 1990s, one of the features of our economic success was that business bosses traditionally hired and fired staff in the quest for high performance. They did this at will and were ruthless about how they made these moves. I question whether such ruthless motivation for strong performance should be a feature of our Civil Service. We will have to treat such matters with a sense of balance and proportion in terms of the proposed changes. Since the Secretaries General have come up through the system, they would have a greater appreciation of the responsibility attaching to most levels of the Civil Service network and would act accordingly.

It has long been a commonly held fiction that in the Civil Service there has been entrenchment of shirkers and incompetence at every level as a necessary evil in Departments. Some of us believe

that civil servants have a language of their own. For instance, there was a case where it took up to seven years to dismiss a school employee who was late for work every day. His defence was that he had a neurotic compulsion for lateness. This brings the excuse for being late for school to a new level. A young schoolgoer would have to come up with some excuse to match that. Excuses that the alarm clock did not go off or the dog ate the homework pale into insignificance compared with that excuse.

The Secretaries General will perform their duty in dismissals or the disciplining of members of the public service in a thoroughly prudent manner, while individuals' rights will be suitably protected. I am happy to note that in the case of civil servants, the Unfair Dismissals Act will apply and that fair procedures will be observed. It is important to note that the Unfair Dismissals Act exists and people will have the safety net afforded by its provisions. It provides considerable coverage for the protection of employees' entitlements. It does not protect an employee against dismissal but it provides a system of appeal whereby one can question the fairness of one's dismissal after it has occurred. An unfair dismissal occurs when the process of an employee's dismissal is harsh, unjust or unreasonable. Factors that must be taken into account in determining such cases include if there was a valid reason for the dismissal related to a person's conduct or capacity in terms of the requirements of the post, and if the person concerned was notified of that reason. The person concerned would have to be given a verbal warning, a written warning and a second written warning and he or she would have to be given an opportunity to respond. It is important that the person concerned would have an opportunity to respond.

In the event of unsatisfactory work performance where the person concerned had been previously given a warning, some of the discriminatory grounds which might exist include temporary absence from work due to illness or injury, trade union membership or involvement in union activities after working hours, seeking election as an employee representative or bringing complaints or proceedings against the employer. Other discriminatory ground might include race, colour, sex, sexual orientation, age, physical or mental disability, marital status, pregnancy, religion, political opinion, social origin or absence on maternity or adoptive leave.

Generally claims of unfair dismissal must be made within six months, although in exceptional circumstances this can be extended to 12 months. The Unfair Dismissals Act will allow an employee the opportunity to present a case in his or her defence before a decision will be taken regarding disciplinary action. However, the burden of proof of fairness of a dismissal will still rest with the Secretary General. A civil servant who succeeded in such a claim of unfair dismissal should at least be retained in his or her former position or redeployed to a suitable alternative,



[Mr. Connolly.]

and the question of compensation might also arise. The rate of an award of compensation for unfair dismissal is twice the annual pay and benefits of the person concerned. There will always be personality clashes among staff in the Civil Service or in any other sector where the employee being disciplined believes that he or she should be in the position of the person exercising the discipline. There are always difficulties and personality conflicts.

I note the measure in the Bill regarding the engagement of established civil servants for the duration of fixed-term contracts, which has been widely welcomed. This Bill will enable recognised expertise available to the Civil Service to be assigned to particular projects requiring that expertise, thereby increasing the degree of flexibility in the Civil Service.

The doctrine of the separation of powers continues to apply in that the scope of section 5 will not apply to the chief executive of the Courts Service. It is appropriate that responsibility for the chief executive of the Courts Service should remain within the jurisdiction of the board of the Courts Service.

Section 8 is novel in that it explodes any theories that there might be ageism in the Civil Service. Ageism has taken on a new life and is it an issue about which we need to be much more aware. The time is past when one reached the age of 65, one could work for another few years and that was it. Things have changed. People aged 65 and over are still very alert and have much to contribute at this level. Now people over the age of 65 can be recruited to the Civil Service with no mandatory retirement age applying.

There are many members of staff in the Houses of the Oireachtas who have gained considerable experience, completed many courses over their working lives and who can pass on their knowledge to their colleagues working with them. Many people who worked in banks or in the Civil Service have been snapped up by profit-making companies which recognise their value. They know that such people can make a tremendous input and they have been brought into companies in consultancy or other such roles. That development should be observed. The fact that retired civil servants can now be brought back into the Civil Service where they would be of most benefit is welcome.

I am happy that age will not be a barrier to getting a position in the Civil Service. Previously after gender discrimination, age discrimination was the greatest single issue relating to employment that was raised by people who contacted the Equality Authority. In recent times, the authority has become active and taken on many cases. People view access to it as a way of airing their grievances.

There was previously a widely accepted tendency for employers to favour the recruitment of young people. The Employment Equality Act had a major impact on such recruitment policies

and practices. However, under the legislation, employers had to ensure that they were not operating work practices that discriminated on the age ground. For instance, recruitment notices indicating that young blood or lively staff are required are now taboo since they are likely to deter older workers and also make them feel inadequate. At what age does one stop being lively? For many people, liveliness is a state of mind.

Section 8 also accords suitably with an EU directive that outlaws age discrimination in the workplace by 2006. In recruiting people over the age of 65 to the Civil Service, a suitable code of practice to ensure an age diverse workforce should be adopted. Such a code would ensure that recruitment would be on the basis of skills and abilities needed to do the job and selection should be strictly based on merit. Promotion should be based solely on the ability or demonstrated potential to do the job. New employees should be encouraged to avail of relevant training opportunities. Redundancy decisions should be based on objective job related criteria to ensure the needed skills are retained.

Such a code should also ensure that retirement schemes are fairly applied taking individuals and the needs of the Civil Service into account. Such a code would also have the effect of demonstrating a commitment from the Minister downwards to building age awareness into all aspects of the Civil Service and achieving a better balance in the service. It would also reinforce the view that discrimination on the basis of age amounts to a waste of talent.

In a recent article in the *50plus* on-line magazine, it was pointed out that there was no demographic time-bomb but that in 2050 about 24% of the citizens would be aged 65 plus compared with 11.1% in 2002. Occasionally a myth is created that we are facing such a major time-bomb. However, there is no such time-bomb and we will be fit to handle developments with a few changes in work practices, especially if the public service moves in this direction. People will work for longer and should be encouraged to do so.

We sometimes discuss the need to bring in employees from other countries. However, if we allowed our retiring employees to continue to work it might address this issue. Very experienced and talented people could be put to work productively. The time-bomb may not explode in 2050. It is appropriate that the Civil Service be in a position to harness the undoubted wealth of experience and expertise therein.

Section 12 is eminently sensible in that responsibility for the dismissal of civil servants in the Houses of the Oireachtas should fall to the Houses of the Oireachtas Commission in the case of principal officers and higher ranks. Responsibility for the dismissal of those lower than principal officer level will repose in the Secretary General of the Houses.

Sections 24 to 27, which confer additional functions on the Director of Public Prosecutions,

establish a direct line between the Director of Public Prosecutions and local State solicitors. This will improve communications with the Office of the Director of Public Prosecutions, which will now have responsibility for State solicitors instead of the Attorney General, as was the case heretofore.

Many of the changes in the Bill are welcome. The onus is being passed to the Secretary General instead of the Minister. The same processes will be employed as were employed heretofore and the major difference will be that the Minister will not have ultimate responsibility for signing off.

Overall the Bill is to be welcomed because in seeking to attract the best people, there may be a suggestion that the Civil Service is being elitist. The Irish Civil Service, on balance, has always been blessed with top-class public servants, and if this can be regarded as elitist then the service pleads guilty as charged. The Bill, which follows on a commitment in Sustaining Progress, will make a major contribution to maximising the efficiency and quality of our Civil Service.

**Mr. Crawford:** I am glad of the opportunity to say a few words on this important Bill. It is vital that we have a well-run country and, in that context, the work of civil servants was never more important. I was interested in some of the comments of the Minister of State, especially his reference to under performance and the need to use human resources properly.

I was told of a case today that would be funny if it were not so serious. It concerns a lady who applied for carer's allowance last May and who was depending on her husband's social welfare. The relevant file was mislaid somewhere and although I believe it has been found and she received her carer's allowance, the arrears still have to be paid. If the woman were a farmer who failed to apply for area aid, what would the position be? I do not want any individual civil servant penalised for this but we must ensure that it does not happen again.

I know of another case regarding a subvention for an elderly person, on which I will speak later tonight. One should bear in mind that subventions are paid to the oldest people in the country. In this case, the authorities were not sure of the location of the patient in question. A simple phone call to either the doctor or daughter of the patient would have enabled them to find this out very quickly and save time for everybody. I know elderly people can be difficult to work with but surely we must be certain that those who deal with them are properly trained.

I welcome the aspects of the legislation that allow for the Secretaries General to have control. In any business it is important that the boss has control. Such control can be abused but I hope and trust that it will not be. I could not help hearing Deputy Connolly speak of a teacher who could not be dismissed. We have all encountered such cases. Compare them with the circumstances that obtain in private business.

We had many discussions in the House on better local government, improved services and the consequences of the new structures and strategies. I was a member of Monaghan County Council for 13 or 14 years, and at the beginning of this period I could have phoned the county manager or county secretary with a query and received an answer within a day or two, in spite of the fact that there were very few computers. It may not have been a satisfactory answer because of the very poor economy at the time, but it was an answer nevertheless. Nowadays, a host of structures are in place, which were imposed from the top. All parties in this House agreed with their imposition but unfortunately the necessary funding was not provided, thus increasing the pressure on the Civil Service. Measures should not be introduced without adequate funding.

I am glad the Bill ensures that people over 65 will have the opportunity to stay in employment. I have come across people of tremendous ability, such as the aforementioned county manager or county secretary, at every level. It is important that we are allowed to utilise this talent in such a way that we will benefit fully therefrom.

Consider the way civil servants were treated last December. I hope my constituency will benefit from decentralisation but it is only by fluke that it will. What happened in the constituency should not be happening at national level. For instance, 85 jobs were to be provided at Carrickmacross in my county because of the decentralisation of Comhairle. There was no discussion or pre-planning and Comhairle decided it would not travel.

I pay tribute to the former Minister for Social and Family Affairs because, after consultation with me and others, she guaranteed that 85 personnel from her Department would be transferred to Carrickmacross. We must work on this issue at the very highest level to get it right.

When I and others, such as Deputy Richard Bruton, raised issues such as these, we were accused of being anti-decentralisation. We were not; we only wanted it to be carried out in a logical, structured way. Bearing in mind that we are discussing a Bill pertaining to civil servants, surely civil servants and their families who have to move are entitled to some structured consultation before they simply read in the media that their lives are being overturned.

**Mr. Parlon:** The Deputy should not forget that the scheme is totally voluntary.

**Mr. Crawford:** The Carrickmacross example is proof of what I am talking about. There are many other examples, including that of the Bus Éireann employees who were to be transferred from Dublin to Mitchelstown. Where were the numbers in that case? Another example concerns the Irish Livestock and Meat Board, in which I was deeply involved and about which the Minister of State would know something. Insufficient numbers of staff were prepared to move from

[Mr. Crawford.]

Dublin to Enniscorthy. The only way in which one can achieve the desired number is to bring people back from the USA, Spain and Italy. Let us be factual.

**Mr. Parlon:** The Deputy is trying to pick little holes in the decentralisation programme.

**Mr. Crawford:** I worked closely with the Irish Livestock and Meat Board for seven years as a board member. Its main interest is to try to sell this country abroad and therefore it is important that it be near an airport. I am sorry if I pick holes but I am only picking out realities. That is our job as members of the Opposition. How many of the staff of the Irish Livestock and Meat Board have agreed to move? The solution to this problem lies in common sense and consultation. This area needs to be re-examined but, as Deputy Richard Bruton said earlier, the legislation does not go far enough. We are talking about allowing people to work longer but members of the Garda Síochána are opting to retire earlier. There is very little increase in the numbers of gardaí available because, in spite of the numbers coming out of the training depot at Templemore, more members of the force are retiring earlier than expected. I saw the relevant figures in recent days.

We need to have proper control of the public service finances. I was criticised today because during the 1997 general election I promised that if re-elected we would have a by-pass for Monaghan town. I freely admit that did not happen but since then €12 million has been spent on consultants' reports and there is still no by-pass. Thankfully, the by-pass is now in the process of construction but we have to give value for money. Recently, I saw that the Drogheda by-pass cost approximately €500 million over budget.

What concerns me most, however, is that a great deal of money has been allocated for the Border area and the BMW region generally. It took a major fight to get it, although the Government tried to include Kerry and Clare, while forgetting about the Border. We eventually got that funding but because of a failure of administration the money allocated for that area has not been spent on it. That is an extremely serious matter and one must ask who is actually in charge and what is happening? The Border area was allocated funding by Brussels because it was designated as being most in need. However, it has failed to draw down the money to which it was entitled due to the absence of a proper system operated by the Government and its civil servants. Last year the relevant figure was minus €640 million but I hope that situation will improve. One must ask major questions about who was in charge of running the financing structure and how such a failure was allowed at a time when the Government was asking others to prop up the Border area.

The International Fund for Ireland was established at the time of the Anglo-Irish agreement when support was given to the then Taoiseach, Dr. Garret Fitzgerald, by the US, Canadian and Australian governments and others. They saw the need to pour money into the six northern counties and the six southern Border counties. At the time of the ceasefire in 1994, the European Union came in with peace funding. Both those funds have worked well and are often administered by community groups but the Government has failed to provide matching funds. It is allowing the other funding to be used as alternative financing, which proves the Government's failure to meet its commitments.

I am worried about training of civil servants. There are some excellent civil servants but there is also much confrontation. One only has to look at what is happening with regard to road construction and how many such situations are going to court, simply because land was acquired by compulsory order without consultation. Officials should have made a point of meeting the ordinary people concerned to try to achieve a common-sense approach. We must ensure that proper training is provided for public servants. With proper consultation many of the confrontations that have arisen could have been avoided.

I have seen many good projects being held up literally for years because they were approached in the wrong way from the start. In my town, we worked for years to get agreement on a road behind one of the main streets. Compulsory purchase orders were issued rather than having consultation, with the result that the money had to be transferred elsewhere. That would not happen in private industry where a major effort would be made to ensure such a situation was averted.

Having been asked to speak at fairly short notice, I have not had an opportunity to go through the Bill in great detail. However, the legislation is important and will give employment rights to people. It also provides for the right to hire by senior personnel in the Civil Service. It is important that disciplinary action can be taken for under performance. The majority of civil servants are excellent people and one could not find a more pleasant group, but it only takes one bad apple to destroy the whole barrel.

Will those responsible for hideous delays in the roll out of the national development plan be called to account for their lack of action? Will those who gave the go-ahead for the Luas and presided over a ballooning budget be asked to explain themselves? I hope they will because it is essential that they do. Will those who miscalculated the number of people aged over 70, when it was decided to give them medical cards, be taken to task? I remember when the medical card issue first arose we were told it would cost £19 million, yet it finished up costing £56 million. What would happen if that concerned any other group of people? Would any business person — Tony O'Reilly for example — stand for such a situation? I doubt it very much.



I hope the Bill will provide help along the way by introducing additional accountability and giving an opportunity to those civil servants who want to do a good job to have clear access to promotion. The Bill will also provide the necessary powers if somebody has to be removed for lack of effort or misbehaviour, which cannot be allowed either within the Civil Service or outside it.

**Mr. Perry:** I thank Deputy Crawford for allowing me to share his time slot. I wish to examine the Bill's provisions relating to value for money in the context of public accounts, and the extent to which the Committee of Public Accounts has pursued such issues to develop its examination of voted funds spent by the public services. During my term as chairman of the Committee of Public Accounts I sought, along with my colleagues on the committee, ways of improving the returns delivered by the public service to taxpayers. We continuously tried to improve accountability through monitoring and review of the activities of public agencies.

I wish to outline certain changes to the current procedures so that greater value for money can be achieved from public resources. While part of what I have to say will appear critical of the public service, I should point out that by the nature of its work, the Committee of Public Accounts focuses on mistakes with a view to ensuring that lessons are learned for the future and improvements are made to systems to avoid a recurrence of errors. However, this should not blind us to the fact that, by and large, the public has been served tremendously well over the years by the public service. By its very nature the public service has a risk-averse culture. The way forward is to encourage the active management of risk rather than promote risk repression. I do not wish anything I say to undermine the move towards good risk management, which is currently being discussed in the public service generally and internationally, which is important.

Accountability and value for money are the key concepts that drive the work of the Committee of Public Accounts. The committee plays an important role in the accountability cycle for Government spending. Funds are voted by the Oireachtas at the request of the Government, spent by the Department and State agencies and audited and reported to the Dáil by the Comptroller and Auditor General. The Committee of Public Accounts examines these reports. The committee makes its own report to the Dáil, which leads to a formal reply from the Minister for Finance. This is a very good concept known as the "minute". These procedures are described in greater detail in the public financial procedures drawn up by the Department of Finance. This accountability cycle is geared towards monitoring public expenditure and has served the country well since the foundation of the State.

The key question is whether value for money is obtained. There is a national and international context to the work of the PAC. It is well known

to the public, which is largely due to three key factors. These include its unqualified right of access to high level decision-makers who are summoned as witnesses to give evidence in regard to the decisions they have taken in allocating scarce public resources; second, the quality of the work of the Comptroller and Auditor General whose reports form the basis for debate and examination by the committee and, third, the work of previous chairpersons and members, in particular, the late Jim Mitchell, who set a very high standard.

The Committee of Public Accounts is often referred to as the most powerful committee of the House. Its actual powers are set out in the Standing Orders of the Dáil. While there are few constraints, the main one being that the committee must avoid inquiring into the merits of a policy or policies of the Government, or member of the Government, the Committee of Public Accounts can reach into the public service, based on the audited accounts of public entities or a more detailed and forensic analysis, which is a feature of value for money reports or special reports produced by the Comptroller and Auditor General on a regular basis.

In common with committees of public accounts throughout the world, by long convention the Opposition chairs the Irish PAC and there are 12 members. The Irish Committee of Public Accounts is unique. Perhaps I should cite some international reference to give a more complete picture of what happens in other parts of the world. Like many of its procedures, Ireland has a PAC based on the Westminster model. It is a model common to democracies from Australia to Canada. A recent World Bank Institute co-sponsored survey, in which Ireland participated, described the powers and effectiveness of the PAC as giving greater protection to taxpayers. The survey also identified international effectiveness and the broad scope of looking at road conditions rather than traffic accidents, power to select issues without Government direction, power to report conclusions and a strong support from the legislative auditor, members of parliament and research staff.

It is difficult to quantify the success of the PAC in getting value for money for taxpayers. Perhaps the best thing is to present the evidence and let the public decide. Over the years the Committee of Public Accounts has identified the NIB-CMI scheme, the Ansbacher accounts, the bogus non-resident accounts and resulted in the Moriarty, Mahon and Flood tribunals that collected more than €749 million. The Moriarty tribunal resulted in €25 million, Ansbacher €42 million, the NIB-CMI scheme €50 million and offshore investigations came to €650 million. The implementation of the most recent offshore investigation is evidence of the change of attitude both in Revenue and the financial sector.

Further improvements can be made in the public accounts system that would be of benefit in maximising value for money from public ser-



[Mr. Perry.]

vices. I support the whistleblower concept due to the level of information received from the public, which is important. We should examine research staff for committees. The public service needs to take greater steps towards the development of an evaluation culture and the PAC must lay down sanctions for misbehaviour by public service decision-makers. There must be a greater improvement in IT systems that are geared to the needs of evaluation as well as providing regularity. The House should make time available to debate committee reports.

The integration of the public service is important. In regard to decentralisation and the vacancies that exist, civil servants are currently seeking to be transferred to Sligo. Perhaps the Minister of State will look at the situation whereby civil servants are anxious to move to Sligo but, unfortunately, because they must go through the Civil Service Commission, these vacancies are not being filled. The Minister of State should give a clear indication to these applicants of the time scale involved. It is a contradiction to talk about decentralisation while vacancies within Civil Service offices in Sligo are not being filled. A unit was opened by the Taoiseach in Ballinacorney during the last general election campaign and the wildlife service was to locate ten civil servants there. This issue has been debated for 18 months and the evaluation is going on for an indefinite period.

I would appreciate if the Minister of State will examine these two issues and come back to me on them.

**Minister of State at the Department of Finance (Mr. Parlon):** I thank the House for the debate on the Second Stage of the Civil Service Regulation (Amendment) Bill 2004. As I said at the outset, the Bill represents a very significant step forward in completing the comprehensive and ambitious reform programme envisaged in Delivering Better Government and the Strategic Management Initiative.

Delivering Better Government envisages a public service that would make a substantial contribution to national development and would be effective and efficient in delivering high quality services to the public. Within Departments, improvements in service delivery were to be underpinned by organisational improvements in a number of areas, and human resource management in particular. Delivering Better Government recognised the need to give secretaries general the authority to execute responsibility in critical areas of HRM, particularly in regard to the appointment, discipline and dismissal of staff. The framework for management of staff, which was first identified in Delivering Better Government, was sketched out in principle in the Public Service Management Act 1997. We are now in a position to give effect to this scheme of management.

I thank Deputy Bruton for his contribution to the debate and will address some of the issues he and Deputy McGrath raised in regard to human resource management in the Civil Service. While I acknowledge that the evaluation of SMI carried out two years ago found that progress in regard to human resource management was required, it acknowledges the Civil Services is better managed now than a decade ago.

I refer to a number of other contributions, which will come up again. Some of them were not very relevant but I can deal with some issues at a later stage. The changes being introduced in the Bill are a clear indication that the benchmarking agreement set out in Sustaining Progress has been worthwhile and real practical changes are being made in the way the Civil Service and public service operate, and will continue to operate in the years ahead.

In conclusion, I thank Deputies for their supportive comments. The Bill is a significant milestone on the road to a more efficient public service and I look forward to debating it in committee. I thank all the Deputies for their contributions.

Question put and agreed to.

**Civil Service Regulation (Amendment) Bill 2004: Referral to Select Committee.**

**Minister of State at the Department of Finance (Mr. Parlon):** 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.

**Message from Seanad.**

**Acting Chairman:** Seanad Éireann has passed the Intoxicating Liquor Bill 2004, without amendment.

**Estimates for Public Services 2004: Message from Select Committee.**

**An Ceann Comhairle:** The Select Committee on Finance and the Public Service has completed its consideration of Vote 16 (Supplementary) and Vote 39 (Additional) for the year ending 31 December 2004.

**Private Members' Business.**

**Health Services: Motion (Resumed).**

The following motion was moved by Deputy Gregory on Tuesday, 12 October 2004:

That Dáil Éireann, noting the first statement of the Tánaiste and Minister for Health and Children in Dáil Éireann on Wednesday, 29 September 2004 that ‘the one thing I want for the country I love is to have a health service that is accessible to every citizen, regardless of their wealth’, notes with grave concern the failure of the Government to deliver a health service accessible to all citizens regardless of their financial circumstances; and in particular notes:

- the two-tier health service with access based on ability to pay rather than on need;
- the failure of the Government to deliver on the promise of providing an extra 200,000 medical cards and the fiasco where well over 100,000 medical cards have been taken out of the system since 1997;
- the failure of the Government to deliver on the promises of 1,000 extra hospital beds, which will become more acute as we enter the winter season once again;
- the failure of the Government to address the underlying problems which contribute to the gross overcrowding of accident and emergency departments leading to the unacceptable loading of ill people on trolleys;
- the failure to develop a coherent strategy for outpatient waiting lists with special regard to those suffering on rheumatology, neurology, urology, orthopaedic and dermatology waiting lists;
- the failure of the Government to deliver on the primary care strategy regarding which €130 million was promised per year over ten years, but only €15 million has been delivered in total after three years;
- the failure of the Government to end cancer care apartheid by providing multidisciplinary care including radiotherapy services to those who live outside Dublin and Cork such that some cancer patients will endure more radical surgery, or a painful death, due to an inability to properly access radiotherapy services;
- the failure of the Government to act on the feasibility study into an all-Ireland helicopter emergency medical service, HEMS, completed since April 2004, which is costing lives unnecessarily due to dangerous transport practices between hospitals and is causing permanent disability, we being the only country in Europe without this service;
- the disgraceful underdevelopment of our hospital oncology services;

- that the number of consultant rheumatologists per 100,000 population at 0.3 is the lowest by far in the European Community, and also considerably lower than non-EU countries such as Croatia and the USSR;
- the failure of the Government to extend the mid-west pilot on cervical screening to the entire country, we being the only developed country in the EU which does not have a national cervical screening programme;
- the failure to extend the BreastCheck programme nationally in 2000, leading to needless death and suffering for our female population in the south west;
- the failure of the Government to ensure an acceptable ambulance response time of 20 minutes resulting in a lesser chance of successful treatment and survival in acute medical emergencies such as road traffic accidents and heart attacks;
- the failure of the Government to address the promised upgrade of Ennis Hospital; the failure to provide adequate nurses for the Mayo dialysis unit; capital funding for Ballinrobe community nursing unit; development of Tuam Hospital; the health care facility at Our Lady’s Hospital, Cashel;
- the failure of the Government to invest in the development of new parallel services before contemplating the withdrawal of existing medical services; and
- the failure of the Government to extend to the rest of the health services the model already existing in general practice, i.e. delivery of a same day and same place GP service, with equal access for public and private patients;

calls on the Tánaiste and Minister for Health and Children to state her position on:

- equality of access to the health service based on need and not on ability to pay;
- whether she intends to implement the Hanly report in view of the absence of public support, and no alternative services being available;
- the financial threshold for qualification for a medical card to be increased so that the 200,000 extra medical cards promised can be delivered;
- the urgent provision of 1,000 extra hospital beds — with full supporting staff;
- the Government to urgently address the overcrowding situation in our accident and emergency departments;

- strategy to address the disgraceful out-patient waiting list situation;
- the proper funding of the primary care strategy as promised;
- adequate access to radiotherapy services for those outside of the Cork and Dublin areas;
- the immediate establishment of an inter-hospital helicopter emergency medical service, HEMS, for Ireland;
- the full development of oncology services in our hospitals;
- the immediate appointment of consultants to include consultant rheumatologists and other necessary consultants to address the gross shortage existing presently;
- the extension of cervical screening nationally;
- the extension of the BreastCheck programme to the south and west of Ireland;
- a guarantee that all citizens be within a 20 mile radius of the nearest ambulance station and that adequate ambulances are available; and
- the full development of Ennis Hospital as promised; adequate nurse staffing for the Mayo dialysis unit; capital funding for the Ballinrobe community nursing unit; the opening of the completed health care facilities at Our Lady's Hospital, Cashel; and approve the planning brief for Tuam Hospital; and calls on the Minister to provide funding immediately to allow these projects to proceed.

Debate resumed on amendment No. 1:

To delete all the words after “Dáil Éireann” and substitute the following:

“commends the Government for the unprecedented increase in the level of investment in the health services since 1997 and for its comprehensive reform programme, supports the early implementation of reform measures, notes the progress that is being made already in implementing the health strategy, Quality and Fairness — a Health System for You, and supports the Tánaiste and Minister for Health and Children in her commitment to provide better health services for all members of the community.”

—(Minister of State at the Department of Health and Children, Deputy B. Lenihan).

**Tánaiste and Minister for Health and Children (Ms Harney):** I propose to share my time with Deputy Fiona O'Malley and Deputy Devins.

**Mr. J. Higgins:** Will the Minister of State, Deputy Parlon, not partake in the discussion?

**Ms Harney:** Deputy Higgins should be nice to me as I was to him yesterday. I even heard the radio programme this morning on which we were both praised.

I am pleased to have this opportunity to address the House and outline the Government's record in prioritising health services, the advances made over the last five years and to place on record my goals for the next five years. The Government's programme has two key elements: to sustain and improve health service developments and to reform the way the health service works so that money is used efficiently and effectively for the purposes intended. The Government is engaging in this programme of investment and real reform for the entire population. The goal of our health policy is better health care and improved health status for everybody. Everyone is included, whether they use public or private health care or a mixture of both. We have an interest in all the means of delivery of health care, public or private, and at primary, secondary and tertiary care levels.

Within that, we will give priority to using scarce public resources to support those who need help to access the health care they need, whether in the GP's surgery or in an acute hospital. We have a particular duty to ensure public resources used in the delivery of health care are managed and applied efficiently and with public accountability.

In terms of investment, we are catching up from previous decades and the missed opportunities from the mismanagement of the economy. This year the Government will spend over €10 billion on the health services, a threefold increase since 1997. According to the OECD, our rate of increase in public investment in health from 1997 to 2002, 10% per annum, has been more than twice that of the OECD and EU averages. We had the second highest increase in health spending in that period in the OECD, that is, among the richest economies in the world. Our health spending as a proportion of national income is now at the EU average, even though our population is younger than in many other countries. Our successful economy, achieved in the framework of the Government's economic strategy, is generating these unprecedented levels of resources for health spending. We cannot achieve or sustain high levels of investment in health without a very healthy economy.

It is clear to nearly all people who take an interest in health policy that simply spending more without reforms is no solution and would not be an effective use of taxpayers' money. I do not, however, subscribe to the theory that all the recent increased spending on health has disappeared into some black hole. The additional funding is being spent on increased levels of clinical activity, new procedures, better treatments and greater numbers of patients availing of services. Our hospital system is providing more and



better services than ever before. Activity levels in our acute hospitals continue to rise. The number of patients treated as either inpatients or as day cases in 2003 was over 1 million. This is the first time the number of patients has exceeded the 1 million mark and represents a 30% increase in the number of patients treated in 1997, which was approximately 780,000.

Since the Government made a commitment in the health strategy to increase bed capacity, we have provided funding for an additional 900 beds. In addition, further capacity has been sourced in the private hospital sector by the national treatment purchase fund to treat those waiting longest for surgical procedures on public waiting lists. Some 19,000 people have been treated so far and the initiative has been a success in cutting the often endless waiting times for public patients who need hospital treatments. Waiting times have been reduced and public patients are now offered definite appointments under the national treatment purchase fund. It has not solved all the problems for elective treatments. We never said it would. However, it has changed patients' experience of health care: it is more responsive, more patient-oriented and people are treated as having equal buying power as privately insured patients. I acknowledge that we have yet to address the often long waiting times for outpatient appointments. The difficulties we have yet to solve, however, should not blind us to the progress we have made in any area.

Part of the progress of recent years is that we have also significantly increased the number of medical consultants. There are more than 1,800 consultant posts in the public sector in Ireland. This represents an increase of over 40% in the last six years. There are over 6,400 more nurses working in the system than in 1997. We have, according to the OECD, the highest proportion of nurses to the population at 15:1. We are now training more nurses than ever before. The annual number of training places has increased from less than 1,000 in 1997 to over 1,600 in 2004. In the period 2000 to 2003, the health capital budget involved spending some €1.7 billion. The capital investment framework for the health services between 2004 and 2008 will amount to €2.7 billion.

As part of the reform programme, we face significant challenges in developing an acute hospital service that meets patients' needs quickly and effectively. We will seek, as an essential part of good health policy, to maintain and increase public confidence in hospital services in every region of the country. We want accident and emergency and casualty services in particular that people will have confidence in, region by region. Irrespective of the exact solutions put forward, there is a strong consensus that the current situation is not sustainable and that change is necessary.

The Hanly report stimulated considerable debate about how we should reorganise our acute hospital services. Some of it was well informed,

some of it much less so but all those contributing genuinely believe their stated positions are valid. In this atmosphere, we should not forget that there is widespread agreement about many of the key recommendations of the Hanly report. For example, the need to reduce the very long working hours of junior doctors, which are not good for either the doctors or their patients. The Hanly report proposes a series of important measures to reduce working hours in line with the European working time directive.

We intend to introduce a consultant-provided service with much greater access for patients to senior clinical decision making. Patients should see a doctor who is fully trained to deal with their condition at the earliest possible stage. Currently, patients may wait for lengthy periods before they can see a doctor who is sufficiently experienced to diagnose and treat them. The Government accepts the case for groups of acute hospitals to work together closely in networks in order to maximise the services that can be provided in each location. Instead of institutional rivalries, we need a genuinely co-ordinated service based on true co-operation between hospitals and health professionals. We need to involve health professionals more fully in major decisions affecting the management of services. This can happen through structures such as clinical directorates, in which doctors, nurses and other health professionals have a close involvement and greater responsibility for their unit.

The Hanly report sets out the path to substantial improvements in services for patients. Its emphasis is on ensuring a safe, high quality and sustainable service in every hospital. It is not about closing or downgrading hospitals. It offers an extremely important role for smaller hospitals in meeting a high proportion of the hospital needs of the local community.

The way forward lies in setting a constructive, innovative approach to implementing the agenda of hospital reform. We recognise that to improve acute hospital services, we need to develop them in close conjunction with primary and continuing care. This will mean taking full account of the concerns of local communities and working with them to maintain and build up public confidence in every region in the development of our acute hospital services. It is clear that doing nothing is simply not an option, neither is doing more of the same. The Government's reform programme sets out a road map for change and I am committed to implementing it sensitively, flexibly and with common sense.

Tonight's motion raises, among many other points, the issue of the public-private mix in our hospital service. Private care in public acute hospitals is seen as a long-standing feature of the Irish health care system. The VHI was set up in the late 1950s. We have never had an exclusively public system and we have, fortunately, for decades provided for public health services too.

The current consultants' contract includes a provision which allows them to treat private

[Ms Harney.]

patients in public hospitals. I am committed to ensuring that private practice within public hospitals will not be at the expense of access for public patients. We are some distance from achieving that, but are determined to do so. Notwithstanding the complex and long-standing nature of this issue, I do not intend to leave it simply as it stands. The negotiation of a new consultants' contract is one of my key objectives. In particular, I intend to ensure equity for public patients in a revised contract for consultants.

I wish to get these contract discussions started early and finished in a definite timeframe, dealing with all issues between the Government and consultants in a businesslike, professional and fair manner. I believe this is achievable and I hope that consultants will agree to engage on this basis. We need to get to a new, steady state in the relationship between consultants and the Government as soon as possible in the interests of all concerned.

The health reform programme will make the health system more responsive to patient needs, provide value for money and increase quality of care. The better planned and managed health system of the future will deliver measurably improved health care for all patients and consumers alike. My aim is to have the necessary legislation which sets up the Health Service Executive on a statutory basis passed in the current Oireachtas session. This major change, the largest reform of our health services since 1970, will involve more than 70,000 people moving to work in a single health service executive, the largest change management programme ever undertaken by any Irish organisation.

I intend to include in this legislation arrangements for public representation through a number of regional fora. These will enable meaningful and sustained dialogue and consultation between the Health Service Executive and the public representatives at local level.

I want the reform programme to improve every aspect of health care delivery to achieve the real change the public, the patient and the client want. It is not just about changing structures. This reform will change every corner of the system, every service delivery unit, every specialist agency, statutory and voluntary, the Department and, most importantly, the experience of every patient. The consolidation of service providers will help achieve one of the central objectives of the health reform programme, to provide a national framework in which health and personal social services are delivered.

The new national focus on service delivery and executive management of the system will result in a major reduction in fragmentation of health service delivery; a quality driven approach to services and information; more integrated service planning; improved administrative cost effectiveness; clear accountability throughout the system; and greater involvement of the service user

through structured consultative arrangements and a statutory complaints procedure.

We cannot deliver high quality services without standards that are based on evidence-supported best practice. High quality information lies at the heart of all good decision making.

The recent appointment of the chairperson of the Health Information and Quality Authority, Mr. Pat McGrath, is a major first step in the architecture of planning and developing health and personal social services in Ireland. This body will help to embed a continuous quality improvement ethos in our system and will be a vehicle through which the national health information strategy will be implemented.

Effective primary care is essential for our health services. The general practitioner is at the centre of every person's health care experience. Primary care can lessen the current reliance on specialist services and the hospital system and provide effective, efficient and user-friendly services in the communities where people live.

Since the Government's primary care strategy was published in 2001, initial development funding has been provided to enable the first group of ten primary care teams to be established. These have provided, and continue to provide, much useful experience which will help in the process of wider implementation, particularly in the context of the transition to a single delivery system under the Health Service Executive.

A significant element in the development of primary care teams must involve the reorientation of the substantial staff and physical resources currently within the primary care setting. The health boards are working to map the general configuration of future teams and networks and to develop team and collaborative working in the existing primary care services. The physical infrastructure to support the roll-out of the new team-based model of primary care will need to be significantly improved.

One of the Government's key objectives is to facilitate and encourage the development, where appropriate, of modern, well equipped, user-friendly buildings from which the broad range of primary care services, including general practice, can be delivered. While the State may contribute towards such developments, because of the scale of what will be required, it is necessary to explore a range of different approaches to the financing and provision of these facilities. We will develop policy to encourage innovative approaches that have the potential to result in the provision of appropriate facilities to support the development and operation of primary care teams on a widespread basis.

I fully recognise the human trauma associated with a diagnosis of cancer for the individual patient and his or her family. It is for that reason I have placed the improvement and development of cancer services as a key priority. I intend to build on the considerable investment made by my predecessor since 1997 in the development of cancer services. The return on this investment is

the substantial increase in the volume of oncology services, from diagnosis to primary treatment and follow-up care. In 1998, for example, there were 58,000 cancer related hospital discharges. Currently there are over 80,000. In the same period, day case activity increased by over 70%.

Over 100 additional medical consultant posts have been created in key areas of cancer services such as medical oncology, surgery, radiation oncology and genetics. An additional 245 clinical nurse specialists have also been appointed in the cancer services area. These appointments have directly improved the quality and range of services to cancer patients in every region.

This substantial increase in manpower and activity has impacted positively on cancer. For example, the key goal of the 1996 national cancer strategy was to reduce the death rate from cancer in the under 65 age group by 15% in the ten year period to 2004. This key objective was achieved in 2001, three years ahead of target.

The Government has invested heavily in health care since 1997. We have been consistent in prioritising the health service and investing a significant funding base. We have had major achievements and now face major challenges, the challenges of reform. I believe the health system is providing a high quality service backed by a dedicated and skilled workforce. The system has begun its reform. This task will be complex and challenging and will not be achieved overnight. If it was easy, it would have been done long ago.

Before handing over to those sharing time with me, I congratulate Deputy Twomey on his appointment as health spokesperson for Fine Gael. I look forward over the coming years to working with him and with Deputy McManus, who has been Labour Party spokesperson for a considerable length of time.

**Ms F. O'Malley:** The Technical Group's motion before the House tonight clearly demonstrates that while Government governs for all its citizens, Independent Members care only for their narrow local base and want every service available in their constituency regardless of need, cost or practicality.

**Mr. Howlin:** What did Dessie O'Malley do when in office? Does the Deputy recall Barrington's hospital?

**Ms F. O'Malley:** The nakedly parochial motion cobbled together by the Technical Group is out of step with the realisation that to deliver a world class sustainable health service for all citizens, parish pump politics must not play a part in the equation. That is one of the reasons the health boards were disbanded. Local political factors continued to intervene and, frequently, prevented the correct decisions from being made.

The motion refers to Ennis hospital and services in Mayo, Tuam and Cashel.

**Mr. J. Breen:** We need them.

**Ms F. O'Malley:** Deputy O Caoláin lamented last night that Monaghan was not included in the motion. However, the Independents do not care a damn about the people of Monaghan because none of them represents his constituents.

**Mr. J. Higgins:** What constituency does Deputy Connolly represent?

**Ms F. O'Malley:** That demonstrates the parochialism of Independents.

Deputy Twomey recognised how narrowly focused it is to be an Independent and how limited are the opportunities. He hotfooted it to the Fine Gael party to become spokesperson on health, an appointment I welcome. However, I fear his appointment might not be as welcome within his party as it is by the rest of the House. The Government envisaged a system of newly expanded speciality services that will be delivered in the reconfigured local hospitals, providing long overdue and badly needed new services in rheumatology, diabetes care, cardiology and neurology.

**Mr. Healy:** Where are they?

**Dr. Cowley:** They are the worst in Europe.

**Ms F. O'Malley:** These will be delivered in the patient's locality by senior doctors. We are suffering from a lack of a proper system of regionalism.

**Mr. Howlin:** How long are the Progressive Democrats in Government?

**Ms F. O'Malley:** Only a small number of specialist services are available in local hospitals and Deputy Cowley, in particular, knows that.

The majority of patients with chronic illnesses who require lifelong management and access to specialist care must be catered for in Dublin or Cork. We must move on from this scenario and the Government is keen to cast it to history, yet local interests are rejecting these improvements in speciality care and cling to the impossible position of a seven day a week, 24 hour a day fully staffed accident and emergency departments in local hospitals. This concept is passed its sell-by date.

**Mr. Healy:** The Progressive Democrats will close accident and emergency departments. I thank the Deputy for telling the House.

**Mr. B. Lenihan:** Clonmel is secure.

**Ms F. O'Malley:** An important challenge the new Minister faces is to ensure the range of new investment and reform commands public confidence. I will encounter constituents who will be anxious about the future of the services at Loughlinstown hospital and they will need to be reassured that services will improve, but I have every confidence they will and that only improvements will take place.



**Dr. Cowley:** There are loads of hospitals in Dublin.

**Ms F. O'Malley:** The Labour Party policy of free universal general practitioner care is a waste of limited resources. Is the party seriously suggesting it will pay my GP bill or that of any other Member? That is the reality of universal GP care. I caution Labour about the tyranny of consistency because if its members find themselves in Government, will they deliver that policy? Will Fine Gael support it and how much will it cost? Resources, as the Government knows well, need to be targeted at those who need them most. No Member needs his or her GP bills paid.

**Mr. J. Breen:** I needed mine paid this year. I was a victim of the health service for six months in a hospital in the west.

**Ms Harney:** Deputy Killeen will look after them.

**Ms F. O'Malley:** I congratulate Deputy Twomey on his promotion to the front bench and I wonder whether he will withdraw his comment when he described the 19,000 patients who had been treated under the national treatment purchase fund as "rubbish".

**Dr. Cowley:** They cannot get on the fund.

**Ms F. O'Malley:** Deputy Twomey will not take that comment back. I thought he would like the record corrected. Unfortunately, Deputy Boyle was also disparaging about the fund. Why do these Members allow their ideology to get in the way of proper public service treatment? A woman who has waited a long time for a hip replacement does not care about what kind of hospital she is in because she is only glad she is not suffering anymore. It is well recognised the national treatment purchase fund has been an enormous success.

**Dr. Cowley:** If one can get on it.

**Ms F. O'Malley:** I have not yet formally congratulated the new Minister on her appointment but it is well understood I am enthusiastic about it. Her enthusiasm for taking up the challenge of reform of our health services is a refreshing change. Near universal approval of her appointment is also to be welcomed.

**Mr. Howlin:** The Deputy is putting the Tánaiste on a high plinth.

**Dr. Twomey:** The Tánaiste must have written the Deputy's script.

**Ms F. O'Malley:** She is perceived as a woman of actions rather than words. The political authority she brings to the position demonstrates the commitment on the part of Government to provide a health service worthy of the 21st century

for all people. Players should take advantage of this political clout and become partners in delivering a service which places the patient at the centre of a reformed service.

**Dr. Cowley:** Here is hoping.

**Dr. Devins:** I congratulate the Tánaiste on her appointment as Minister for Health and Children and I also congratulate my colleague, Dr. Twomey, on his elevation to the Fine Gael front bench.

**Mr. J. Higgins:** Poor Deputy Ring was all at sea.

**Dr. Devins:** I am delighted to have the opportunity to contribute to the debate. When I saw that Private Members' Business was devoted to health issues, I looked forward with great anticipation to a stimulating debate. Unfortunately, I am severely disappointed at the debate thus far and, particularly, last night. This must be one of the longest worded motions to come before the House in my time as a Member.

**Mr. Howlin:** How can the Deputy say that from a prepared script?

**Dr. Devins:** It touches on almost every aspect of the health service. The provision of health services is extremely important business for the House. However, despite the wide-ranging nature of the motion, what we heard so far from the Opposition is more of the failed politics of the past. I expected and hoped to hear constructive ideas on how the problems facing the health service might be addressed. All we have had so far is more of the politics of negativity.

**Dr. Cowley:** Why did the Deputy not read the motion?

**Mr. B. Lenihan:** It refers to the Soviet Union.

**Dr. Devins:** The motion should have been a golden opportunity to discuss in a constructive manner the future development of the provision of health services but we have had instead the sterile politics of the past.

**Mr. Howlin:** Is the Deputy reading the same script again?

**Dr. Devins:** The reason Opposition Members have become stuck in negative, non-productive debate is they have no new ideas to offer or else they agree with the actions the Government is taking to improve our health services but cannot bring themselves to say so.

I could quote facts and figures which demonstrate there is a significant increase for the health services over recent years or reiterate *ad nauseam* the reforms initiated by the former Minister for Health and Children, Deputy Martin, which will be developed by the new Minister but I will con-

fine myself to one area that has the potential to radically improve our health service without costing an arm and a leg. General practice or primary care is the bedrock of the health service.

**Dr. Cowley:** Why did the Deputy not support it?

**Dr. Devins:** Despite all the negative stories, it is the one section of the health service that is working well. It needs more investment—

**Dr. Cowley:** It has been promised but not provided.

**Dr. Devins:** —and the rapid implementation of the primary care strategy is badly needed.

**Dr. Cowley:** It is badly needed but not implemented. The Government said that two years ago.

**Dr. Devins:** Enough reports have been published and now is the time for their implementation. A key objective of the health service reform programme will be to develop the roll-out of the entire primary care strategy and the sooner this is done, the better.

**Dr. Cowley:** We have heard that before.

**Dr. Devins:** We hear a great deal about the problems associated with accident and emergency facilities. However, most of them are confined to hospitals in the tertiary sector.

**Mr. Howlin:** That is not true.

**Dr. Devins:** A key component in ensuring the smooth running of an accident and emergency service is the presence in the immediate catchment area of the hospital concerned of a fully operational 24-hour GP service.

**Mr. Healy:** Deputy Fiona O'Malley said hospitals would close.

**Dr. Devins:** I worked as a GP for many years and know what it is like to do a full day's work, be on call that night, possibly get out of bed once or twice and do another day's work the following day. The roll-out of the GP co-operative service is transforming the face of general practice and is ensuring a fully operational and staffed GP service is available for 24-hour medical emergencies in both urban and rural areas.

**Dr. Cowley:** That is only in cities and towns, not in rural areas.

**Dr. Devins:** It would be interesting to analyse how a local GP co-operative service is running in an area and compare that with the difficulties of the local accident and emergency service in the area. More than €46 million was allocated to co-operatives last year and quick implementation of

such a worthwhile reform of the health service represents excellent value for money.

**Dr. Cowley:** There is no co-operative in my area.

**Dr. Devins:** I hope all Members will work together, while respecting our political differences, to ensure the ongoing improvement of this most important health service.

**Ms McManus:** I wish to share my time with Deputies Wall and Howlin.

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Ms McManus:** I congratulate the new Minister and the new Fine Gael spokesman on health and wish them well. To be fair to Deputy Fiona O'Malley, she sent the message very clearly to the unfortunate people of Dún Laoghaire-Rathdown that they cannot look to her to defend the accident and emergency department at St. Colmcille's Hospital in Loughlinstown. I find it astonishing that somebody who knows her hospital is in the front line to have its accident and emergency department closed down under the Hanly recommendations should speak with such gay abandon and ignorance about the true situation.

I was disappointed by the Minister's speech. We all expected more from her even at this early date. She spoke about new beds in the system, of which everyone has heard before, but she failed to mention beds which have been removed from the system, replacement beds and beds which are not being used due to ongoing cutbacks. The Minister spoke about the national treatment purchase fund. While it is true that people can access treatments through the fund, 27,000 people remain on waiting lists, the figures having increased slightly at the last count. There continue to be thousands who have been waiting months and in some cases over a year to see a specialist. The Minister referred to the Hanly report but failed to state her position on the closure of accident and emergency departments which are currently operating on a 24 hours a day, seven days a week basis. This is a crucial issue in respect of which the Minister cannot use disingenuous language like that employed by her predecessor while expecting to maintain her reputation as a plain speaker.

The Minister should either tell it like it is and put us out of our misery or adopt a new policy on the Hanly recommendations and recognise the need to keep these accident and emergency units open. Anyone who contends that the departments in question are only in tertiary hospitals does not understand the matter.

**Mr. Howlin:** He or she is ignorant.

**Ms McManus:** The Minister points to consultant contracts in the context of the public-private mix as a problem without saying what is her sol-

[Ms McManus.]

ution. This is a central issue to be addressed in dealing with the iniquity and apartheid which is retained and maintained in our health system. Unless one addresses the incentivisation of the system to care for private patients and the complete lack of incentives to look after public patients, one will fail to bridge the divide. We have argued for a system in which the money follows the patient. I do not care how that is done as long as the system is fair and efficient. While I have proposed universal insurance because it seems to be the most effective solution, I have an open mind with which to consider alternatives. I have not heard an alternative proposal but rather that there will be negotiations about consultant contracts. As those negotiations were discussed long before the Minister came into office, by referring to them she is not telling us anything new.

We need an integrated service which reaches patients and is blind to their resources whether they are rich or poor. Unless it is stated that the goal is to treat people on the basis of need and unless the means to achieve it are outlined, the Minister will not be able to deal with inequality in the system.

I urge Deputy Harney to look again at primary care as no one can remain Minister for Health and Children who does not understand what is happening at that level. Mulhuddart, County Dublin, has a population of 10,000 but no general practitioner, chemist or dentist. While there are doctors on the periphery of the area, according to best practice it should have six of its own. There are rural areas in my constituency and others in which doctors who are ageing or becoming sick themselves are not being replaced. There is a serious shortage in general practice. Even if the Minister establishes magnificent primary centres in Virginia and other locations, while that shortage remains unaddressed, patients who require care will not get it. I ask the Minister to develop a sense of realism about this.

I welcome the opportunity to speak on this debate. There is a crisis in our health service which deserves our attention. Today's revelation that two children suffering from a serious cardiac condition were sent home from Our Lady's hospital in Crumlin because of a nursing shortage is bound to shock people. We had hoped that the awful tragedy of the death of Róisín Ruddle would have led to a guarantee that cardiac operations for children would never have to be postponed due to a nursing shortage. We were given such an undertaking, but like others it has been broken.

Last Monday, one of the children in question was due to have his operation. He is five years old and his parents and grandparents were anxiously waiting for surgery to begin. An entire team of experts was waiting to assist at the operation and in his ongoing care. A theatre was available and everything was ready, but that little boy was sent home because there were not enough nurses in

the intensive care unit. The father of that little boy asked me in wonder today how it was that a Minister who could take a Government aircraft to fly to Leitrim to open an off-licence premises could not ensure a child's access to vital health care — those are his words not mine.

Nobody pushed or forced the Tánaiste to take the position of Minister for Health and Children. It was her choice and it is her responsibility to ensure that patients can access care when they need it. Even though hers is a new appointment, she must bear responsibility for what has gone before. The Tánaiste, Deputy Harney, supported the launch of the health strategy despite the fact that the Minister for Finance informed the Minister for Health and Children in writing two weeks beforehand that there would be no funds to deliver it. Even as he spoke, the Minister, Deputy Martin, knew he could not deliver on his fine words. The Tánaiste, Deputy Harney, sat at the Cabinet table at Ballymascanlon when the Minister, Deputy Martin, was again told he would not get the money he was seeking.

The Tánaiste presided over and colluded in the debacle of the over 70s schemes which cost the taxpayer not the €19 million per annum estimated by the Department of Health and Children, but over €55 million. The Government introduced a new form of inequality into the medical card scheme whereby family doctors are now paid four times more to treat wealthy over 70 year olds than they are for caring for poor over 70 year olds. That is a gross inequality, a squandering of resources and gross inefficiency. These are the hallmarks of this and the previous Fianna Fáil-Progressive Democrats Government. Inequality has become worse during its time in office.

When the Minister, Deputy Martin, promised 200,000 new medical cards, the Tánaiste did not demur. When 101,000 medical cards were taken away from people, she was again silent. Fianna Fáil swore blind at the last general election that there would be no cutbacks in health but when the party returned to office, it promptly set about making them. During that time, the Tánaiste remained silent. Her record on health is the Government record on health, and it is sorry — the recently published ESRI report shows just how sorry by ranking health care in Ireland 21st out of 22 OECD countries. By all performance indicators on health, Ireland is performing dismally. We have the highest mortality from heart attacks and a frighteningly high level of female breast cancer. This is the reality in a country in which women in the south and west receive no breast cancer screening and little children are sent home from Crumlin hospital without having undergone vital cardiac procedures.

The Government's amendment refers to increased health funding. Even on the most benign measurement, funding in the Irish health service is only average compared to other OECD countries. This is in spite of the great deal of catching up we have had to do since the major cutbacks of the 1980s and the growth of our



population. Approximately 4,000 beds have been lost and we continue to have a disturbingly low number of specialists in rheumatology, neurology, urology and other areas. Where new facilities have been built, they lie idle. Facilities costing €400 million, including cancer wards, operating theatres and accident and emergency units, have yet to commence operation.

Before he left the Department of Health and Children, the Minister, Deputy Martin, announced an allocation of €84 million to staff and fit out these facilities. Will the current Minister explain exactly where that money has been diverted from? Was it from the mental health area or does it explain the missing millions from the sale of St. Loman's Hospital for which the Minister is unable to account? Was the money diverted from the primary care strategy which is already starved of funding? We have been promised 600 primary care teams. We are also facing a shortage in general practitioners.

The leaked memos published in the last month show a disagreement between the Departments of Health and Children and Finance, a matter on which I would like the Minister to comment. In the first instance, the Minister for Health and Children states there is not enough money for capital investment and in the second instance she states the Department is extremely concerned that money is being overly spent on the acute hospital sector and is not being allocated fairly to the non-acute hospital sector. We are all aware of the dilapidated hospital buildings which are a grave embarrassment — though I am not sure this Government can be embarrassed — to all who walk through their doors. We need investment in community services, mental health and primary care so those currently denied access to such services can access them.

It is disgraceful policy to shift resources and to rob Peter to pay Paul. That is the type of game being played in the Department of Health and Children at a time when the State can afford additional funding. There is a desperate need to invest the money in our coffers in the health system.

**Mr. Wall:** I congratulate the Tánaiste on her appointment as Minister for Health and Children and congratulate my constituency colleague, Deputy Power, on his appointment as Minister of State at that Department.

Each Member who speaks has his or her own concerns. Despite what Deputy O'Malley had to say, that reflects the issues raised in our constituency offices. A problem often brought to my attention is the difficulties encountered by families in accident and emergency departments. In many cases senior citizens are unable to leave hospital because of the unavailability of nursing home or secondary care facilities in geriatric hospitals. The Minister of State, Deputy Power,

will be aware of the problems at Naas General Hospital.

I am asking the Minister to look at the issue of enhanced nursing subventions, which are not working. Everyone knows the problem exists but no one wants to address it. The current subvention of €192 plus a person's old age pension amounts to €400. However, obtaining an enhanced subvention is like trying to win the lottery. While the subvention differs depending on which part of the country one is from it is €200 to €300 below that which a person must pay for care in a nursing home. Also, filling in the forms for enhanced subvention is a nightmare. I ask the Minister to examine this issue. Improvements in this area would free up many beds in accident and emergency departments which are currently held by senior citizens who have no home or secondary care facility to go to.

I know of six or seven people who recently received treatment in accident and emergency departments and who are fit to move on but cannot do so because they cannot get the enhanced nursing subvention. It is not possible to get that payment. This issue is a stumbling block to the creation of extra beds in accident and emergency departments. The allocation for enhanced nursing subventions is a joke. I hope the Minister will examine this issue in the early days of her new Ministry. Any improvements made would have immediate affects.

Another problem is the issue of ERHA payment of prescriptions. That system does not operate in any other health board. A person eligible for such a payment in the eastern, south-west or northern health board areas, through the ERHA scheme, may find himself or herself no longer eligible for it should he or she move two miles down the road to the midlands. That is a contradiction in terms of alleviating people's concerns and may result in many people not getting their required medication.

The care of the elderly grant is at a standstill in all health boards. Grants for essential repairs have been done away with. The only hope for senior citizens is that they can get the care of the elderly grant. I ask the Minister to try to regenerate and re-invigorate that scheme which has been of great benefit to those who need it.

**Mr. Howlin:** Like other Members, I have a great deal to say on this issue. I thank my colleagues on the benches opposite for providing us with an opportunity to do so. I too welcome the appointment of the Tánaiste as Minister for Health and Children. She has the intellectual capacity and political clout to make a real difference. I genuinely hope she will do so because it is important to the nation. I also welcome the appointment of my constituency colleague, Deputy Twomey, as Fine Gael spokesperson on health, an appointment which I hope will have a

[Mr. Howlin.]

positive impact not only on our health services but on our constituency.

I would like to briefly mention a few issues of concern in my constituency and to refer to one national issue which I know will be on the shopping list which Members of this House will bring to the Minister's attention. I speak with some experience of the pressures which the Minister now faces having once served as a Minister in that Department. It is a difficult, demanding task. I hope the Minister will be a woman of her word and that when she makes promises to hard working people in the health service, of which there are more than 100,000, she will deliver on them.

Wexford has been promised a day hospital for the elderly. There is no point in building such a facility if it is not opened and remains idle for more than a year. The Minister must provide the resources to bring capital projects on stream once developed. We heard in an ill-informed contribution from the Government benches earlier that the accident and emergency crisis pertains only in tertiary hospitals. That is not true. That crisis pertains in hospitals throughout the country. For the first time in its history there were up to 20 people on hospital trolleys at Wexford General Hospital because of the absence of beds which have been promised for more than ten years. I plead with the Minister to provide those beds. I have good contacts in the Department of Health and Children and know one of the difficulties is the Government's refusal to release the capital to provide the beds until expenditure for the three years ahead has been signed off. The Minister needs to deal with such bottlenecks.

Another issue of concern is that of child and adolescent psychiatric services which are in crisis. The allocation in that area is so meagre while the need is so great. We could resolve many problems such as binge drinking, teenage suicide and depression by providing early intervention through support teams. The Minister must provide the resources necessary to do so. The guidelines are one full team of 15 specialists, one consultant psychiatrist and other support staff for every 66,000 of population. No such service exists. I have no doubt I will have another opportunity to develop the issue of child and adolescent psychiatric intervention, which would have an enormous social impact on this State.

I welcome the appointment of Deputy Power as Minister of State at the Department of Health and Children. He will have to fill the very large spats of the former Minister of State. Deputy Callery visited my constituency earlier this summer and promised to provide a lift for a geriatric facility in New Ross, the New Houghton Hospital. If that facility were a place of work within the Tánaiste's remit it would be closed down under the health and welfare Act. I am ask-

ing the Tánaiste to provide the lift promised by the former Minister of State.

I would like to briefly refer to another facility in the psychiatric area. The Tánaiste promised that land would be sold off to provide for upgrading psychiatric facilities but not all psychiatric patients can be brought into the community. In my time in the Department of Health, I received a very sane letter from a woman who asked me not to close down all the psychiatric hospitals because she needed a place in which to be mad. She could not do it in a community house in the middle of an estate. There is a need for some secure places, although they do not need to be places that resemble Victorian or 1950s antiquated hospitals, like St. Senan's Hospital in Enniscorthy, where a coterie of people do heroic work and deserve better facilities.

We all have a shopping list for the new Minister and Minister of State. This Government had a unique opportunity, because it was re-elected to office, to have a ten year run at real reform. It gives me no pleasure to say it wasted the first seven years. Two and a half years remain for real change and we trust the Tánaiste can lead that. Right now she has the benefit of the doubt and carries all our hopes and expectations but she will be held to account. We pledge our support for real change for the better for the people we represent.

**Mr. Ferris:** There are many issues of concern surrounding health care provision in Kerry but I will address only a few of them this evening. I welcome the announcement of €14 million for the construction of a primary health care centre at Annascaul. I hope there will be continuous support for the facility and that it will go a long way to meeting critical health care needs in the region.

I cautiously await the Minister's announcement about raising the means threshold for medical card provision. This must be acted on urgently. It has been pointed out repeatedly that the Government's promise of 200,000 new medical cards has not only gone down the drain, but 100,000 fewer people have a medical card now than in 1997.

The BreastCheck programme must be addressed. The programme must be expanded nationally as soon as possible. In 2003, the then Minister for Health and Children, Deputy Martin, promised that BreastCheck would be extended to the Southern Health Board region by 2005. We have now been told that it will be 2007 or 2008 before that happens. We need a commitment from the Minister that this programme will be rolled out with the utmost speed. The Southern Infirmary in Cork has acquired a large site for this purpose and has submitted a detailed option assessment to the Department of Health and Children. This must be given prompt consideration and approval.

The BreastCheck programme has saved many lives through prompt diagnosis. The incidence of breast cancer on the island has steadily increased yet deaths due to breast cancer in the Six Counties have dropped by a fifth while mortality remains constant in the South. This is due to the lack of a full breast care screening programme. In Tralee General Hospital, 68 newly diagnosed cases were treated in 2002 and the figures for this year will be higher. The staff who treat breast cancer are excellent but the breast care unit is under staffed and under resourced with limited space and privacy for patients. They are still awaiting the promised consultant surgeon with the special interest in breast surgery.

Inadequate resources affect the efficient delivery of services in other departments within the hospital such as cardiology and maternity. Tralee General Hospital is the second largest hospital in the Southern Health Board region, serving Kerry, west Limerick and north Cork, yet staff in the various units are overworked, hospital beds are closed periodically and waiting periods in outpatient clinics and radiology are appalling. If and when consultants arrive, there is a lack of resources to accompany them. Each position requires additional staff, equipment and space.

Currently, there is a freeze on hiring additional staff. As a result, sexual assault victims must travel to Cork for examination and treatment due to a lack of forensic examination coverage. This results in further trauma, with potential loss of evidence and increased demand on already limited garda resources. GPs in Tralee General Hospital are prepared to work on a rota basis to help address this issue but they need co-ordinated nursing support to do it and I ask the Minister to look at that matter.

**Mr. Morgan:** I only have five minutes to deal with the most important issue in the public domain at the moment. It was interesting that a Progressive Democrats Deputy took umbrage because Members were giving examples of the consequences of Government policy for their constituents when that is their responsibility.

My responsibility is to my constituency and the consequences of the cruel policy of downgrading hospitals across the State. Unfortunately, the first ward to go in Louth County Hospital was the children's ward, forcing children to travel a significant distance to the Lourdes Hospital in Drogheda. Next to go was the maternity unit, closed in 2001 under the guise of there being not enough births at the hospital, at a time when there was only one gynaecologist in the hospital and any expectant mother presenting with any prospect of difficulty was automatically referred to the Drogheda Hospital where there is a full complement of gynaecological services. Tricks like that being played by the health board and

the Department will fool no one, certainly not the people of County Louth.

Government Deputies told us that the hospital issue only arises before an election. Deputies around the House are raising this issue more loudly than ever, just after an election. I wish Deputies on the Government benches were more honest. They cannot fail to hear the outcry that we hear in their constituencies.

Pregnant women, the most vulnerable sector of this society, are being forced to have their babies at the side of the road in the 21st century. I am not talking about this happening in Africa but here, in one of the richest economies in the European Union. How can any Government stand over that? How can any backbencher vote for Government policies when these are the consequences for the people? It is a scandal and it is time they wakened up to it. I thought they got the message in June but it is clearly not being heeded.

On several occasions there were attempts to close the accident and emergency unit at the Louth General Hospital. Thankfully the people of Dundalk came out in great numbers and marched through the streets, putting the fear of God into the hearts of Government Deputies, with the result that the department was saved at the last minute. Consequently the issue is regularly raised before elections but it is also highlighted many times afterwards because there have been several attempts to close the unit.

I acknowledge the work of the staff at those hospitals. They do back-breaking work as they carry this health service that is so shambolic as a result of Government policy. The service is under staffed and over-worked. At the Lourdes Hospital in Drogheda, it is a scandal that nurses have been taking industrial action for almost two years.

A family of four in my constituency, two adults and two children, the eldest of whom is a 19 year old college student, with a total income of €320 per week, have been told they are €33 over the limit for a medical card.

The Government's own family income supplement recommends an income of €405 per family. One Government agency, FIS, states that a minimum of €405 per week is necessary for a family of four while the health board, another Government agency, tells the family that it is over the limit for a medical card. How can that be resolved? Which of those two bodies, acting under the Government's instructions, is correct? Clearly the two cannot be. When the Minister answers that question, we will find out exactly where we are going. On the scandal of the so-called national treatment purchase fund, I acknowledge it has been useful in dealing with patients who have urgent need of hospital care. Unfortunately, that money would have been much better spent on the infrastructure of the public health service rather than diverting it into



[Mr. Morgan.]  
the private hospitals where the money is lost to the public good.

I look forward to hearing what the new Minister for Health and Children can do. I sincerely wish her well because the people of this State are depending on somebody to claw back the Government policy and put in place a health care service that is accessible and amenable to all the citizens of this State.

**Mr. Gormley:** I welcome the opportunity to speak on this important motion. I congratulate the Independent Deputies for proposing it. Coinciding as it does with the appointment of the Tánaiste, Deputy Harney, to the health portfolio, it could not be more timely or opportune. It is, after all, the Progressive Democrats which has done more than any other party to create a two-tiered society. It is a party that regards inequality as a positive driving force and that has overseen the rundown of our public services while the private sector disproportionately prospered. Is it not a supreme irony that this same party, headed by the Tánaiste, Deputy Harney, the new Minister for Health and Children, promises to deliver a more equitable health service?

The influence of the Progressive Democrats has been profound and pernicious. Dublin, we are now told, has more BMWs *per capita* than Munich and so, in a strange way, we are heading towards Berlin. While some individuals may be more prosperous than the wealthy of Berlin, our health service resembles the American model so beloved of the Progressive Democrats. That model is based on one's ability to pay. The Progressive Democrats philosophy has fostered greed and envy and superficiality. It is this superficial response to complex problems which, I have no doubt, will result in the Minister's failure to transform our health service.

Repeated studies has shown that inequality, the bedrock of the Progressive Democrats philosophy, has been shown to be fundamentally unhealthy. I would expect a Minister for Health and Children to understand that and that the health of society is about getting the basics right, and we do not get the basics right in this country. Our water is contaminated with fluoride and other substances such as aluminium sulphate, our air is polluted by car fumes, our diet is high in fat and sugar, and people suffer high levels of stress and take less exercise because they commute to work by car. Has it dawned on the Tánaiste that the huge demand on the health services just may have something to do with the policies of this Fianna Fáil and Progressive Democrats Government?

The Tánaiste will be pleased to know that solutions exist to some of these problems which do not require large sums of money. All that is required is a little joined-up thinking in Govern-

ment. Making it safe to walk and cycle to school would mean a less sedentary lifestyle and more exercise for children who increasingly suffer from obesity which will lead in later life to heart problems and diabetes. Proper planning would mean that schools and services would not require a car journey, thus cutting down on pollution.

Given the woeful state of the public transport system, many still opt for the car. Public transport requires greater investment. The Green Party has suggested reversing the ratio of spend on roads versus rail. The health service also requires greater investment. There is no getting away from this point. The Tánaiste can talk all she wants about restructuring and value for money but good health and equitable access actually costs. Delivering on the health care strategy will cost. Is the Government prepared to deliver on that strategy or will it renege on those promises as well? We need 300,000 medical cards to make up for those taken out of the system. We need thousands more beds and proper step-down facilities. We need a proper primary care system, as proposed by the Green Party. We need more nurses and consultants. The problem in the health service is a capacity problem. To solve the problem, more money must be expended.

The Tánaiste's predecessor even went so far as to suggest tax increases. I do not know if that will go down well with the Tánaiste but certainly it will not go down well with the slash and burn philosophy of the Progressive Democrats. How then does the Tánaiste intend to raise the extra money required? For 27 years, from 1970 to 1996, Irish capital investment in the health service only exceeded the EU average in one year, 1980. Years of underinvestment must be made up. The ESRI has calculated that the implementation of the 2001 health strategy will cost 9.9% of gross national product, GNP, annually. This is still lower than German spending. Irish health spending was 46.8% of the German level in 1996 and still only 78.5% in 2002. I use those figures because 1996 was just before this Government came to power.

The Irish health service is a patient that needs radical spending surgery. Instead, the Tánaiste will probably simply try to make the patient look a little better by proposing plastic surgery. This was the idea behind the treatment purchase—

**Ms Harney:** Plastic surgery is even more expensive.

**Mr. Gormley:** Plastic surgery is part of the superficial proposal which the Tánaiste would put.

**Ms Harney:** The Deputy's figures are out of date. What is the Deputy reading?

**Mr. Gormley:** This is what the treatment purchase fund was all about. It was to make things

look good. Public money is used to buy treatment for public patients in private hospitals in a system which ordinarily uses public money to treat private patients in public hospitals. If that sounds confusing, it is because it is confusing. The Tánaiste will have to sort out that confusion but I do not think she will. I think she will add to that confusion.

When the Tánaiste took up office, she stated that she was not an ideologue. In some ways, I wish she was because the Progressive Democrats ideology is about individual choice. I wish to refer to one issue involving individual choice, the question of water fluoridation. This is a perfect case of the nanny State. Ireland is the only country in the world that has mass fluoridation of water. Some countries have cities with fluoridation. Will the Tánaiste in her first few weeks as Minister for Health and Children examine this problem? She should look at the high rate of fluorosis in this country and examine why so many children and adults under the age of 30 suffer from fluorosis. According to dentists, the reason is that fluorosis is a manifestation of fluoride toxicity. Will the Tánaiste go back to the legislation which introduced water fluoridation and examine the section which provided for tests to be carried out on the Irish population? No tests have ever been carried out. If those tests were carried out, either by sampling of blood or urine, they would show that Irish people have too much fluoride in their systems.

Dr. Hardy Limeback made a submission to the fluoride forum in which he stated that fluoridated water should not be used to bottle-feed babies. Dr. Wayne Anderson from the Food Safety Authority of Ireland stated in his submission that fluoridated water should not be used to bottle-feed babies. That recommendation was changed in mysterious circumstances. Will the Tánaiste investigate how this recommendation was changed? They put forward the precautionary principle and said the water should not be used. The fluoride forum knew that if fluoridated water were used to feed babies, it would increase the incidence of fluorosis. If the ban were recommended, they knew that would mean the end of water fluoridation in this country and so the decision was reversed. Will the Tánaiste examine those issues? If she manages to end water fluoridation, it would equal her policy decision taken in respect of smog which I welcomed. I would heartily welcome an examination of this issue for the sake of making a major difference to people's health.

**Minister of State at the Department of Health and Children (Mr. S. Power):** I thank Members for their good wishes and look forward to working with the Tánaiste and Ministers of State at the Department of Health and Children, Deputies Brian Lenihan and Tim O'Malley. I

hope we can prove effective during the next two and a half years and bring about the change for which all Members and everyone outside the House is crying.

I am pleased to be afforded the opportunity to contribute to this debate on the health service. It is my first opportunity to place on the record the Government's commitment to provide quality health care for all. The range of services provided within the health system is unique by international standards. It covers everything from health promotion, disease prevention, general practitioner services and acute hospital treatment to a wide spectrum of personal, social and community services.

The Government has prioritised the health service in terms of investing taxpayers' money. Allied to this investment we have put in place a major reform programme to ensure the funding invested will make the health system more responsive to patient needs, provide value for money and increase quality of care. The better planned and managed health system of the future will deliver measurably improved health care for all patients throughout the country. This year we are investing over €10 billion in the health system. This represents an increase of over €6.5 billion since 1997.

This extra investment in recent years has brought about significant results, including record levels of activity in acute hospitals and a whole range of additional services across the health system as follows. Last year, for the first time ever, the number of patients discharged from hospital having been treated as either an inpatient or a day case was over 1 million. This represents an increase of 46,000 discharges or almost 5% over 2002. In the area of day cases there has been a massive increase of over 190,000 cases or 76% since 1997, giving a total of over 400,000 at the end of 2003. Indications for 2004 suggest a continuation of this trend, with day case work again showing significant increases.

Total staffing figures for the public health system has increased from approximately 68,000 in 1997 to 96,000, a 40% increase. This figure excludes home helps who provide services directly to older people. According to the Brennan commission ten out of every 11 additional employees recruited since 1997 are engaged in duties of direct service to patients and the public. The national treatment purchase fund has reduced waiting times for those public patients waiting longest for surgical procedures. Up to the end of September treatment had been arranged for 19,000 people. Significantly increased capital funding has been provided to the health service. This has provided the necessary funding to build new modern facilities throughout the country. The Government recently provided €85 million to allow these facilities to open.

[Mr. S. Power.]

I avail of this opportunity to respond to two issues raised during the debate last night. I should place on record the position of the Cavan-Monaghan hospital group. The previous Minister was briefed on progress relating to the reconfiguration of hospital services across the group as follows. The board proposes to recruit five additional non-consultant hospital doctors to facilitate the early restoration of 24 hour a day, seven days a week medical cover to Monaghan General Hospital.

Work is due to commence shortly on an expanded treatment room at Monaghan hospital. The Department has approved capital funding of €750,000 for this purpose. The board is to furnish the Department with details of the additional revenue funding required to commission this expanded facility. The board intends to commission ten additional day beds at Monaghan General Hospital to facilitate an increased volume of elective surgery on a day basis at the hospital. My Department has approved revenue funding of €500,000 for this purpose.

Applications for three consultant surgical posts to facilitate the development of surgical services across the Cavan-Monaghan hospital group have been submitted to Comhairle na nOspidéal for approval. The board is to submit proposals to my Department for the provision of an additional 19 beds at Cavan General Hospital as part of the reconfiguration of services across the group.

Last night a number of Deputies referred to the headline in the ESRI report regarding Ireland being ranked 21 out of 22 countries on health status. It is worth pointing out that in coming to that conclusion, the report used data on life expectancy and referred to non-medical factors such as tobacco and alcohol consumption. Many of these can be broadly described as non-medical lifestyle factors which impact significantly on health outcomes and health status. As part of the major reform process the Department is in the process of implementing a population health approach and health impact assessment, both of which are key to addressing these issues.

The Government is addressing the key health outcomes set out in the ESRI report, particularly through its investment in the cancer strategy and the cardiovascular strategy, these diseases being two of the greatest causes of premature mortality.

**Mr. Hayes:** I wish to share time with Deputies McHugh, Finian McGrath and Joe Higgins.

**An Ceann Comhairle:** Is that agreed? Agreed.

**Mr. Hayes:** I thank the Technical Group for facilitating me to contribute to this important motion. I wish the Minister for Health and Children the best of luck in her new portfolio. While everybody knows it is an important portfolio, it is also a difficult one. The public is crying out for

change. There is no other Department where the public is demanding change. I also wish the three Ministers of State the best of luck.

I wish to address a couple of issues. First is the failure of the Government to deliver on the promise of providing an extra 200,000 medical cards and the fiasco where well over 100,000 medical cards have been taken out of the system since 1997. I appeal to the Tánaiste in this regard because the reality is that the income threshold is far too low in regard to medical cards. Those of us who deal with constituents on a weekly basis at our clinics see the problem at first hand. In my constituency approximately 6,000 would benefit from medical cards if that promise was delivered. The Government should look seriously at that situation and the hardship caused to many throughout the country.

The second issue I wish to address is the radiotherapy service. I cannot understand why people in the south-eastern region, who have worked hard and paid their taxes, who have developed cancer cannot have radiotherapy treatment in their own area. Neither I nor the public can understand it. The doctors and consultants do not think the same way as those who compiled the report commissioned by the Department of Health and Children. I ask the Tánaiste to look at this matter. On a human level I see and meet people from my constituency travelling to Dublin by train on a regular basis for radiotherapy treatment. In this day and age when we call ourselves a well-off country, this is deplorable and needs to be addressed.

Another issue that has been mentioned and is of grave concern to me, and one I raised with the Tánaiste yesterday, is the position of hospital services in south Tipperary. In January 1996 an agreement was reached following an ongoing dispute over 40 years between Cashel and Clonmel on services for south Tipperary. It was agreed that the surgical service would transfer from Cashel hospital to Clonmel hospital. Despite the delay over many years, it was only in the past few weeks that money was allocated for staffing of the surgical service at Clonmel hospital.

This is where the real trouble begins because the health board does not have money for the developments which were promised for Cashel. Before I came to Dublin yesterday, I visited the staff and heard their anxieties about what the future holds despite their having signed an agreement to stay in Cashel Hospital. I ask the Tánaiste to examine the positive plan for services which was proposed for Cashel and Clonmel as soon as possible. If the plan for the south Tipperary region is to work, Cashel Hospital must get funding and its problems must be resolved.

**Mr. McHugh:** I wish the Tánaiste and Deputies Peter Power and Twomey the best of luck in their new appointments.



This Private Members' motion is extensive and broad ranging but I wish to deal with just one element, namely, the need to approve the planning brief for Tuam Hospital and make funding available to allow the project to proceed. I make no apology whatsoever to Deputy Fiona O'Malley or anyone else for doing so. It is my duty to represent in this House the issues which are of concern to my constituents and to pursue a solution to the best of my ability. The lightweight, juvenile and ill-informed comments of Deputy Fiona O'Malley add zero to the standard of debate in the House. It is not my style to be personal, but there is only so much rubbish to which one can listen.

The Taoiseach and the previous Minister for Health and Children, Deputy Martin, committed to this project as recently as the 2002 general election when he visited Tuam. This week's *Tuam Herald* states:

When Taoiseach, Bertie Ahern, came to Tuam in 2002, during the general election campaign he urged Fianna Fáil members and supporters to make the party's commitment to reopening Tuam's Grove Hospital clear on the doorsteps. Speaking to supporters in the old Imperial Hotel in Tuam, he told them they should not listen to any old nonsense regarding lack of Government support for the project. "Buying the hospital site was commitment enough", he stated. "We bought it, we are attached to it and we are committed to it", he said and encouraged his supporters to go out and make this clear on the doorsteps during the election campaign. He said the then health minister, Micheál Martin, was working on the plans and when back in Government they would implement those plans.

That statement is clear, however, it is not clear why nothing happened in regard to Tuam Hospital when the Taoiseach and the Minister for Health and Children returned to Government two and a half years ago. We now need the Tánaiste to approve the planning brief for Tuam Hospital which has been with her Department since 8 October 2002 gathering dust on a shelf.

The case for a hospital in Tuam is fully backed up by the relevant agencies, plans and strategies. The Taoiseach and the former Minister for Health and Children support the project as do the Western Health Board and the national spatial strategy. The Western Health Board separately identified the need for an ambulance base and primary care services in Tuam. I know the hospital will not be provided overnight but the essential first step is to approve the planning brief and make funding available to allow the planning to begin. Finance also needs to be made available for the establishment of an ambulance base now as well as the provision of a primary care unit.

**Mr. F. McGrath:** I thank the Ceann Comhairle for the opportunity to speak to this Independent Private Members' motion.

It is refreshing to hear the Tánaiste and Minister for Health and Children adopt the vision and concern of the Independent Members when she stated that she wanted to have a health service which is accessible to every citizen regardless of their wealth. This is a fine statement but sadly, for many patients and people with disabilities, it is only a statement, particularly given that the Government has been in power for eight years.

I will not waste time pointing out the Government's failures in respect of waiting lists, accident and emergency departments, the promised 1,000 extra hospital beds and 200,000 extra medical cards and the 3,000 people with intellectual disabilities on waiting lists. Rather, I want to look to the future and set out the priorities for this Minister and her Government. They are basic rights for all people in the State and are achievable within two years and I urge the Minister to listen to the constructive proposals for reform and investment in our health service, more beds in the front line at accident and emergency departments, dealing with the shortage of nurses and lack of ICU nurses and less consultant bashing and more common sense in resolving disputes. The Government should try listening to the medical staff instead of trying to paint them as the bad guys in the media. It should take up their challenge and provide more beds. This is a simple basic political decision which is in the hands of the Minister.

In regard to Beaumont Hospital in my constituency, the Tánaiste should listen to people like Dr. Christopher Thompson who stated that "the diabetes service is completely under-resourced and this has been the subject of the last four business plans that I have submitted to the Eastern Regional Health Authority and which have not been addressed". These are the core issues in this debate and I urge the Tánaiste to listen to the people on the front line.

In regard to people with intellectual disabilities, there are five priorities, namely, to end the waiting list for residential services for people with an intellectual disability by providing, over a three year period, 1,500 new residential places; to increase the number of respite places for children and adults by 600 over a three year period; to complete the programme to transfer people with an intellectual disability inappropriately placed in psychiatric hospitals; to introduce a national standards for disability service; and I also encourage the Minister to end the means test for the carer's allowance.

These are all sensible suggestions and it is time they were delivered to our citizens. There is no logical reason why these services are not being delivered. I urge all Deputies to support the motion tabled by the Independent Deputies. This



[Mr. F. McGrath.]

motion is about people, it is about caring and it is about quality services but, above all, it is about a chance to invest in and reform our health services.

**Mr. J. Higgins:** This motion hits out at a health service where access is based on ability to pay rather than on need. That is the reality in our society and is inevitable in an economic system which dominates this society which is driven primarily by the greed of a powerful minority, vindicated by the political masters of our system at present.

Given that Fianna Fáil and the Progressive Democrats champion inequality in society by championing the ethos of capitalism and globalisation, what confidence can we have that the Tánaiste, one of the ideological sergeant-majors of the Government, having taken over the health service will give us one which is just and honest as she has promised and one which is in the interests of all the people? The health service mirrors the structures of our society.

Under this Government in the past seven and a half years, the chasm between the classes has grown immeasurably. Therefore, despite the claims made by the Tánaiste and Minister for Health and Children, Deputy Harney, her ideology will dictate greater rather than less inequality. The newly-opened Galway Clinic is a monument to health inequality with the stamp of approval of the Taoiseach. Powerful big business investors are getting major tax breaks and their profits are therefore subsidised by those taxpayers on the minimum wage who will never be able to place a foot on the plush carpets of that private facility

unless they are brought there in a token fashion under the national treatment purchase fund.

**Ms Sexton:** Does the Deputy suggest we do not treat them at all?

**Mr. J. Higgins:** In the provision of primary care, the Minister for Health and Children again hinted tonight that we will have to depend further on those seeking profits. If one crosses Mulhuddart Bridge travelling from Blanchardstown, one will find a population rapidly approaching 10,000 with not a single hint of primary care. There are no doctors, pharmacies or health centres and they are badly needed. The Tánaiste's colleague, Deputy Brian Lenihan, will have to get his togs on in regard to providing such essential services to the people of Mulhuddart. I find it extraordinary that the Tánaiste did not refer to the 200,000 medical cards that she promised. She did not refer to the grotesquely low eligibility levels which keep poor people from the right to a comprehensive health service.

The accident and emergency facilities in hospitals are incredibly poor. We acknowledge that Deputy Fiona O'Malley had a rush of blood to the head tonight. She probably thought she was back debating in the literary and historical society in college and was therefore unable to read her script properly. Coming out in favour of the closure of accident and emergency departments in general hospitals is an extraordinary call by any Member of this House purporting to represent ordinary people. It is crucial that we have comprehensive, good quality facilities that are available to all our people in all regions and counties.

Amendment put.

The Dáil divided: Tá, 62; Níl, 51.

Tá

Ahern, Michael.  
Ahern, Noel.  
Andrews, Barry.  
Ardagh, Seán.  
Blaney, Niall.  
Brady, Johnny.  
Brady, Martin.  
Browne, John.  
Callanan, Joe.  
Callely, Ivor.  
Carey, Pat.  
Carty, John.  
Collins, Michael.  
Coughlan, Mary.  
Cowen, Brian.  
Cregan, John.  
Cullen, Martin.  
Curran, John.  
Davern, Noel.

Dennehy, John.  
Devins, Jimmy.  
Finneran, Michael.  
Fitzpatrick, Dermot.  
Fleming, Seán.  
Gallagher, Pat The Cope.  
Glennon, Jim.  
Grealish, Noel.  
Hanafin, Mary.  
Harney, Mary.  
Haughey, Seán.  
Jacob, Joe.  
Keaveney, Cecilia.  
Kelly, Peter.  
Killeen, Tony.  
Kirk, Seamus.  
Kitt, Tom.  
Lenihan, Brian.  
McDowell, Michael.

Tá—continued

McEllistrim, Thomas.  
Martin, Micheál.  
Moynihan, Donal.  
Moynihan, Michael.  
Nolan, M. J.

Ó Cuív, Éamon.  
Ó Fearghaíl, Seán.  
O'Dea, Willie.  
O'Donnell, Liz.  
O'Donovan, Denis.

O'Flynn, Noel.  
O'Keeffe, Ned.  
O'Malley, Tim.  
Parlon, Tom.  
Power, Peter.  
Power, Seán.  
Sexton, Mae.

Smith, Brendan.  
Smith, Michael.  
Wallace, Dan.  
Wallace, Mary.  
Walsh, Joe.  
Wilkinson, Ollie.  
Woods, Michael.

Nil

Allen, Bernard.  
Boyle, Dan.  
Breen, James.  
Breen, Pat.  
Broughan, Thomas P.  
Bruton, Richard.  
Burton, Joan.  
Connaughton, Paul.  
Costello, Joe.  
Cowley, Jerry.  
Crawford, Seymour.  
Crowe, Seán.  
Cuffe, Ciarán.  
Deenihan, Jimmy.  
Ferris, Martin.  
Gilmore, Eamon.  
Gogarty, Paul.  
Gormley, John.  
Gregory, Tony.  
Hayes, Tom.  
Healy, Seamus.  
Higgins, Joe.  
Higgins, Michael D.  
Hogan, Phil.  
Howlin, Brendan.  
Kehoe, Paul.

Lynch, Kathleen.  
McGrath, Finian.  
McHugh, Paddy.  
McManus, Liz.  
Mitchell, Gay.  
Mitchell, Olivia.  
Morgan, Arthur.  
Murphy, Gerard.  
Neville, Dan.  
Ó Caoláin, Caoimhghín.  
O'Dowd, Fergus.  
O'Keeffe, Jim.  
O'Shea, Brian.  
O'Sullivan, Jan.  
Pattison, Seamus.  
Penrose, Willie.  
Rabbitte, Pat.  
Ryan, Seán.  
Sargent, Trevor.  
Sherlock, Joe.  
Stanton, David.  
Timmins, Billy.  
Liam Twomey  
Upton, Mary.  
Wall, Jack.

Tellers: Tá, Deputies Kitt and Power; Níl, Deputies Gregory and McHugh.

Amendment declared carried.

Motion, as amended, put and declared carried.

### Adjournment Debate.

#### School Accommodation.

**Mr. Sargent:** Ba mhaith liom buíochas a ghabháil leis an gCeann Comhairle as seans a thabhairt dom an cheist thábhachtach seo a ardú ar an Athló anocht. I wish the Minister well in her new position. I have not had the opportunity to do so in the House although I have done so outside it.

The Minister will be aware of the pressures on schools in an area with a growing population. Balbriggan, a designated growth town in terms of the national spatial strategy and Fingal County Council's development plan, is bursting at the seams, as Deputy Glennon will acknowledge. This issue arises from that phenomenon more than any other.

St. Molaga's national school, a senior primary school on the north side of that town, with 300 pupils — the number is growing — is particularly noteworthy as it has a number of special learning need classes. The Department has recognised the school's proficiency in that area and asked it to

take on another such special needs class. It is close to Mosney where a number of non-nationals live. The children of families living there attending St. Molaga's national school bring an additional element of need in terms of language diversity. This school has considerable challenges and demands on its resources and expertise. To have the crisis of a lack of accommodation on top of that is asking it to bear the unbearable.

In September 2003 the school authority applied for three prefabs. It was granted one and is seeking the balance. There is a considerable background to its accommodation needs, into which I could go but I must be brief given the time available. Day in and day out the school is turning away pupils. At least 15 pupils seeking places at the school have been turned away this year alone. These are young people living nearby, often within sight of the school. The appalling situation that needs to be recognised is that many children living in Balbriggan within walking distance and sometimes within sight of the school have to be transported by car or some other means to schools in Artane, Clontarf or Raheny where they can find a place. Not to mention the traffic such journeys add to our already congested roads, there is the trauma families experience in their children having to make such journeys. A direct and immediate response is needed.

[Mr. Sargent.]

I find it strange and contradictory that general purpose rooms and PE halls must suffice for accommodation while primary schools are at the same time being asked to become excited and full of anticipation over the new PE and music subjects on the revised curriculum. It is contradictory on the part of the Department. PE halls are not suitable for teaching the revised curriculum, as the Minister recognises having been a teacher.

The Department has recognised the proficiency of the school and asked it to take on additional responsibilities in terms of special needs education, including the facilitation of a proportion of non-nationals greater than that in other schools. The school's staff room has to be used for a non-national class that is grappling with the challenges of the English language. With these points in mind, will the Minister, if she is ever in the vicinity of the school, call in to recognise its work and see for herself the challenges it faces? The application in question is serious and cannot be turned down.

**Minister for Education and Science (Ms Hanafin):** I thank Deputy Sargent for raising this issue. As he quite rightly said, the north Dublin area, Balbriggan in particular, has grown exponentially. The Deputy is not the only one to have raised this with me as Deputy Glennon took up a good part of my morning to explain to me the difficulties of provision in this area. We recognise that this issue needs to be addressed, especially given the population growth and the fact that so many young families are moving into the area.

St. Molaga's national school is one of the schools that must be considered in the context of our schools building programme. It is interesting to examine the figures for the growth of the school in recent years. From the 1999-2000 school year to date, enrolment has increased from 253 to 312.

The Deputy quite rightly referred to the special needs class. It is to the credit of the school that it has such a class and I commend it on providing that facility. It is for this reason that it has seven specialist teachers — this is higher than the average — along with a principal and 11 mainstream teachers. It obviously puts increased demands on its space.

The school was grant-aided for two extra temporary classrooms in May 2004. It then lodged an application for two further classrooms to cater for September 2005. The applications for temporary accommodation are being accepted and the closing date is 5 November. We will obviously consider them after that date. We should have definite word on the school's application by the end of January to allow it to make provision for the installation of whatever temporary accommodation it receives. The permanent extension is an issue of real concern and is being examined

actively along with the prioritisation criteria established with the education partners, as the Deputy will be well aware.

This is an interesting area, as the Deputy stated, because the north Dublin-east Meath-south Louth region is being included in a pilot scheme regarding a new school planning model. This is to ensure that in areas with burgeoning populations, the future provision of school infrastructure can be arranged in consultation with all the partners, including the parents, trustees, sponsors and prospective new schools. It is important that they all have their voices heard in the process. Arising from this, an individual plan will set out the blueprint for all the schools of an area. This will be the mark by which capital investment will be decided over the next ten years. This is the way to go for areas such as that represented by Deputies Sargent and Glennon. It should help us in our understanding of when the permanent extension in question will progress. I will certainly examine the issue in the context of the needs of new areas. The issue of temporary accommodation will be considered soon.

**Mr. Sargent:** What about the parents whose children are refused every day?

#### **Hospital Services.**

**Ms McManus:** This Monday two young children were sent home from Our Lady's Hospital for Sick Children in Crumlin. Both had heart conditions that required surgery. Their experience mirrors in a deeply disturbing way that of the tragic child, Roisin Ruddle, who was sent home because of a staffing shortage at the hospital and who died subsequently. The investigative reports on that event have still to be published. The Minister for Health and Children should publish them immediately. It is incomprehensible that lessons have not been learned from that terrible event. We need to know exactly what those lessons are.

In one of the cases to which I refer, the child had been gowned and was ready for surgery. A team of experts was ready to assist in the procedure and in the child's care. An operating theatre was available but the child was sent home instead of to the theatre. He was first due to have his operation last June but it is now October and he is still waiting. It must be remembered that this has a knock-on effect on other children waiting for operations. It is not just two children who are affected. Who knows how many are waiting in the queue?

The spokesperson for the hospital has stated the problem clearly. There are 20 nurse vacancies in Our Lady's Hospital. In the country as a whole there are more than 700 such vacancies, yet the Minister for Health and Children boasts that we have the highest ratio of nurses to population in the EU. We may have in theory but the reality is that Irish nurses are leaving the profession



because there are more attractive options elsewhere.

The work of an intensive care paediatric nurse is demanding, difficult and pressurised. Such nurses are not afforded sufficient recognition for the work they do. As a consequence, there is a shortage. We are training enough nurses but our problem is that we are not holding on to enough of them. Greater efforts must be made and practical measures introduced to deal with that reality.

I have argued for the introduction of a special weighting system for Dublin and other cities. The Irish Nursing Organisation, INO, has made the same argument but the Minister for Health and Children has turned a deaf ear. Instead, the Government policy is to trawl the world for intensive care, IC, nurses and when one is found, she or he is required to pass a language test in Ireland which, apparently, is more difficult than that in the UK, which is competing with us to attract nurses into the national health service, NHS.

I urge the Minister for Health and Children to introduce immediately and announce publicly measures to address the pay and conditions of intensive care paediatric nurses. I also urge her to commit publicly to the construction of a new hospital on the site of Our Lady's Hospital in Crumlin. This is long overdue as the existing buildings are not appropriate in this day and age. They have already been the subject of a damning critique published by an expert on hospitals. If a new hospital is built on-site, it will prove to be a much more attractive environment for nurses and others in which to work and would be part of the solution to the problem in question. In the meantime, the Minister can introduce immediate measures and I urge her to do so in the interest of children and their parents.

**Tánaiste and Minister for Health and Children (Ms Harney):** I thank Deputy McManus for raising this issue which we dealt with on the Order

of Business. I and the hospital regret very much that it was felt necessary to defer surgery on two patients due to a lack of staffed ICU beds. The beds to be occupied by the patients in question were used instead to accommodate two emergency cardiac surgery cases that had to be carried out that day. Extensive efforts were made to make ICU beds available. However, it did not prove possible to accommodate the two elective cases and their surgery was accordingly deferred. In both cases the parents were given an alternative date for surgery before they left the hospital.

The hospital seeks to prioritise elective cardiac surgery and minimise the number of deferrals. However, priority is always given to emergency cases which are, by their nature, unpredictable, and unfortunately this may necessitate the deferral of less urgent cases.

There are 16 fully equipped and funded intensive care beds at the hospital, and five high

dependency beds. These are divided into two units, the main ICU and St. Patrick's ICU. The main unit consists of eight beds and caters for all post-operative open heart surgery cases in addition to other intensive care patients. Complex cardiac cases are concentrated in the main unit to maintain the specialised nursing skills required for these patients. St. Patrick's ICU consists of 13 beds, five of which function as high dependency beds. St. Patrick's ICU does not admit post-operative open heart cardiac surgery patients as the nursing skill mix to care for these patients is located in the main unit.

The approved funded complement of nurses for the ICU at Our Lady's Hospital is 124. Currently, the ICU has a staff of 107 nurses. Because of the nursing shortage, which is not unique to Ireland but global, the ICU is staffed for between 14 and 17 beds, depending on the case mix between intensive care and high dependency patients. Patients requiring intensive care are nursed on the basis of one nurse per patient, whereas patients requiring high dependency care are nursed on the basis of one nurse per two patients.

On the morning of 11 October, 15 ICU beds were occupied. The hospital made two ICU beds in the course of the day but these were used to accommodate the two emergency cases.

The hospital has been involved in an extensive campaign globally to recruit nurses, in the Middle East, Asia, the United Kingdom and Poland. I share the view expressed by Deputy McManus relating to the English language competency requirements here and in Britain. The reality is that nurses can now come from any EU country and practice here, even with a minimum amount of English. We must be practical in the manner in which we apply standards of that kind. I hope to have some discussions with An Bord Altranais concerning that matter in particular.

I am informed that since 2000, 12 nurses from Our Lady's Hospital have completed the paediatric intensive care nursing course. A further ten are undertaking the programme. Five are due to complete the course in 2005 and the remainder in 2006.

All possible measures need to be taken to reduce the possibility of a deferral of elective surgery at Our Lady's Hospital. I spoke with the hospital authorities today and they have expressed their regret, as I also wish to do now, that this had to happen. However, given the unpredictable nature of emergency cases, the hospital cannot always guarantee that elective cases will not, on occasion, be required to be deferred.

#### **Health Board Funding.**

**Mr. Crawford:** I thank the Ceann Comhairle for giving me the opportunity to raise this important issue. I wish the Tánaiste well in her

[Mr. Crawford.]

new post as Minister for Health and Children. Her portfolio is possibly one of the most important in Government. We certainly need a great deal of assistance in the North Eastern Health Board area and I hope the Minister will see to it that we receive that assistance.

I have raised this issue following a number of cases that have come to light recently. Yesterday, I received a phone call from a man whose mother must avail of nursing care. She is already in temporary accommodation in Cavan. He applied for subvention in the normal way and suddenly found that because the farmhouse is in his mother's name, it must be taken into account and all that can be given is €114 per week. He does not have the finance to meet the difference in paying for a nursing home. The man in question is the only son of the household and is not dependent on his mother. Having gone through the issue with the subvention officials, it appears that this anomaly needs to be examined seriously. There is no doubt that this lady needs full-time care.

A few days ago I came across another case in which a lady from County Monaghan had to move into a home in Sligo. She has family in Sligo which is part of the reason for her move. There was also a problem in obtaining the subvention since she had to move into the home in a hurry before the subvention forms could be sorted out. I do not blame the local authorities for that but there is an anomaly there as well. The Northern Eastern Health Board area cannot pay such subventions retrospectively owing to a lack of funds. The homeowner in Enniscrone has made it clear that he never had such a problem with any other health board area in his life. Hitherto, if somebody needed care, the subvention was made available on time.

I bring these two cases to the Minister's notice because of the serious overall situation in the north east. A few years ago, we had about 250 subvented beds, but that figure has been cut back dramatically. When I raised this matter with the chief executive of the health board, Mr. Paul Robertson, he made it clear that it was simply because the board does not have the funds available.

I could cite a litany of case histories involving lack of home help. One lady in Cavan was obtaining ten hours home help per week, yet that was cut to two and a quarter, which is 45 minutes for three days per week. If she needed home help, surely she required it for at least five days per week. A couple in their 80s in south Monaghan had their home help removed, even though the lady has poor sight. An aged brother and sister living in the Cootehill area received three to four hours of home help per week, whereas they required three or four hours per day. The man has since died. I have already raised in the House the case of a lady in a wheelchair who receives

one hour's home help per week. We cannot be serious about providing home help to try to keep people out of nursing homes if that is the sort of service available.

One person informed me that when she was looking after her mother, she was so badly pressed that she had to pay somebody to let her attend a special commemoration in her place of worship. She had to pay €20 for a few hours. The home help issue needs to be examined. The Tánaiste and Minister should give the North Eastern Health Board the extra money it requires. The board's chief executive made it clear to me that he has put the relevant figures to the Department. The figures show there is a shortfall of €42.5 million using the historical basis criteria. Even though the area has had the single largest increase in population in recent years, the shortfall is €130 million.

I do not apologise for having been critical of the health board's chief executive officer, CEO, in the past, but one cannot expect him to work miracles. This area needs to be examined as it comprises an ageing population, including a higher ratio of people over 85 than anywhere else in the country. I urge the Tánaiste to re-evaluate funding to the North Eastern Health Board to provide what is necessary.

**Ms Harney:** I thank the Deputy for having raised this matter. The issue of care for the elderly is one of concern to everybody in this House. Given the demographics of our population, with an additional 6,000 people each year moving into the over-65 category, care of the elderly will continue to be a major issue for us in future. In the context of resources that may become available, whether from the special savings investment account scheme or elsewhere, we will have to examine seriously a range of initiatives in this area. Most elderly people wish to remain in their own homes, stay with their families and be as independent as possible. Since 1997, the Government has substantially increased funding for services for older people, from £10 million in 1997 to €277 million in 2003. A further €10 million was allocated this year.

Funding for the nursing home subvention scheme in 2004 will amount to approximately €115 million, helping 10,000 clients receiving a subvention payment, and more than 50% of these clients receive an enhanced subvention payment. I am conscious that, given the huge increase in the cost of nursing home care, very often it falls far short of what is required, particularly in the greater Dublin area, but not exclusively.

I am pleased that the home help service has been extended. Since 1999, with the introduction of the national minimum wage, home helps are now appropriately remunerated. They were one of the groups that were a driving force for the introduction of a statutory national minimum

wage. In 2003, expenditure on the home help service was more than €110 million and this year in excess of €113 million has been allocated to the service. It greatly helps many older people, who would otherwise require institutional care, to remain in their own homes, in many cases either living alone or living with members of their family.

I thank Deputy Crawford for raising this issue. Since my appointment to the Department of Health and Children, the whole issue of care of the elderly is a priority for me, as it is for the Government. In the context of solving accident and emergency problems in the acute hospital services, I hope to bring forward appropriate step-down facilities for patients who do not require to be in an acute hospital bed. Because there is no alternative, this issue needs to be addressed. This is an area about which we will hear much more, not just in the Dublin area but in the entire country.

I hope that from next year, with the establishment of the health services executive, a central agency to administer health care nationally, the kind of discrepancies to which the Deputy referred as between one part of the country and the other, will be eliminated as quickly as possible. It is not satisfactory that services are available to people living on one side of a road from a health board while on the other side, something far short of that is available to citizens who live in a different health board area. This is not desirable, fair or equitable.

### **Social and Affordable Housing.**

**Mr. Walsh:** I thank you, a Cheann Comhairle, for allowing this important question on the Adjournment and I thank the Minister of State, Deputy Ahern, for coming to the House to take the question.

Last year in my position as Minister for Agriculture and Food, I encouraged Teagasc to make 15 hectares of land available at the agricultural college in Clonakilty. Clonakilty is a growth town. There is a long housing list and an acute need for affordable houses. Housing stock is particularly expensive in west Cork. Sites are making a couple of hundred thousand euro and houses typically cost between €350,000 and €550,000. Obviously young people cannot afford that burden, even with two good jobs. It is crucially important that this project is expedited. I know the Minister of State strongly supports the affordable housing initiative. This is an inspired and laudable initiative that has the total support of the Government and the social partners. However, it is disappointing that in the Clonakilty region a number of members of the Fine Gael Party are opposed to the scheme for their own middle-class reasons. They can be critical of such an initiative in the comfort of their nice suburban houses.

I encourage the Minister of State to keep the urgency of the project to the fore. In carrying out the project, I would like particular attention to be paid to planning and design. There is no need for high density and it is important to create a rural village. There is already a school and church in the village, therefore, it lends itself to a great deal of creativity, with plenty of green area and supporting structures. It could be twinned with the local village of Ring.

I ask the Minister of State to continue with the initiative and perhaps he will give me an up-date and time scale for the commencement of the work.

### **Minister of State at the Department of the Environment, Heritage and Local Government**

**(Mr. N. Ahern):** I thank Deputy Walsh for raising this matter. The affordable housing initiative was included as one of the ten special initiatives negotiated with the parties to the pay agreement in Sustaining Progress. The initiative is aimed at those who in the past would have expected to purchase a house from their own resources but find that they are unable to do so in the current housing market.

Good progress is being made on the initiative. Part V affordable units are an important contribution to the initiative. More than 50 projects on State or local authority lands are planned. It is projected that these projects, together with more than 2,100 affordable units coming from Part V, will deliver a total of approximately 8,900 units to the initiative. My Department is currently engaged with a number of other Departments and State agencies with a view to securing further land to reach the agreed target of 10,000.

In December 2003, Deputy Walsh as Minister for Agriculture and Food proposed a site at Darara Agricultural College in Clonakilty which was agreed by Government for inclusion in the initiative. As Minister with responsibility for housing, I acknowledge this and the other sites put forward by Deputy Walsh, which are sizeable and have greatly helped to boost the initiative. The number of housing units to be provided on this site, which is approximately 15 hectares, will depend on feasibility and other studies and the planning process.

The State lands made available for the initiative are transferred to the relevant local authority responsible for developing and progressing the projects. In this case, it is up to Cork County Council to plan and develop this project in a sustainable manner. The council has established an in-house technical group to progress the project. There is a keen interest locally in this project and I understand the council has already started local consultations. I heard what Deputy Walsh said about some objections and I hope they will not be too loud.

[Mr. N. Ahern.]

Cork County Council advertised for consultants to undertake a thorough feasibility assessment in terms of strategic land use planning, financial viability, affordability and suitable infrastructural solutions on 7 August this year. There were six submissions and short-listing interviews took place on 21 September. Two candidates have been invited back for interview to take place during the second week in November, after which it is expected the contract to undertake the study will be awarded. The intention is to complete the feasibility study by the end of December 2004 or January 2005.

The study will result in a range of conceptual design options with a number of suitable settlement models being brought forward for discussion. Following the selection of a suitable model, detailed design and planning will be necessary. As with all projects under the initiative, all activities are being progressed as a priority with some being paralleled as necessary with a view to early delivery of units. Ownership of the site is in the process of being transferred to Cork

County Council following approval by the board of Teagasc of the transfer at its May 2004 meeting.

When I was in Cork in early September, in nearby Inchydoney, I visited the site and discussed progress and options with officials of Cork County Council. I promise to continue to monitor progress on this site and other sites under the initiative and will try to ensure that the Department pushes matters forward and does everything possible to secure the earliest possible delivery of units. It is a nice location, adjacent to the church. When Deputy Walsh was Minister for Agriculture and Food, he was helpful in giving this and other sites, and it is my intention to push forward and get the work done as quickly as possible. I hope the objections which Deputy Walsh mentioned will not prove a barrier because everybody's co-operation is required and we do not want delays when it comes to the planning process.

The Dáil adjourned at 9.20 p.m. until 10.30 a.m. on Thursday, 14 October 2004.



## Written Answers.

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

*Questions No. 1 to 13, inclusive, answered orally.*

### Beef Industry.

14. **Mr. Murphy** asked the Minister for Agriculture and Food her plans to assist the beef industry and if she will make a statement on the matter. [24440/04]

**Minister for Agriculture and Food (Mary Coughlan):** The focus of the Irish beef industry has been on broadening and expanding its market reach at EU retail level, shifting its orientation away from international commodity markets and into the higher priced internal EU marketplace. It has also eliminated its dependence on export measures such as intervention. This contrasts sharply with the situation that prevailed throughout the 1990s when the industry exported 50% of its products into non-EU markets. Last year, this share dropped to just 17% while the EU share increased proportionately.

Non-EU markets continue to be important outlets for Irish beef and the maintenance of an appropriate export refund policy, which I keep under close review, is a key ingredient in the promotion of beef in third countries. I will continue to press hard for the re-opening of traditional third country markets and I was particularly pleased to announce the re-opening of the Algerian market last week.

Increased sales into Continental Europe coincided with the emergence of an EU market deficit in beef for the first time in 25 years together with falling production levels aligned with a strong recovery in consumption. Ireland is now well placed to consolidate this position and to move further up the value chain, having demonstrated the quality and safety of Irish beef through its broad appeal to EU consumers. A targeted approach based on quality production represents the best and most profitable way forward for the Irish industry. This is particularly the case in the post-decoupling context when the market will be the sole determinant of the nature and scale of output from the sector. In such a context there will be a need for even greater emphasis on good breeding policies, payment related to quality and sophisticated and integrated supply and purchasing systems.

Ireland will shortly be among the first EU countries to classify beef carcasses by mechanical means. This will not only enhance the producer processor supply chain but it will also provide wider benefits to the industry as Ireland consolidates its position as a supplier of top quality beef to the consumer markets of the EU. The installation of mechanical grading machines is supported by a grant scheme from my Department.

## Departmental Staff.

15. **Mr. Connaughton** asked the Minister for Agriculture and Food her plans to re-allocate staff within her Department as a result of the introduction of the single farm payment and if she will make a statement on the matter. [24456/04]

**Minister for Agriculture and Food (Mary Coughlan):** The implementation of the mid-term review of Agenda 2000 is the single biggest operational challenge facing my Department in the period ahead. It involves the discontinuance of the seven major livestock and arable aid schemes in operation and their replacement by a single payment scheme with effect from 1 January 2005.

To assist with the additional preparatory work linked to the introduction of the single payment regime, including applications for *force majeure*, new entrants to farming, new applications for area aid and decoupled dairy premia, a reprioritisation of work has been implemented. It should be noted that the existing premia will continue to be payable for 2004.

The single payment scheme will have a major impact on the work programme within the Department. The Department has established the strategy and implementation groups to plan for the smooth transition from the current area aid and premia schemes to the new single payment scheme. The implications for staff levels as well as their assignment and location will be considered as part of that process.

### Rural Environment Protection Scheme.

16. **Mr. McCormack** asked the Minister for Agriculture and Food if any REP scheme 3 payments have been made to date; and, if not, the reason therefor. [24454/04]

**Minister for Agriculture and Food (Mary Coughlan):** The issue of REPS 3 payments commenced on 23 September 2004. The processing of applications and approval of payments are proceeding on a continuing basis. By the end of this week, REPS 3 payments amounting to €8.1 million will have gone out to over 1,350 farmers. The vast majority of applications have been processed within the target periods agreed with the farming organisations in the protocol on direct payments to farmers.

I strongly encourage farmers to consider joining REPS 3 in light of the substantially increased payments that are now available to them. The new scheme also includes reduced penalties, requires less planner involvement and is presented in more farmer friendly documentation. I also urge farmers who are already in REPS 2 to take up the opportunity to transfer to REPS 3 at the first opportunity.

### Animal Diseases.

17. **Mr. Timmins** asked the Minister for Agriculture and Food the policy with respect to scrapie monitoring; the funding which is available to assist farmers who wish to enter the scheme; her

[Mr. Timmins.] plans to extend the scheme; and if she will make a statement on the matter. [24431/04]

**Minister for Agriculture and Food (Mary Coughlan):** The primary purpose of the scrapie monitored flock scheme has been to permit participants to meet the export certification conditions for breeding sheep in so far as they relate to scrapie. These conditions are laid down in EU law, and include, *inter alia*, a requirement that sheep intended for export for breeding have been kept continuously on a scrapie monitored holding since birth or for the last three years. As most commercial flocks do not require export status for breeding sheep there is no requirement to extend the scheme to the national flock. In addition, sheep of specified genotypes can be exported under EU law without having to comply with scrapie monitored conditions.

Apart from meeting laboratory test costs which are subsidised by my Department there is no funding provided to assist farmers to participate in the scrapie monitored flock scheme.

18. **Mr. Howlin** asked the Minister for Agriculture and Food if her Department has given consideration to a targeted cull of BSE infected cattle as opposed to the present system of mass culling of herds in which an infected animal is discovered; and if she will make a statement on the matter. [24491/04]

**Minister for Agriculture and Food (Mary Coughlan):** My Department has reviewed the policy of full herd culling of BSE infected herds in the recent past and found that it was prudent to retain it on a number of grounds for the present, although the position is kept under ongoing review. In this regard, the Deputy will be aware that a report of the FSAI's BSE sub-committee in 2002 found that, provided all existing controls and regulations are strictly complied with, there was no added food safety value of a cull of older animals.

It is generally accepted from a scientific perspective that the main cause of BSE is consumption of infected feedstuffs, with a theoretical possibility of maternal transmission from dam to calf. Horizontal transmission is not considered to be a significant factor in the spread of the disease. Current EU law requires at a minimum the slaughter of birth cohorts and progeny when a BSE case is confirmed and also provides for a whole herd depopulation approach. Countries availing of birth cohort and progeny culling only are not as heavily reliant on exports as Ireland and all have substantial domestic markets.

Over time, whole herd depopulation along with the full spectrum of BSE controls operating in Ireland have become critical elements in providing reassurance to consumers and in marketing Irish beef and dairy produce at home and abroad. In these circumstances, and while cases continue to be confirmed at current levels, it is not possible precisely to assess the market reaction to any

decision to terminate Ireland's whole herd slaughter policy. In addition, a change in policy could impact on individual farmers whose herds may be affected by the disease. Farmers left with animals which have been in the same herd as a BSE positive animal would face difficulties in selling beef or milk to processors.

All the evidence available indicates that BSE numbers here are declining and that the reduction will be maintained. Consequently, net Exchequer costs of whole herd depopulation are expected to decline. I am, however, keeping this and other aspects of our BSE controls under ongoing scrutiny.

#### Genetically Modified Organisms.

19. **Mr. Cuffe** asked the Minister for Agriculture and Food if her attention has been drawn to the demand from many consumers and farmers for genetically modified free farming; if her attention has further been drawn to the fact that no insurance company has yet been willing to provide cover for genetically modified related losses incurred by conventional and organic farmers; and the way in which she proposes to represent the best interests of farmers in ensuring a genetically modified free policy. [24549/04]

**Minister for Agriculture and Food (Mary Coughlan):** The rules governing GMOs are set down in EU legislation, which has been jointly adopted by the European Parliament and Council of Ministers under the co-decision procedure.

This legislation, which is binding on all member states, ensures that the EU has stringent assessment and control measures in place for the cultivation and use of GM crops and GM food within the Community. These measures will ensure that the highest standards of food safety and environmental protection will apply equally across the Community. The exercise of these controls is supported by the establishment of the European Food Safety Authority which makes available to the citizens of the EU an independent scientific body in which they can have the utmost confidence and trust with regard to the assessment, advice and communication of any risk associated with GMs or indeed any food safety matter.

The EU legislation encourages all member states to draw up strategies and best practices to ensure that efficient and effective measures for the co-existence of GM and non-GM crops are in place if farmers wish to cultivate GM crops in their country. The Commission, while deciding that the issue of co-existence was best dealt with at member state level, where the authorities could take account of local growing and climatic conditions, have published a set of guidelines to assist member states in the task. An interdepartmental/interagency working group has been established within my Department to develop proposals for such strategies.

Under its work programme, the working group has communicated with all relevant stakeholders, including farming organisations and insurance

groups, and sought their observations. The views expressed by these stakeholders will be considered when drawing up the final strategies which, as part of the overall report, will address the issue of liability.

#### **Farm Retirement Scheme.**

20. **Mr. Stanton** asked the Minister for Agriculture and Food the numbers availing of the early retirement scheme from farming; and if she will make a statement on the matter. [24556/04]

**Minister for Agriculture and Food (Mary Coughlan):** There were in excess of 10,250 participants in the 1994 scheme of early retirement from farming, applications for which ended in December 1999. Of these, nearly 6,000 are still active participants in that scheme. To date, a total of 2,428 applications have been received under the current early retirement scheme since it commenced in November 2000. Of these, nearly 2,300 have been accepted into the scheme.

#### **Live Exports.**

21. **Mr. J. Brady** asked the Minister for Agriculture and Food the position regarding the export of beef to Russia and if there is any difficulty with the trade. [24477/04]

**Minister for Agriculture and Food (Mary Coughlan):** Beef exports to Russia, which is a valuable market for Irish beef, are proceeding satisfactorily. Last year, Ireland exported some 75,000 tonnes of beef to the Russian Federation, which amounted to 11.5% of total Russian beef imports. In 2003, Russia introduced quotas on the importation of beef and pork to restrict imports and protect domestic production. The allocation to the EU amounted to 80% of the total and provides an opportunity for Irish exporters to develop this market further.

The recent agreement between the EU and the Russian Federation on a uniform set of veterinary certificates to be used by all EU member states exporting to Russia has averted what might otherwise have caused disruption to trade in animal products. An important element of the agreement is that Russia has accepted the principle of regionalisation so that an animal disease outbreak in a part of a member state will not block exports from the whole of that country nor from the rest of the EU. This will help to maintain market stability and keep the market open for EU product should isolated outbreaks of disease occur within the EU.

I am confident that the Russian market will continue to be an important outlet for Irish beef.

#### **Sugar Beet Industry.**

22. **Ms Burton** asked the Minister for Agriculture and Food her views on the future of the sugar industry here; her further views on recent warnings from the IFA that the industry is facing major challenges; and if she will make a statement on the matter. [24483/04]

**Minister for Agriculture and Food (Mary Coughlan):** Concerns about the future of the sugar industry have been expressed in the context of the proposed reform of the EU sugar regime. The sugar regime has not been fundamentally changed since it was established in 1968. Reform of the regime has now come on the agenda because of international pressures and having regard to the reforms already agreed for other CAP sectors in 2003 and 2004.

Legislative proposals for reform of the regime have not yet been published. However, the EU Commission outlined its broad proposals for reform in a communication to the Council and the European Parliament last July. At that time it was made clear that the proposals would have serious repercussions for the Irish industry at both growing and processing level and, therefore, that they were not acceptable in their current form. The proposals are expected to be discussed again at the Council of Agriculture Ministers next month. It will be my objective to protect the viability of sugar beet growing and processing in this country.

#### **Animal Diseases.**

23. **Ms B. Moynihan-Cronin** asked the Minister for Agriculture and Food if she has received a protocol from the IFA regarding the way in which her Department should deal with flocks in which a scrapie breakdown occurs; her views on same; if she will consider compensation to flock owners whose flocks are infected; and if she will make a statement on the matter. [24496/04]

**Minister for Agriculture and Food (Mary Coughlan):** A proposed protocol on procedures for dealing with scrapie affected flocks has been received from the IFA. My Department is committed to dealing with scrapie positive cases in the most expeditious manner possible. However, the mandatory application of the detailed EU regulation introduces both complexity and elements which are by nature time consuming.

The restrictions of flocks, the blood testing of every animal, the integrity of the animal and sample identification dimension, the genotyping of samples, the subsequent categorisation of each in the flock by genetic category, valuation of the relevant sheep, the disposal of the most scrapie susceptible animals and the issue of compensation payment to the flock owner must all be dealt with in accordance with the relevant legal and other requirements. I accept that this process can be onerous and difficult for the affected flock owners as indeed it is for the local departmental staff who are charged with managing such cases.

It is in the interest of all concerned that the entire procedure is as simple, fair and quick as possible in the circumstances. My Department is already examining a number of possibilities which may help in this regard. The IFA submission suggests a variety of specifics under a number of headings and while I cannot commit to reflecting such suggestions in the approach to be taken by



[Mary Coughlan.]  
the Department, I believe it should be possible to bring additional effectiveness and efficiency to the process. Compensation is a feature of current arrangements and this will remain the case.

#### **Food Industry.**

24. **Mr. Quinn** asked the Minister for Agriculture and Food her plans for research programmes to develop quality foods; and if she will make a statement on the matter. [24502/04]

**Minister for Agriculture and Food (Mary Coughlan):** Under the National Development Plan 2000-2006 significant funding is provided for specific food related initiatives, including research and development. These have been designed to enhance the food industry's competitiveness and innovative capability while at the same time ensuring that development is underpinned by attention to food safety and consumer demands.

Substantial investment in research and development is required if companies are to expand sales and develop export markets. Under the national development plan, funding is provided at two levels: via the food institutional research measure, FIRM, administered by my Department and by way of in-company research and development funding administered by the Enterprise Ireland. To date, my Department has allocated over €55 million to research institutions to carry out public good research into food safety, new and innovative products, food ingredients, flavourings, consumer foods and nutrition and health. The Department is planning a specific call for further research proposals in the area of food safety and is considering an initiative which would be of benefit to the speciality food sector.

Under the national development plan, Enterprise Ireland has allocated over €20 million for the purpose of in-company research and technology transfer in the food sector, which is leveraging investment into innovative and convenience foods, functional foods and the emerging area of nutraceutical products. I am confident that these initiatives will assist the food industry to develop quality food products and position the food sector to avail of substantial market and export opportunities.

#### **Common Agricultural Policy.**

25. **Ms McManus** asked the Minister for Agriculture and Food the position regarding modulation funding; if modulation funding will be returned to the sectors from which it was collected; and if she will make a statement on the matter. [24495/04]

**Minister for Agriculture and Food (Mary Coughlan):** Under the mid-term review of the CAP, modulated funds will become available for use in 2006. Potential use in that year is restricted to existing measures in the CAP rural development plan — agri-environment, early retirement,

compensatory allowances and forestry — and to the new measures introduced as part of the CAP mid-term review — food quality, animal welfare, farm advisory services and meeting standards. Each of these measures has eligibility conditions.

The Department is continuing its examination of the potential use of modulated funds. As part of that examination, widespread public consultation has taken place and discussions are continuing with relevant stakeholders. I am aware of the suggestion that modulated funding should be returned to the sectors from which it was collected. While this is an understandable consideration, the Department has emphasised to interested parties that proposals have to be assessed in the light of the eligible measures and their conditions.

Following the consultation process, I will decide on the use of modulated funds in the coming months. That decision will require EU approval, which I expect to seek in the first half of 2005.

#### **Departmental Estimates.**

26. **Mr. Naughten** asked the Minister for Agriculture and Food the plans she has to bring forward a supplementary Estimate to provide additional funding to Teagasc; and if she will make a statement on the matter. [18257/04]

**Minister for Agriculture and Food (Mary Coughlan):** Substantial Exchequer resources are provided each year to enable Teagasc to provide first class research, training and advisory services for Irish farmers and the food industry. The total funding provided by the Department to Teagasc for non-capital purposes has increased significantly in recent years, from €82 million in 2000 to €117 million this year. By any standards these are substantial resources and is a clear indication of the Government's continuing commitment to supporting the development of the agri-food sector.

In addition, in recent years substantial additional funding has been provided to Teagasc for capital development purposes. In the period 2000 to 2003, a cumulative total of almost €35 million was allocated — from the Exchequer, €27 million, and from retained proceeds from the sale of assets in 2003, €8 million — to enable Teagasc to implement major capital development programs at the training colleges and at the research centres. This year, for capital purposes Teagasc will be able to use up to €7 million from the retained proceeds from the sale of assets in 2003 and 2004 to fund its capital programme in 2004. In the circumstances I have no plans to provide additional funding to Teagasc this year.

#### **Animal Diseases.**

27. **Mr. Deasy** asked the Minister for Agriculture and Food her views on whether all sheep farmers will have to participate in scrapie monitoring if they wish to compete with foreign mar-



kets in sheep production; and if she will make a statement on the matter. [24434/04]

31. **Mr. Ring** asked the Minister for Agriculture and Food the number of sheep in the country; the number of these that have been scrapie monitored; when she expects the country's full herd to be scrapie monitored; and if she will make a statement on the matter. [24435/04]

**Minister for Agriculture and Food (Mary Coughlan):** I propose to take Questions Nos. 27 and 31 together.

According to the 2003 CSO figures, the total number of sheep in the country is 6.8 million. There are 413 participants in the scrapie monitored flocks and, on the basis of an average flock size of 80 sheep, there are approximately 33,000 individual sheep in the scheme. In the past, only sheep from flocks which were participating in the scrapie monitored flock scheme met the export certification conditions for breeding sheep in so far as these relate to scrapie. More recently, EU legislation has been amended to allow sheep of specified genotypes to be traded within the EU without having to comply with scrapie monitoring conditions. Accordingly, flock owners who wish to compete on foreign markets have a choice in how to meet the certification conditions in so far as they relate to scrapie.

The EU has adopted genotyping and breeding from scrapie resistant sheep as the way forward to reduce the incidence of scrapie. My Department is encouraging flock owners to genotype their sheep through *inter alia* subsidisation of testing costs.

#### Agriculture Policy.

28. **Mr. Durkan** asked the Minister for Agriculture and Food her vision for the future of the agricultural sector in the meat, dairy and cereal sectors; the extent to which she sees each discipline develop in the future; and if she will make a statement on the matter. [24521/04]

**Minister for Agriculture and Food (Mary Coughlan):** It is important to focus on the need for long-term planning for the meat, cereal and dairy sectors, as these account for the majority of farm output in this country. The key is to have appropriate policies and support mechanisms in place to maximise the potential of these sectors and to ensure that they meet the requirements of the domestic market and are competitive in an international context.

One of my priorities is to ensure that these sectors develop and prosper. This covers a range of issues such as efficiency at production and processing level, EU support regimes, international trading conditions and, in particular, the ability to meet changing consumer requirements. The ultimate objective is to ensure that these sectors add maximum value for the benefit of those directly involved and for the economy in general.

It is with a view to continuing the planning process for the long-term future of these vital sectors

that a group was established to set out a vision for the agriculture and food sector over the coming decade. This group, referred to as the agri vision 2015 committee, has been asked to review the recommendations of the agri-food 2010 report in the context of developments since the report was completed. This committee is expected to report shortly.

#### EU Imports.

29. **Mr. Rabbitte** asked the Minister for Agriculture and Food her views on the reported increase in the amounts of beef and poultry which may be imported into the EU; and if she will make a statement on the matter. [24504/04]

**Minister for Agriculture and Food (Mary Coughlan):** I assume the Deputy is referring to an exchange of offers made by the European Commission to the Mercosur group of South American countries in the context of negotiations on a free trade agreement between the EU and Mercosur. The Commission's offer to Mercosur regarding beef and poultry meat is in the form of import quotas for import into the EU at reduced tariff duties. The offer is for import quotas of 100,000 tonnes in the case of beef and 75,000 tonnes in the case of poultry. A deadline of 31 October 2004 has been set for the conclusion of these negotiations. The likelihood is that this deadline will not be met. The Irish position is that the offer for both beef and poultry is excessive.

#### Beef Industry Irregularities.

30. **Mr. English** asked the Minister for Agriculture and Food her views on reported investigations into beef labelling at a meat plant in Leinster; the position regarding same; and if she will make a statement on the matter. [24430/04]

**Minister for Agriculture and Food (Mary Coughlan):** My Department has asked the Garda to investigate certain practices in a licensed beef processing plant. This action was taken following preliminary results of an investigation conducted by a team from within my Department.

The nature of the investigation that led to the involvement of the Garda centred on the company's compliance with the terms of specifications for the non-EU market concerned. Such specifications are additional to those that apply in normal trade within the EU and form part of certification procedures agreed between the exporting and importing countries. In the case referred to, the issue relates to the extent to which the company in question adhered to these specifications.

In the circumstances, it would not be appropriate for me to comment further on the matter while the Garda investigation is ongoing.

*Question No. 31 answered with Question No. 27.*

### Agriculture Policy.

32. **Mr. Sargent** asked the Minister for Agriculture and Food if she will elaborate on the pledge to put an emphasis on sustainability and balance (details supplied); and if she will make a statement on the matter. [24538/04]

**Minister for Agriculture and Food (Mary Coughlan):** My comments at the National Ploughing Championships reflect the policy on agriculture, food and rural development as set out in the agreed programme for Government. This Government is committed to developing the social and physical infrastructure of rural Ireland.

Sustainable agriculture must meet economic, social and environmental challenges and its production methods must reflect and respond to the concerns and needs of consumers. The provisions of the mid-term review of the CAP cover not only the policy for direct payments and market supports but the cross compliance requirements which lay down appropriate animal health, welfare and environmental standards which must be met to obtain the single farm payment. The terms of the Luxembourg agreement can reinforce the progress made over recent CAP reforms and can prove to be an essential tool for creating the conditions for truly sustainable agriculture.

### EU Directives.

33. **Mr. McCormack** asked the Minister for Agriculture and Food the discussions she has had with the Department of Environment, Heritage and Local Government with respect to the nitrates directive; and if she will make a statement on the matter. [24451/04]

**Minister for Agriculture and Food (Mary Coughlan):** The implementation of the nitrates directive is a matter for the Minister for the Environment, Heritage and Local Government in the first instance. The recommendations of Mr. Denis Brosnan, who had been appointed to act as an independent adviser on the draft action programme giving further effect to the directive, have recently come to hand.

The draft action programme was prepared by the Department of the Environment, Heritage and Local Government together with my own Department following consultation with the various stakeholders, which included discussions with the farming pillar under Sustaining Progress. It was published in July 2004 and stakeholders were invited to comment. A draft was also published of the proposal for arrangements to allow farmers to operate above the general limit of organic nitrogen laid down in the directive, together with draft guidelines under which farmers will be required to operate.

Ireland is legally obliged to put into effect an action programme for the further implementation of the nitrates directive. The European Court of Justice has held that by not establishing and implementing an action programme, Ireland has not fulfilled its obligations under the directive.

Continued EU co-funding of major farm schemes such as REPS, disadvantaged areas compensatory allowances, early retirement and forestry is conditional on Ireland's satisfactory implementation of the nitrates directive. The directive is also one of the items of EU legislation with which farmers must comply under the single payment scheme.

My Department will continue to work closely with the Department of the Environment, Heritage and Local Government in finalising the action programme and in negotiations with the European Commission. We will seek to ensure that the nitrates directive is implemented in a way that meets Ireland's legal obligation in full and safeguards continuing EU funding of farm payments. An equally important aim will be to avoid the introduction of arrangements that would impact adversely on the viability of Irish farmers or impose unnecessary restrictions or obligations on them.

### Food Labelling.

34. **Mr. Gilmore** asked the Minister for Agriculture and Food if she is making progress in the labelling of lamb, pork and poultry to indicate the country of origin; and if she will make a statement on the matter. [24486/04]

**Minister for Agriculture and Food (Mary Coughlan):** Two statutory instruments were signed earlier this year requiring that loose poultry should bear an indication of its country of origin if imported from outside the EU and requiring that it should be labelled to show class, price per kilogram, whether fresh or frozen and the number of the production plant. Mandatory regulations already existed at EU level regarding pre-packaged poultry products.

As regards lamb and pork, the food labelling group recommended in favour of country of origin labelling for these products sold at retail level and in the food service sector. I intend to carefully consider these recommendations and will consult with other Departments, agencies and other interested parties with a view to drawing up an appropriate regulatory framework.

### Cereal Sector.

35. **Mr. Perry** asked the Minister for Agriculture and Food her views on whether a high percentage of tillage land will be left unused due to the mid-term reform; and if she will make a statement on the matter. [24448/04]

38. **Mr. Howlin** asked the Minister for Agriculture and Food if she has analysed the immediate consequences of decoupling on farmers in terms of its effects on production of crops and land holdings and other effects; and if she will make a statement on the matter. [24490/04]

**Minister for Agriculture and Food (Mary Coughlan):** I propose to take Questions Nos. 35 and 38 together.

The FAPRI-Ireland Partnership carried out an analysis, at the request of my Department, of the

likely impact of CAP reform on Irish agriculture. It concluded that the impact on the cereals sector would not be significant. An analysis by Teagasc of the likely impact of the reform on tillage farms also concluded that the majority of Irish tillage farmers anticipate that the reform will not have a significant effect on their farming operations.

Cereals farmers, having the cushion of the single farm payment decoupled from production, will in future be able to concentrate their efforts on supplying markets, focusing on minimising production costs and maximising their incomes. In this regard, they will continue to be able to avail of the research, training and advisory services provided by Teagasc and to benefit from the services provided by the Department aimed at improving the efficiency, quality and viability of cereal production. These services include seed certification, seed testing, recommended lists of varieties and so forth. The value of all these support services is reflected in the fact that Irish cereal producers have consistently achieved some of the highest yields in the world.

#### **Rural Environment Protection Scheme.**

36. **Mr. McGinley** asked the Minister for Agriculture and Food the number of persons who are in REP scheme 2; the number of applications which have been made for REP scheme 3 to date; and if she will make a statement on the matter. [24445/04]

46. **Mr. Noonan** asked the Minister for Agriculture and Food the number of persons who have applied for REP scheme 3 to date; and if she will make a statement on the matter. [24457/04]

**Minister for Agriculture and Food (Mary Coughlan):** I propose to take Questions Nos. 36 and 46 together.

At present there are 37,883 farmers in REPS 2. Of these, 3,457 have taken up the option of transforming their undertakings to REPS 3 on their anniversary dates and those cases are currently being processed. My Department has also received 2,901 applications for REPS 3 from farmers who were not already in REPS.

#### **Climate Change Strategy.**

37. **Mr. Boyle** asked the Minister for Agriculture and Food her plans to ensure that agriculture here adapts to the changing conditions resulting from climate change such as heavier rainfall and, in certain areas, increased drought; and if she will make a statement on the matter. [24541/04]

**Minister for Agriculture and Food (Mary Coughlan):** I am aware that both increased precipitation and water shortages are major issues for agriculture worldwide. Some commentators have suggested that such changes in our own climate may have both positive and negative long-term effects on Irish agriculture arising from changes in our climate. My Department is aware of and monitors the ongoing research programme

on climate change in Ireland and its likely impact. It will continue to monitor this research closely so as to identify what areas of agriculture are vulnerable to climate change and how farming systems are likely to be adapted in response.

*Question No. 38 answered with Question No. 35.*

#### **Afforestation Programme.**

39. **Mr. Penrose** asked the Minister for Agriculture and Food her priorities in the forestry sector in the short and medium term; and if she will make a statement on the matter. [24499/04]

**Minister for Agriculture and Food (Mary Coughlan):** This country enjoys many advantages for the growing of trees. Approximately 10% of our land area is covered by trees, considerably less than the European average of 35%. Our forest estate is young by international standards and we have yet to reach the goal of a viable, mature industry that can maximise benefits — including the many non-timber benefits — to society. My priority is to establish the structures and support systems that will enable us to reach that goal.

Considerable private planting has taken place in recent years. Since 1996, farmers have planted in the order of 100,000 hectares of forestry and this represents a significant land use change in a relatively short period of time. Farmers represent the future of forestry in Ireland and there are clear opportunities for more investment in forestry with the entitlement to plant up to 50% of a holding without affecting the single payment entitlements. Given the significant changes in recent times in the context in which forestry exists, I want to revisit the policy being followed since 1996 and build on the foundations already there to maximise development opportunities. The recently published Bacon review makes an important contribution to this process and is being examined closely in my Department.

The draft rural development regulation published during the summer by the European Commission sets the legal basis for support of the forestry sector for the period 2007 to 2013. The draft, in its current form, could have serious implications for the support structure for Irish forestry. To ensure that our negotiators have access to the widest perspective possible, I have established a liaison group comprising representatives of the industry to feed into the negotiating process.

#### **Live Exports.**

40. **Mr. P. Breen** asked the Minister for Agriculture and Food the way in which she proposes to expand the live cattle trade; and if she will make a statement on the matter. [24442/04]

**Minister for Agriculture and Food (Mary Coughlan):** The live cattle trade is an extremely important and valuable dimension to total trade in agricultural products. It provides a balance to



[Mary Coughlan.]

the beef trade and a valuable outlet for farmers at particular periods during the year in the disposal of calves and weanlings. The live trade is a critical component to overall competition in the beef trade. Access to all markets is intrinsic to free and open competition and it is my policy that there should be free and open access to all markets both within the EU and in third countries for Irish beef and cattle.

Ireland has considerable trade in live cattle to EU destinations, notably Netherlands, Italy, Spain and Northern Ireland. There is also considerable trade in live cattle to the Lebanon. Last year total live exports amounted to some 221,000 animals. This was equivalent to 12% of domestic slaughterings. While the live trade has been less buoyant this year, this signifies a better return on price at slaughter plants and a strong export market for beef.

### Beef Processing.

41. **Mr. Ferris** asked the Minister for Agriculture and Food if she will make a statement on the cut in the price being paid to farmers by the beef processors. [24426/04]

**Minister for Agriculture and Food (Mary Coughlan):** The price paid by meat processors for animals is a commercial issue and one in which I have no direct role. Nonetheless it is clearly in the interests of the meat industry and the food supply chain that a fair return from meat sales is available to both primary producers and processors. In this regard the decision to decouple direct payments from their associated production from next year will realign production with market expectations and the market will be the sole determinant of the nature and scale of output from the sector.

As regards beef, prices have been satisfactory in 2004 with R3 steer prices 11% higher compared with the same period last year. Beef prices are currently showing the usual seasonal decline and the downward pressure on price is also in part due to poor returns from Russia, where prices have dropped significantly, and to a weakness in the UK market for particular cuts. In recent years the focus has switched to the higher value EU market where returns are forecast to improve in the longer term as the effects of decoupling across the Community take effect.

Given the growth in intra Community sales, Ireland is now well placed to consolidate its EU market position and to move further up the value chain. This is particularly so given the emergence of an EU market deficit in beef for the first time in 25 years. Russia remains the key third country market for Irish beef and I was pleased last week to announce the re-opening of the Algerian market, traditionally an important market for Irish beef. This will provide a welcome additional outlet for Irish beef, particularly in the autumn period.

With regard to sheep, prices have remained stable compared to last year. Recent average prices for lamb are running slightly below last year's level due to higher levels of supply, which are 10% ahead of last year's total. Finally, greater emphasis on good breeding policies, payment related to quality, sophisticated integrated supply and purchasing systems, together with more competitive processing structures are key to maximising long term returns from cattle and sheep.

### Organic Farming.

42. **Mr. Gormley** asked the Minister for Agriculture and Food the way in which she proposes to promote the organic sector within farming here. [24552/04]

**Minister for Agriculture and Food (Mary Coughlan):** Attractive financial supports continue to be available to encourage farmers to consider the organic option and to respond to the market demand for organically produced food. Organic farmers are eligible for financial support through the rural environment protection scheme, REPS. With the introduction of REPS 3, organic farmers can benefit from the substantially increased basic rates along with the attractive additional payments under the organic supplementary measure. An organic farmer with 55 hectares, for example, will now receive an annual payment of €18,505 while a holding is in conversion and an annual payment thereafter of €13,555 when full organic status is achieved. One of the new elements in REPS 3 is the possibility of converting part of a farm to organic production rather than the entire farm as was previously the case.

Grant aid towards investment in the organic sector is provided through the scheme of grant aid for the development of the organic sector, which was approved under the National Development Plan 2000-2006. This scheme provides grant assistance for both on-farm and off-farm investment in equipment and facilities for preparation, grading, packing, storage and distribution of organic produce. Grant aid is payable at 40% of the eligible cost. The maximum grant payable over the duration of the scheme for on farm investment is €50,790 while the maximum for off farm investment is €508,000.

While there is a growing demand for organic food among consumers, much of it has to be met by imported produce. I believe that the introduction of the single farm payment will give farmers an opportunity to give serious consideration to the organic option.

It is ultimately the market that will determine the scale of organic farming but my Department has taken significant actions to promote its development. A national steering group, established on foot of a recommendation in the organic development committee report, acts as the driving force for the development of the sector here in Ireland. It also monitors progress on the implementation of the recommendations in the report of the organic development committee. Two sub



groups, one focusing on marketing and the other on research, education, advice and training, are also playing their part. The marketing group, for example, recently published a guide to organic food and farming, which is directed mainly at consumers.

My Department has approved seven organic demonstration farms on which open days can be attended by both existing and potential organic farmers. Teagasc has also identified advisers nationwide who will assist organic farmers as well as those considering the organic option.

#### **World Day of Poverty.**

43. **Mr. Quinn** asked the Minister for Agriculture and Food the plans her Department has to promote or take part in the World Day of Poverty on 17 October 2004; and if she will make a statement on the matter. [24501/04]

**Minister for Agriculture and Food (Mary Coughlan):** The General Assembly of the United Nations in 1993 declared 17 October as the International Day for the Eradication of Poverty. My Department does not promote any activities for this day. However, the Combat Poverty Agency is funding four community and voluntary groups to undertake activities to raise awareness of the World Day of Poverty, which is to be celebrated on 14 October this year.

#### **Farm Household Incomes.**

44. **Mr. Costello** asked the Minister for Agriculture and Food the average farm income at present; her views on a recent Teagasc report which found that average farm incomes increased by just 0.9% in 2003; and if she will make a statement on the matter. [24484/04]

**Minister for Agriculture and Food (Mary Coughlan):** The Teagasc national farm survey 2003 showed that average family farm income increased by 0.9% to €15,054. Farm incomes, however, vary significantly depending on the size and enterprise mix on farms and in particular whether the farms are full-time or part-time. Average income on full-time farms, defined in terms of labour requirements, was €29,000, a rise of 4.6%, which compares favourably with an average industrial wage of €27,991.

However, a substantial proportion of farms are part-time, 60%, and have an average farm income of €6,584. The vast majority of these households have other earned income, pensions or social welfare. The CSO household budget survey for 1999/2000 indicates that 60% of farm household income comes from off-farm sources. In recent years my Department and Teagasc have adapted many of their schemes and services to cater for the needs of farmers supplementing their income from off-farm sources.

#### **Beef Industry.**

45. **Mr. Wall** asked the Minister for Agriculture and Food if she has plans to establish a beef

strategy board to plan and develop the beef industry into the future; and if she will make a statement on the matter. [24508/04]

**Minister for Agriculture and Food (Mary Coughlan):** The focus of the Irish beef industry in recent years has been on broadening and expanding its market reach at EU retail level, shifting its orientation away from international commodity markets and into the higher priced internal EU marketplace. This forms part of the market strategy set in place jointly by Bord Bia and the industry and which has seen a marked shift in EU market penetration. Whereas the industry exported 50% of its products into non-EU markets throughout the 1990s, this contrasts sharply with the situation today where the EU market absorbs some 83% of total exports. Moreover, the total level of exports has increased steadily in the last five years. These increased sales into continental Europe coincide with the emergence of a EU market deficit in beef for the first time in 25 years.

Ireland is now well placed to consolidate this position, having demonstrated the quality and safety of Irish beef through its broad appeal to EU consumers. A targeted approach based on quality production represents the best and most profitable way forward to the Irish industry. This in turn highlights the importance of good breeding policies, payment related to quality and modern techniques which mechanical grading will provide. The industry must continue to consolidate its competitive base in the EU high value market and I believe the best way to withstand competition and build on our own already strong presence in this market is for our beef industry to maximise its efficiency levels at all stages and continue to offer the type and quality of product required by the market.

It should be noted that while there has been some pressure on producer prices in recent weeks, prices for this year are 10% above 2003 levels.

*Question No. 46 answered with Question No. 36.*

#### **Food Industry.**

47. **Mr. English** asked the Minister for Agriculture and Food her plans to extend the role of Bord Bia; and if she will make a statement on the matter. [24428/04]

58. **Mr. Gogarty** asked the Minister for Agriculture and Food the way in which she proposes to promote the food sector within farming here. [24551/04]

**Minister for Agriculture and Food (Mary Coughlan):** I propose to take Questions Nos. 47 and 58 together.

Bord Bia is the body with statutory responsibility for the market development and promotion of Irish food and drink at home and abroad. It has assumed, since July of this year, the

[Mary Coughlan.] additional responsibility for promoting and developing the production, marketing and consumption of horticultural produce, including amenity horticulture. Bord Bia plays a leading role in developing export markets and is universally acknowledged as doing a thoroughly professional job in promoting Ireland, "the Food Island". The recent Marketplace Ireland event is but one example of this strive for excellence.

The critical importance of marketing was identified in the 2004 enterprise strategy group report to the Tánaiste entitled, "Ahead of the Curve". My Department shares this philosophy and will continue to support the board in its role including, if necessary, the expansion of that role.

#### Alternative Farm Enterprises.

48. **Mr. Gormley** asked the Minister for Agriculture and Food the way in which she proposes to promote the biofuel sector within farming here. [24553/04]

**Minister for Agriculture and Food (Mary Coughlan):** My Department introduced an energy crops scheme in March 2004 in accordance with the provisions of Council Regulation (EC) No 1782/2003. Under this scheme, aid of €45 per hectare is granted for areas sown under energy crops and used for the production of products considered biofuels and electric and thermal energy produced from biomass. The aid is granted in respect of areas where production is covered by a contract between the farmer and a processor, except in the case of processing undertaken by the farmer on the holding. Agricultural raw materials, with the exception of sugar beet, may be grown under the energy crops scheme provided that the crops are intended primarily for use in the production of energy products derived from biofuels or from biomass.

From 1 January 2005, farmers may claim the energy crop payment in addition to their entitlement under the single farm payment. Following the decoupling of direct payments from production, individual farmers will now have considerable flexibility to decide what products they produce and in what quantity. I would encourage them to consider the production of energy crops as one of their options. There is a further incentive for them in article 50 of the Finance Act 2004, which provides for relief from excise duty on biofuel that is essential to a pilot project undertaken in the state, designed either to produce biofuel or to test the technical viability of biofuels for use as a motor fuel.

#### Testing of Milk.

49. **Mr. Broughan** asked the Minister for Agriculture and Food if she will introduce independent testing of milk; if her attention has been drawn to concerns regarding the current system among many farmers; and if she will make a statement on the matter. [24481/04]

**Minister for Agriculture and Food (Mary Coughlan):** The development of an independent milk testing service is a matter for the industry itself. My Department already conducts regular checks on the results of butter fat testing carried out by milk processors. It also checks the calibration of the instruments used in milk processing establishments for measuring the fat and protein levels in milk collected from producers. In addition, my Department conducts random administrative checks to ensure that the results of butter fat and protein tests are correctly transcribed into the calculation of the milk price paid to the producer.

#### Single Payment Scheme.

50. **Mr. Gilmore** asked the Minister for Agriculture and Food her approach to inspections for cross compliance; and if she will make a statement on the matter. [24487/04]

**Minister for Agriculture and Food (Mary Coughlan):** To be eligible for the single payment scheme, farmers are required to be compliant with various environmental and other standards and this is termed cross compliance. It will involve two key elements as follows: a requirement for farmers to comply with a number of statutory management requirements, SMRs, set down in EU legislation on the environment, food safety animal health, welfare, and plant health; a requirement to maintain the farm in good agricultural and environmental condition. In addition, there will be an obligation on the member state to ensure that there is no significant reduction in the amount of land under permanent pasture by reference to the total area under permanent pasture in 2003.

In general the rate of inspection required for cross compliance is 1% of those farmers to whom the relevant statutory management requirements or good agricultural and environmental conditions apply. However, at least 5% of producers must be inspected under the animal identification and registration requirements as this is the level prescribed under the relevant regulations.

In addition to cross compliance checks, it is a requirement to carry out standard eligibility checks to ensure there are no overlapping claims, no duplicate claims and so forth. At least 5% of applicants will receive area declaration checks. The requirements for checking eligibility of the area declared are similar to the arrangements currently in place for area aid inspections.

My Department, as the paying agency, will have primary responsibility to ensure the required level of cross compliance inspection is carried out and for fixing any sanctions to be applied. Every effort will be made to minimise the number of inspection visits and to move towards a situation where, in most cases, all eligibility and cross compliance checks will be carried out during a single farm visit. The Department is in the process of preparing a consultation document on cross compliance and this document will

be discussed with the farming organisations and other interested parties over the coming weeks.

When those consultations are complete the Department will publish an information booklet on cross compliance. The booklet will set out exactly what standards farmers will be required to meet to comply with the various conditions.

#### **Food Industry.**

51. **Mr. M. Higgins** asked the Minister for Agriculture and Food her plans in the short and medium term for the food industry; the aspects of food policy which come under the remit of her Department; and if she will make a statement on the matter. [24488/04]

**Minister for Agriculture and Food (Mary Coughlan):** As Minister for Agriculture and Food, I have responsibility for the overall development of the food industry and, in co-operation with the Food Safety Authority of Ireland, for the delivery of food safety in areas within the competence of the Department. The Department has in place detailed strategies for the development of agriculture and the food industry with the core aim of ensuring that agriculture and the food industry contribute to the maximum extent possible to the continued economic and social development of this country and to the maintenance of the physical environment.

I am awaiting the report of the agri vision 2015 committee which has, under the chairmanship of Mr. Alan Dukes, been set the task of reviewing the recommendations contained in the agri-food 2010 report in the context of developments over the past few years, including enlargement, WTO, the mid-term agreement and income and employment trends in agriculture and rural areas in general. This committee covers a wide spectrum of interests and will take into account the views of specialists and stakeholders. I expect to receive the report of the committee before the end of the year and it is my intention to examine it carefully in the context of policy formulation.

I firmly believe the future of Irish food producers and the industry lies in competitiveness, innovation and understanding of market trends. My strategy and that of the State agencies is to underpin the ongoing success of the food sector by facilitating the industry to maintain competitiveness and capacity to meet the demands of the market in terms of quality, convenience, price and product specification. Significant funding totalling €358 million is available under the National Development Plan 2000-2006 for capital investment, research, technology and innovation, marketing and promotion and human resources.

I am confident that these initiatives will assist the food industry to meet future opportunities and challenges and allow it to avail of the substantial growth opportunities that exist in this industry both on the home and export markets.

#### **Animal Diseases.**

52. **Mr. Cuffe** asked the Minister for Agri-

culture and Food if she will report on the work of her Department to investigate and solve the animal health problems which have been evident in the Askeaton area of west Limerick. [24542/04]

**Minister for Agriculture and Food (Mary Coughlan):** From 1995 to 1998 the reported animal disease problems in the Askeaton area were the subject of a comprehensive multi-agency investigation under the auspices of the Environmental Protection Agency, EPA. The report of this investigation, which was published in August 2001, concluded that although a small number of farms experienced notable difficulties, there was no evidence of serious or unusual problems in the wider Askeaton area. In so far as the possible causes of animal health difficulties experienced in the Askeaton area in the past are concerned, I believe this report speaks for itself.

There is no objective evidence available to my Department to suggest that there has been any change in the general animal health situation in the area since the final report was published. On that basis I do not believe there are currently grounds which would justify embarking on any further animal health investigation in the area or the further commitment of significant human and financial resources which this would incur. Where individual problems occur, as they do on farms throughout the country, the veterinary laboratory service of my Department is available to support local veterinary practitioners and their clients and this will remain the case.

With regard to Askeaton, the regional veterinary laboratory in Limerick provides services free of charge where the private veterinary practitioner deems tests to be necessary. From 1999 to date, disease conditions common elsewhere in the country were diagnosed in a total of 56 samples from around 20 herds submitted to this laboratory from the Askeaton area.

#### **Sugar Beet Industry.**

53. **Mr. Stanton** asked the Minister for Agriculture and Food her views on the future of the sugar beet industry in view of the WTO talks; and if she will make a statement on the matter. [24557/04]

**Minister for Agriculture and Food (Mary Coughlan):** Reform of the EU sugar regime has come high on the EU agenda because of developments at WTO level, other international pressures and having regard to the significant reforms already agreed for other CAP sectors in 2003 and 2004. Legislative proposals for reform have not yet been put forward. However, the EU Commission outlined its broad proposals for reform of the regime in a communication to the Council and the European Parliament last July.

At that time it was made clear that the proposals would have serious repercussions for the Irish industry at both growing and processing level and, therefore, that they were not acceptable in their current form. The Commissions pro-



[Mary Coughlan.]  
posals are expected to be discussed further at the Council of Agriculture Ministers next month. It will be my objective to protect the viability of sugar beet growing and processing in this country.

#### **Plant Health.**

54. **Mr. Boyle** asked the Minister for Agriculture and Food if she will report on the threat posed by the spread of Australian and Irish flatworms to agriculture here; if she will review the policy of 2003 on this matter which envisaged no measures to counter the threat; and if, in view of the willingness of the public to support measures against foot and mouth disease, she will become proactive in a similar way to counter the flatworm threat. [24540/04]

**Minister for Agriculture and Food (Mary Coughlan):** The Australian flatworm, like the New Zealand flatworm, is a predator of earthworms. It does not affect plants and, accordingly, does not come within the scope of EU plant health regulations for which my Department has statutory responsibility. It also falls outside the scope of EU environmental regulations.

I am aware that the non-indigenous flatworm has been recorded at several sites in this country over the past number of years. There is no known control method apart from trapping the flatworms and physically destroying them. Despite implementing stringent plant health controls relating to imported plant material into the country, it is widely accepted that the Australian flatworm is not a plant health issue. It is an environmental one for which there are no practical, enforceable measures possible to prevent its entrance or spread within the EU. The Irish flatworm does not pose a threat to our native earthworm population.

#### **Genetically Modified Organisms.**

55. **Mr. Gogarty** asked the Minister for Agriculture and Food if consumer and environmental NGOs will be represented on groups answering to her Department or within her Department which are deciding on genetically modified policy. [24550/04]

**Minister for Agriculture and Food (Mary Coughlan):** Following the Commission's decision that the drawing up of measures for the co-existence of GM crops alongside non-GM crops should be addressed at member state level and having provided a series of guidelines to assist in this task, Ireland, along with the other member states, is now involved in the process of drawing up strategies and best practices to provide for effective coexistence arrangements. Consequently, an interdepartmental/ interagency working group was established within my Department to develop such strategies to ensure that efficient and effective measures are in place if farmers wish to cultivate GM crops here. The working group is made up of representatives from the

Department of Agriculture and Food, the Department of the Environment, Heritage and Local Government, the EPA and Teagasc.

Part of the work programme of the working group has been to communicate with all relevant stakeholders making them aware of the existence of the working group and its remit, presenting them with a copy of the Commission guidelines on coexistence and seeking their observations by way of written submission or a meeting. Farming organisations, environmental NGOs such as GM Free Ireland, the Irish Seed Savers Association and so forth, as well as the consumer umbrella group were among the stakeholders contacted. To date meetings have been held at which some of the farming organisations and a number of the NGOs were present. The views expressed by these stakeholders will be considered when drawing up the final strategies.

#### **World Trade Negotiations.**

56. **Ms Lynch** asked the Minister for Agriculture and Food if she has satisfied herself with the conclusions reached in August 2004 by the WTO negotiations; her views on the effects they will have on agriculture here; and if she will make a statement on the matter. [24492/04]

**Minister for Agriculture and Food (Mary Coughlan):** The agreement referred to represents a satisfactory outcome for Ireland and for the European Union in general. Ireland's key objectives have been met in that the agreement protects the benefits to Ireland of the recent reforms of the Common Agricultural Policy and does not require further reform of that policy.

The agreement is a framework for the remainder of the negotiations and consequently does not contain detailed commitments. These will be decided as part of the negotiation process over the next year or so. In the absence of detailed commitments, it is not possible to indicate what the full effects will be for Irish agriculture.

#### **Afforestation Programme.**

57. **Mr. Eamon Ryan** asked the Minister for Agriculture and Food the way in which she proposes to promote the forestry sector within farming here. [24554/04]

**Minister for Agriculture and Food (Mary Coughlan):** The policy of the Government is focused on the promotion of forestry as a viable and alternative land use option, contributing to farmer income, rural development and employment, as well as maximising the value of the non-timber benefits that forestry represents. An allocation of €116 million was provided to support the sector in this year's Estimates.

The extensive Bacon report on forestry, which was recently presented, is an important contribution to the policy debate and will require detailed examination. The recent EU Commission's proposed regulation on rural development post-2006 has important implications for



forestry that must be assessed in the negotiation process.

With the introduction of the single farm payment, forestry has become an even more attractive option by enabling farmers who plant up to 50% of their lands to consolidate their single payment entitlement on the remaining unplanted area while at the same time qualifying for forest premium on the planted area.

*Question No. 58 answered with Question No. 47.*

#### **Decentralisation Programme.**

59. **Dr. Upton** asked the Minister for Agriculture and Food if she will report on any progress in the decentralisation of her Department's headquarters to Portlaoise, County Laois, and of all or part of Teagasc, Bord Bia and An Bord Glas offices to other parts of the country. [24480/04]

**Minister for Agriculture and Food (Mary Coughlan):** The decentralisation programme announced in budget 2004 allowed for the decentralisation of my Department's headquarters to Portlaoise, Bord Bia and An Bord Glas to Enniscorthy and Teagasc to Carlow. The restructuring of Teagasc was subsequently formally excluded from the plan.

Since the Government's announcement my Department has established a decentralisation implementation committee, chaired by an assistant secretary general, to plan and control the process. Tangible progress has been made on decentralisation to Portlaoise and 50 staff were assigned there in July. It is envisaged that a further 50 will be relocated there during 2005. Some interim accommodation has been secured in Portlaoise. However, the OPW is actively working on acquiring suitable permanent accommodation.

An Bord Glas was amalgamated with Bord Bia with effect from 1 July. The necessary structures were put in place in Bord Bia to deal with the implementation of the decentralisation programme.

#### **World Food Day.**

60. **Mr. Penrose** asked the Minister for Agriculture and Food the plans her Department has to promote the United Nation's World Food Day on 16 October. [24500/04]

**Minister for Agriculture and Food (Mary Coughlan):** The celebration of World Food Day will take place on Friday, 15 October. The UN's food and agriculture organisation chose biodiversity for food security as this year's theme. It will recognise the importance of biodiversity in ensuring that people have regular access to enough high quality food to lead active, healthy lives.

This year my Department, as it has for a number of years, will sponsor a World Food Day seminar, organised by Gorta, to be held in Dublin

with biodiversity as its focus. A number of excellent speakers from Ireland and Africa will address key aspects of this theme.

#### **Animal Diseases.**

61. **Ms Burton** asked the Minister for Agriculture and Food the cost to the State of BSE testing to date; the distribution of the cost between the farmer and the State; and her views on why only one company carries out the tests. [24482/04]

**Minister for Agriculture and Food (Mary Coughlan):** Under EU legal requirements member states are obliged to carry out a BSE test on all cattle over 30 months of age going into the food chain as well as all fallen and casualty animals over 24 months of age. My Department has followed public procurement procedures in engaging laboratories to conduct BSE testing on its behalf. BSE testing laboratories were selected on the basis of clearly defined technical and financial criteria and they represented the best value for money available at the time. At present there are three laboratories approved for BSE testing.

The gross cost to the State of BSE testing to date is €66.89 million. It has been offset by EU receipts of €20.02 million resulting in net expenditure of €46.87 million. Since 2003 my Department has progressively reduced the financial burden on the State by requiring the meat industry to pay an increasing proportion of test costs. Since 14 February 2003 part of the cost of testing all male animals over 30 months of age and female animals over 30 months of age born after 1 January 2000 was passed to the industry. The Department paid a subsidy of €10.50 per test that was recoupable from the EU. The subsidy was reduced to €8 with effect from 1 January 2004. Since 16 August 2004 the cost of testing the older female animals, born before 1 January 2000, net of the €8 subsidy paid by the EU was transferred to the industry.

My Department continues to play a central role in approving and monitoring test laboratories, taking samples at meat plants and knackeries and controlling and monitoring the surveillance programme. Meat plants may now choose an approved laboratory to test their samples. Anecdotal evidence suggests that the increased competition has had the predictable effect of reducing the price of the test. My Department continues to bear the full cost of testing fallen animals.

#### **Off-farm Employment.**

62. **Mr. O'Shea** asked the Minister for Agriculture and Food her proposals to promote off-farm employment among the agricultural community; and the number of part-time farmers at present. [24497/04]

**Minister for Agriculture and Food (Mary Coughlan):** Part-time farming combined with an off-farm job is an increasingly common means of ensuring a good standard of living for many small

[Mary Coughlan.]  
scale producers. It also assists in balanced regional development. CSO data for 2002 show that 57,500 farmers or 42% had another either major or subsidiary occupation.

My Department has taken a number of actions to facilitate off-farm employment and ensure that these farmers have access to agricultural schemes on the same basis as full-time farmers. Such access was made easier by devising a common system of income units. For instance, part-time farmers are allowed to use on-farm and off-farm income to meet the minimum viability thresholds for on-farm investment grants and installation aid. To facilitate farm transfers to part-time farmers the early retirement scheme, introduced in 2000, allows for participation by part-time farmers as transferors and transferees and the enlargement clause was removed.

The REPS scheme and the new decoupled single farm payment are particularly suited to farmers who wish to engage in off-farm employment. The rural viability services offered by Teagasc contributes to meeting the needs of part-time farmers and identifying methods of boosting their household incomes. Programmes such as Leader have also encouraged the development of off-farm local enterprises.

A key policy of this Government has been to create and sustain an economic environment where employment can flourish. The availability of off-farm jobs in the local economy is extremely important for farmers and all rural dwellers. It is the key to their remaining in and contributing to the development of rural communities.

#### Food Industry.

63. **Mr. Sherlock** asked the Minister for Agriculture and Food if she will request a review of pasteurisation temperatures for milk, arising from the possible relationship between MAP and Crohn's disease. [24509/04]

**Minister for Agriculture and Food (Mary Coughlan):** A report of the Food Safety Authority of Ireland on the possible link between MAP and Crohn's disease was published in 2000. It concluded that the effectiveness of increasing the time or temperature in the pasteurisation process had not been established. The report did not recommend any alteration to the current normal pasteurisation methods. In 1999 my Department's veterinary research laboratory carried out a study to determine whether MAP bacteria were present in samples of pasteurised and unpasteurised milk. All of the samples tested negative for MAP.

A report of the EU scientific committee on animal health and welfare in 2000 stated that there was insufficient evidence to draw any firm conclusion about the suggested link between Johnne's disease and Crohn's disease. The FSAI report mentioned earlier reached a similar conclusion. However, there is a need to keep the results of international research on this matter under review. My Department will continue to do so in

conjunction with all of the other relevant agencies.

#### Animal Mortality Rates.

64. **Mr. Costello** asked the Minister for Agriculture and Food if a departmental investigation, commenced by her predecessor, into the high level of cattle deaths on farms has been completed; her views on the number of such deaths (details supplied); and if a categorisation of the cause of death has been or can be drawn up. [24485/04]

**Minister for Agriculture and Food (Mary Coughlan):** My Department is analysing the post mortem data from the regional and central veterinary laboratories for on-farm cattle deaths. Laboratory research staff are also involved in a detailed evaluation and further analysis of cattle movement monitoring system data to establish if there are patterns of disease factors such as clustering of particular diseases, geographic distribution or age patterns. The evaluation exercise may also involve on-farm case studies.

#### Food Industry.

65. **Mr. M. Higgins** asked the Minister for Agriculture and Food if she has assessed the impact of imports on mushroom producers here; and the amount of mushroom imports annually. [24489/04]

**Minister for Agriculture and Food (Mary Coughlan):** According to the CSO the amount of mushrooms and truffles imported into Ireland over the past three years is, on average, 800 tonnes per annum. Mushroom production here has remained stable at approximately 66,000 tonnes over the same period. Therefore, imports of mushrooms into Ireland are not significant in terms of overall production and would tend to be exotic varieties to meet the demands of niche markets.

As much as 75% of Irish mushroom production is exported to the UK market. The Irish industry is facing a significant competitive threat from Dutch and Polish imports. Earlier this year the mushroom task force completed a report. It made a number of recommendations to address the competitive threats facing the industry and their implementation is ongoing.

#### Afforestation Programme.

66. **Mr. Sargent** asked the Minister for Agriculture and Food if she has assessed the degree to which certification is prohibitively expensive for private forestry owners; if she has plans to make certification more affordable, particularly in view of the fact that 72% of forest planted since 1990 is in private hands. [24539/04]

**Minister for Agriculture and Food (Mary Coughlan):** Forest certification is a market driven mechanism and relies both on customer interest and on the development, operation and control of a certification system at the production or mar-

keting stage. I recognise the fact that certification can be an expensive undertaking for private forest owners.

The cost of certification varies depending on the size and complexity of each plantation. Costs can be relatively high for small or medium sized properties but they can be reduced if several forests are assessed together. To make certification affordable and relevant for small owners certification bodies have developed schemes to certify several woodlands together. Such certification can reduce costs considerably and may be a viable option for private forest owners in Ireland.

The forest service and the national council for forest research and development facilitate the development of a forest audit protocol. It is being developed through stakeholder involvement and will be a readily understandable system to facilitate sustainable forest management and voluntary certification.

### EU Regulations.

67. **Ms McManus** asked the Minister for Agriculture and Food if her attention was drawn to the huge impact of a large volume of EU regulations on small speciality and artisan food producers; if she will engage with this sector and alleviate its difficulties in view of its value to the economy; and her plans to promote and develop speciality and artisan foods. [24494/04]

**Minister for Agriculture and Food (Mary Coughlan):** The package of measures to revise and consolidate Community legislation on food hygiene adopted by the EU earlier this year is due to come into force on 1 January 2006. It provides for the registration of all food businesses and for a risk based approach to inspections.

The regulations will provide some flexibility for food businesses operating in remote areas, for traditional methods of food production and for direct supply in certain cases, subject to the safety of food being guaranteed. The role of the FSAI and of local authorities, who are primary regulatory bodies for the sector, will be central in this process. An FSAI forum for dialogue between the State agencies and the speciality sector is also being developed. My Department is participating in the process.

Bord Bia, as part of its statutory remit for the promotion and market development of Irish food and drink, is working in partnership with the speciality and artisan sector to secure routes to market. A number of promotions are held each year to promote the sector. For example, Bord Bia facilitated the current promotion of Irish speciality and artisan food in Selfridges in London, Birmingham and Manchester. It was the biggest food event in Selfridges this year.

In October 2003 a traditional artisan and speciality trade expertise council was established. Its aim is to address the strategic issues facing the sector and to devise and drive pragmatic solutions for the benefit of Ireland's food and drink industry. The council is facilitated, co-ordinated and

administered by Bord Bia. Recently the council launched its master plan and aims to guide the development of the Irish speciality sector. It is estimated that small food businesses with which Bord Bia has worked have increased their turnover by at least 36% since 1996.

### Food Imports.

68. **Mr. Rabbitte** asked the Minister for Agriculture and Food the precautions that are in place at airports and ports here to prevent the illegal importation of food; the number of persons engaged in the inspection process at airports and ports; if she has satisfied herself that the number of personnel deployed in this area is adequate; the number of discoveries of illegal imports that have been made in the past five years; and the number of prosecutions that have issued. [24503/04]

**Minister for Agriculture and Food (Mary Coughlan):** Since the completion of the internal market in 1992 food products comprising animal products are subject to free trade without border control. The products must originate from establishments approved to export to other member states, be correctly labelled and health marked and must travel with a commercial document. Under EU and national legislation those importing animal products are required to be registered with my Department and to notify it in advance of importation.

Detailed EU legislation lays down the conditions that member states must apply to the import of products of animal origin from third countries. This harmonised legislation imposes a series of health and supervisory requirements designed to ensure that imported products meet standards at least equivalent to those required for production in, and trade between, member states.

All animal products must come from third countries or areas of third countries approved for export to the EU. The animal products must be sourced from establishments that are approved and must bear an EU approved health mark. If outbreaks of animal diseases occur in a third country the Commission, under safeguard measures, can suspend approval to export to the EU for the infected regions of the country, or the whole country, as appropriate, until the disease risk has been eliminated.

Importation into the European Community may only be effected through a border inspection post that has been approved for this purpose by the EU's Food and Veterinary Office. In Ireland the BIPs approved for administering checks on direct imports of animal products from third countries are Dublin Port and Shannon Airport. Importers must give advance notice of the arrival of animal products to the BIP.

Imports must be accompanied by the appropriate commercial documentation showing country and approval number of the establishment of production as well as a health certificate conforming to the models set down in EU legislation. The



[Mary Coughlan.]

animal products must also be labelled. All consignments undergo a documentary and identity check. Physical checks are carried out at frequencies laid down in EU law.

Once the consignment has met all of 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 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 at the expense of the importer. The following table sets out the position for the past five years for which annual figures are available:

Year	No. of consignments	No. rejected
1999	632	5
2000	826	8
2001	1,038	3
2002	1,132	3
2003	995	8

Since January 2003 the personal importation into the EU of meat, meat products or milk products by passengers coming from third countries has been prohibited under Community law. The ban was first introduced in Ireland from July of the previous year due to the risk to animal and human health and was operated alongside controls on the importation of meat and meat products from EU countries affected by foot and mouth disease. Transport operators who bring passengers from third countries into the EU are required to bring the ban to the attention of passengers. Amnesty bins have been provided in the main airports for surrender of any animal product that has been inadvertently carried. There have been no prosecutions undertaken in respect of seized personal imports of animal products.

The following table gives the quantities of animal products seized under these arrangements:

Year	Quantities seized and destroyed tonnes	Number
2002*	27.2	6,652
2003	13.1	3,882
2004**	2.5	542

\*includes seizures from EU passengers arising out of the foot and mouth disease controls

\*\*January to June 2004.

There were six summons issued in respect of illegal imports from EU countries.

At BIPs and other disembarkation points there are 23 officers deployed on a full-time basis. There are a further ten officers who undertake this work on a part-time basis in addition to other duties. There is local co-operation between the customs authorities and my Department's personnel at the BIPs. The deployment of officers

on animal product import controls is continuously assessed in accordance with the financial and resource limits within which my Department operates. The assessments take into account the level of risk for food safety, animal and public health and the profile of material being imported into this country at any time.

My Department's import controls form a part of this country's overall measures to protect food and safeguard health along with those of the Department of Communications, Marine and Natural Resources, the Department of Health and Children and the customs authorities.

#### Disadvantaged Areas Scheme.

69. **Mr. Crawford** asked the Minister for Agriculture and Food if a proposal has been prepared by her Department on the extension of severely handicapped status to the remainder of County Monaghan; if the proposal was submitted to Brussels; and when she expects a decision.

[24507/04]

**Minister for Agriculture and Food (Mary Coughlan):** Preparation of a proposal to extend the status to the remainder of County Monaghan is well advanced in my Department. It requires the compilation of a considerable amount of technical data and, when completed, I will ensure that it is progressed quickly.

#### Grant Payments.

70. **Mr. Durkan** asked the Minister for Agriculture and Food the extent to which appeals against decisions on various agricultural support payments are likely to be favourably treated in the future. [24522/04]

**Minister for Agriculture and Food (Mary Coughlan):** The Agriculture Appeals Office was established in 2002 to provide a statutory appeals service to farmers who are dissatisfied with my Department's decisions on their entitlements under certain schemes.

The office is governed by the Agriculture Appeals Act 2001 and the Agriculture Appeals Regulations 2002. Appeals officers are independent in the performance of their functions. Their decisions must have regard to the principles of natural justice and comply with any relevant legislation and terms, conditions and guidelines governing or relating to the scheme in question.

In 2003 the appeals office received 1,143 cases; 38% of these were either allowed, partially allowed or revised by the Department, 7% were withdrawn, not valid or out of time and 55% were disallowed.

#### Farm Safety.

71. **Ms Lynch** asked the Minister for Agriculture and Food her views on recent figures from the Health and Safety Authority that show that the death rate on farms here is four times higher

than that in all other industries put together. [24493/04]

**Minister for Agriculture and Food (Mary Coughlan):** I am very concerned about the level of safety on our farms. The latest figures published by the HSA show that between January and 4 October there were nine fatalities in the sector. This level is unacceptable. It is imperative that all farmers acknowledge that farming is a hazardous occupation and one that carries specific risks.

Under the Safety, Health and Welfare at Work Act 1989, the HSA is the State body charged with overall responsibility for administration, enforcement and promotion of workplace safety and health, including farms. I am totally supportive of the HSA's efforts to reduce the number of farm accidents and its programmes to increase health and safety on the farm.

#### EU Regulations.

72. **Mr. McGuinness** asked the Minister for Enterprise, Trade and Employment if the issues raised by a company (details supplied) in County Carlow relative to EU regulations on the safety and design of certain farm machinery have been resolved by his Department. [24685/04]

**Minister of State at the Department of Enterprise, Trade and Employment (Mr. M. Ahern):** Irish Standard European Norm (703) 2004 deals with the safety of certain agricultural machinery and came into effect on 23 July. The company concerned advised my Department in August of a technical difficulty with the application of this standard to the configuration of the company's machinery.

The matter was raised with the National Standards Authority of Ireland. It is responsible for the development and negotiation of European standards. The NSAI advised my Department that it is prepared to propose an amendment to the standard on receipt of a proposal from the company concerned. The company was advised of this procedure by letter dated 8 October.

#### Community Employment Schemes.

73. **Mr. O'Shea** asked the Minister for Enterprise, Trade and Employment his views on whether supervisors on the community employment scheme should be based in the area in which the scheme operates and specifically in rural areas; and if the number of supervisors should be increased to cater for this. [24735/04]

**Minister for Enterprise, Trade and Employment (Mr. Martin):** There are no plans to increase the number of supervisors employed on the programme. The local sponsoring group employs the supervisor with the assistance of a grant from FAS. When supervisor vacancies arise the selection of suitable applicants is based on the ability of the person to perform the job. At present there

are 1,472 persons employed in a supervisory role and it is considered an appropriate number.

#### Work Permits.

74. **Mr. Cuffe** asked the Minister for Enterprise, Trade and Employment if he plans to review the awarding of work permits to employers rather than employees. [24792/04]

**Minister for Enterprise, Trade and Employment (Mr. Martin):** At present, the work permit facility grants the permit to an employer to recruit a specific employee to fill a specific vacancy, where the employer has been unable to find a suitable employee within Ireland or the wider European economic area. This arrangement does have the safeguard that the non-EEA employee in question is coming to fill a specific vacancy, an important factor when most of the personnel in question are at the lower end of the skills spectrum.

In recent years, work permit personnel have been readily facilitated in changing employers and in such circumstances a new work permit is issued to a new, eligible, employer. This flexibility has been possible and warranted by the relatively high number of vacancies arising in recent years.

If we were to move to a situation where a work permit was given to the individual employee, it would in effect be giving an authorisation to come to Ireland in search of an employer. This would give rise to a number of serious policy questions and significant resource issues. My Department is confident that since 1 May 2004, through EU enlargement, we should be able to meet the great bulk of our overseas labour needs from within the EEA.

#### Economic Competitiveness.

75. **Mr. Morgan** asked the Minister for Enterprise, Trade and Employment the number of alleged cartels that have been investigated by the Competition Authority since the Competition Act 2002 came into law; the details of those investigations; and if he will make a statement on the matter. [24796/04]

**Minister for Enterprise, Trade and Employment (Mr. Martin):** The Competition Authority is the statutory independent body charged with the enforcement of competition law in the State. The authority, whose powers and independence were enhanced under the Competition Act 2002, has a policy of not commenting on investigations given their potentially criminal nature. Accordingly, it would not be appropriate for me to comment on any current cases either.

However, while the authority is independent in regard to its day to day operations, its chairperson is accountable to the Oireachtas under the Competition Act 2002 and he may be requested to appear before Oireachtas committees. In that regard, he appeared before the Committee of Public Accounts on 22 July 2004 at which time

[Mr. Martin.]  
the committee raised, *inter alia*, the authority's record on cartels.

At the meeting on 22 July, the chairperson stated that three files had been referred to the DPP, one of which is currently before the courts.

#### Rural Environment Protection Scheme.

76. **Mr. Durkan** asked the Minister for Agriculture and Food the position regarding a REP scheme in the name of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [24712/04]

**Minister for Agriculture and Food (Mary Coughlan):** Farmers in the rural environment protection scheme undertake a five year contract and this may be terminated only in limited and specified exceptional circumstances which are laid down in the scheme. Under the EU regulations governing REPS, a participant must make an application for each annual payment. Failure to do so means that the contract must be terminated and all payments recovered, unless exceptional circumstances apply.

In this case, my Department wrote to the person named on 13 September 2001, advising him that he had to lodge his third year payment application form by 31 October 2001. As he failed to do so, my Department had no option but to terminate his participation in the scheme and seek to recover all the payments he had received.

#### Registration of Title.

77. **Mr. Penrose** asked the Minister for Agriculture and Food, further to Question No. 163 of 15 June 2004, if her attention has been drawn to the fact that the Land Registry office raised a query with her Department on 23 June 2004, which has not been satisfactorily resolved; if she will take steps to ensure that the query raised therein (details supplied) is immediately dealt with; and if she will make a statement on the matter. [24726/04]

**Minister for Agriculture and Food (Mary Coughlan):** The Land Registry wrote to my Department on the 23 June 2004 requesting land certificates, which are the subject of exchange proceedings on a vesting order held on schedule in Land Registry. It appears from the folios that two of the land certificates were originally issued by the Land Registry to a firm of solicitors and one to a bank. Written requests seeking the return of the land certificates have issued and both the above parties have been contacted by phone to expedite the matter. The certificates will issue to Land Registry as soon as they are made available to my Department.

#### Grant Payments.

78. **Mr. Kehoe** asked the Minister for Agriculture and Food the reason a person (details

supplied) did not qualify for single payment scheme *force majeure* and exceptional circumstances; and if she will make a statement on the matter. [24727/04]

**Minister for Agriculture and Food (Mary Coughlan):** The person named, having been notified that the circumstances outlined by him did not satisfy the criteria for *force majeure*-exceptional circumstances under Article 40 of Council Regulation (EC) No. 1782/2003, submitted an appeal to the independent single payment appeals committee. Following a full examination of the circumstances outlined in the appeal, the single payment appeals committee made a recommendation and a letter issued to the person named on 26 August 2004. The findings of the appeals committee were that the original decision taken by the Department should be upheld.

79. **Mr. Kehoe** asked the Minister for Agriculture and Food the premium payments which a person (details supplied) in County Wexford is entitled to; and if she will make a statement on the matter. [24728/04]

**Minister for Agriculture and Food (Mary Coughlan):** The 2004 area aid application for the person named has been fully processed with an area determined for payment purposes of 5.17 hectares of forage land and 2.57 hectares of arable land.

The person named is not an applicant under the suckler cow or ewe premium scheme for 2004. The person has to date lodged no applications under the 2004 EU special beef premium scheme and has, to date, no animals deemed eligible under the 2004 EU slaughter premium scheme.

As he is not an applicant under the 2004 suckler cow premium scheme and to date has not applied for 2004 special beef premium scheme, he is not eligible for 2004 extensification premium.

80. **Mr. Noonan** asked the Minister for Agriculture and Food when the 2004 suckler cow grant will be awarded to a person (details supplied) in County Limerick. [24729/04]

**Minister for Agriculture and Food (Mary Coughlan):** The person named submitted an application for premium on 21 animals under the 2004 suckler cow premium scheme in September 2004. This was outside the application period of 2 January to 30 June 2004 but has been accepted under *force majeure* circumstances. While processing the application for payment it was found that information regarding a last calving date for one animal required further clarification. The animal in question bears tag number MAB537497. Correspondence has issued to the herd owner regarding this matter and his application will be processed further on receipt of his reply.

#### Animal Diseases.

81. **Mr. Connaughton** asked the Minister for



Agriculture and Food if, during the last foot and mouth epidemic, her Department demanded or requested that artificial insemination operators working from the Clarecastle artificial insemination station should cease operations; if a statutory instrument was used to ensure that artificial inseminators did not travel from farm to farm; and if she will make a statement on the matter. [24804/04]

**Minister for Agriculture and Food (Mary Coughlan):** In the initial period following the outbreak of foot and mouth disease in Northern Ireland in 2001, the ten organisations licensed to provide an artificial insemination, AI, service in this country were asked by my Department to voluntarily suspend operations in the national interest. All ten organisations acceded to this request. The matter was kept under review and after much deliberation my Department concluded that it was necessary to formally introduce a new licensing system on all AI and the movement of semen. This was given effect in respect of bovines by way of SI 144 of 2001 and SI 161 of 2001. SI 381 of 2001 provided for licensing of AI and embryo transfer in sheep. In effect AI technicians were prohibited from practising for the period 5 April 2001 to 23 April 2001.

My Department agreed a framework for the resumption of the AI post-23 April 2001 with the field service licence holders. It was agreed that AI technicians would have to be given appropriate training and certified by their respective centre veterinarians before they could be issued with a bovine semen licence as provided for under SI 144 of 2001. AI technicians must possess a valid bovine semen licence and must be licensed to work on behalf of a field service licence holder in order to practice AI.

#### Grant Payments.

82. **Mr. Connaughton** asked the Minister for Agriculture and Food the reason an area based payment has not issued to a person (details supplied) in County Galway; and if she will make a statement on the matter. [24805/04]

**Minister for Agriculture and Food (Mary Coughlan):** The area aid application for the person named has been fully processed with an area determined for payment purposes of 33.60 hectares. Payment of her full entitlement under the 2004 area based compensatory allowance scheme will issue shortly.

83. **Mr. Connaughton** asked the Minister for Agriculture and Food the reason the single payment calculation has not been provided to a person (details supplied) in County Galway; and if she will make a statement on the matter. [24806/04]

**Minister for Agriculture and Food (Mary Coughlan):** The person named submitted an application for consideration of *force majeure*-

exceptional circumstances on the grounds of animal disease outbreak during the reference period. Following examination of the circumstances outlined it has been deemed that *force majeure* should apply.

The person named has been notified that his single payment entitlement will be based on bovine schemes payments in respect of reference years 2000 and 2002 only and that reference year 2001 will be excluded as a result of the *force majeure* circumstances put forward. A provisional entitlement statement will issue shortly to the person named.

84. **Mr. Connaughton** asked the Minister for Agriculture and Food the reason a single payment has been so low in the case of a person (details supplied) in County Galway; and if she will make a statement on the matter. [24807/04]

**Minister for Agriculture and Food (Mary Coughlan):** The single payment entitlement is calculated using the average number of animals and hectares on which direct payments were made during the reference period 2000, 2001 and 2002.

The single payment provisional entitlement which issued to the person named is reflective of the average direct payments made during the reference years and has been calculated in accordance with the criteria laid down in the EU regulations underpinning the single farm payment scheme.

If the person named wishes to have any aspect of the provisional entitlement statement reviewed he may seek a review by completing a single payment scheme review form which is available from my Department.

85. **Mr. Connaughton** asked the Minister for Agriculture and Food the reason the area based payment has not issued to a person (details supplied) in County Galway; and if she will make a statement on the matter. [24808/04]

**Minister for Agriculture and Food (Mary Coughlan):** The named person was selected for on-farm inspection in 2004. The 2004 area aid application for that person has now been processed fully with an area of 19.36 hectares determined for payment purposes. Payment of her full entitlement under the 2004 area based compensatory allowance scheme will issue shortly.

86. **Mr. Connaughton** asked the Minister for Agriculture and Food the reason notification of the single payment entitlement has not issued to a person (details supplied) in County Galway; and if she will make a statement on the matter. [24809/04]

**Minister for Agriculture and Food (Mary Coughlan):** A provisional entitlement statement has not yet issued to the person named as Department records indicate an administrative change during the reference period. My Department is

[Mary Coughlan.]  
currently in the process of resolving all such cases and a provisional entitlement statement will issue shortly to the person named.

87. **Mr. Connaughton** asked the Minister for Agriculture and Food the reason a farm development grant for farm buildings dating back to 1983 and currently in the Chief State Solicitor's office has not been awarded to a person (details supplied) in County Galway; and if she will make a statement on the matter. [24810/04]

**Minister for Agriculture and Food (Mary Coughlan):** Legal proceedings taken by the person named are still in place regarding this matter. I am not, therefore, in a position to make any payment to the person concerned at this time. Negotiations are currently taking place between solicitors for the plaintiff and the Chief State Solicitor's office regarding settlement of this and related cases and it is hoped that these should be concluded shortly.

88. **Mr. Connaughton** asked the Minister for Agriculture and Food the reason the 2004 suckler cow and other grants have not been awarded to a person (details supplied) in County Galway; and if she will make a statement on the matter. [24811/04]

**Minister for Agriculture and Food (Mary Coughlan):** The person named was selected for on-farm inspection in 2004. His 2004 area aid application has been fully processed with an area of 34.23 hectares determined for payment purposes.

He applied for 2004 EU suckler cow premium on 25 animals. He has lodged no 2004 EU special beef premium application so far. Up to now two of his animals have been deemed eligible for 2004 EU slaughter premium and he has also applied for 2004 ewe premium.

In accordance with the relevant EU regulations, premium payments cannot start until 16 October. The person named should be paid 60% suckler and slaughter premium advances soon after that date and the balances in March-April 2005. He should also be paid full EU ewe supplementary premium soon after 16 October.

The person named has submitted an application under the 2004 extensification premium scheme. Payments under this scheme are due to

commence in June 2005. This application will be considered in due course.

The 2004 area based compensatory allowance claimed by the person named will be paid shortly.

#### **Animal Carcase Disposal.**

89. **Mr. Durkan** asked the Minister for Agriculture and Food the number and value of cattle destroyed in the course of the beef destruct scheme; if all carcasses have been finally disposed of; the manner and method of disposal; and if she will make a statement on the matter. [24827/04]

**Minister for Agriculture and Food (Mary Coughlan):** Under the purchase for destruction scheme 2001, a total of 277,860 animals with a purchase value of €160.37 million were destroyed. Under the special purchase scheme 2001, which succeeded PFD, 61,000 tonnes of carcasses were destroyed. This equated to nearly 215,000 animals. Purchase costs amounted to €117.4 million.

All material generated under both schemes was rendered and destroyed. Meat and bone meal was disposed of at approved incineration facilities in Germany and the UK. Tallow from both schemes was also incinerated. All hides from the PFD scheme were processed at tanneries in Ireland.

#### **Budget Submissions.**

90. **Mr. Durkan** asked the Minister for Agriculture and Food if she has studied the pre-budget submission she received from the IFA; her views on the merit of the points raised therein; and if she will make a statement on the matter. [24828/04]

**Minister for Agriculture and Food (Mary Coughlan):** I have recently received a copy of the Irish Farmers' Association 2005 pre-budget submission, and the proposals contained in that document are currently being examined.

#### **Tuberculosis Incidence.**

91. **Mr. Durkan** asked the Minister for Agriculture and Food the position in regard to bovine tuberculosis eradication with particular reference to the number of incidents in the past five years; the way in which this compares with other jurisdictions; and if she will make a statement on the matter. [24829/04]

**Minister for Agriculture and Food (Mary Coughlan):** The current TB eradication programme has brought about a significant improvement in the incidence of bovine tuberculosis, as the following table shows.

Year	Herds in Country	Herd Restrictions	Reactors Removed
2003	125,512	7771 (6.2%)	27,978
2002	127,711	8338 (6.5%)	28,930
2001	130,525	9195 (7.0%)	33,702
2000	133,542	10785 (8.1%)	39,847
1999	138,263	10660 (7.7%)	44,903

The position in other EU member states is monitored by the EU task force on tuberculosis which visits the member states to evaluate each national programme. However, there are no comparable statistics available from these member states though it is understood that the incidence in a number of other member states is lower. The most recent visit of the task force to this country was in June this year and a favourable report is expected. This was the first in a second round of visits to the member states and the situation in these countries will be evaluated in due course.

I am pleased with the progress shown under the current TB eradication programme. As can be seen from the above table, there has been a 40% reduction in the number of reactor cattle between 1999 and 2003 from approximately 45,000 to just under 28,000. The number of reactors in 2003 was the lowest in 20 years. This downward trend is expected to continue this year when the number of reactors is predicted to fall to below 25,000.

#### **Food Imports.**

92. **Mr. Durkan** asked the Minister for Agriculture and Food if she has satisfied herself that all meat or meat products imported into this country have full traceability and the country or countries of origin apply Irish or EU standards; and if she will make a statement on the matter. [24830/04]

98. **Mr. Durkan** asked the Minister for Agriculture and Food if she has satisfied herself that all food imports into this country comply with the strictest husbandry hygiene and processing procedures; and if she will make a statement on the matter. [24836/04]

**Minister for Agriculture and Food (Mary Coughlan):** I propose to answer Questions Nos. 92 and 98 together.

Detailed EU legislation lays down the conditions that member states must apply to the production of and trade in products of animal origin, including meat, as well as to imports of these products from third countries. Under harmonised legislation a series of health and supervisory requirements are applied in the member states to ensure that animal products are produced to standards that guarantee the safety of food and the protection of human and animal health. The application of these standards in the member states is monitored by the FVO, Food and Veterinary Office, of the EU.

It is a requirement that animal products imported from third countries meet standards at least equivalent to those required for production in, and trade between, member states. All meat imports must come from third countries or areas of third countries approved for export to the EU. In order to be an approved third country it must:

appear on a list drawn up and updated on the basis of EU audits and guarantees given by the competent authority of the exporting country; have veterinary controls equivalent to those applicable in the EU, particularly in terms of legislation, hygiene conditions, animal health status, veterinary medicines controls, zoonoses controls and other food law; and a residues programme approved by the European Commission must be in place.

The meat must be sourced from establishments that are approved and must bear an EU approved health mark. Exporting establishments must have: standards equivalent to the requirements for EU export establishments; effective control systems and supervision by the competent authorities; and traceability/labelling in accordance with the systems approved by the FVO and accepted and notified to the EU member states.

The FVO carries out inspections to ensure that only establishments that meet hygiene and health standards equivalent to those operating within the EU are approved. Where the FVO considers that public health requirements are not being met, an 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.

Importers of meat must be registered with my Department. They are required to give advance notice of importation and, following import, are required to keep records of importation available for inspection by the Department for a period of three years. Imported meat must be accompanied by the appropriate commercial documentation showing country and approval number of the establishment of production and, in the case of meat imported from third countries, a health certificate conforming to the models set down in EU legislation. The meat must also be labelled.

While there is free movement for trade within the EU all consignments from third countries must first be landed at a border inspection post, BIP, that has been approved by the FVO and must undergo documentary, identity and physical checks. These latter are carried out at frequencies laid down in EU law. In Ireland, BIPs approved for the processing of imports of animal products are located at Dublin Port and Shannon Airport. The FVO carries out monitoring and inspection of each member state's BIPs to ensure the conditions for import of animal products into Europe, provided under the harmonised legislation, are being correctly applied.

Once it has been established that 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



[Mary Coughlan.]

consignment to its 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.

Where there are concerns with regard to the effectiveness of controls being operated in an approved third country the Commission, in consultation with the standing committee on animal health and the Food Chain, may introduce specific controls by means of a safeguard measure to ensure the protection of human and animal health. Safeguard measures limiting or banning the export of animal products from EU countries or regions of countries may also be implemented where, for example, the conditions of an animal disease outbreak could seriously affect production and trade in animal products in the EU.

#### Grant Payments.

93. **Mr. Durkan** asked the Minister for Agriculture and Food the number of applications received for assistance under the *force majeure* heading; the number that have been granted, refused or pending; and if she will make a statement on the matter. [24831/04]

**Minister for Agriculture and Food (Mary Coughlan):** The following is the up to date position regarding the processing of *force majeure* applications under the single payment scheme.

	Number
No. cases received	15,256
No. cases not yet dealt with	2,728
No. successful applicants	1,420
No. unsuccessful applicants	8,667
No. cases requiring additional information	2,441

#### Live Exports.

94. **Mr. Durkan** asked the Minister for Agriculture and Food the extent of growth in the export market for lamb in each of the past five years; the new markets identified in that period; and if she will make a statement on the matter. [24832/04]

**Minister for Agriculture and Food (Mary Coughlan):** Lamb production has declined in recent years reflecting diminishing numbers in the national flock. As a consequence, the total volume available for export has reduced in direct proportion to the volume of domestic consump-

tion. In addition, prices have remained firm and are now some 16% ahead of pre-FMD levels when export volumes were at their peak. Supplies have diverted from the export market to the home market where demand now accounts for more than a third of production.

France remains the primary export outlet for Irish lamb accounting for almost 70% of lamb exports, with significant quantities going to other EU countries, including Great Britain, Belgium, Germany, Italy, Portugal and Sweden. I am satisfied that export opportunities for Irish lamb are being exploited to the full and my Department, in co-operation with Bord Bia and the industry, continues to consolidate and develop these markets to the maximum extent.

95. **Mr. Durkan** asked the Minister for Agriculture and Food the current EU market for Irish beef; the extent to which these markets have grown or otherwise in each of the past five years; and if she will make a statement on the matter. [24833/04]

96. **Mr. Durkan** asked the Minister for Agriculture and Food the number, location and value of beef exports to non-EU countries in each of the past five years; the extent to which new markets have been or will be established; and if she will make a statement on the matter. [24834/04]

**Minister for Agriculture and Food (Mary Coughlan):** I propose to take Questions Nos. 95 and 96 together.

The information requested by the Deputy is set out in tabular form in the table below. The value of beef exports to all markets in 2003 was €1.2 billion.

The focus of the Irish beef industry has been to broaden and expand its market reach at EU retail level, shifting its orientation away from international commodity markets and into the higher value internal EU marketplace. It has also eliminated its dependence on support measures such as intervention. This contrasts sharply with the situation that prevailed throughout the 1990s when the industry exported 50% of its products into non-EU markets. Last year, this share dropped to just 17% while the EU share increased proportionately.

Non-EU markets continue to be important outlets for Irish beef and the maintenance of an appropriate export refund policy, which I keep under close review, is a key ingredient in the promotion of beef in third countries. I will continue to press hard for the re-opening of traditional third country markets and I was particularly pleased to announce the re-opening of the Algerian market last week.

Irish Beef Exports 1999-2003 '000 Tonnes

	1999	2000	2001	2002	2003
Total	554	495	345	445	500
<i>Of which to:</i>					
<i>Int. Mkts</i>	309	250	50	90	85
— Russia	33	7	43	83	75
— Egypt	154	150	0	0	1
— Other	122	93	5	7	9
<i>Cont. EU</i>	150	135	72	110	150
— France	50	40	13	16	24
— Italy	32	30	11	22	35
— Holland	32	30	26	30	32
— Scandinavia	25	24	13	30	35
— Other	11	11	9	12	24
<i>United Kingdom</i>	95	110	220	245	265

### Dairy Industry.

97. **Mr. Durkan** asked the Minister for Agriculture and Food the location and value of dairy exports to EU and non-EU countries in each of the past five years; the extent to which new markets have been established or lost; and if she will make a statement on the matter. [24835/04]

### Minister for Agriculture and Food (Mary Coughlan):

Ireland exports a wide range of dairy products to over 100 countries worldwide. The main dairy exports from Ireland are butter, cheese, skimmed milk powder, SMP, whole milk powder, WMP, and casein. Baby food, liqueurs, dairy spreads and so forth, which contain dairy ingredients, are also exported. The following table sets out the value of the main commodity products during the past five years.

	*2003		2002		2001		2000		1999	
	EU €'000	non-EU €'000	EU €'000	non-EU €'000	EU €'000	non-EU €'000	EU €'000	non-EU €'000	EU €'000	non-EU €'000
Butter	311,961	38,887	300,547	18,594	307,178	21,898	327,167	22,194	337,321	20,872
Cheese	253,458	42,024	327,940	28,056	362,061	24,199	269,332	19,357	254,612	15,266
SMP	47,357	38,616	38,906	24,298	58,946	46,963	153,588	89,942	77,906	74,080
WMP	56,790	32,670	53,001	24,233	56,130	45,434	56,293	51,165	53,808	37,202
Casein	69,078	86,463	60,296	102,977	79,622	110,064	66,131	114,251	48,151	86,385
Total	738,644	238,660	780,690	198,158	863,937	248,558	872,511	296,909	771,798	233,805

Figures are provisional for 2003.

*Question No. 98 answered with Question No. 92.*

### Poultry Industry.

99. **Mr. Durkan** asked the Minister for Agriculture and Food the extent to which poultry imports into this country have displaced national production; and if she will make a statement on the matter. [24837/04]

**Minister for Agriculture and Food (Mary Coughlan):** The poultry and eggs sector is an important part of the overall agrifood industry, with a farm gate value of €150 million in 2003. A total of 66 million chickens and 10 million birds of other species were slaughtered here last year. The level of poultry production has held steady in recent years but the quantities being imported have increased.

In 2003, 55,000 tonnes of poultry meat, valued at €192 million, were imported while 87,000 tonnes, to the value of €244 million, were exported. These quantities include prepared poultry products as well as all fresh and frozen poultry meat.

### Pigmeat Sector.

100. **Mr. Durkan** asked the Minister for Agriculture and Food the position in regard to the pigmeat industry with particular reference to the current extent of imports as a percentage of national production; and if she will make a statement on the matter. [24838/04]

**Minister for Agriculture and Food (Mary Coughlan):** The pigmeat industry is an important and valuable industry within the overall agrifood sector and had a farm gate value of €283 million in 2003. Ireland is a net exporter of pigmeat prod-

[Mary Coughlan.]

ucts. Last year some 103,000 tonnes of pigmeat were exported whereas less than 54,000 tonnes were imported, mainly from within the EU. In addition, 380,000 pigs were exported live. Overall, Ireland produced 217,000 tonnes of pigmeat in 2003.

#### **Civil Service Contract Staff.**

101. **Mr. J. Higgins** asked the Minister for Finance when the working group of General Council, currently assessing the implications of the Protection of Employees (Fixed-Term Workers) Act 2003 for the terms and conditions for all temporary contract staff in the Civil Service, will publish its guidelines; and if he will make a statement on the matter. [24684/04]

**Minister for Finance (Mr. Cowen):** Under the Protection of Employees (Fixed-Term Work) Act 2003, which came into effect in July 2003 to implement an EU directive, there are restrictions on rolling over fixed-term contracts. Employers may cite objective grounds for continuing to offer further fixed-term contracts or, in the absence of such grounds, are obliged under the Act to consider making staff permanent before continuing to employ them on a fixed-term contract when the time limits set by the Act have been reached.

In 2003, the Department of Finance agreed, under the conciliation and arbitration scheme, with the Civil Service unions that it would prepare a draft circular to Departments summarising the terms and conditions of the Act and, in addition, giving general advice on how it might be implemented with regard to pay, pensions, annual leave, family friendly schemes and a wide range of other human resource issues.

Work on a draft circular has been underway within the Department for some time in conjunction with the Office of the Attorney General. However, it became clear at an early stage in working on the circular that the question of permanency raises particular problems for the Civil Service. Under the law governing employment in the Civil Service, permanency is based on “establishment”, that is, the process under which a person is appointed by the Civil Service Commissioners — now replaced by the Office of the Commission for Public Service Appointments — following a public competition. The link with the new Act dealing with staff on fixed-term contracts raises complex legal and human resource issues and these are being examined by the Department. It is the intention to give advice to Departments which is as clear and specific as possible.

On 3 June 2004, a meeting with the Civil Service unions took place, at their request. At that meeting, the Department of Finance tabled a draft circular in line with the commitment previously given. It was made clear that this was

work in progress and that the aim was to have a full discussion on the text to identify the issues which needed to be addressed. Taking account of the views expressed, the Department would then prepare another draft to allow a further round of discussions to begin. However, one union, IMPACT, withdrew from the meeting, after which it was adjourned. IMPACT has since taken a number of cases to the rights commissioner service of the Labour Relations Commission. Preliminary hearings of these cases are scheduled to take place in the week beginning 18 October 2004.

Work is continuing within the Department on the draft circular on this issue. This will be finalised in light of the outcome of the cases about to be heard at the Labour Relations Commission.

#### **Financial Services Regulation.**

102. **Mr. Timmins** asked the Minister for Finance if his officials have had recent discussions with the banks with respect to the issue of uncashed bank drafts or plans to amend the procedures involved in the bank draft process; and if he will make a statement on the matter. [24702/04]

**Minister for Finance (Mr. Cowen):** My officials have not recently discussed the issue of uncashed bank drafts with the banks. However, this issue was discussed in the context of dormant accounts legislation. The overall regulation of the banking system is a matter for the Irish Financial Services Regulatory Authority. I have not been made aware by that body or any other organisation that there is any dissatisfaction with the way banks issue drafts to their customers. Nonetheless, I intend to explore further the issues connected with uncashed bank drafts.

#### **State Advertising.**

103. **Mr. McGuinness** asked the Minister for Finance the number of companies which submitted tenders for the Government contract relating to Government advertising; the timeframe for such contracts; the last occasion tenders were sought; and if he will make a statement on the matter. [24703/04]

**Minister of State at the Department of Finance (Mr. Parlon):** Tenders for State advertising, placement in print media, were sought in April 2004. Fifteen advertising companies submitted valid tenders on 14 May 2004. The contract has been awarded to Brindley Advertising Limited for three years from 1 September 2004. Tenders were last sought in September 2000.

#### **Financial Services Regulation.**

104. **Mr. Cuffe** asked the Minister for Finance if he will consider limiting the amounts that can



be borrowed by making it impossible for lending institutions, either domestic or foreign, to sue defaulters in cases in which the amounts lent were in excess of Government recommendations; if he will consider, alternatively, imposing a penal rate of stamp duty on loans which exceed the Government recommendations. [24704/04]

**Minister for Finance (Mr. Cowen):** I am aware of the concerns expressed by a number of commentators on the continued increase in credit growth, particularly in the household sector, and the possible effects of increasing indebtedness upon borrowers. Credit developments are a matter for the Central Bank and Financial Services Authority of Ireland, taking into account its role as a part of the European system of central banks and its functions, as the Irish Financial Services Regulatory Authority, in the prudential supervision of financial institutions and the protection of the consumers of those firms.

The provision of consumer credit in Ireland is regulated by the Consumer Credit Act 1995, which is administered by the Irish Financial Services Regulatory Authority. This Act obliges credit providers to include specific information in all credit agreements about such matters as the total cost of credit, the amount of each repayment instalment, the number of instalments and so forth. Additionally, in the case of housing loans, the Act specifically obliges mortgage providers to inform borrowers of the effect on the amount of their repayment instalments of a 1% increase in interest rates in the first year of their mortgages. The purpose of obliging credit providers to provide this information is to ensure that consumers when making credit decisions are armed with the fullest possible information about any credit agreement they are entering into and, most importantly, the impact that servicing a loan will have on their household budget.

In addition to the aforementioned requirements of the Consumer Credit Act 1995, the Central Bank and the Irish Financial Services Regulatory Authority has sought to raise the level of awareness of both borrowers and lenders of the importance of prudent borrowing and responsible lending. The financial services regulator, through its statutory consumer mandate, has developed a number of specific initiatives to help consumers make informed choices in terms of the financial products they choose, the amount of risk they take on and the cost of financial products. These initiatives have been developed through the framework of the financial services regulator's "It's Your Money" campaign and have involved publishing consumer guides on credit products, fact sheets and cost surveys on personal loans, all of which are intended to assist borrowers in making the most appropriate credit decisions given their circumstances.

In addition to the responsible borrowing initiatives outlined, the financial services regulator, together with the Central Bank, undertook a recent study into mortgage lending and mortgage lending practices. Arising from the study, mortgage lenders were requested to review their practices in customer income verification and the funding of mortgage balances so as to ensure that not only were loans properly secured but also that borrowers would be able to fully repay their loans. Additionally, lenders were advised of the need to stress test every would-be borrower's ability to meet his credit obligations, particularly mortgage credit, not just in the current economically favourable circumstances but also in more challenging times.

Responsible use of credit clearly can have advantages for borrowers in terms of their lifestyles and so forth. On the other hand, it is very important that loans fully suit borrowers' requirements both in terms of amount borrowed and ability to repay. This is equally important for lenders as inappropriate lending or borrowing can also be damaging to the economy. I therefore fully support the Central Bank and the Irish Financial Services Regulatory Authority in their endeavours to raise the level of awareness of the risks of reckless credit growth to all economic agents, particularly consumers and lenders.

#### **Tax Code.**

105. **Mr. McHugh** asked the Minister for Finance if he will extend the relief from stamp duty to farmers below the age of 55 years on the purchase of farmland by trained farmers in cases in which lands are being purchased to consolidate holdings and reduce fragmentation in pursuance of farm capacity building. [24760/04]

107. **Mr. McHugh** asked the Minister for Finance if farmers will be given support to help bring about a situation whereby stamp duty will not apply on land purchased by trained farmers in cases in which lands are being purchased to consolidate holdings and reduce fragmentation in pursuance of farm capacity building. [24762/04]

**Minister for Finance (Mr. Cowen):** I propose to take Questions Nos. 105 and 107 together.

The Deputy may be aware that the stamp duty code contains full stamp duty relief for transfers of land to young trained farmers where land is transferred to them by way of gift or sale, provided they have attained relevant educational qualifications. This exemption encourages the more productive use of agricultural land. The availability of the relief was extended in budget 2003 for a further three years to 31 December 2005. The Finance Act 2004 provided for an updated list of educational qualifications and contained changes which resulted in the raising of the

[Mr. Cowen.]

standards of certain of those qualifications which must be attained in order to qualify for the relief.

The relief, which is considered generous, is intended to encourage the transfer of land to young farmers who have successfully undergone training. The “young trained farmer” must be under 35 years of age at the date of execution of the transfer in order to satisfy the conditions for the stamp duty relief. The relief specifically focuses on “young” farmers with relevant training, and the current age limit and qualification requirements in respect of this relief are considered very reasonable. Any extension would dilute the focus of the relief.

As Deputies are aware, it is not the practice to comment in the lead up to the annual budget and Finance Bill on the intention or otherwise to make changes in taxation.

106. **Mr. McHugh** asked the Minister for Finance if he will exempt farmers from capital gains tax on the disposal of lands in cases in which the proceeds of the disposal are utilised to consolidate holdings to reduce fragmentation and are applied in the acquisition of other farm land to achieve this within a specified period, such that the lands being disposed of and the replacement land be deemed to be the one and the same land for the purpose of subsequent disposals. [24761/04]

108. **Mr. McHugh** asked the Minister for Finance if farmers will be given support to help bring about a situation whereby capital gains tax will not apply on land disposals in cases in which proceeds are re-invested into replacement land to help reduce fragmentation of farms in order to consolidate holdings, improve land utilisation and build productive capacity. [24763/04]

**Minister for Finance (Mr. Cowen):** I propose to take Questions Nos. 106 and 108 together.

Capital Gains Tax, CGT, is a tax on a capital gain arising on the disposal of assets. A 20% rate of CGT applies on the gains arising on the disposal of assets, including farmland. It was announced in the 2003 budget that no rollover relief would be allowed for any purpose on gains arising from disposals on or after 4 December 2002. This relief was introduced when CGT rates were much higher than current levels. In effect, it was a deferral of tax to be paid, where the proceeds of disposal were re-invested into replacement assets. The taxation of these gains would take place following the eventual disposal of the new assets without their replacement.

The abolition of this relief was in accordance with the overall taxation policy of widening the tax base in order to keep direct tax rates low. Such reliefs and allowances made sense when CGT rates were 40% and above. As the Deputy may be aware, the rate was halved from 40% to

20% in budget 1998. Taxing capital gains when they are realised is the most logical time to do so, and this change brought CGT into line with other areas.

It is not the practice to comment in the lead up to the annual budget and Finance Bill on the intention or otherwise to make changes in taxation.

*Question No. 107 answered with Question No. 105.*

*Question No. 108 answered with Question No. 106.*

### **Flood Relief.**

109. **Mr. Cuffe** asked the Minister for Finance the expenditure on flood relief works in Kilkenny city over the past five years. [24784/04]

**Minister of State at the Department of Finance (Mr. Parlon):** Expenditure on the River Nore, Kilkenny city, drainage scheme since 2000 is set out in the following table.

Year	Expenditure
	€
2000	640,808.09
2001	3,902,741.58
2002	9,261,353.10
2003	13,857,991.09
2004 (Up to 7/10/04)	7,152,273.74

### **Tax Code.**

110. **Mr. Cuffe** asked the Minister for Finance if he will consider introducing a differential stamp duty on house sales to favour energy efficient properties. [24786/04]

**Minister for Finance (Mr. Cowen):** I am informed by the Minister for the Environment, Heritage and Local Government that new buildings commenced since 1 June 1992 must, by law, comply with mandatory thermal performance and insulation standards under part L of building regulations made by that Minister. I am also informed that the relevant standards are periodically updated and are now among the highest in the EU.

The EU directive on the energy performance of buildings, 2002/91/EC of 16 December 2002, requires that no later than 1 January 2009, all new buildings, and all existing buildings when offered for sale or letting, must be accompanied by an energy performance certificate. A low energy performance rating is expected to impact on the marketability of the property involved, depending on overall market conditions. This is expected to provide some incentive for landlords and vendors to improve the energy performance of buildings before placing them on the market.

The introduction of a stamp duty incentive could be quite complex to operate in practice if it were implemented. Stamp duty is a very efficient tax from the point of view of administrative costs, and such complex proposals could run counter to the current administration of the tax.

111. **Mr. Cuffe** asked the Minister for Finance the estimate for the total tax foregone through tax incentives allocated to the developers of new build and refurbished buildings over the past ten years. [24793/04]

**Minister for Finance (Mr. Cowen):** Tax reliefs have been available for expenditure on the construction, refurbishment and conversion of buildings under a number of schemes over the past ten years such as the area based renewal schemes, which include the urban, rural and town renewal schemes and the living over the shop scheme, as well as other objective specific schemes, which include relief for investment in park and ride facilities, student accommodation, private hospitals and nursing homes.

Details of tax relief claimed for investment in these schemes are not, at present, captured by the office of the Revenue Commissioners in such a way as to provide a specific basis for compiling estimates of the total annual cost to the Exchequer. Claims for these reliefs are aggregated in tax returns with other claims, such as with industrial buildings allowances generally or with other capital allowances, and do not distinguish between the reliefs claimed in respect of the different schemes.

My Department has been working closely with the Revenue Commissioners to examine how information capture could be improved in this and other areas. I am also conscious that capturing additional information on tax return forms must be considered in the context of not overburdening compliant taxpayers. The Revenue Commissioners will be introducing a number of changes to the forms relating to the annual return of income in respect of the tax year 2004. Provisions were included in Finance Act 2004 to underpin these changes which will yield additional information regarding the cost of various tax reliefs including those in the property area.

#### **Overseas Property.**

112. **Mr. Allen** asked the Minister for Foreign Affairs if he has had contact with the Spanish Government regarding the effects of an urban development activity plan sanctioned by the Valencia Government (details supplied); if his Department has assessed the number of Irish citizens who have property in the Valencia area who are affected by the new law; and if his Department has been in contact with the European Commission regarding this issue. [24055/04]

**Minister for Foreign Affairs (Mr. D. Ahern):** As a reflection of the concern of EU governments, the EU ambassadors to Spain, including the Irish ambassador, have on a number of occasions raised with the Spanish authorities the law in question — Ley Reguladora de la Actividad Urbanística, LRAU — which was adopted by the regional government of Valencia and which relates to local land use. The law affects both Spanish and foreign nationals. The Irish Embassy has, in addition, raised the issue directly with the authorities in Valencia, who appear to have autonomy regarding this particular matter.

The committee on petitions of the European Parliament in May sent a fact finding mission to Valencia to study the implications of this law. The mission met with the local authorities and with some of the property owners who have been affected by the law. The committee's report, which issued on 6 July 2004, highlighted some of the serious difficulties that have flowed from the law, and was strongly critical of its effect.

The Irish embassy has been approached by a small number of Irish citizens who have raised concerns about the practical impact of the law on property owners in Valencia. Together with our EU partners, we are examining how the concerns in this matter could best be further pursued with the Spanish national and regional authorities.

#### **Proposed Legislation.**

113. **Mr. Quinn** asked the Minister for Foreign Affairs the circumstances in which concern arose regarding the constitutionality of Part VIII of the Diplomatic Relations and Immunities Act 1967, as amended by the Diplomatic Relations and Immunities (Amendment) Act 1976; the nature and extent of that concern; and his views on the urgency with which the matter needs to be addressed. [24839/04]

**Minister for Foreign Affairs (Mr. D. Ahern):** Under Part VIII of the Diplomatic Relations and Immunities Act 1967, as amended by the Diplomatic Relations and Immunities (Amendment) Act 1976, the Government may by order make provision for international organisations and bodies and related persons to have privileges and immunities in the context of international relations. A question has arisen, in the context of making such orders, as to the constitutionality of this provision because of the wide discretion it gives to the Government in the making of orders.

It is proposed to amend the 1967 and 1976 Acts in a way which would remedy the aforementioned constitutional concern, while not impinging upon the general prerogative of the Government to make orders. It is my intention to seek the authority of the Government to request the Attorney General to arrange for the drafting of the proposed amendment to the 1967 and 1976 Acts in the coming weeks.



### Psychological Service.

114. **Mr. O'Shea** asked the Minister for Education and Science her proposals to increase the number of psychologists employed by the National Education Psychology Service to ensure that children awaiting psychological assessment are not subject to unacceptable delays; and if she will make a statement on the matter. [24691/04]

**Minister for Education and Science (Ms Hanafin):** There are 127 psychologists in the National Educational Psychological Service, NEPS, including three psychologists from the National Disability Authority, who are working in NEPS under a contractual arrangement. It is hoped that five more psychologists will be taking up employment in NEPS shortly.

Further recruitment of psychologists to NEPS will depend on the availability of resources and must also take account of Government policy on public sector numbers. Pending the expansion of NEPS to cover all schools, those that are not yet served may avail of the scheme for commissioning psychological assessments, SCPA. The SCPA is an interim measure and was specifically introduced to minimise delays for those children who need to be assessed.

### Schools Building Projects.

115. **Mr. J. Breen** asked the Minister for Education and Science if she will honour commitments made in 1987 to a school (details supplied) in County Clare; if approval for a temporary classroom will be given; and if she will make a statement on the matter. [24714/04]

**Minister for Education and Science (Ms Hanafin):** I am not aware of the commitment referred to by the Deputy. In regard to the temporary accommodation, the position is that details of a streamlined application process for schools requiring temporary school accommodation for September 2005 were published recently. The closing date for receipt of completed applications is 5 November 2004.

The streamlining of the application process for temporary accommodation will ensure that schools which are being allocated funding for accommodation for the start of the school year 2005-6 are enabled to provide it in a timely and appropriate manner. An application has recently been received from the management authority of the school to which the Deputy refers and will be considered by reference to the criteria outlined in the published document.

### School Placement.

116. **Mr. Durkan** asked the Minister for Education and Science if a person (details supplied) in County Kildare will be offered a school placement at a school for the academic year commen-

cing September 2005; and if she will make a statement on the matter. [24715/04]

**Minister for Education and Science (Ms Hanafin):** My Department has not received any notification that the person referred to by the Deputy has been refused enrolment for the academic year commencing in September 2005.

The selection and enrolment of pupils in second level schools is the responsibility of the school management authorities. My Department's main responsibility is to ensure that schools in an area can, between them, cater for all pupils seeking second level places in an area. This may result, however, in some pupils not obtaining a place in the school of their first choice. As schools may not have a place for every applicant, a selection process may be necessary. This selection process and the enrolment policy on which it is based must be non-discriminatory and must be applied fairly in respect of all applicants.

Section 29 of the Education Act 1998 provides parents with an appeal process where a board of management of a school or a person acting on behalf of the board refuses enrolment to a student. Where a school refuses to enrol a pupil, the school is obliged to inform parents of their right under section 29 of the Education Act 1998 to appeal that decision to the Secretary General of my Department.

An appeal will generally not be admitted unless it is made within 42 calendar days from the date the decision of the board of management was notified to the parent or student concerned. However, a longer period for making appeals may be allowed as an exception where it is accepted that circumstances did not permit the making of an appeal within the 42 day limit. Where an appeal under section 29 is upheld, the Secretary General of my Department may direct a school to enrol a pupil.

The National Educational Welfare Board, NEWB, can assist parents who are experiencing difficulty in securing a school place for their child. The welfare board has indicated that it will treat children for whom an appeal under section 29 has been unsuccessful as priority cases in offering such assistance.

### College Closure.

117. **Mr. Timmins** asked the Minister for Education and Science the position regarding a school (details supplied) in County Dublin in view of the recent release of documentation revealing that this decision was made contrary to the advice of the consultant and her own Department officials; if the college will now be kept open; if she will enter into discussions with college authorities; and if she will make a statement on the matter. [24721/04]



**Minister for Education and Science (Ms Hanafin):** The issue of the future of the college, which is the subject of the question posed by the Deputy, arose in the context of a decision by the trustees of the college that, due to personnel and financial considerations, they were no longer in a position to fulfil the role of trustees of the college. Following discussions between the trustees and my Department, it was agreed that a consultant would be appointed who would meet with relevant parties and prepare a report on the options for the college's future.

The consultant's report was thoroughly examined in my Department and the options for the future of the college were set out for my predecessor's consideration. Having carefully considered all of them and having taken into account other factors, such as the national spatial strategy, relevant costs in a time of financial constraint, a Government decision to restrict public service numbers, the need to secure value for money and a better allocation of resources, the then Minister, Deputy Dempsey, decided that these considerations are best served by the closure of the college and the designation of St. Angela's College, Sligo, as the sole centre for the training of home economics teachers.

It was agreed that the closure of the college would be phased over three academic years to facilitate students currently enrolled in the college to fully complete their studies without moving location and to ensure that there was an adequate transition period for staff. On that basis there has been no intake of first year students to the college for the 2004/05 year. Instead these students are now in St. Angela's College. Officials from my Department have already met with the trustees and with management authorities of the college to discuss the necessary practical arrangements, including arrangements regarding the position of the staff of the college. I have no plans to reconsider the decision to close the college.

#### **School Transport.**

118. **Mr. Crawford** asked the Minister for Education and Science when a person (details supplied) in County Monaghan can expect a decision regarding their urgent need for transport to a special speech and language school in Monaghan; and if she will make a statement on the matter. [24747/04]

**Minister for Education and Science (Ms Hanafin):** My Department has recently sanctioned school transport for the pupil referred to in the details supplied. Bus Éireann has been advised to put the necessary arrangements in place as soon as possible.

#### **Schools Building Projects.**

119. **Ms McManus** asked the Minister for Education and Science if, in view of the considerable

need, she will sanction the extension and upgrading of a school (details supplied) in County Wicklow; and if she will make a statement on the matter. [24748/04]

**Minister for Education and Science (Ms Hanafin):** The building project for the school referred to by the Deputy is at an early stage of architectural planning. It has a band 2 rating and is at stage 3, detailed plans-costs. This project was not authorised to proceed to tender and construction this year. My Department's officials recently wrote to the school authorities requesting additional information on their stage 3 submission and a response is awaited.

My Department's officials are currently reviewing all projects that were not authorised to proceed to construction as part of the 2004 school building programme, including the project in question, with a view to including them as part of a multi-annual school building programme from 2005. I expect to make further announcements in this regard before the end of the year.

#### **Higher Education Grants.**

120. **Mr. O'Connor** asked the Minister for Education and Science if she will initiate an assessment of the higher education grants scheme administered by South Dublin County Council and the local authorities; if she will consider the problems being encountered, particularly the position of independent mature students; and if she will make a statement on the matter. [24749/04]

**Minister for Education and Science (Ms Hanafin):** I understand that the Deputy is referring to queries arising during the grant assessment process in South Dublin County Council, and each of the local authorities, particularly in regard to the stipulations of the higher education grant scheme under which an applicant can be assessed as an independent mature student.

The higher education grants scheme operates under the Local Authorities (Higher Education Grants) Acts 1968 to 1992. These Acts define a mature student to mean a person "of not less than 23 years of age, or such other age as may stand specified for the time being in regulations made by the Minister with the consent of the Minister for Finance, who has secured a place in an approved institution and has reached that age on 1 January, or such other date as may be prescribed from time to time by the Minister with the consent of the Minister for Finance, in the year of entry to such institutions".

Under the terms of the higher education grants schemes, mature students are categorised as either independent mature students or mature students dependent on parents. An independent mature student is defined to mean a mature student who was not ordinarily resident at home

[Ms Hanafin.]

with his or her parents from the October preceding their entry to an approved course. Independent mature students are assessed without reference to either their parents' income or address.

When assessing the means of students, other than independent mature students, the schemes specify that the students' means and those of their parents or guardians where appropriate must be below a prescribed limit. This provision requires that parental income be taken into account irrespective of the individual circumstances in any case where the student is not an independent mature student.

If the Deputy has any particular issues which he wishes to bring to my attention I would have them examined having regard to the terms and conditions of the schemes.

#### **School Transport.**

121. **Mr. Timmins** asked the Minister for Education and Science the position with regard to persons (details supplied) in County Carlow; if they can be picked up by the bus at Liscolman; and if she will make a statement on the matter. [24750/04]

**Minister for Education and Science (Ms Hanafin):** My Department has requested a report on this matter from Bus Éireann. The case will be considered on receipt of the report.

#### **Special Educational Needs.**

122. **Mr. Perry** asked the Minister for Education and Science if her attention has been drawn to the difficulties encountered by a school (details supplied); if her Department officials will grant the necessary approval; the reasons for the delay; and if she will make a statement on the matter. [24751/04]

**Minister for Education and Science (Ms Hanafin):** I can confirm that my Department received an application for an increase in special needs assistant, SNA, support for a pupil in the school in question. At present, my Department is considering the levels and deployment of SNA support in mainstream national schools generally and the application is being considered in this context. A decision on the application will be conveyed to the school as soon as this process has been completed.

#### **Higher Education Grants.**

123. **Mr. Connaughton** asked the Minister for Education and Science if an application for a higher education grant for a person (details supplied) in County Galway will be approved; and if she will make a statement on the matter. [24754/04]

**Minister for Education and Science (Ms Hanafin):** The decision on eligibility for maintenance grants is a matter for the relevant local authority or VEC. These bodies do not refer individual applications to my Department except in exceptional cases where, for example, advice or instruction about a particular clause in the relevant scheme is desired.

Under the terms of the Department's maintenance grants scheme, a mature student is defined as a candidate who is at least 23 years of age on 1 January of the year of entry or re-entry to an approved course. When assessing the means of students other than independent mature students, the means test provision of the scheme specifies that the students' means and those of their parents or guardians must be below a prescribed limit. This provision requires that parental income be taken into account irrespective of the individual circumstances in any case where the student is not an independent mature student. As the student to whom the Deputy refers was not 23 on 1 January of the year of entry to third level education, she must therefore be assessed by reference to parent(s) income.

The other student support schemes have similar provisions with regard to the means assessment of students. The Deputy will appreciate that the terms of the scheme are of general application and it is not open to me to make exceptions in individual cases.

#### **Schools Building Projects.**

124. **Mr. Connaughton** asked the Minister for Education and Science when she proposes to grant aid the building of two classrooms at a school (details supplied) in County Galway; if her attention has been drawn to the gross overcrowding at the school and to the fact that the school authorities do not want another prefab; and if she will make a statement on the matter. [24755/04]

**Minister for Education and Science (Ms Hanafin):** Grant aid was approved by my Department in July 2003 towards the purchase of one prefab for the school to which the Deputy refers to meet its accommodation needs. The school authorities subsequently decided to utilise the grant to construct a permanent classroom. This provision will adequately meet the school's current accommodation requirements.

The school's overall accommodation needs will be considered in the context of a review of all projects which did not proceed to construction as part of the 2004 school building programme with a view to including them as part of a multi-annual programme from 2005. I expect to provide details of this multi-annual programme before the end of the current year.

### Special Educational Needs.

125. **Mr. Connaughton** asked the Minister for Education and Science if her attention has been drawn to the fact that the resource teaching hours available to a person with special needs at a school (details supplied) have been reduced from five to 3.5 hours; if her attention has been further drawn to the fact that the assistance of the special needs assistant is not available to this person for the last hour of school each day and that such a decision to curtail services to a special needs person causes great anxiety to the parents and to the teachers who combine to ensure that there is real integration into the ordinary classroom; and if she will make a statement on the matter. [24756/04]

**Minister for Education and Science (Ms Hanafin):** Having sought clarification from the Deputy's office about the pupil in question, I can confirm that my Department received an application for a review of special needs assistant, SNA, support for the pupil. At present, my Department is considering the levels and deployment of SNA support in mainstream national schools generally and the application for increased SNA support for the pupil is being considered in this context. A decision on the application will be conveyed to the school as soon as this process has been completed.

My Department reviewed the resource teaching support for the pupil concerned recently. The school was advised on 23 September 2004 that, in line with Department criteria, the appropriate level of resource teaching support for the pupil is 3.5 hours per week.

### School Transport.

126. **Mr. Connaughton** asked the Minister for Education and Science the reason persons (details supplied) in County Galway are not entitled to free or fare paying travel to a school; if, in view of all the circumstances, transport will be provided to this school. [24757/04]

**Minister for Education and Science (Ms Hanafin):** My Department has requested a report on this case from Bus Éireann. The case will be considered on receipt of the report.

### School Accommodation.

127. **Mr. Connaughton** asked the Minister for Education and Science if, as a matter of urgency, an application by a school (details supplied) in County Galway for grant aid to build two extra classrooms and a learning support and general practitioner room will be approved; if her attention has been drawn to the fact that the number of pupils attending the school is increasing quite dramatically and that an additional teacher will be employed in 2005; if her attention has been further drawn to the gross overcrowding at the school, that there are already two prefab

classrooms and that an additional prefab would not be practicable or desirable; and if she will make a statement on the matter. [24758/04]

**Minister for Education and Science (Ms Hanafin):** An application for grant aid towards additional accommodation has been received from the management authority of the school to which the Deputy refers. My officials are nearing completion of a review of all projects which did not proceed to construction as part of the 2004 school building programme with a view to including them as part of a multi-annual programme from 2005. The needs of the school referred to are being considered as part of this review.

I expect to provide details of this multi-annual programme before the end of the current year.

### Schools Building Projects.

128. **Mr. McHugh** asked the Minister for Education and Science the progress being made with regard to a project (details supplied) in County Galway; if her Department is doing everything possible to facilitate progress; if the planning and development of the project is proceeding as speedily as possible; the reasons for the delay in finalising this project; and if she will make a statement on the matter. [24759/04]

**Minister for Education and Science (Ms Hanafin):** Agreement has been reached with the management authorities of the two schools referred to by the Deputy to develop a single post-primary school in the centre. My officials are nearing completion of a review of all projects which did not proceed to construction as part of the 2004 school building programme with a view to including them as part of a multi-annual programme from 2005. The accommodation needs of the schools referred to arising from the amalgamation are being considered in this regard. I expect to provide details of this multi-annual programme before the end of the current year.

My officials have been in contact with the school authorities as required to progress the detailed preliminary work necessary to facilitate this large scale building project.

### Disadvantaged Status.

129. **Mr. Kehoe** asked the Minister for Education and Science the criteria used for assessing whether a primary school qualifies for disadvantaged status; and if she will make a statement on the matter. [24772/04]

130. **Mr. Kehoe** asked the Minister for Education and Science the reason a school (details supplied) in County Wexford was not offered disadvantaged status despite being considered in the McCarthy report; and if she will make a statement on the matter. [24773/04]



**Minister for Education and Science (Ms Hanafin):** I propose to take Questions Nos. 129 and 130 together.

Giving Children an Even Break subsumes the previous process of designation of schools that serve areas of educational disadvantage and my Department's approach is now refined to ensure that individual "at risk" pupils are targeted. Rather than the old method of designating additional schools, my Department now provides support that is commensurate with the levels of concentration in schools of pupils with characteristics that are associated with educational disadvantage and early school leaving.

Primary schools participating in Giving Children an Even Break are in receipt of a range of additional supports, including teacher posts and other non-teaching supports to be targeted at disadvantaged pupils. The additional supports provided reflect the level of concentration of pupils from educationally disadvantaged backgrounds in each school invited to participate in the programme. These levels of disadvantage were established as a result of a comprehensive survey of primary schools carried out by the Educational Research Centre, ERC, in March-April 2000 at the request of my Department.

Resources are allocated to schools on a sliding scale and schools with greater proportions of pupils from disadvantaged backgrounds are allocated proportionally more resources than those with fewer numbers of such pupils. Every participating school is entitled to a special €63.49 *per capita* grant in respect of the percentage of pupils with disadvantaged characteristics and schools receive a minimum of €952.30 per annum.

Schools categorised as urban in Giving Children an Even Break with the highest concentrations of at risk pupils are supported, where necessary, through staff allocations to implement reduced pupil-teacher ratios of 20:1 in junior classes, infants through second class, and 27:1 in senior classes, third through sixth class.

The school referred to by the Deputy is included in the urban dimension of Giving Children an Even Break. The school benefits from supplementary funding to provide additional educational supports for the children concerned. It was not considered eligible for additional teaching staff, based on the level of concentration of at risk pupils in the school as reflected in the Educational Research Centre survey outcome.

### Schools Building Projects.

131. **Mr. O'Donovan** asked the Minister for Education and Science the proposals by her Department for the construction of a school (details supplied) in County Cork; if a green field site has been selected for same; if it is envisaged that the school will be on her Department's build-

ing programme for 2005; and if she will make a statement on the matter. [24774/04]

**Minister for Education and Science (Ms Hanafin):** In May this year my Department approved the purchase of an 18 acre site from Cork County Council. It is envisaged that this site will facilitate the construction of a post-primary community college and a primary gaelscoil. The site acquisition process is well advanced.

The project for the school to which the Deputy refers will be progressed in the context of the multi-annual school building programme from 2005, preparation of which is currently under way in the school planning section of my Department. I expect to provide details of this multi-annual programme before the end of the current year.

132. **Mr. O'Donovan** asked the Minister for Education and Science the progress by her Department in acquiring a site for a school (details supplied) in County Cork; the date on which the contract for sale from Cork County Council to the VEC will be exchanged and other relevant details; if it is envisaged that the school will be on her Department's building programme for 2005; and if she will make a statement on the matter. [24775/04]

**Minister for Education and Science (Ms Hanafin):** In May this year, my Department approved the purchase of an 18 acre site from Cork County Council. It is envisaged that this site will facilitate the construction of a post-primary community college and a primary gaelscoil. The site acquisition process is a matter for the VEC.

The building project for the new second level school to which the Deputy refers will be progressed in the context of the multi-annual school building programme from 2005, preparation of which is currently under way in the school planning section of my Department. I expect to provide details of this multi-annual programme before the end of the current year.

### Institiúid Teangeolaíochta Éireann.

133. **Mr. Gormley** asked the Minister for Education and Science the plans for the future use of the ITÉ premises (details supplied); if all litigation regarding ITÉ has come to an end; if so, the outcome of the litigation; the cost to the ITÉ in legal fees and other costs; and if she will make a statement on the matter. [24803/04]

**Minister for Education and Science (Ms Hanafin):** At an extraordinary general meeting of ITÉ, held on 18 July 2003, the company agreed to initiate a process of voluntary liquidation. This decision was a matter for the members in accordance with their memorandum and articles of association and relevant company law. A meeting of the executive committee of ITÉ on 5 December 2003 agreed to the appointment of a

liquidator, who was subsequently appointed on 9 January 2004.

The liquidator has assumed responsibility for the management and winding up of the affairs of ITÉ from that date. This includes responsibility for dealing with property disposal issues and outstanding litigation issues. My Department has been liaising closely with the liquidator since his appointment. The final legal fees associated with outstanding litigation cases will form part of a report from the liquidator to my Department.

ITÉ operates from a number of leased premises. I understand that the property referred to by the Deputy is leased from the Office of Public Works, which has agreed to take over the property following the completion of the liquidation. The future of this property, following the completion of the liquidation, is a matter for that office.

### Special Educational Needs.

134. **Mr. Penrose** asked the Minister for Education and Science if her attention has been drawn to the impact that the new system for allocation of resource teacher support for children with special needs will have on some schools, in particular a school (details supplied) in County Westmeath; if her attention has further been drawn to the fact that under the weighted system, this school is allowed one resource teacher for every 200 pupils, which means that this school's allocation has been reduced by 1.4 teachers or 35 teaching hours; if, in view of the foregoing, this situation will be reviewed; and if she will make a statement on the matter. [24848/04]

**Minister for Education and Science (Ms Hanafin):** Under my Department's weighted system of teacher allocation for pupils with learning support and higher incidence special educational needs, the appropriate level of teaching support is determined by school enrolment figures and based on the following criteria: in the most disadvantaged schools, as per the urban dimension of Giving Children an Even Break, a teacher of pupils with special educational needs will be allocated for every 80 pupils to cater for the subset of pupils with higher incidence special needs; in all boys schools, the ratio will be one teacher for every 140 pupils; in mixed schools, or all girls schools with an enrolment of greater than 30% boys, one for every 150 pupils; and in all girls schools, including schools with mixed junior classes but with 30% or less boys overall, one for every 200 pupils.

The revised system has been developed in consultation with representative interests. It is a genuine effort to improve the special education resource allocation process. The differentiation under the general weighted allocation reflects the experience of needs both within this country and internationally. Pupils with lower incidence

special educational needs will continue to receive individual allocations of teacher support as appropriate.

I will continue to work for improvements in the provision of education services for children with special educational needs and, in this context, will monitor the implementation of the new system to ensure its efficiency and effectiveness.

### Marine Safety.

135. **Mr. Perry** asked the Minister for Communications, Marine and Natural Resources if a once-off payment will be made to Sligo harbour board to ensure that it can provide lifebuoys along the Garavogue River in Sligo town to prevent further loss of life; and if he will make a statement on the matter. [24579/04]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** Sligo harbour commissioners have traditionally taken responsibility for the provision of lifebuoys from the slipway at Custom House Quay down to the port's deepwater quay. The commissioners have a number of lifebuoys in place. I understand that additional lifebuoys, which the commissioners took delivery of last Friday, will be deployed as required in the interest of public safety.

### Telecommunications Services.

136. **Mr. Neville** asked the Minister for Communications, Marine and Natural Resources the position regarding the development of the group broadband scheme. [24713/04]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** The first call for proposals under the group broadband scheme closed on 30 September 2004. A total of 52 project proposals had been received at that date. To date, my Department has approved five project proposals including Killbeggan, Kinnefad, Rochfortbridge, County Westmeath, Gweedore, County Donegal and Daingean, County Offaly. The remaining projects are being assessed for the purposes of funding by my Department and I expect to make further announcements regarding funding in the coming weeks.

As projects are evaluated and approved, the details of the projects are posted to the communications section of my Department's website [www.dcmnr.gov.ie](http://www.dcmnr.gov.ie). A second call for group broadband project proposals will issue towards the end of this year.

### Harbours and Piers.

137. **Mr. O'Donovan** asked the Minister for Communications, Marine and Natural Resources the position pertaining to the proposed new pier for Bantry; the status of the contract that was signed in spring 2002; the decision of the Attorney General on its validity; the status of the

[Mr. O'Donovan.]  
 €1.9 million commitment by his Department in June 2000 regarding this matter; and if he will make a statement on the matter. [24771/04]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** I thank the Deputy for this opportunity to inform the House of the up to date position on the pier development proposed by Bantry Bay Harbour Commissioners.

On 6 September 2004 a meeting took place between the commissioners and the former Minister of State at my Department, Deputy Browne. Following the meeting, the Minister of State wrote to the commissioners setting out his understanding of the outcome of the meeting and how to ensure the dialogue between my Department and the commissioners could be progressed in the future on a positive basis. The letter reiterated that the interruption in the dialogue between my Department and the commissioners and the referral of the matter to the Attorney General was a direct consequence of the unilateral decision by the commissioners to sign a contract in March 2002 for the construction of the pier while discussions with my Department on the viability of the project were ongoing. My Department has received advice from the Attorney General on the proposed pier development. However, no decisions have been taken by my Department on foot of this advice on the contract entered into by the commissioners.

The Minister of State's letter further indicated that from the discussions which had taken place, it appeared that the commissioners believed that the business environment for the project had shifted from that originally envisaged. The projected costs had escalated since the consideration of Exchequer support of €1.9 million by the former Minister, Deputy Fahey. Furthermore, no progress appeared to have been made on the conditions contained in the former Minister's letter of 15 May 2002, which expressly instructed the commissioners not to enter into contractual commitments pending a report on progress on the two stipulated conditions. These conditions relate to negotiations with the terminal operator.

The Minister of State proposed in his letter to the commissioners that the project be reviewed in terms of its viability, the financial implications for the commissioners of increased borrowings for the project due to its escalated cost and the risks to the project posed by the dominant position of the terminal operator. To this end, my Department has invited the commissioners to submit for consideration a fully detailed updated proposal for the project, including a business plan with financial tables. The proposed course set out is a sound basis for progressing the matter and I look forward to my Department receiving for con-

sideration the updated proposal from the commissioners in due course.

#### **Health Board Services.**

138. **Mr. Perry** asked the Tánaiste and Minister for Health and Children if she has received correspondence of 7 September 2004 on behalf on persons (details supplied) in County Sligo; if she will make a decision in view of the circumstances outlined; and if she will make a statement on the matter. [24582/04]

**Tánaiste and Minister for Health and Children (Ms Harney):** The correspondence in question has been received in my Department. It refers to medical treatment obtained in another EU country. It is a matter for the health board to determine if the treatment is to be authorised in such circumstances.

Where an individual requires specific treatment which is necessary and which is not available in Ireland, a health board may authorise the provision of treatment in another EU member state under EU Regulation 1408/71, which provides for the co-ordination of health and social security arrangements between members of the EU. The E112 is the relevant EU liaison form issued by the health boards in such cases. The issue of the E112 form involves a commitment by the health board to pay the cost of treatment and in issuing the form the health board should specify the nature and extent of treatment to be covered.

It is a matter for the health board to assess each application and to certify criteria by a medical consultant that the treatment is not available in this country; there is an urgent medical necessity for the treatment; there is a reasonable medical prognosis; the treatment is regarded as a proven form of medical treatment; and the treatment abroad is in a recognised hospital or other institution and is under the control of a registered medical practitioner.

The regulations cover public treatment only and it is important to understand that any person who opts for private treatment is liable for any expenses incurred. Each of the Community countries has its own rules regarding public health services. Under the circumstances, a copy of the documentation has been forwarded to the chief executive officer of the North Western Health Board with a request that he should investigate the issues raised and reply directly to the Deputy.

139. **Mr. Gogarty** asked the Tánaiste and Minister for Health and Children if a domiciliary care allowance will be provided for a person (details supplied) in County Dublin. [24678/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The assessment of entitlement to and payment of the domiciliary care allowance is a matter for the relevant health board and the Eastern Regional Health Auth-



ority in the first instance. Accordingly, a copy of the Deputy's question has been forwarded to the regional chief executive of the authority with a request that he should examine the case and reply directly to the Deputy as a matter of urgency.

140. **Mr. Gogarty** asked the Tánaiste and Minister for Health and Children if domiciliary care allowance will be provided for a person (details supplied) in County Dublin. [24679/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The assessment of entitlement to and payment of the domiciliary care allowance is a matter for the relevant health board and the Eastern Regional Health Authority in the first instance. Accordingly, a copy of the Deputy's question has been forwarded to the regional chief executive of the authority with a request that he should examine the case and reply directly to the Deputy as a matter of urgency.

141. **Mr. Gogarty** asked the Tánaiste and Minister for Health and Children if she will investigate claims that parents of children living in Meath and north Kildare are granted domiciliary care allowances more frequently than their counterparts living in west Dublin; and if she will make a statement on the matter. [24680/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The assessment of entitlement to and payment of the domiciliary care allowance is a matter for the relevant health board. Accordingly, a copy of the Deputy's question has been forwarded to the chief executive officers of both the Eastern Regional Health Authority and the North Eastern Health Board with a request that they should examine the query and reply directly to the Deputy as a matter of urgency.

#### Hospital Waiting Lists.

142. **Mr. Ring** asked the Tánaiste and Minister for Health and Children when a person (details supplied) in County Mayo, who is in UCHG, will be given a bed in Beaumont Hospital, Dublin. [24707/04]

**Tánaiste and Minister for Health and Children (Ms Harney):** The provision of hospital services for people living 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 in this case and to reply directly to the Deputy.

#### Medical Cards.

143. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children if and when a medical card will be approved in the case of a person (details supplied) in County Kildare who was refused previously on income grounds; if the fam-

ily's substantial outgoing expenditure was taken into consideration when determining same; and if she will make a statement on the matter. [24716/04]

**Tánaiste and Minister for Health and Children (Ms Harney):** Responsibility for the provision of a medical card is, by legislation, a matter for the chief executive officer of the relevant health board-authority. My Department has, therefore, asked the regional chief executive of the Eastern Regional Health Authority to investigate the matter raised by the Deputy and to reply to him directly.

#### Health Board Services.

144. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children when a person (details supplied) in County Kildare will be offered extra home help to assist them with their child who is wheelchair bound; and if she will make a statement on the matter. [24717/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The provision of health related services is a matter for the health boards and the Eastern Regional Health Authority in the first instance. Accordingly, a copy of the Deputy's question has been forwarded to the regional chief executive of the authority with a request that he examine the case and reply directly to the Deputy as a matter of urgency.

#### Medical Cards.

145. **Ms McManus** asked the Tánaiste and Minister for Health and Children the cost of extending medical cards to an additional 200,000 persons; and if she will make a statement on the matter. [24723/04]

**Tánaiste and Minister for Health and Children (Ms Harney):** On the basis of the figures contained in the 2003 annual report of the GMS payments board, the current cost of extending medical card coverage to an additional 200,000 persons would be in the region of €180 million. This figure relates to fees paid to general practitioners, the costs of drugs and medicines and fees paid to pharmacists. There would also, of course, be other associated costs with medical cards such as the dental and ophthalmic schemes.

#### Hospital Services.

146. **Ms McManus** asked the Tánaiste and Minister for Health and Children the amount of the additional funding recently announced by her predecessor to staff and equip new hospital facilities; the source of this funding; the budgetary impact on funding earmarked for mental health and primary care; and if she will make a statement on the matter. [24724/04]

**Tánaiste and Minister for Health and Children (Ms Harney):** The full year cost of the new units package recently announced by my predecessor, Deputy Martin, is €85 million in revenue funding and approximately €35 million capital funding in respect of equipping. It has been agreed that €35 million revenue for the projects will come from within the overall funding already available to my Department while the balance falls to be addressed in the context of the 2005 Estimates. The €35 million capital funding will be available from the capital programme.

The new units package includes the opening of new acute psychiatric units at James Connolly Memorial Hospital and Midland Regional Hospital, Portlaoise. There is no budgetary impact on primary care. These new units will significantly enhance and improve service delivery to patients and have been planned in accordance with defined service needs as set out in a number of health related strategies.

#### Medical Cards.

147. **Mr. McGuinness** asked the Tánaiste and Minister for Health and Children if an application for a medical card will be expedited in the name of a person (details supplied) in County Kilkenny. [24725/04]

**Tánaiste and Minister for Health and Children (Ms Harney):** Responsibility for the provision of a medical card is, by legislation, a matter for the chief executive officer of the relevant health board or authority. My Department has therefore asked the chief executive officer of the South Eastern Health Board to investigate the matter raised by the Deputy and to reply to him directly.

#### Health Board Services.

148. **Mr. Perry** asked the Tánaiste and Minister for Health and Children if her attention has been drawn to the difficulties encountered by a person (details supplied) in County Sligo; if respite care will be made available to them; the legal responsibilities of her Department in the care of persons with physical disabilities; and if she will make a statement on the matter. [24752/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The provision of health services, including respite care, to people with a physical and or sensory disability 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 North Western Health Board with a request that he investigate the matter and reply directly to the Deputy, as a matter of urgency.

My Department has no direct function in the provision of health services to individuals. One of the principal responsibilities of the Department is

to advise and support the Minister in determining national policy. In the area of services to persons with a disability, this involves working closely with the regional health boards, the relevant service providers, other professionals and national representative bodies, including those representing the parents of children with a disability. This can be described as a partnership approach which enables the Department to put in place strategies to guide the development of services and to identify priority areas of need.

The statutory responsibility for the provision of a range of health services is vested in the regional health boards under the Health Act 1970. Each health board decides the services to be provided within its area from the annual determination of expenditure allocated to it by the Minister. In deciding the services to be provided within its area, each health board must take account of the Minister's policies and objectives.

#### Ambulance Services.

149. **Ms McManus** asked the Tánaiste and Minister for Health and Children the number of emergency response technicians who will be employed by her Department in Castletownbere, County Cork. [24753/04]

**Tánaiste and Minister for Health and Children (Ms Harney):** Responsibility for the provision of ambulance services to persons residing in County Cork rests with the Southern Health Board. My Department has therefore asked the chief executive officer of the board to investigate the matter raised by the Deputy and to reply to her directly.

#### Hospital Waiting Lists.

150. **Mr. Connaughton** asked the Tánaiste and Minister for Health and Children if her attention has been drawn to the pioneering work done in brain surgery in Beaumont Hospital in Dublin and that, due to insufficient resources in the neurology department at same, patients needing special brain surgery are on a long waiting list; and if she will make a statement on the matter. [24768/04]

**Tánaiste and Minister for Health and Children (Ms Harney):** Services at Beaumont Hospital are provided under an arrangement with the Eastern Regional Health Authority and my Department has, therefore, asked the regional chief executive of the authority to examine the matter and to reply to the Deputy directly.

#### Ambulance Services.

151. **Mr. Boyle** asked the Tánaiste and Minister for Health and Children the situation regarding the failure to have an ambulance service on Arranmore Island, County Donegal. [24818/04]

**Tánaiste and Minister for Health and Children (Ms Harney):** Responsibility for the provision of ambulance services in County Donegal rests with the North Western Health Board. My Department has therefore asked the chief executive officer of the board to investigate the matter raised by the Deputy and to reply to him directly.

#### **Pre-school Services.**

152. **Mr. Boyle** asked the Tánaiste and Minister for Health and Children if independently managed schools receive and are entitled to the same school health programme available in all other schools. [24819/04]

**Tánaiste and Minister for Health and Children (Ms Harney):** The statutory provision governing the school health examination service is outlined in section 66 of the Health Act 1970. The section provides that the children eligible for this service are pre-school and national school children. Section 66 also provides that a health board or authority may at its discretion provide child health examinations to children attending a school that is not a national school. Such discretion may be applied once the governing body of the school requests it. Thus, on receipt of an application under section 66(3), the chief executive officer of a health board or authority may discharge the statutory provisions of that section.

As part of the implementation process for the national health strategy, a review of all existing eligibility legislation is being undertaken in my Department. Arising from this review, legislation will be drafted to clarify and simplify eligibility and entitlements to health services in line with the goals and objectives set out in the strategy.

#### **Road Safety.**

153. **Mr. Perry** asked the Minister for Transport when the speed limit change over will be introduced; the measures he has in place to have speedometers changed and to ensure that speed limits are adhered to in view of the change over and to ensure that motorists are aware of their speed; if there are plans to allow each motorist to have their speedometer converted free of charge; and if he will make a statement on the matter. [24581/04]

**Minister for Transport (Mr. Cullen):** My predecessor announced last month that it is intended that metric speed limits be in place on 20 January 2005. A metrication change over board is working to that timeframe.

For a considerable number of years now, most new motor vehicles sold in Ireland have been equipped with speedometers having both metric and imperial speed graduations. As a consequence, for the majority of vehicles currently in use here it is possible for the driver to read the vehicle's speed directly in kilometres per hour. In

the circumstances I have no plans for a retrofit programme as such would not be practicable for technical and economic reasons nor are Exchequer funds available for such a purpose. However, a comprehensive public education programme on metrication will include information to assist all drivers to adjust to the use of metric distance and speed measurement.

#### **Rail Services.**

154. **Mr. Eamon Ryan** asked the Minister for Transport the analysis his Department has conducted on the relative merits of investing in a new direct rail service from Dublin to Navan as against the proposed new M3 motorway which would serve the same town and hinterland. [24698/04]

**Minister for Transport (Mr. Cullen):** Irish Rail, in conjunction with Meath County Council, is currently undertaking a feasibility study, including a cost benefit analysis, into providing a spur off the Dublin-Sligo railway line at Clonsilla and to reinstate the line as far as a park and ride facility adjacent to the N3 beyond Dunboyne. In assessing the rail proposal, I will also look at the impact on the rail proposals of the proposals to upgrade the N3 and the potential for bus priority measures along the route.

#### **Road Safety.**

155. **Mr. Murphy** asked the Minister for Transport if it is necessary for a person who is exempt from wearing a seatbelt due to long term illness to renew a doctor's letter on an annual basis; and if he will make a statement on the matter. [24764/04]

**Minister for Transport (Mr. Cullen):** The format of the medical certificate to be completed by a registered medical practitioner in respect of a person to whom an exemption from the requirement to use a safety belt applies is prescribed in the Road Traffic (Construction, Equipment and Use of Vehicles) (Amendment) No. 3 Regulations 1991. The certificate provides for the medical practitioner to specify the period of validity of the certificate. In the case of a person with long term or permanent grounds for exemption the medical certificate may be for an indefinite period.

156. **Mr. Cuffe** asked the Minister for Transport when he intends publishing a new national road safety strategy. [24788/04]

**Minister for Transport (Mr. Cullen):** The programme for government states that a three year road safety strategy will be developed to target speeding, drink driving, seatbelt wearing and pedestrian safety in order to reduce deaths and injuries. Following preparation by the high level group on road safety, a new strategy for the period



[Mr. Cullen.]

2004-06 was published on 24 September 2004. Copies of the strategy are available in the Oireachtas Library.

In preparing the new strategy account was taken of the achievements in meeting the targets set out in the Road to Safety Strategy 1998-2002, a comprehensive review of that strategy and further positive trends established in 2003 and the evolving developments in the EU third road safety action plan.

The strategy, which includes a report on progress achieved during the term of the previous strategy, outlines a range of issues that it is intended will be pursued over the period in question. In overall terms, measures will focus on the areas of education, enforcement, engineering and legislation and will target the key areas of speeding, driving while intoxicated and seatbelt wearing. The comprehensive range of measures set out in the new road safety strategy will ensure that we can build on the success of recent years — a reduction from 472 road fatalities in 1997 to 336 in 2003, a fall of 28% — over a period when the number of vehicles, drivers and kilometres travelled on our roads have increased significantly.

157. **Ms O. Mitchell** asked the Minister for Transport if he will make available the response from the four Dublin local authorities to the issues highlighted by the AA and SIMI in respect of areas in which, in their view, speed limits should be altered. [24795/04]

**Minister for Transport (Mr. Cullen):** The submissions made by the four Dublin local authorities in respect of suggestions made by the AA for changes to speed limits in Dublin are being forwarded to the Deputy.

#### Driving Tests.

158. **Mr. Penrose** asked the Minister for Transport if the application by a person (details

	1999	2000	2001	2002	2003
Notices Issued	337	532	475	264	214
Notices Paid	282	415	367	221	161
Summons Issued	20	15	25	23	5

#### Ministerial Appointments.

161. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform his plans to appoint an ombudsman to the legal profession. [24705/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The existing system for dealing with complaints against the legal profession has been enhanced recently.

The Solicitors (Amendment) Act 2002 strengthens the disciplinary regime for solicitors in a

supplied) in County Westmeath for a driving test will be expedited; and if he will make a statement on the matter. [24847/04]

**Minister for Transport (Mr. Cullen):** Documentary evidence requested on the person's driving test application has now been provided to my Department. A driving test for the person concerned will be arranged as soon as possible.

#### Garda Operations.

159. **Mr. Gregory** asked the Minister for Justice, Equality and Law Reform if the Garda has objections to the renewal of the licence at a premises (details supplied) in Dublin 7 in view of the failure of the proprietor there to co-operate with the gardaí in their efforts to curb anti-social activities associated with the premises, at the rear of the premises in the laneway at Ormonde Square, Dublin 7. [24681/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that local Garda management has no plans to object to the renewal of the licence attached to the premises in question.

#### Garda Investigations.

160. **Mr. Eamon Ryan** asked the Minister for Justice, Equality and Law Reform the number of motorists that were prosecuted within each of the past five years in the Dublin area for breach of the existing regulations regarding improper encroachment into a yellow box area at road junctions. [24700/04]

**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 the policing of yellow boxes forms part of general road safety and traffic management. The following figures have been provided to me by the Garda authorities in response to the Deputy's question.

number of respects of which the following are examples. It doubles the size of the Solicitors Disciplinary Tribunal to cater for an increased workload and the speedier processing of cases. The tribunal is now required to make a separate finding on each ground of alleged misconduct. Regard must be had to previous findings of misconduct by a solicitor when imposing a sanction in the current case. The maximum amount which a solicitor, in respect of whom there has been a finding of misconduct, may be ordered to pay to an

aggrieved party or to the Law Society's compensation fund increased from £5,000 to €15,000. There is a right of appeal to the High Court on all aspects of the tribunal's work.

The Act provides for remedies against solicitors who fail to co-operate with investigations. The circumstances in which the Law Society may refuse to issue a practising certificate or impose conditions on a certificate are spelt out in more detail than before. The circumstances in which the society can send an investigator to inspect documents at a solicitor's office are also extended.

A member of the public who is dissatisfied with how the Law Society handles a complaint made to it may refer the matter to the adjudicator appointed under the Solicitors (Adjudicator) Regulations 1997. The adjudicator can require the production of documents and make conclusions of fact and recommendations. He may direct the society to examine or re-investigate the related complaint made to it about a solicitor where he is not satisfied that the society has investigated the complaint adequately. He may also direct the society to make an application to the disciplinary tribunal for an inquiry into the conduct of the solicitor on the ground of alleged misconduct.

The conduct of inquiries for cases heard *in camera* is also being addressed. Section 40 of the Civil Liability and Courts Act 2004, which will come into operation on 31 March 2005, enables a body conducting an inquiry, otherwise than in public, to have better access to documents and have more information and evidence given to it, subject to a prohibition on the publication of any such documents, information or evidence.

I am in consultation with the Law Society on suggestions it has recently made for further changes in its complaints system. While the complaints system appears to operate in a generally satisfactory manner it is being kept under review in my Department and the question, of course, remains open for the future as to whether proposals to Government for the establishment of a statutory ombudsman for the legal profession should be made.

#### **Liquor Licensing Laws.**

162. **Mr. Ring** asked the Minister for Justice, Equality and Law Reform if he has plans to de-regulate licences for public houses; if he intends to issue additional licences; and if he will make a statement on the matter. [24708/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Subject to the approval of the Government for its drafting, I intend to publish shortly the details of my proposals for a Bill to codify the liquor licensing laws. I have nothing further to add at this point in time other than to indicate that the proposed Bill will repeal the

Licensing Acts 1833 to 2003 and related licensing provisions in other statutes — about 100 statutes in total — and replace them with updated provisions geared to modern conditions. It will, in particular, include updated provisions relating to public houses, off-licences, hotels, nightclubs and theatres. It will also contain provisions relating to the supply of intoxicating liquor in registered clubs which will replace the Registration of Clubs Acts 1904 to 2003.

#### **Garda Deployment.**

163. **Mr. Crowe** asked the Minister for Justice, Equality and Law Reform if the Garda authorities have requested additional gardaí to be allocated to the Tallaght area to deal with the upsurge in anti-social behaviour; and his views on whether the disparity per population with other similarly populated urban areas has contributed to the difficulties being experienced in the area. [24710/04]

**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 the personnel strength of Tallaght Garda station as at 12 October 2004 was 170, all ranks. The personnel strength of Tallaght Garda station as at 1 January 1998 was 133, all ranks. This represents an increase of 37 or 27.8% in the number of personnel allocated to Tallaght Garda station since 1 January 1998.

Anti-social behaviour is policed by a constant evaluation of requirements in any given area and by subsequent allocation of resources to deal with the situation. Garda youth diversion projects play a significant part in combating anti-social behaviour. The situation will be kept under review and when additional personnel next become available the needs of the Tallaght area will be fully considered within the overall context of the needs of Garda stations throughout the country.

#### **Drug Abuse.**

164. **Mr. Crowe** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the recent survey carried out in the Killanarden area into cocaine being sold in the area; his views on whether extra resources are now needed to tackle the supply of hard drugs including cocaine and heroin in this area; and if there are new initiatives he proposes to introduce to address the problem of drug abuse in this specific area. [24711/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I understand from the Garda authorities that a profile of cocaine users in Ireland was co-ordinated by the organisational development unit at Garda headquarters under

[Mr. McDowell.]  
an EU programme. The Tallaght district was included in the study.

I further understand from the Garda authorities that the personnel strength of Tallaght Garda station as at 12 October 2004 was 170 for all ranks. This compares with a total strength of 133 for all ranks at 1 January 1998 and represents an increase of 37 or 27.8% in the number of personnel allocated to Tallaght Garda station since the latter date. The Garda authorities have stated that they will keep this resourcing allocation under review and when additional personnel next become available, the needs of the Tallaght area will be fully considered within the overall context of the needs of Garda stations throughout the country.

The Tallaght drugs unit consists of one sergeant and eight gardaí. These resources are at times supplemented by the Garda national drug unit, for example, for certain searches. The situation relating to drug abuse and sale in the area is constantly monitored in an effort to curtail the problem. The drug unit sergeant regularly attends meetings of the local drugs task force and local residents' associations where information is gathered and problems discussed. Killinarden Community Centre is represented on the local drugs task force. Drugs conferences at the Garda national drug unit are also attended on a monthly basis. At these meetings trends are assessed and recommendations made to combat problems.

A Garda youth diversion project by the name of KEY, an acronym for Killinarden Enhancing Youth, has operated in the Killinarden area since 1991. One of the aims of the project is to divert young people away from crime, including substance abuse. It is within the project's remit to refer participants with drug related problems for drug treatment and counselling.

In addition, Garda juvenile liaison officers attached to Tallaght Garda station work with young people who have come to the attention of the Garda Síochána in connection with criminal activity and anti-social behaviour. Juvenile liaison officers can refer young offenders to Garda youth diversion projects or in cases where drug abuse is an issue, to available counselling/treatment services.

#### Deportation Orders.

165. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform, further to Parliamentary Question No. 427 of 5 October 2004 and his reply thereto, the way in which under section 5 of the Refugee Act 1996 — prohibition of *refoulement* — it was possible to satisfy himself regarding the safety of the proposed deportee in view of the fact that she had received threats arising from her political activities; if inquiries were made in her native country regarding a possible

threat to her life in the event of her returning there with her family; and if he will make a statement on the matter. [24718/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The person referred to in previous Parliamentary Question Nos. 427 and 437 of 5 October 2004 has since been given a temporary stay of six months on the effecting of the deportation order made against her while her case is being reviewed further by my Department.

As regards the question of the examination of *refoulement* under section 5 of the Refugee Act 1996, my Department used extensive country of origin information drawn from different sources and based on independent research done on the ground, including reports prepared by UNHCR, in evaluating the safety of returning this woman to Nigeria.

#### Proposed Legislation.

166. **Ms O. Mitchell** asked the Minister for Justice, Equality and Law Reform if he has plans to regularise the sale of fireworks in order to control and regulate this burgeoning, illegal and dangerous market. [24719/04]

167. **Mr. O'Connor** asked the Minister for Justice, Equality and Law Reform his plans to introduce legislation to deal effectively with the scourge of fireworks; if his attention has been drawn to the concern of many in this regard; and if he will make a statement on the matter. [24730/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 166 and 167 together.

Fireworks are deemed to be explosives under the provisions of the Explosives Act 1875. They may be imported into the State only under an importation licence granted by my Department. It is a long standing policy that these licences are granted only for organised displays conducted by professional and experienced operators. The Explosives Act also provides for restrictions on the sale of fireworks.

Despite these restrictions, fireworks are imported illegally especially around Halloween. However, the Garda Commissioner has informed me that each year the Garda Síochána puts in place special operations to address the problem in the lead up to and during that time. This involves the gathering of information and appropriate follow up action by the gardaí aimed at the seizure of illicit fireworks and involves close liaison with local authorities.

I am very much aware of the distress illegal fireworks cause to people especially in and around Halloween. In order to strengthen the powers of the Garda Síochána to tackle this matter I have instructed officials in my Department to prepare legislative proposals significantly



increasing the penalties under the Explosives Act 1875 for illegal importation, public sale and use of fireworks.

### **Citizenship Applications.**

168. **Mr. McGuinness** asked the Minister for Justice, Equality and Law Reform the status of an application for naturalisation in the name of a person (details supplied) in County Kilkenny; and if he will make a statement on the matter. [24731/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by officials in the citizenship section of my Department that there is no record of an application for naturalisation or a declaration of post-nuptial citizenship having been received from the person referred to by the Deputy.

169. **Mr. McGuinness** asked the Minister for Justice, Equality and Law Reform if a decision will be expedited with regard to an application for naturalisation on humanitarian grounds in the name of a person (details supplied) in County Kilkenny. [24732/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** My Department has no record of an application for naturalisation from the person in question. However a decision on his asylum application issued to the applicant on 11 October 2004.

### **Child Care Services.**

170. **Mr. Connaughton** asked the Minister for Justice, Equality and Law Reform when an EOCF staff continuation funding grant will be awarded to a group (details supplied); and if he will make a statement on the matter. [24765/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As the Deputy may be aware, this community based group was approved a staffing grant of €92,329, over three years, in February 2001. The Deputy should note that support towards staffing costs under the Equal Opportunities Childcare Programme 2000 — 2006 is only made available to those projects which can demonstrate they are providing child care in areas of significant disadvantage and are supporting parents to access employment, education or training.

I recently awarded staffing continuation funding of €10,260 to the group to cover the period up to end 2004. At that point, the programme appraisal committee was advised that, subject to the group entering into appropriate contractual arrangements with ADM Limited, the level of funding recommended was sufficient to provide the service being offered by the group and the level of disadvantage in the area.

As a large number of projects are now beginning to come to the end of their original funding cycle, the priorities of the staffing measure of the programme are being re-examined in light of the available resources. Staffing grant assistance was intended to offer support for a limited number of years to community based child care projects which focus on disadvantage during the period when their services developed and as they moved towards sustainability.

Proposals regarding ongoing staffing supports to groups whose original funding or continuation funding elapses shortly are currently being developed in my Department. In this context, it is expected that only those groups which clearly provide child care services for families with significant levels of disadvantage and where the parents are in employment, education or training will receive ongoing staffing supports under the Equal Opportunities Childcare Programme 2000 — 2006.

### **Closed Circuit Television Systems.**

171. **Mr. Gogarty** asked the Minister for Justice, Equality and Law Reform if there are plans to amend the grant aided scheme which facilitates local community groups who wish to install their own closed circuit television systems; and if he will make a statement on the matter. [24770/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As the Deputy is aware, a grant aid scheme has been launched to facilitate community based groups who wish to install their own local CCTV system. Section 4(1) of the application prospectus which sets out the award limits as to how much funding a community group can apply for under the scheme reads as follows:

Award Limits: (i) The maximum cash grant in any circumstances will be €100,000. Within this cash limit, grants of up to 70% of the total capital cost may be considered. If the amount of non-public funding\* is less than 15% of the capital cost, the grant level will not exceed 50%.

\*Non-public funding means funding which does not originate from a Government Department or Local Authority, or a body wholly funded from such sources.

My Department's contribution to this scheme is confined to part funding the initial capital expenditure. It is of course open to community based groups to seek funding from other public sources. However, as set out in section 4(1) above, where the non-public funding is less than 15% of the capital costs then the grant from my Department will not exceed 50% of the capital costs. The granting of funds under this scheme is subject to the availability of funds. There are currently no plans to amend the requirements and conditions of the scheme.

### Interception of Telecommunications.

172. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform the number of requests for wire taps which were received from domestic and foreign law enforcement agencies; and the number that were granted in the past five calendar years for which figures are available. [24789/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The interception of telecommunications is governed by the provisions of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993. It is not the practice and it would be contrary to the public interest to disclose details of authorisations to intercept, including the number of authorisations requested and/or granted, if any, in any period of time.

### Garda Operations.

173. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform if he will supply this Deputy with a complete copy of the Garda code. [24790/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** It is not possible to supply the Deputy with a copy of the code.

### Juvenile Offenders.

174. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform if he will consider making use of the *Jeanie Johnston* or *Asgard* sail training vessels for the rehabilitation of young offenders. [24791/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I can inform the Deputy that the Probation and Welfare Service has availed of places on board *Asgard 2's* sail training programme for clients of the service since 2001. This has proven to be a very beneficial and worthwhile venture and the Probation and Welfare Service is anxious to continue providing such opportunities to its clients. There are no arrangements in place, at present, with regard to the *Jeanie Johnston* sail training programme. However, it is certainly something which could be considered in the future.

### Disability Support Service.

175. **Mr. Boyle** asked the Minister for Justice, Equality and Law Reform the supports which his Department has and can offer to the Cork accessible transport group. [24821/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** My Department provides a focal point for disability equality policy and legislation. It does not have responsibility for the delivery or funding of services for people with disabilities which, under the policy of main-

streaming, is the function of the Department/agency that provides the service to other citizens. Consequently, my Department cannot offer supports for the Cork group mentioned in the question.

My Department funds one demonstration transport project for people with disabilities, which is the subject of ongoing evaluation. The present thinking in my Department is that there is a need to position any such service in an appropriate sectoral context so that synergies can be achieved with any other specialist transport provision that may exist, as well as with mainstream passenger transport services.

### Deportation Orders.

176. **Mr. Quinn** asked the Minister for Justice, Equality and Law Reform the number of proposals to deport, with regard to nationals of the ten states which joined the European Union on 1 May 2004, issued prior to that date; the number of notifications of the revocation of a proposal to deport issued subsequent to that date; the number of persons with whom contact has been lost; the number of such nationals in the State; and if he will make a statement on the matter. [24841/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** From the commencement of the Immigration Act 1999 in November of that year to 30 April 2004, approximately 2,070 notices under section 3(3)(a) of that Act of an intention to deport issued in respect of citizens of the ten states which joined the EU on 1 May 2004. As of 30 April 2004, 1,030 deportation orders had issued from my Department to nationals of these states.

The making and issuing of deportation orders in respect of these nationalities ceased on 1 May 2004, where the persons concerned are exercising their EU treaty rights for the purposes of employment or establishing a business in the State. Persons from these states who were served with a deportation order before 1 May 2004 may apply to the Minister to have their orders revoked. Each application will be considered on its merits, having regard to the reasons for making the orders in the first place.

To date, 483 persons from these states who had been served with notifications of intention to deport and where a decision had not been reached by 1 May 2004 have been notified that they no longer require permission to remain in the State, if they fulfil EU treaty rights requirements. These notices were posted to their last known address, but up to 90% of the letters have been returned undelivered. It is not known how many citizens of these or any other EU member states are currently resident in Ireland as they do not require visas or work permits to enter the country.

### Public Safety.

177. **Mr. Perry** asked the Minister for the Environment, Heritage and Local Government if a once off payment will be made to Sligo Borough Council to ensure that it can provide life-buoys along the Garavogue River in Sligo town to prevent further loss of life; and if he will make a statement on the matter. [24580/04]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Section 67 of the Local Government Act 2001 empowers local authorities to promote the interests of the local community in a variety of matters, including the promotion of public safety. This includes the provision of safety equipment. It is a matter for each local authority to determine the extent to which such equipment should be provided and to allocate resources accordingly. While there is no specific provision for the funding of equipment such as ring buoys in my Department's vote, my Department, does, of course, provide significant financial support to local authorities through the local government fund which is usable at the discretion of the authority.

### Teach an Phiarsaigh.

178. D'fhiafraigh **Aengus Ó Snodaigh** den Aire Comhshaoil, Oidhreacht agus Rialtais Áitiúil cad é an mhoill atá le hionad léirithe a thógáil do Theach an Phiarsaigh i Ros Muc le hairgead ón bPlean Náisiúnta mar a d'fhógair an tAire Éamon Ó Cuív go hoifigiúil dhá bhliain go leith ó shin i Ros Muc féin. [24682/04]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Tá éis do mo Roinnse measúnú a dhéanamh go déanach ar chaiteachas caipitil ar an oidhreacht thógtha, socraíodh go gcuirfí siar roinnt tógraí, Ros Muc san áireamh, nó go ndéanfaí athbhreithniú orthu níos déanaí.

Tá sé igceist agam, áfach, dul chun cinn a dhéanamh maidir le háiseanna cuairteoirí a sholáthar i Ros Muc agus chuige sin tá iarrtha agam ar oifigigh de mo Roinnse dul i gcomhairle le hoifigigh de chuid Oifig na nOibreacha Poiblí agus na Roinne Gnóthaí Pobail, Tuaithe agus Gaeltachta chun scrúdú a dhéanamh ar an mbealach is iomchuí leis an tógra a chur chun cinn.

### Grant Payments.

179. **Mr. O'Shea** asked the Minister for the Environment, Heritage and Local Government when he expects that the current review of the disabled person grant scheme will be concluded; and if he will make a statement on the matter. [24683/04]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** A review of the disabled persons

grant scheme is currently being finalised in my Department and it is expected that it will be completed shortly. On its completion, it will be possible to determine the changes, if any, required to the regulations governing the scheme to ensure that the funding available is directed at those persons in greatest need of such assistance.

180. **Mr. Noonan** asked the Minister for the Environment, Heritage and Local Government if a thatching grant has been granted to a person (details supplied) in County Limerick. [24686/04]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** This grant has been paid.

### Turbary Rights.

181. **Mr. Connaughton** asked the Minister for the Environment, Heritage and Local Government if consideration will be given to the payment of the current bog value to a person (details supplied) in County Galway, in regard to ten acres sold to the national parks and wildlife service at Clonmoylan bog in 2003; if his attention has been drawn to the fact that the new valuations for such bog have been increased in recent times and that bog owners who sold before now are at a decided financial disadvantage; and if he will make a statement on the matter. [24769/04]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Under the cessation of turf cutting scheme, operated by my Department, all sales of bog and turbary rights are entered into voluntarily. Parties who entered into an agreement prior to the new rates being announced agreed to the compensation rates applicable at that time. However, for bogs designated prior to 2002 the new additional incentive payment recently announced will be applied retrospectively to those who have sold bogs or turbary rights and the IR£1,000, €1,270, incentive payment, where already paid, will be deducted.

I understand that the person referred to in the question qualifies for the additional incentive payment but has yet to complete the necessary contract documents.

### Water and Sewerage Schemes.

182. **Mr. O'Donovan** asked the Minister for the Environment, Heritage and Local Government the position regarding a new sewage treatment plant for Bantry; the status of this very important project; and if he will make a statement on the matter. [24776/04]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Bantry sewerage scheme is included in my Department's Water Services Investment Programme 2004-



[Mr. Roche.]  
2006, as a scheme to commence construction in 2005 at an estimated cost of €6.8 million.

Further consideration will be given by my Department to Cork County Council's contract documents for the scheme on receipt of the additional information requested from the council in September 2003 and on a number of occasions since.

183. **Mr. O'Donovan** asked the Minister for the Environment, Heritage and Local Government the position pertaining to the provision of a new regional water scheme in Bantry town and its environs; when it is envisaged to commence the construction of a new reservoir at Cloonegorman in Bantry, County Cork; and if he will make a statement on the matter. [24777/04]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Bantry water supply scheme is included in my Department's Water Services Investment Programme 2004-2006 as a scheme to commence construction in 2005 at an estimated cost of €14.3 million. My Department is awaiting submission by Cork County Council of contract documents for the scheme.

184. **Mr. O'Donovan** asked the Minister for the Environment, Heritage and Local Government the position regarding the Skibbereen sewage scheme and treatment plant; when grant aid will be allocated for this project; and if he will make a statement on the matter. [24778/04]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Skibbereen sewerage scheme is included in my Department's Water Services Investment Programme 2004-2006 as a scheme to commence construction in 2005, at an estimated cost of €13.1 million. The waste water treatment plant is being advanced as a grouped design-build-operate contract that also includes Baltimore, Dunmanway, Schull and Ballylickey. My Department is awaiting submission by Cork County Council of tender documents for the grouped design-build-operate project and revised contract documents for the Skibbereen collection system which is being provided by traditional procurement.

#### Archaeological Sites.

185. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the fact that the estimate for the amount of archaeological sites found only refers to results based on written documentation and the rudimentary trench testing, and does not take into account the wealth of data available from more sophisticated remote sensing techniques in regard to the proposed M3 motorway that passes through the Tara Skryne

area; and if he will make a statement on the matter. [24779/04]

186. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the fact that the estimate of €30 million for archaeological investigation only covers 38 of the sites discovered to date in regard to the proposed M3 motorway that passes through the Tara Skryne area; if he will make provision for costs arising from the future discovery of other sites; and if he will make a statement on the matter. [24780/04]

187. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the fact that the estimate of €30 million for archaeological investigation only covers 15 km out of the total 60 km route in regard to the proposed M3 motorway that passes through the Tara Skryne area; the basis for arriving at this figure; and if he will make a statement on the matter. [24781/04]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 185, 186 and 187 together.

A variety of techniques have been employed in response to the archaeological requirements of the M3 motorway scheme. An environmental impact statement was prepared by Meath County Council and considered by An Bord Pleanála as part of the approval process for the scheme. The EIS included an archaeological assessment of the route. The assessment was based on a desk-top paper survey, examination of aerial photographs, field inspections and geophysical surveys of the route.

Following approval of the scheme by An Bord Pleanála, archaeological test trenching was carried out along the route of the proposed motorway, as proposed in the EIS and under licence from my Department. The combination of this research and investigation has led to the discovery of previously unrecorded archaeological sites. Costs in respect of the road scheme are a matter for the developers, in this case Meath County Council and the National Roads Authority.

#### Election Management System.

188. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government if he has studied the dual electronic and manual voting systems used recently in Venezuela; and if he intends to introduce a similar system on a pilot basis in the forthcoming by-elections. [24783/04]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I refer to the reply to Questions Nos. 53, 70 and 74 of 30 September 2004. As stated in that reply, regard will continue to be had in the ongoing work on electronic voting and counting to further experiences

internationally in the use of such solutions and their applicability or otherwise to electoral arrangements in Ireland.

#### **Private Rented Accommodation.**

189. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government if he has plans to inspect the conditions of dwellings for which rent supplement is granted. [24785/04]

190. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government if he has plans to ensure the inspection of the conditions of dwellings for which rent supplement is granted. [24794/04]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I propose to take Questions Nos. 189 and 190 together.

Enforcement of the Housing (Standards for Rented Houses) Regulations 1993 is a function of local authorities, who have powers under the Housing (Miscellaneous Provisions) Act 1992 to enter and inspect at all reasonable times a house to which the regulations apply. These powers and regulations apply to all private rented houses, regardless of the category of tenant.

There is a responsibility on each local authority to carry out its functions under the standards regulations as effectively and proactively as possible. To this end, the transfer to local authorities of fee income, available from the registration of tenancies with the Private Residential Tenancies Board, will, in future years, have regard to the level of activity of each authority in enforcing the standards and rent books regulations.

#### **EU Directives.**

191. **Mr. Ferris** asked the Minister for the Environment, Heritage and Local Government when it is proposed to publish the Brosnan report on the nitrates directive. [24840/04]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I would like to place on record my appreciation of the time, effort, energy and commitment given by Mr. Denis Brosnan in engaging on behalf of the Government with all interests in seeking to advance a national action programme under the nitrates directive and for the comprehensive and balanced conclusions set out in his report. The report will be published by the end of the week.

#### **Drug Treatment Programme.**

192. **Mr. Crowe** asked the Minister for Community, Rural and Gaeltacht Affairs if his attention has been drawn to the cocaine survey carried out by City-wide which found that in 25 of the 27 community based anti-drug projects they work with, between 10% and 50% of current clients

were addicted to cocaine; the implications this will have for future drug prevention strategies; and the new measures he proposes to activate in response to those alarming figures. [24677/04]

**Minister of State at the Department of Community, Rural and Gaeltacht Affairs (Mr. N. Ahern):** I am aware of the study in question as well as other evidence of an increase in the prevalence of cocaine use, particularly through the local drugs task forces, LDTFs, and the research done by the national advisory committee on drugs, NACD. In this regard, I believe that the problem of cocaine use has to be addressed through the continued implementation of the 100 actions in the National Drugs Strategy 2001-2008 and by projects and initiatives operated through the local drugs task forces and the young people's facilities and services fund, YPFSF.

Each of the local drugs task forces has in place an action plan to tackle drug use in their area based on their own identified priorities. These projects deal with supply reduction, prevention, treatment and rehabilitation for a range of drugs, including cocaine. Most drug users engage in poly-drug use and, therefore, projects should be able to address this pattern of usage rather than concentrating on one drug to the exclusion of others.

Earlier this year, I visited a number of local drugs task force areas and discussed with community representatives and others the nature of the drug problem in their areas, including the issue of cocaine. In this context, I asked the national drugs strategy team to develop proposals to help address this issue at a local level. It has recently submitted its proposals to me, which I am currently examining.

Finally, I assure the Deputy that I continue to keep the issue of cocaine use under review. In this regard, as the Deputy may be aware, a mid-term review of the national drugs strategy is currently ongoing which will enable priorities for further action to be identified and a re-focusing of the strategy, if necessary. The need to amend the strategy to reflect changing patterns of drug use will be considered in this context.

#### **Social Welfare Benefits.**

193. **Mr. O'Shea** asked the Minister for Social and Family Affairs his proposals to raise carer's benefit by at least 10% and to extend the period of benefit from 15 months to two years (details supplied); and if he will make a statement on the matter. [24689/04]

196. **Mr. Timmins** asked the Minister for Social and Family Affairs the position regarding the carer's allowance; the plans he has to award the carer's allowance to all carers irrespective of income; his plans to improve the present circumstances many carers are living in, in view of the sacrifices,

[Mr. Timmins.]  
hardship and isolation many carers all over the country are experiencing as articulated by a number of callers to "Liveline" during the week; and if he will make a statement on the matter. [24720/04]

**Minister for Social and Family Affairs (Mr. Brennan):** I propose to take Questions Nos. 193 and 196 together. Carer's benefit is a social insurance payment for persons who leave employment to care for another person for up to 15 months. Carer's leave, which is the responsibility of the Department of Enterprise, Trade and Employment, provides job protected leave of absence for up to 15 months, with employers being obliged to maintain the employee's employment rights for this period.

It is important to note that each care recipient may receive a total of 65 weeks care. This may be claimed as a single continuous period or in separate shorter time periods. In the event of a person's carer's benefit expiring and the need for income support still existing, it is, of course, open to the carer to apply for carer's allowance.

Any extension of carer's benefit would, in addition to the direct cost implications, have implications for carer's leave. Carer's allowance is a social assistance payment, the primary objective of which is to provide income support to low income carers. In line with other social assistance schemes, a means test is applied to the carer's allowance so as to ensure that limited resources are directed to those in greatest need. The means test has been eased significantly in the past few years, most notably with the introduction of disregards of spouses' earnings.

Paying a carer's allowance to all carers irrespective of income would have substantial cost implications. The cost would depend on the exact nature of the proposal but has been tentatively established at €180 million in a full year. Any improvements to the carer's allowance or carer's benefit schemes which involve additional expenditure will be considered in the context of the budget.

194. **Mr. O'Shea** asked the Minister for Social and Family Affairs his proposals to extend disability allowance to those who were in institutional care prior to the budget 2000 changes and who had been in receipt of disability allowance (details supplied); and if he will make a statement on the matter. [24690/04]

**Minister for Social and Family Affairs (Mr. Brennan):** Responsibility for the disabled person's maintenance allowance scheme was transferred from the Department of Health and Children and the health boards to the Department of Social and Family Affairs in October 1996. On the transfer of the scheme, the existing qualifying conditions were retained and the scheme was

renamed disability allowance. One of the qualifying conditions applying to the former DPMA scheme was that the payment could not be made to people who were in residential care where the cost of the person's maintenance was met in whole or in part by a health board. Effectively, persons who would otherwise have qualified for disability allowance would continue to have their maintenance costs and, in certain cases, an element of spending money met separately rather than through a disability allowance payment.

Since the takeover of the scheme by my Department, the restrictions on payment to persons in residential care have been progressively relaxed. From August 1999 existing disability allowance recipients who are living at home can retain their entitlement where they subsequently go into hospital or residential care. A wide ranging review of illness and disability payment schemes completed by my Department in September 2003 recommended the removal of the residential care disqualification for disability allowance purposes. The working group which oversaw the review recognised that the removal would have a range of implications and that, in the absence of reliable data on the numbers involved and the actual funding arrangements currently in place, it was not possible to fully assess the likely impact or cost of such a move.

Budget 2003 provided for the takeover by my Department of the discretionary pocket money allowances paid to people with disabilities in residential care who are not entitled to disability allowance and for the standardisation of the level of these allowances. My Department is currently completing an information gathering process with the health boards with a view to arranging for the transfer of responsibility for the payment of these allowances and of the funds involved. An assessment of the scale of the transfer and its implications for a more general removal of the residential care disqualification for disability allowance purposes will be made in the light of this transfer and having regard to available resources and priorities generally.

195. **Mr. Ring** asked the Minister for Social and Family Affairs the reason unemployment benefit for a person (details supplied) in County Mayo has ceased. [24709/04]

**Minister for Social and Family Affairs (Mr. Brennan):** To qualify for unemployment benefit a person must be available for and genuinely seeking work. The person concerned has been employed on a part-time seasonal basis for some time. Since November 2003, she has been paid unemployment benefit for the days on which she was unemployed. In the period 4 November 2003 to 6 October 2004 the person concerned had 42 days of employment.



In the context of a review of her entitlement, in September 2004, she was asked to provide details of her efforts to find work. Based on her response, a deciding officer disallowed her claim from 14 October 2004, on the grounds that she is not genuinely seeking employment. The person concerned has appealed this decision and her case is being forwarded to the social welfare appeals office for determination. Under social welfare legislation, decisions on claims must be made by deciding officers and appeals officers. These officers are statutorily appointed and I have no role in making such decisions.

*Question No. 196 answered with Question No. 193.*

197. **Dr. Upton** asked the Minister for Social and Family Affairs if he will review the entitlement of a person (details supplied) in Dublin 8 to the back to education allowance as they will only be able to take up this place in DCU with this support. [24722/04]

**Minister for Social and Family Affairs (Mr. Brennan):** The back to education allowance is a second chance educational opportunities scheme designed to encourage and facilitate certain groups, particularly people who have been unemployed for a time and are having difficulty getting back into employment, to improve their skills and qualifications and, therefore, their prospects of returning to the active work force.

To qualify for participation in the third level option of the scheme an applicant must, *inter alia*, be in receipt of a relevant social welfare payment for at least 15 months, or 390 days, immediately prior to commencing an approved course of study. The person concerned has been in receipt of unemployment benefit for only 312 days and does not, therefore, satisfy the eligibility criteria for participation in the scheme.

#### **British-Irish Council.**

198. **Mr. Crowe** asked the Minister for Social and Family Affairs if he will report on the workings of the British-Irish Council with regard to his Department; the way in which reports are acted on; the frequency with which it meets; the persons who, for his Department, are in contact with their relevant counterparts; and the frequency with which they exchange information. [24736/04]

**Minister for Social and Family Affairs (Mr. Brennan):** The British-Irish Council was established under the terms of the Good Friday Agreement to promote positive, practical relationships among its members. The members are the British and Irish Governments, the devolved administrations of Northern Ireland, Scotland and Wales, and Jersey, Guernsey and the Isle of Man. The BIC provides a forum for members drawn from the eight administrations involved to consult

and exchange information on a range of issues of mutual interest. My Department is involved with the council's work on social inclusion.

At the meeting of the council in November 2002, it was decided that the initial work of the group should be on the specific theme of financial inclusion. One meeting of Ministers of the social inclusion strand was held in July this year, at which this work was received and concluded. The report has recently been published on the British-Irish Council website. Ministers agreed that the next topic for work within the council's social inclusion theme would be disability, with a specific focus on access to employment, education and training.

Meetings of the social inclusion officials group are generally held two to three times per year. They are attended by one representative of each administration, while the lead administrations naturally have more in attendance. In addition, representatives of the BIC secretariat are also present. My Department is represented by an official from the office for social inclusion which has, within my Department, overall responsibility for developing, co-ordinating and driving the national action plan against poverty and social exclusion.

#### **Social Welfare Benefits.**

199. **Mr. Ring** asked the Minister for Social and Family Affairs the waiting times for claims to be processed in all areas of social welfare, including benefits and allowance in each section. [24738/04]

**Minister for Social and Family Affairs (Mr. Brennan):** My Department aims to provide a prompt, efficient service to all our customers. Applications for social welfare payments are processed and entitlements are issued as quickly as possible having regard to the eligibility conditions which apply to each scheme.

These conditions vary from scheme to scheme. In the case of insurance based schemes the person's contribution record must be established. For illness or disability schemes medical certification by the applicant's own doctor is required and it may be necessary for a medical assessor of my Department to carry out an assessment to ensure the medical conditions of the scheme are fulfilled. Assistance schemes require, *inter alia*, an assessment of the person's means to be carried out. This may involve a visit to the person's home by an inspector of my Department.

The over-riding consideration in processing claims is to ensure that customers receive their correct entitlement and decisions are not taken until all appropriate information is available. Details of the average clearance times for new claims for the month of September 2004, and year to-date including September, for the main payment schemes are in the attached table.

[Mr. Brennan.]

Average Weeks to Award Social Welfare Claims

Claim Type	September 2004	Year to Date 2004
Old Age Contributory Pension	7.95	8.27
Retirement Pension	6.34	6.41
Widows Contributory Pension	2.98	3.62
Old Age Non-Contributory Pension	8.30	7.64
Widows Non-Contributory Pension	2.90	4.79
One Parent Family — Separated	18.48	19.61
One Parent Family — Unmarried	15.69	16.22
Household Benefits (Free schemes)	4.86	5.80
Unemployment Benefit	1.82	1.85
Unemployment Assistance	2.69	2.53
Disability Benefit	1.98	2.25
Child Benefit	1.60	1.20
Family Income Supplement	3.97	6.07
Invalidity Pension	9.49	8.83
Disability Allowance	9.99	10.21
Carers Allowance	15.01	14.33

200. **Mr. Penrose** asked the Minister for Social and Family Affairs if his Department has received correspondence from a person (details supplied) in Dublin 2; if the concerns expressed therein will be responded to; and if he will make a statement on the matter. [24739/04]

**Minister for Social and Family Affairs (Mr. Brennan):** A copy of the letter to which the Deputy refers was received in my Department recently. The principal issues raised by the person

concerned relate to difficulties he appears to have experienced while applying for housing as well as problems with the hostel in which he is currently residing. The hostel concerned provides accommodation for homeless people.

As these are matters for the relevant housing authority a copy of the letter has been forwarded to my colleague, the Minister for the Environment, Heritage and Local Government. The person concerned is currently in receipt of unemployment assistance and a rent supplement. My Department is not aware of any difficulties regarding these payments.