



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Thursday, 14 October 2004.

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DÁIL ÉIREANN

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Déardaoin, 14 Deireadh Fómhair 2004.
Thursday, 14 October 2004.
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Chuaigh an Ceann Comhairle i gceannas ar 10.30 a.m.

—
Paidir.
Prayer.
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Requests to Move Adjournment of Dáil under Standing Order 31.

An Ceann Comhairle: Before coming to the Order of Business I propose to deal with a number of notices under Standing Order 31. I will call on Deputies in the order in which they submitted their notices to my office.

Mr. F. McGrath: I seek the adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely, the proposed change, from two years to three years, in the minimum length of time a new car must be retained by a disabled person before moving on, and the effect this will have on the quality of life of disabled people.

Mr. J. Higgins: I seek the adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely, the need to cancel a conference which is to be held in Dublin next week for the purposes of selling so-called “less lethal weapons” used worldwide for torture and repression.

Mr. Sargent: I seek the adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely, to address the life-threatening postponement of heart surgery for children in Irish hospitals and to hear from Government what is to be done to ensure adequate staff and resources are in place to provide this urgent treatment for children affected.

An Ceann Comhairle: Having considered the matters raised, they are not in order under Standing Order 31.

Order of Business.

The Tánaiste: It is proposed to take No. 19c, Supplementary and Additional Estimates for Public Services [Votes 16 and 39] back from committee; No. 4, Safety, Health and Welfare at Work Bill 2004 — Order for Second Stage and Second Stage; and No. 5, Driver Testing and

Standards Authority Bill 2004 — Order for Second Stage and Second Stage.

It is proposed, notwithstanding anything in Standing Orders, that No. 19c shall be decided without debate and any division demanded thereon shall be taken forthwith.

An Ceann Comhairle: There is one proposal to be put to the House. Is the proposal for dealing with No. 19c without debate agreed? Agreed.

Mr. Kenny: Will the Tánaiste comment on the discussions she had yesterday with the hospital management authorities in Crumlin?

An Ceann Comhairle: That does not arise on the Order of Business. The question was requested for the Adjournment and will be dealt with on that.

Mr. Kenny: I realise that, but it is possibly a matter of life or death. As the Tánaiste knows, Ireland is being taken to the European Court for non-compliance with Directive 91/439 on driving licences. Does the Driver Testing and Standards Authority Bill 2004 which comes before the House today cater for compliance with the directive and will it obviate the need for us to go to court?

In respect of the L&O case dealing with citizenship, there are approximately 9,000 such persons here. Are there plans to regularise their position?

The Tánaiste: On driving licences, the Minister for Transport has informed me that draft regulations to transpose the directive are being prepared and will be signed shortly. There is no proposed legislation in the area of the case mentioned by the Deputy. We have citizenship legislation, on foot of the referendum, which will be discussed shortly.

Mr. Rabbitte: When will the third level student support Bill be brought before the House? I draw the Tánaiste's attention to the Air Navigation and Transport (Preinspection) Act 1986, which sets out the duties that may be performed by a person involved on behalf of, for example, the American Government in terms of preinspection at airports. There is no legislative authority in that Act for the fingerprinting of Irish citizens at Shannon Airport by the American authorities. Are there plans to give legislative authority to another state for the fingerprinting of Irish citizens while in the Irish jurisdiction?

The Tánaiste: In reply to the second question, there is no legislation promised in that regard. It is not possible to say at this stage when legislation on third level student support will be ready.

Mr. Rabbitte: Is the Tánaiste satisfied there is legislative authority for another state to fingerprint Irish citizens?

An Ceann Comhairle: I suggest the Deputy submit a question to the appropriate Minister.

The Tánaiste: To be honest, I do not know whether there is authority. I do not have legal expertise in the area.

Mr. Sargent: I am disappointed my request under Standing Order No. 31 on heart surgery will not be taken. There is a need for the health sector to know what is planned. One Cavan general practitioner said she would prefer to send a patient to a veterinary surgery than to Cavan General Hospital—

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

Mr. Sargent: I do. The veterinary medicine Bill was promised in January 2004 and again for the Easter session of 2004. I know it comes under the Department of Agriculture and Food. However, given the Cavan general practitioner's feelings on the matter, are there plans to discuss it with the Department of Health and Children?

The Tánaiste: The legislation is due this session.

Mr. R. Bruton: When does the Tánaiste expect to see the Dublin metro Bill? Will she make available to the House the cost benefit analysis the Government has completed on it so that we can have informed debate in the House?

The Tánaiste: No decision has been made by the Government on that matter, but my note tells me it is due for publication in 2005.

Mr. R. Bruton: What about the cost benefit analysis?

The Tánaiste: If such exists, it should be made public.

Dr. Upton: Grand Canal harbour in my constituency has become the site of a major illegal dump. Why does the Minister for the Environment, Heritage and Local Government think it is appropriate to reply to Pat Kenny and RTE on this matter but not to the House?

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

Dr. Upton: I failed to get an answer from the Minister on this issue.

An Ceann Comhairle: The Deputy will have to find another way of raising it.

Mr. Broughan: On a point of order, this is one of many matters which Ministers refuse to address in the House and it is appropriate, given the gravity of the situation, that the Tánaiste—

An Ceann Comhairle: That is not a point of order nor is it a matter for the Order of Business.

Mr. Broughan: The Ceann Comhairle ruled out an Adjournment debate in my name in recent days.

An Ceann Comhairle: The debate was ruled out because it is the responsibility of the local authority, not the Minister.

Mr. Broughan: It raises a similar issue.

Caoimhghín Ó Caoláin: With all its difficulties, I roundly reject the reference to Cavan hospital in the tones that have been repeated here this morning.

Will the report on nitrates, commissioned by the Department of the Environment, Heritage and Local Government, be published later? Will legislation be introduced on the basis of the report or will an opportunity be afforded to discuss it in the House, perhaps in the coming week, given its important ramifications for people involved in agriculture, not least in my constituency?

The Tánaiste: I do not know when it will be published. It was discussed at a Government meeting this week and I will have the Minister for the Environment, Heritage and Local Government communicate with the Deputy regarding when it will be published. It is not a question of legislation.

Caoimhghín Ó Caoláin: Will it be discussed in the House?

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

Mr. Durkan: When will the Broadcasting Authority of Ireland Bill come before the House? Have the heads been agreed?

The Tánaiste: The Bill is not expected until next year.

Mr. Gilmore: It is six months since the ninth report of the All-Party Committee on the Constitution was published. It recommended measures to control the price of building land. Does the Government intend to do anything about the report? Will the Tánaiste make arrangements to have the report debated in the House?

An Ceann Comhairle: Has the debate been promised?

Mr. Gilmore: It was promised by the Taoiseach. Will the Tánaiste give approval to the Chief Whip to arrange a debate on this matter?

An Ceann Comhairle: It is only appropriate on the Order of Business to ask about promised

debates, otherwise it is a matter for the Whips or the line Minister.

Mr. Gilmore: The Taoiseach referred this issue to the all-party committee.

The Tánaiste: It would be a good idea to have a debate on the matter. Perhaps the Whips will discuss that.

Mr. Rabbitte: It is in order for a report of a sub-committee of the House to be debated in the House.

An Ceann Comhairle: Not unless it has been promised.

Mr. Rabbitte: The debate has been promised several times by the Taoiseach.

An Ceann Comhairle: The Chair will have to read Standing Order 26 once again. It is not in order and never has been in order.

Mr. Eamon Ryan: I refer to the Dublin metro Bill, which, for the past year and a half, has been promised for 2005. The Tánaiste indicated in her response to an earlier question that, although it has been promised for 2005, she did not believe that had any meaning. What is the status of a Bill if it is on the legislative programme?

The Tánaiste: The Bill is scheduled for next year, according to the note I have. The Government has not made a decision on the Dublin metro.

Mr. Howlin: Who wrote the note?

Mr. Eamon Ryan: Does the Tánaiste believe it will be scheduled next year?

Mr. Howlin: Who put the Bill on this list?

Mr. Rabbitte: Seamasín.

The Tánaiste: We must examine funding issues and so on. There are major issues involved in this matter. It has not been decided.

Mr. Eamon Ryan: Should it be on or off the legislative programme?

The Tánaiste: It is part of the programme for Government and that is why there is proposed legislation in this area.

Mr. Sargent: Does it mean anything?

Mr. G. Mitchell: Irish troops are unable to take part in the EU peacekeeping mission in Macedonia, which is on our doorstep, because the Chinese Government vetoed it. In view of that and the visit of Kofi Annan, will the Tánaiste provide time for a debate on the Bill proposed by Fine Gael to end the triple lock and the absurd situation in which we find ourselves?

The Tánaiste: That is a matter for the House to decide. The Whips can decide the timeframe. It is a Private Members' Bill so there is the option of discussing it then.

Mr. Quinn: Having received the report from the consultants concerning the future structure of Aer Lingus and its privatisation, does the Government intend to publish it in the context of legislation that may be required to complete the sale of the company?

The Tánaiste: The Government has not had an opportunity to discuss the report. I understand there will be a meeting of the Cabinet sub-committee shortly for the purpose of discussing it. If there was commercially sensitive information, it might not be desirable to publish that part of the report. On any decision the Government would make on this matter, it would want the greatest level of information in the public domain so that the public could understand the basis on which we would make a decision.

Mr. J. Higgins: The Taoiseach promised us a debate on the future of Aer Lingus before a decision was made when the Cabinet sub-committee was set up. A significant number of workers are concerned about the Tánaiste's previous threat to privatise. When will the sub-committee's report be brought before the Dáil? When will we have an opportunity to discuss the future of our national airline?

The Tánaiste: We have not had an opportunity even at Cabinet sub-committee level to discuss this report but I am sure it is the Government's intention to make the report available as quickly as possible.

Mr. J. Higgins: When will we have a debate?

The Tánaiste: At the appropriate time.

Mr. J. Higgins: The Government cannot continue to duck and dive on this important issue.

An Ceann Comhairle: Is the debate promised?

Mr. J. Higgins: Will we have a debate this session?

An Ceann Comhairle: No debate is promised. The Deputy should submit a parliamentary question to the line Minister on the matter.

Mr. J. Higgins: There was a commitment from the Taoiseach. Will we have a debate this session on the future of Aer Lingus?

The Tánaiste: If any decision is made on the structure of Aer Lingus, it will be—

Mr. J. Higgins: When will a decision be made?

The Tánaiste: I cannot tell the Deputy. I do not know.

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

Mr. J. Higgins: Is the Government stringing this out indefinitely? That is outrageous treatment.

The Tánaiste: The Deputy knows Aer Lingus needs a lot of resources.

Mr. Crawford: Given the difficulties faced by people obtaining deeds from the Land Registry, when will the registration of deeds and titles Bill be brought before the House?

The Tánaiste: This session.

Mr. Costello: Considering the success of the Minister for Justice, Equality and Law Reform yesterday in getting legislation dating back to 1999 through the Oireachtas, when can we expect further inroads by him in his brief? I refer, in particular, to the Garda Síochána Bill and the criminal justice Bill.

The Tánaiste: Very soon.

Mr. Costello: Will we have to wait five years?

Mr. Rabbitte: Will the Minister spend this weekend in the west?

The Tánaiste: He will raise the roof in the west.

Mr. Rabbitte: Is the Progressive Democrats still supporting Government policy on one-off housing?

Mr. Howlin: Only if the house costs €600,000.

Mr. Broughan: One of the purposes of the fisheries amendment Bill is to ensure Irish fisheries administration is in full compliance with EU law. Given the serious allegations in recent days about one of our national fishery ports, when will it be published?

Is the Tánaiste concerned about the dismissive comments about her party by a senior member of Fianna Fáil who wants to go into coalition with Sinn Féin?

An Ceann Comhairle: The Tánaiste should reply to the first question on the fisheries legislation.

The Tánaiste: It will be introduced this session. Given Deputy Rabbitte's Mayo connections, I was wondering whether he agreed with Des Cahill who said if Michael Ring had been playing for Mayo, they would have trounced Kerry.

Mr. J. Higgins: Not if I was playing for Kerry.

Mr. Howlin: The Taoiseach has promised on a number of occasions to keep the House updated on the decentralisation programme. Will the Tánaiste indicate what mechanisms are in place to keep the House up to date as promised? Will any Department move within the foreseeable future?

The Tánaiste: I understand that a major announcement on decentralisation is imminent and will perhaps be made today or tomorrow. The Minister of State at the Department of Finance may attend a committee of the House to discuss the decentralisation programme.

Safety, Health and Welfare at Work Bill 2004: Order for Second Stage.

Bill entitled an Act to make further provision for securing the safety, health and welfare of persons at work and for the enforcement of the relevant statutory provisions, to give further effect to Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work and Council Directive 91/383/EEC of 25 June 1991 on measures to improve the safety and health at work of workers with a fixed-duration or temporary employment relationship, to provide for the further regulation of work activities, to continue in being and confer additional functions on the National Authority for Occupational Safety and Health and rename that body as the Health and Safety Authority, to repeal the Safety, Health and Welfare at Work Act 1989, to provide for the repeal of certain other enactments and to provide for related matters.

Minister of State at the Department of Enterprise, Trade and Employment (Mr.

Killeen): I move: "That Second Stage be taken now."

Question put and agreed to.

Safety, Health and Welfare at Work Bill 2004: Second Stage.

Minister of State at the Department of Enterprise, Trade and Employment (Mr.

Killeen): I move: "That the Bill be now read a Second Time."

The Safety, Health and Welfare at Work Bill 2004 represents a modernisation of our occupational health and safety laws. It is significant social legislation which affirms the Government's interest in ensuring that labour law is kept up to date and relevant. The Bill's publication in 2004 by the Minister of State, Frank Fahey, coincided with the establishment of the Personal Injuries Assessment Board, which makes this a significant year. Issues of compensation and prevention are being seriously addressed. The Bill updates and amends the provisions of the Safety, Health and

Welfare at Work Act 1989 which was steered through the Oireachtas by the Taoiseach who was then the Minister for Labour.

The Safety, Health and Welfare at Work Bill consolidates safety, health and welfare primary legislation into one statute and includes the provisions of framework Directive 89/391 on safety and health and the directive on fixed-term and temporary employees. While its primary focus is on the prevention of workplace accidents, illnesses and dangerous occurrences, the Bill provides also for significantly increased fines and penalties which are aimed at deterring the minority who continue to flout safety and health laws. The Bill includes a scheme for which regulations will be necessary whereby on-the-spot fines can be introduced for minor safety and health offences. It also provides that directors and managers in companies can be held liable to prosecution if they are complicit in deaths and accidents at work.

This legislation sets the scene for achieving further improvements in the national record on safety and health over the next few decades. The presentation of the legal requirements set out in legislation is improved and simpler language is used where possible to help employers and employees to understand its content. The Bill includes a basis for reviewing the remaining older statutes on safety and health with a view to their possible repeal and replacement with modern regulations made under its provisions. The Bill imposes some additional new duties on employers and employees and strikes a balance between the roles and duties to be placed on them. It includes important new protection for employees against penalisation for exercising rights or duties related to safety and health at work and contains new provisions on safety consultation between employers and employees. These provisions include new supports for safety representatives and the recognition of safety committees. The Bill also updates the rules on corporate governance of the Health and Safety Authority.

It is useful to reflect on the background to this legislation. The 1989 Act applied safety and health laws for the first time to all Irish employments. It implemented recommendations made by a tripartite commission of inquiry into occupational health and safety which was chaired by Mr. Justice Barrington. The introduction of the 1989 Act coincided with the recognition internationally that prevention of accidents and ill health at work was better than to continue with the reactive approach of enforcement alone which had been in vogue previously. Significant progress was made on the basis of the 1989 Act. There is now a greatly increased awareness of occupational safety and health among employers and workers and preventative measures are in place in many instances. While the efforts of employers, workers, the Health and Safety Authority and other stakeholders have brought about a reduction in the rate of deaths and accidents at

work since the introduction of the 1989 Act, more can be done. There continues to be an unacceptably high level of deaths and accidents at work.

In 2002, the latest year for which figures are available from the Central Statistics Office, it is estimated that nationally 117,800 persons suffered injury at work or occupational illness arising from work activities. This resulted in the loss of 3.16 million workdays among those in employment as opposed to 21,000 days lost to industrial disputes. Days lost to industrial accidents and illness in 2002 alone exceeded those lost through industrial disputes over the past ten years. The rate of injury and illness among those employed decreased by 15% between 1999 and 2002 despite the growth in employment. However, the human cost arising from death, pain and suffering makes an unarguable case for ensuring that our social legislation in this area is relevant to changing conditions of work.

The most common injuries reported to the Health and Safety Authority for all employment sectors were injuries involving handling, lifting and carrying at 34%. Slips, trips and falls accounted for 26% of injuries. In the defence and health sectors of the public health service, the next most common incident was violence in the workplace. Occupational illnesses tend not to be reported to the Health and Safety Authority which is a matter I would like to address when I review the regulations which apply. In 2003, 65 people died as a result of work activities. While this figure represents a reduction of 25% in the rate of deaths at work since 1998, it is unacceptable. No death at work is acceptable and we require the further measures outlined in the provisions of this Bill to bring about further reductions in this area.

It is particularly relevant to note that there are now 1.9 million people employed in our economy as opposed to only 1.2 million in 1989. As many of those at work in 1989 have by now left the workforce, it is important to use this legislation to re-launch and promote worker health and safety and focus on the well-being of the many who have joined the workforce during our time of economic success.

While the reduction of accidents and ill health at work is an important social goal considering the pain and suffering caused to individuals and their families, there are also important economic factors to consider. A range of costs accrue to the economy from the injury of people at work, including direct costs to the State's health services and social insurance. There are costs to employers, including insurance costs, lost time, lost production and lost orders. Injuries and ill health at work are conservatively estimated to cost the economy up to €1.6 billion each year. The absence of a key worker through injury from a small or medium-sized company could have disastrous results for it and the other workers. Adopting additional measures to encourage

[Mr. Killeen.]

reductions in accidents and illnesses at work makes good economic and business sense.

Occupational safety and health have been significant elements of social policy in the European Union over the past 25 years. Since the framework directive on safety and health was adopted in 1989, a considerable range of directives have been put in place to cover particular employment sectors or risk groups. All these directives have been implemented in Irish law under the auspices of the 1989 Act. As we played our part in the negotiations on these directives, we were guided by the principle that they should be workable and avoid holding back the development of small companies.

The Minister of State, Deputy Kitt, charged the Health and Safety Authority with the task of reviewing the 1989 Act. I thank the board of the authority, its chairman, Mr. Frank Cunneen, and Mr. Joe Hegarty, the chairman of the review group, for the comprehensive report and recommendations which were produced. I have found it possible to address the majority of the recommendations in the Bill. I look forward to the continued co-operation and commitment of the various stakeholders in giving full effect to the Bill when it is enacted.

The 1989 Act and the new Bill are framework in nature. They focus on broad general duties and the organisational and structural arrangements necessary to achieve better safety and health. The regulations implementing directives put flesh on the detailed requirements needed to identify and deal with specific hazards in the workplace. Welcome indications of the success of our efforts were evident in a report published this year by EUROSTAT which showed that Ireland had the lowest rate of accidents at work among 15 member states of the European Union. We have the fifth highest number of deaths at work, which figure we must reduce. We can and must do better from a social point of view and from the perspective of maintaining our competitiveness by reducing the costs which can flow from accidents and illnesses in the workplace.

A report published by the European Commission this year on the implementation of a number of the health and safety directives illustrated that there continues to be a lack of awareness in small companies about safety and health. A great deal of work must be done to implement information and training measures. The report also pointed to a poor level of compliance in the public sector across the European Union. The public sector in Ireland employs many people in health services, education and so forth and I will be looking to them to make significant improvements in our national record.

I will now outline the main features of the Bill. One of its aims is to encourage a responsible attitude on the part of employers and employees. It is appropriate to provide for a system of on-the-spot fines by inspectors.

Section 79 provides that the level of the on-the-spot fine shall not exceed €1,000 and will be detailed in the regulations. I will propose a relatively low fee initially. I will identify in regulations the employment sectors and the minor offences to which the fine will apply. The authority will not initiate a prosecution before the due date of payment of an on-the-spot fine. If payment is made on time, no prosecution will be launched.

Section 13, which deals with duties of employees, provides that they must comply with relevant safety and health laws; not be under the influence of an intoxicant in the place of work to the extent that the state they are in is likely to endanger their safety, health or welfare at work or that of any other person; not engage in improper conduct or behaviour; wear personal protective clothing where necessary; co-operate with employers and look out for one another; and not do anything which would place themselves or others at risk. Where an employee is working in a safety critical situation, he or she, subject to regulations, may be required to undergo a periodic medical assessment of fitness to work. Some concern has been expressed regarding one of the provisions of section 13 which relates to possible tests for intoxicants. It is only in particular circumstances or sectors that regulations may set down requirements whereby an employee must, if reasonably required by his or her employer, submit to independent tests by a competent person which are appropriate, reasonable and proportionate. There will be widespread consultation on these regulations.

It will continue to be a requirement of every employer to have a written safety statement which identifies the risks and hazards in the place of work and, under a new requirement, it will have to be reviewed annually. A novel feature is that an employer with three or fewer employees can meet the safety statement requirement by adhering to a special code of practice to be developed for a particular industry or sector by the Health and Safety Authority. This will reduce the onus on business and the likely beneficiaries will be in the farming sector and small businesses in the maintenance and service sectors.

Section 77 provides for two categories of offences. The first applies to less serious matters and the second covers the more serious offences under health and safety laws. I welcome the increased recognition given by the courts to the seriousness of committing safety and health offences and the increases in the level of fines in recent years. It is necessary and appropriate to reflect this trend in the Bill to send a clear message to those tempted not to comply. Too much is at stake. Section 78 provides for a fine not exceeding €3,000 for a person found guilty of an offence under the first category of offences set out in section 77 applying to less serious offences. A person guilty of any other offence set out in section 77 is liable, on summary conviction, to a fine not exceeding €3,000 or imprisonment for up

to six months or both. On conviction on indictment for a more serious offence, the maximum fine is €3 million or imprisonment for up to two years or both. In addition, the person convicted can be ordered to pay the authority's costs and expenses.

Primary responsibility for worker safety and health falls on employers, including in private companies and in the public sector, because it is, in effect, they who create the risks. Responsibility begins at the top. Company directors and managers therefore carry a significant social responsibility to protect safety and health. In 2003, eleven convictions were obtained against directors, managers and employees. The placing of greater emphasis on this responsibility will alert directors and managers to their responsibilities. It will help focus their minds on compliance with the requirements on companies to ensure competent persons are available to advise on health and safety issues and to implement safety measures.

Section 80 makes explicit the responsibilities of directors and managers. It adopts an evidence-based approach. It provides that when an offence under health and safety laws is committed by an undertaking and the acts involved were authorised or consented to or were attributable to connivance or neglect on the part of a director, manager or other similar officer in the undertaking, both the person and the undertaking will be guilty of an offence and liable to be proceeded against and punished as if the person was guilty of the offence committed by the undertaking. If it is proven in such a case that the person's duties included making decisions that affected the management of the undertaking, it is presumed, until the contrary is proved, that the acts which resulted in the offence were authorised, consented to or attributable to connivance or neglect on the part of that person.

A full set of definitions is set out in section 2, including important new definitions of the terms "competent person" and "reasonably practicable". These definitions are included, in part, so as to satisfy concerns of the European Commission on implementation of the framework directive. The definition of competent person provides a basis for the orderly recognition of various qualifications in safety and health introduced over the past two decades. The term "reasonably practicable" used in the Bill and also in the 1989 Act seeks to qualify the broad based duties on employers which stem from the common law duties of care which are difficult to interpret in absolute terms. The new definition is focused around compliance with current best standards in safety and health.

Section 7 provides that health and safety must be complied with by self-employed persons as if they were employers and as if they were their own employees. There are many who are self-employed including in construction and agriculture. Part 2 of the Bill sets out the duties which are appropriate to employers, employees and

others who can influence or effect safety, health and welfare in the workplace.

Section 8 sets out the general duties of every employer to ensure, so far as is reasonably practicable, the safety, health and welfare of employees. These include duties in regard to the management and conduct of work, preventing improper conduct or behaviour, providing safe workplaces, safe means of access and egress, safe plant and machinery, providing articles and substances that are safe to work with, protecting against noise, vibration or radiation and providing safe systems of work. The employer must also provide welfare facilities and the necessary information, instruction, training and supervision to ensure safety and health. He or she must also decide on and implement any safety, health and welfare measures which are necessary and provide protective clothing and equipment as appropriate and have emergency plans in place. Employers may be required by regulation to report to the authority accidents to employees and dangerous occurrences. Regulations to support this requirement are already in place. The employer's duties also extend to fixed-term contract or temporary contract employees. Under section 8, employers cannot charge employees for safety and health measures.

The availability of good information is critical to the avoidance of accidents and ill health at work. By now, a great deal of practical information on how to deal with workplace hazards is available, including from the Health and Safety Authority. Section 9 sets out in greater detail the types of information on safety, health and welfare required to be given by employers to employees under section 8. The information must be in a form, manner and language that can be understood. This will also help to protect immigrant workers who contribute to our economy. Work on language versions of guidance documents is under way in the Health and Safety Authority. They must include information on hazards, risks and measures taken as regards safety, health and welfare and the names of emergency staff and safety representatives. Employees of another employer working in the place of work must also be informed and there is a duty on such employees to co-operate with one another.

The competent persons who must be appointed by the employer under section 18 and safety representatives, if any, must be given additional information on risk assessment and on accidents and dangerous occurrences. The employer must also give fixed-term and temporary employees information on any potential risk, health surveillance and any special skills required for the job. An employer who hires an employee through a temporary employment business must inform that concern of the skills required for the job and its specific features and ensure the information is passed on to the employees. The temporary employment business is obliged to give the same information to employees. These are important

[Mr. Killeen.]

provisions considering many people are recruited through employment agencies.

Analyses of accidents and illnesses at work show that they often happen where workers are not supervised or given instructions or training in how to work safely. Young workers are especially vulnerable in this respect. Section 10 sets out the specific requirements in the instruction, training and supervision of employees by employers in support of the general duty in section 8. Instruction and training must be given in a form, manner and language that can be understood. Employees must also be given training in safety and health and time off from work and at no cost. Training must include information and instructions in the job to be carried out and emergency measures. In assigning an employee to a job, the employer must take account of his or her physical and mental capabilities. In the case of groups of particularly sensitive employees and employees covered by specific safety and health legislation, such as pregnant women or young workers, the employer must ensure they are protected against the specific dangers involved. In cases where legislation requires specific health and safety training, such as in construction, employees must be released for training without loss of pay.

Section 11 provides for the measures to be taken by the employer in emergencies and in the case of serious and imminent danger in support of the general duties on employers in section 8 to have plans and procedures for emergencies. The measures must cover first aid, fire fighting and the evacuation of employees and others present in the workplace, as well as contacts with the emergency services and the designation of employees to carry out the emergency plans. Section 12 provides that an employer must manage and conduct business, as far as is reasonably practicable, so that other persons present in the place of work while work is in progress are not exposed to risks to their safety, health or welfare. This would apply, for instance, to visitors or delivery people entering a business and recognises that the employer is the person in control.

There is now a far greater recognition of the problems caused to workers by stress, violence and bullying at work. Guidelines and codes of practice have been published on these issues, which need to be recognised in our legislation. In line with a corresponding duty on employers in section 8, an employee must not engage in improper conduct or other behaviour that could endanger his or her safety, health and welfare at work or that of another person.

Section 14, that applies to any person, specifies that no person should intentionally, recklessly or without good cause interfere with, misuse or damage any thing provided to protect the safety, health and welfare of persons at work. This means not interfering with safety signs or safety devices. The section also provides that no person shall place at risk the safety, health or welfare of persons in connection with work activities.

Under Section 15, a landlord who controls premises used as a place of work must ensure, as far as is reasonably practicable, that the place of work, access and egress and any article or substance present is safe and without risk to health.

Section 16 places duties on any person who designs, manufactures, imports or supplies any article or substance used at work to ensure that, as far as is reasonably practicable, it can be used safely and without risk to health at work. It must also comply with any relevant legislation that implements a directive of the European Union and be properly tested and examined to meet these requirements.

Section 17 applies to the construction industry and sets out duties to be complied with by persons who commission, procure, design or construct places of work. They must appoint a competent person or persons to ensure, as far as is reasonably practicable, that the place of work is designed and is capable of being constructed not to present risk to safety and health; that it can be maintained without risk to safety and health when in use and that it complies with health and safety laws. There are already regulations in place implementing an EU directive on safety in construction and these regulations will be updated to ensure they measure up to the Bill.

Part 3 focuses on prevention, which is critical to the reduction of accidents and illnesses at work and to ensuring safety, health and welfare of work. Section 18, in support of section 8, requires the employer to appoint one or more competent persons to enable him or her to comply with health and safety laws. In a low-risk working environment, the employer may be capable of dealing with risks to workers and this is permitted. In any other case, a person competent in safety and health must be appointed. This, depending on the complexity of the risks, should preferably be a trained specialist recruited to the company or an employee who has been trained. It can also be an outside competent consultant. This is in line with the requirements of the EU Framework Directive 89/391.

The employer must also ensure co-operation between competent persons and with any safety representatives appointed. The employer must provide the competent person with information on factors that affect the safety, health and welfare of the employees, the risks involved, and the protective measures in place.

To prevent accidents and ill-health at work it is essential to identify the hazards in the workplace. The most common hazards include dusts and fumes, noise and vibrations, electricity, manual handling of loads, transport hazards, machinery, falls from heights, dangerous substances, fire, explosives, radiation and poor maintenance of the working environment.

It is also necessary to assess the level of risk presented by the hazard. Some hazards may be controlled while others may present risk. Where there is a risk, protective measures must be identified and implemented. The necessary resources

must be committed. There is by now a great deal of guidance available on workplace hazards, the risks they present and how to protect against them. There are also detailed regulations applying to the most serious and common forms of hazard.

Section 19 provides that every employer and every person controlling a workplace must identify the hazards at the place of work, assess the risks from those hazards and have a written risk assessment of them as they apply to employees, including any single employee and group of employees who may be exposed. In carrying out the risk assessment the employer must take account of health and safety laws that apply. The employer must implement any improvements in safety, health and welfare arising from the risk assessment.

Section 20 provides that every employer must have a written safety statement based on the hazards identified and the risk assessment carried out under section 19 setting out how the safety, health and welfare of employees will be secured and managed. I have already referred to safety statements in the context of small businesses and the farming sector.

Safety statements must set out the hazards identified, the risks assessed, the protective and preventive measures and the resources allocated to safety, health and welfare. They must also include details on the duties of employees as regards safety and health, the names and job titles of persons assigned tasks under the safety statement and the arrangements for the appointment of safety representatives and safety consultation in the place of work in compliance with sections 25 and 26. The names of the safety representatives and those on the safety committee, if appointed, must be included.

The risk assessment and the safety statement must be brought to the attention of employees at least annually, or when amended, and to others at the place of work exposed to specific risk. Where specific jobs pose serious risk the employer must give relevant extracts of the safety statement to the employees affected covering the risk, the risk assessment and the safety measures taken. The risk assessment and the safety statement must be reviewed and amended if necessary at least annually. This is an important addition to the current requirements under the 1989 Act.

I look to large companies and public sector bodies to set an example by checking that service providers have safety statements. Under the good neighbour principle, and as large employers are better resourced, they can often help and advise on what may be required. Section 20 also provides that employers in employment sectors, which will be detailed in regulations, who contract for services to be provided by another employer, must ensure that that employer has an up to date safety statement.

Surveys undertaken by the Health and Safety Authority in 2003 reveal that while 90% of companies employing more than 50 persons had a

safety statement, this falls to 56% in companies employing up to 50 persons. The safety statement is the essential management tool for managing safety and health at work.

In the complex world in which we live now, our safety can depend on those who carry out tasks that can affect many people if matters go wrong. Examples include tower crane drivers on building sites, public service vehicle drivers, drivers of dangerous goods vehicles or those who operate process plant in the chemical industry and many others.

Section 23 gives the right to the employer, subject to the making of the regulations which will name the types of employment concerned and under what circumstances, to require employees to be assessed by a registered medical practitioner as to fitness to carry out work that presents critical risks to the safety, health and welfare of persons at work. If the registered medical practitioner is of the view that an employee is unfit to perform such work, he or she must tell the employer and the employee, giving the reasons for it and the likelihood of early resumption to facilitate rehabilitation. There will be consultation on any regulations that may be introduced under this heading.

If an employee covered by this section suffers any disease or illness likely to add to risks, he or she must immediately tell the employer. If either the registered medical practitioner or the employee informs the employer, the employer must take action to comply with the general duties under section 8 as regards a safe place of work.

With the level of knowledge that now exists on safety matters, there is a basis for encouraging greater partnership between employers and unions to come together to set safety standards in particular employment sectors to support the legislative provisions. We also need a basis to give recognition to the agreements being reached under the European Union social dialogue arrangements, which are tackling such issues as teleworking and stress at work.

Section 24 provides that trade unions and bodies representing employers can make agreements setting out practical guidance on safety, health and welfare, and the requirements of health and safety laws, and can apply to the authority for approval of an agreement or of its variation. The authority can approve a joint safety and health agreement if the agreement stipulates that it applies to all employees in a particular class of employees. The parties must make copies of agreements available for inspection by any person affected. This a novel feature of the Bill and I look forward to seeing how the social partners will work it.

In assessing compliance with health and safety laws, the authority must take account of an approved joint safety and health agreement, whether or not an employer in an employment sector covered by the agreement is a party to it. Consultation on safety and health between

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workers and their employer is critical to the prevention of accidents. In addition to their personal interest in their own well-being, workers have an intimate knowledge of the conditions in which they work and the wise employer will take note of and learn from their experience. The concept of the worker safety representative was introduced in earlier legislation. I commend the many individuals who volunteered and underwent training to act as safety representatives. The trade union and employer bodies have provided extensive training.

Surveys by the Health and Safety Authority in 2003 showed that in 74% of companies employing 50 or more persons, workers had appointed safety representatives but in companies employing up to 50 workers this fell to 15%. Despite all efforts I believe that safety representatives need additional support in their challenging role. Section 25, therefore, is devoted solely to them. It contains some additional supports and I have included others in later sections. I encourage the representative bodies to match these initiatives by providing support services for safety representatives. Section 25 entitles employees to decide on a safety representative, or more than one, if the employer agrees, to represent them in consultations with the employer on matters of safety, health and welfare. The safety representative has the right to inspect the place of work having given reasonable notice to the employer. The employer must be reasonable as to the frequency of inspections. The safety representative can inspect immediately if there is an accident, dangerous occurrence or imminent danger or risk to safety, health and welfare. The safety representative may also investigate accidents and dangerous occurrences provided this does not interfere with another person carrying out duties under health and safety laws.

Providing for broader consultation between workers and their employer, section 26 places a duty on the employer to consult the employees so as to make and maintain arrangements to enable the employer and employees to co-operate to promote and develop safety, health and welfare and to monitor, the effectiveness of those arrangements. As part of the arrangements, the employer must consult the employees and their safety representatives on any measure likely to substantially affect safety, health and welfare. The employer must also consult on the designation of employees having emergency duties under section 11; actions taken relating to protection from and prevention of risks; the hazard identification and risk assessment under section 19; the preparation of the safety statement under section 20; the information required to be given to employees under section 9; information on accidents and dangerous occurrences notified under section 8; the appointment of competent persons under section 18; the planning and organisation of training under section 10; the planning and introduction of new technologies and the

implications for safety, health and welfare of choices available as regards equipment, working conditions and the working environment. As a corollary, employees have a right to make representations to and consult their employer on matters of safety, health and welfare.

A system of safety committees in factories was provided for under the Safety in Industry Act 1980 and many such committees continue to work effectively. I am very happy to respond to the desire of employer and union bodies to give recognition in the Bill to safety committees across all employment. They could operate effectively in other sectors, including, perhaps, in the health care sector and in shops and offices. If therefore a safety committee is agreed in the undertaking, which can meet the requirements I outlined, the safety committee can be used to meet the consultation requirements under this section. The organisational arrangements for safety committees are set out in Schedule 4.

It is timely to send a strong signal that employees should not be penalised for acting in good faith in the interests of safety and health. Section 27 prohibits an employer from penalising an employee for acting in accordance with or performing any duty or exercising any right under health and safety laws, or making a complaint or a representation about health and safety to the safety representative or to the employer or to an inspector.

An Ceann Comhairle: The Minister of State's time has concluded but if the House is agreeable, in view of the fact that it is the Minister of State's first opportunity to address the House as Minister of State, I can allow the Minister of State to continue. Is that agreed?

Mr. P. Breen: As his Clare colleague, I would be delighted.

Mr. Hogan: I am surprised he was given so much to do.

Mr. Killeen: The Bill provides the framework for prevention for the next two decades. It contains the elements of a strategy to which all of the stake holders in occupational safety and health should contribute to improve the national record. In addition to its enforcement role, the Health and Safety Authority, acting at the centre, needs to stimulate and orchestrate the way forward, working with all of the stake holders. The authority needs to co-ordinate the provision of national occupational health and safety advice and support services through a combination of either direct delivery, or delivery through and with others and endorsing the work of others.

This will open the door to voluntary compliance programmes and greater ownership of the system. Companies need to be more aware of the implications of their safety and health record for communications and reputation management. Companies developing corporate social responsi-

bility will be conscious of the impact workplace performance indicators will make on such issues as absenteeism through accidents and ill health; the numbers of health and safety complaints made; the level of compliance with health and safety laws; and the value of inputs through training and development for staff.

The so-called new risks need special attention, including those arising from work-induced psycho-social problems in the workplace. Above all, it will be critical to re-energise and retain the confidence of the principal stake holders, the employees in Irish workplaces. This Bill may be regarded as the launch pad of renewed efforts by all concerned that we have an occupational health and safety system which is second to none. I commend the Bill to the House.

Mr. Hogan: I congratulate Deputy Killeen on his appointment as Minister of State and wish him well. I am sorry he was given such difficult work to do on his first day. This is an important and detailed Bill and will probably prove to be complex on Committee Stage. It comes against the backdrop of the Health and Safety Authority's report, which shows that in 2002, 61 people lost their lives in workplace accidents and almost 8,000 workplace injuries resulted in a loss of four or more working days. There was a stunning 13,000 claims for occupational benefit. When it is considered that one third of days lost arise from issues relating to health and safety, it is crucial for employers and employees alike that a good system of safety is put in place.

Fine Gael recognises that this Bill is an honest attempt to deal with the dreadful set of statistics I have outlined, which although improving in recent years, remain far too high. There is much to be said for this Bill; nobody is against safety, health and welfare. My party will gladly support this Bill on Second Stage with a view to a thorough debate on Committee Stage, which is needed because many of the provisions may have the opposite effect to the improvement of safety and welfare in the workplace.

This Bill updates the 1989 Act. Fine Gael and the other political parties in this House, as well as IBEC, SIPTU, ICTU and all those involved in industrial relations, recognise the appropriateness of the Bill. Ireland's industrial landscape has changed beyond recognition, the number at work has multiplied and new technology has revolutionised workplace practices. Where once Ireland exported workers, now it is the beneficiary of net immigration. The construction and chemical industries are booming and an updated code of practice is required to prevent injury and death which continue to blight Ireland Incorporated.

The 1989 Act was a workable and practical framework that has been relatively successful in its aim. It injected a culture of safety and compliance that was badly needed, especially in the 1990s when the economy began to grow. An unregulated industrial sector could have been a

disaster for workers, business and Ireland's economic reputation.

The Government is in danger of being too prescriptive and inflexible in its rush to tighten areas that need to be tightened. It may be replacing a framework for safety with a strict set of rules which are difficult to adhere to and easy to break. Juxtaposed with those rules is an absence of any policing strategy to ensure these rules are not bent or broken, together with total silence on the issue of funding. There is no point in having legislation and a strategy unless the back-up resources are available for enforcement.

I ask the Minister of State to inform the House of the exact amount in extra resources which will be given to the Health and Safety Authority in order to implement this legislation. I ask him to avoid statements of intent because as can be seen in the recent case of his colleague, the Minister of State at the Department of Foreign Affairs, Deputy Conor Lenihan, aspirations must equate with nothing, in the view of the Government.

Mr. Howlin: That is an unfair comparison.

Mr. Hogan: SIPTU has expressed its concerns in this area. If the new legislation is to have any chance of success in achieving its aim of reducing workplace injuries and deaths, the Health and Safety Authority needs to be properly funded. The number of inspectors and inspections carried out under the 1989 Act is nowhere near what is required to ensure a safer workplace.

Instead of an improvement in the resources the authority requires to carry out its function, there has been a steady reduction in inspections. In the construction industry, out of a target of 8,000 building sites due for annual inspection by the HSA, the figure has been reduced to 4,500. As a result of an increased number of inspectors pursuing cases through the courts, due to pressure from the trade unions, their presence on building sites has declined. This situation is not satisfactory. There is real concern that the benefits of this Bill will not be felt because lack of enforcement will mean that it will not be heeded.

I do not intend to speak on all the details of the Bill's provisions such as the Minister of State did in his contribution. There is much to be welcomed in the Bill but much to be ironed out also. I will draw some cases to the attention of the Minister of State. An example of the overly prescriptive nature of the Bill is evident in section 18(4):

Where there is a competent person in the employer's employment, that person shall be appointed for the purposes of this section in preference to a competent person who is not in his employment

This is a mistake, which may be deliberate or an oversight. One must wonder at the reason the Government has decided to interfere in the internal human resources process in companies up and down the land. The Bill will not placate

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the social partners on the issue of checking employees for evidence of intoxication while handling dangerous machinery. This is an issue of civil liberty. Fine Gael does not contend this argument should take precedence over the need for safety. There is a need to give adequate assurances to workers. It appears no such assurances have been sought or given. This leads me to the conclusion that despite the length of time it has taken to bring the Bill to the House there has been a very low level of consultation with employers and trade unions.

The number of representations I have received, as spokesman for Fine Gael — I am sure it is the same story for my colleagues — leads me to believe there has been a low level of partnership on the issue. No Bill, no matter what the content, can succeed without the presence of goodwill on the part of those affected. It could not have been hard to avoid the media briefings or the spin or counter-spin from various groups if the Department had simply taken on board the views, concerns and expertise of those in the workplace.

I draw to the attention of the Minister of State a few sections of the Bill. Section 8 sets out the general duties of employers with the overriding duty of ensuring, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees. Employers are, therefore, obliged to exercise all due care by putting in place the necessary protective and preventative measure, having identified the hazards and assessed the risks to health and safety. However, an employer does not have to put in place measures that are grossly disproportionate having regard to the unusual unforeseeable and exceptional nature of any circumstance or occurrence that may result in an injury or accident at work. That is entirely fair and reasonable. What is not entirely fair and reasonable is this that if an employment obtains staff through an agency, the employer must specify the occupational qualifications necessary for the position as well as the specific features for which the employee is required. However, the employer is also obliged to ensure that the agency provides this information to the temporary employee. If an employer retains an agency to recruit temporary staff, it is arguably unreasonable for an employer to ensure the agency carries out its statutory duties under the provisions of the Bill. Why is the employer to be held liable for a third party?

The way in which section 10 has been drafted is almost meaningless. It provides that instruction, training and supervision is to be given to staff and the employer must take account of the employees' capabilities in relation to health, safety and welfare. What exactly does that mean? Is an employee to be permitted to refuse to work simply because he or she claims it is detrimental to his or her welfare?

Those who are cheering for the Bill, and there are many good reasons to do so, might consider the onus it implies on business. We have no

objection to the Bill in principle. Safety is costly and businesses must pay their fair share. Has the Government calculated what is that fair share? I appreciate there are some profitable largescale industrial players who could and should be made to observe these paths. In his contribution the Minister of State noted that 74% of all companies who employ 50 or more employees have safety standards in place and safety in the workplace statements are already drawn up under the old legislation. We are in danger of imposing unnecessary and restrictive regulations on small businesses which are already complaining of being regulated into the ground. Yesterday the chambers of commerce of Ireland launched a blistering attack on the Government given the way in which small and medium-size enterprises have been abandoned by the Government in regard to the funding of local authorities. If it is priming itself for another fight with small businesses on this issue I advise against it. Ultimately, the law would be better if proper consultation was engaged in and consensus reached. For that reason, I advise the Minister of State to listen carefully to what the social partners have to say on the Bill and to reflect their views on Committee Stage.

I am concerned that some of the provisions of the Bill impose needless rules. It has been brought to my attention that the Bill may compel employers to display improvement notices on every vehicle it owns while impeding the implementation of certain safety measures, such as section 26, which provides that employers must consult employees on such measures. To be blunt, if something is not safe consultation appears to be a recipe for dither and delay.

The Bill concerns the area of health and safety. I wish to raise some serious concerns expressed to me about health and safety, specifically in the construction industry. I understand that serious concerns have been expressed by the trade union movement, local authorities and the Health and Safety Authority about the quality of trainers and assessors approved by FÁS which provides courses for the construction skills certification scheme. A number of people have been killed during the past five years — 90 in total — and a significant number of these related to those operating in the construction industry.

The construction skills certification course has been developed by FÁS to promote the delivery of training, to raise standards of health and safety and to reduce the risks of accidents throughout the industry. By approving trainers and assessors, FÁS acts as a guarantor of quality of services delivered in this area. I have reason to believe that in a number of instances the rigour one would expect FÁS to apply in approving trainers or assessors has not been up to scratch. For example, I understand a company was approved by FÁS to provide training and assessment even though it had been suspended from a similar scheme operated by its counterparts in Northern Ireland and Great Britain.

The development of the construction skills certification scheme has created a market for training in health and safety that is worth many millions of euro. Unless FÁS applies the most rigorous tests to those whom it approves there is a real danger that unscrupulous operators, who see the opportunity to make a quick buck, will move into this market. I ask the Minister of State to investigate and consider this issue and to respond at the conclusion of Second Stage.

We are not discussing some academic exercise in approving trainers but we are talking about an issue that could have many implications, including death. The last thing we want is that invalidated certificates are given to people to operate machinery, scaffolding equipment and all the other important issues relating to safety on construction sites without the proper training. If rogue trainers and assessors are allowed loose on a market, lives may be put at risk. I call on the Minister of State to insist on the highest standards being applied by all trainers and to do all in his power to ensure those who are not qualified and do not possess the necessary skills are not approved as trainers or assessors. I look forward to his reply on this issue.

The issue of health and safety is like many issues in that there are rights and responsibilities. In this Bill the rules applying to health and safety are being made more prescriptive. There is a responsibility to ensure that proper policing and proper funding is provided to the Health and Safety Authority to ensure the Bill is effective. The issue of safety should not be scattered around various sectors of the economy and various Departments. Issues of safety should be housed under the one roof, in a one-stop-shop fashion. In this context I ask the Minister of State to look at rail safety, maritime safety, road safety and industrial workplace safety with a view to putting them under one authority, such as the Health and Safety Authority. This would ensure that the cross-cutting issues that arise in working life, whether in agriculture, industry, the marine, rail or public safety would be dealt with exhaustively and constructively by the one organisation and that each sector would know what the other was doing.

The same should apply in regard to regulation. There is a plethora of regulators across all facets of life and, unfortunately, one does not know what the other is doing. An effort should be made to have a proper competition and regulatory authority rather than a plethora of agencies that are empire building around the city to justify their existence, to the detriment of consumers and business.

In the context of safety, one agency, properly funded and resourced, could provide the necessary policing and effective strategy to implement the Bill. Employers and employees must take responsibility for ensuring they have proper health and safety issues worked out in partnership in the workplace. In so far as that goes, Fine Gael will support the Bill on Second Stage but

shall discuss amendments with the Minister of State on Committee Stage.

Mr. Howlin: Like my Fine Gael colleague, I welcome the appointment of the Minister of State, Deputy Killeen. I had the honour and pleasure of working with him on committees and I am aware of his ability. His promotion is long overdue and I am delighted to see it. I join Deputy Hogan in lamenting the dryness of his first speech. I know it is a technical area, but we did not need to have every detail spelled out since we have had an opportunity to read the Bill and the explanatory memorandum and we have received representations. I am sure future presentations and interactions will be of a livelier nature.

I thank Deputy Hogan and acknowledge his cultural appreciation in making a shorter than usual Second Stage speech to facilitate my departure to the most important cultural event of the year, namely, the opening of Wexford Festival Opera this evening, for which I am grateful.

This Bill has been a long time coming. Deputy Hogan, I and others have discussed the issue with the Tánaiste, then the Minister for Enterprise, Trade and Employment, in committee and at question time in recent years in an effort to ensure that workplaces are as safe as is humanly possible. An old adage states that accidents will always happen, but it is also the case that accidents are caused and it is our obligation to set the legislative framework to ensure that we make the workplace as safe for citizens as much as is practicable.

I welcome the Minister of State's comment that we have a responsibility to be advocates for the legislation so that people are aware of it, not only in terms of putting it on the Statute Book, but to encourage people think safety. Enforcement, laws and notices are only part of the solution. If people are aware that employers and employees alike have a moral responsibility to take safety issues seriously, we could avoid some of the horrendous tragedies we have seen in a variety of workplaces such as farms, construction sites and factories.

This is an important Bill because it develops the Health, Safety and Welfare at Work Act 1989, to which important groundbreaking Bill the Minister of State referred in his speech as well as the work undertaken in preparation for it by Mr. Justice Barrington. The 1989 Act itself repealed all the previous health and safety legislation going back to 1882. That was right and proper because we could not operate in the 21st century with legislation grounded in Victorian values and views of the workplace. It is unfortunate that, while a repealing section was provided in the 1989 Act, it was not brought into operation. We now have an anomaly in that an Act of the Oireachtas states that the Victorian legislation is repealed although, in fact, it remains in force.

That issue is replicated in the legislation before us today and I ask the Minister of State to examine it to ensure that we know where we stand and

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that those charged with the fairly onerous responsibilities under the Bill are clear on what applies to them.

Like Deputy Hogan, I refer to resourcing of the Health and Safety Authority. At present, the sanctioned staffing level of the HSA is 164 people. Some 100 of these are inspectors who work on a variety of projects including inspection, enforcement, policy development, drafting codes of practice, EU liaison and prosecuting cases. I am anxious to hear it directly from the Minister of State, but I understand that the Department of Enterprise, Trade and Employment has instructed the authority to reduce the staffing level by five people by the end of 2005. That would be an extraordinary situation, if it were true, in the context of the new legislation and the laudatory comments of the Minister of State who front-loaded the issue of safety as a priority of his portfolio.

In 1998, a study by a Finnish institute of occupational health found that Ireland had one of the lowest ratios of workplace inspectors per 100,000 workers in Europe. For instance, Ireland had 5.5 inspectors per 100,000 workers, whereas Britain had 9.3 and Sweden had 14 per 100,000. As the Minister of State acknowledged in his speech, the growth in employment since 1994 has not been matched with a corresponding growth in resources to the Health and Safety Authority. This must happen if we are serious about ensuring that we at least stand still in regard to our overview of safety and regulation in the workplace since the work force has now expanded to the 1.9 million people the Minister of State instanced.

In addition, given the changing nature of the Irish workplace, the workload of the authority has not only increased but has changed significantly in the intervening period. For instance, the authority has been actively involved in a range of areas recently, despite having the same staff levels, such as the establishment of the anti-bullying unit. Bullying in the workplace is a real issue which will be an important part of the Minister of State's remit. The authority has also been involved in the REACH programme — the new EU chemicals strategy — as well as the important banning of smoking in the workplace introduced in March. It has been involved in the abatement of noise in the entertainment industry, land use planning — some 285 cases of which were processed last year — and the new area of addressing the needs of migrant workers from different cultures coming into this society. All these areas have greatly expanded the role and demands placed on the HSA without additional resources.

At the same time as these new areas and activities were expanding, the more traditional aspects of its work were already expanding and there to be met. During the course of 2003, we saw 10,700 workplace inspections, from which some 76 prosecutions were completed, 91% of which were successful, with an increasing number now being

taken on indictment to the higher courts. Such is the seriousness with which the State regards such matters now.

A recent report by the House of Commons Work and Pensions Select Committee on the operation of the Health and Safety Executive, which is the UK equivalent of the Health and Safety Authority, recognised the direct link between increased enforcement resources and improved outcomes in terms of health and safety in the workplace. I do not suppose one needs a particular review to know that, but it is available. The British equivalent clearly shows that the more one resources the HSA, the better are the safety outcomes. That committee recommended that the number of inspectors in the health and safety executive in the UK be increased due to the expanding nature of their workforce, the changing nature of the workplace and, ironically, the advent of new legislation on health and safety in the UK. Surely that truism is right for us if it is right for the UK. I want to hear from the Minister of State how these matters are to be addressed and what specific resources are to be provided in future to the HSA.

I also want to deal with the issue of public safety in general. I think it was yesterday when Deputy Gay Mitchell asked about the O'Hare report. I have the Tánaiste's published statement on 29 December 2000. It therefore surprised me yesterday when the Tánaiste was answering questions that she did not know about the O'Hare report, since she launched it herself in December 2000. I am sure it was a momentary lapse. When the interdepartmental agency review group on public safety, chaired by Dr. Danny O'Hare, president emeritus of DCU, published its report at the end of 2000, it was done with considerable fanfare. There were great expectations regarding what was to be done. A range of issues dealt with, such as fairground safety, public sporting and entertainment events, open-air markets, safety and adventure centres and other issues, were not under the remit of the HSA. Sometimes they fall under the ambit of local authorities, sometimes they do not. It is clear that they lack any overarching safety council that will ensure that the highest standards of safety are maintained for these sorts of activities. A number of statutory bodies seem to have some limited responsibility and often overlapping responsibility in the area. The O'Hare report recommended that there should be specific responsibility to an overarching authority. That is what we need to address now.

Announcing the publication of the report in 2000, the Tánaiste said:

The question of public safety has arisen in various contexts over the years. Last year I considered that it was in the public interest to examine our current approach to public safety. I look forward to examining the group's conclusions and recommendations and discussing them with my Government colleagues.

She obviously did not discuss them all that vigorously because she could not remember even launching the report during the week. I hope that the enthusiasm she expressed for an overarching authority in 2000 has not dissipated entirely from the Department. However, I am a little concerned as I have the answer to a parliamentary question tabled by my Fine Gael colleague, Deputy Crawford, to the Minister for Enterprise, Trade and Employment, which was one of the first parliamentary questions responded to by the Minister of State, Deputy Killeen. His response on establishing an office of public safety is as follows:

One of the recommendations contained in the report on public safety in Ireland, which was published in the year 2000, was that an Office of Public Safety Regulation should be considered. While that office would not be responsible for public safety issues, it was envisaged that it would have some form of overseeing role of all agencies and bodies involved.

The Minister of State went on to say:

It should be noted that the group was not in full agreement on this recommendation due to issues relating to duplication of existing services and additional costs. Some members of the review group expressed reservations about the need for such an office and the extra burden on State finances.

Reading between the lines, that strikes me as a dead duck. I am not sure that the Minister of State had a chance to read the report before sanctioning that response, but I invite him to revisit this issue. We are one step away from it becoming a major issue. Once there is a public safety crisis somewhere, the Minister of State will be back in the Chamber, people will be regurgitating that report and we will really need to have such an overarching role given to someone. I believe the proper place for that is the HSA. Will the Minister of State revisit it to shake off the lethargy in the Department that the parliamentary response to Deputy Crawford's question indicates and to progress this issue?

I wish to refer to a number of other issues. These are the specifics of the Bill. I do not intend to go through every section because we will spend some time on this legislation on Committee Stage and we will have a chance to go through the minutiae of it. I want to deal with a few issues now that the Minister of State might have a chance to reflect upon and approach with an open mind. The first issue is the blanket exemption for the Defence Forces to safety regulation. That is a mistake. Obviously, the Defence Forces are in a unique position and we need to provide specifically for operational matters. Bluntly put, if we are going to war, I do not think the normal health and safety regulations will apply. However, we can specify operational matters. We can get what is required so that we can have an efficient

Defence Forces that can do its job without having a blanket exemption which will result in us having another deafness case or some other problem. Normal workplace provisions do not apply, yet they should with the exception of operational matters that can be excluded. We can work out a suitable amendment that would address that difficulty.

Another issue upon which I want the Minister of State to reflect is the statutory right of all employers in this Bill to drug test all employees. That is a large new legislative right. There are civil liberty issues involved that we need to address and on which we need to find a balance. I have spoken to the trade union movement on this and it has its own serious concerns. There should be a flexibility on these matters so that there are local agreements at workplace level depending on the nature of the employment. A different set of responsibilities would obviously fall on an airline pilot than on some clerical officer who would not have the same responsibility for the safety of any other individual. There are different levels of responsibility required. My judgement call is that rather than a blanket provision of the broad nature envisaged in the legislation, there should be a facility to negotiate at local employment level between employees and employers, a reasonable balance that will ensure optimum safety without trespassing on the rights of individuals. The Minister of State has good antennae for the public mood. There is a view that the State wants to regulate us into automats. That is all for the good, but for the good nanny. It does not allow any flexibility reside with individuals being responsible for themselves. We should have some acceptance that people have to be responsible for themselves and that the State should not have the right to interfere with the individual to the extent that it oversteps the mark. I invite the Minister of State to open his mind to it between now and Committee Stage.

I also want to raise the issue of non-national employees. A great number of people, whom I welcome, from a broad range of cultures, traditions and languages, are coming to
12 o'clock work in Ireland. That is a positive development. They are enriching not only our economy but our culture, pluralism and understanding of different societies.

On the narrow issue of health and safety, it is important that people, whose first language might not be English, understand the health and safety statements, the provisions of the legislation and the measures put in place for their protection. Specifically, I would like to see an obligation on employers to ensure that people whose first language is not English have the opportunity to have it explained to them in a way that they can digest and understand. That is not explicit enough in the Bill.

Although this point is slightly extraneous to this enactment, I had long discussions with the Tánaiste, when she was the Minister responsible for these areas, on the way work permits are

[Mr. Howlin.]

issued. I am strongly of the view, and thought the Tánaiste was equally of the view, that a work permit should apply to the individual worker and not to the employer. We have had instances of captive employees not being able to move from inadequate, unsatisfactory work conditions and feeling that if they did not endure what are unacceptable conditions they would be deported from this State. I make this point as an aside as I was referring to non-national employees. We should quickly revisit the legislation on work permits to enable a work permit to accrue to the individual employee and not to the employer so that an employee would have the right to move to a different employer should the one who applied for the work permit prove to be unsatisfactory.

We talked at some length during various parliamentary questions to the Minister on the issue of establishing the crime of corporate manslaughter. The Labour Party produced a Private Members' Bill on this matter some time ago. The Minister of State will be aware that the Law Reform Commission examined it and reported in a consultation paper recommending that there be a crime of corporate manslaughter. That was not a conclusion but rather a consultation paper. The responses I got subsequent to that from the Department were that it is waiting for a conclusion rather than accepting the consultation paper as a definitive view of the Law Reform Commission.

I am aware that a new offence will be created in this enactment, that of causing personal injury, including death, through contravening this legislation. I welcome that. However, the maximum period of imprisonment provided on conviction for that crime is two years. It seems disproportionate that the penalty for causing an injury, including death, by contravening health and safety legislation is in the order of two years. We need to value life and bodily integrity at a higher level than that. I hope the Minister will be open to consider inputting into this legislation a separate crime of corporate manslaughter that will underscore that a corporate body has a responsibility and cannot simply walk away when employees die due to sheer negligence. We will explore these matters in more detail in committee.

I wish to raise the rights of worker safety representatives. Their position has been enhanced by this legislation and they can vindicate their position and rights through recourse to a rights commissioner, if necessary. However, I understand that the trade union movement has sought to have the denial of a right to a safety representative made a scheduled offence in this enactment. That was not acceded to by the negotiators from the Department of Enterprise, Trade and Employment. I have not heard the reasoning for that. The Minister of State might explain the reason the requirement of the trade union movement to have the denial of the right to a safety

representative made an offence was not acceded to.

I wish to raise the new board's representation on foot of representations I received from the trade union movement on its structure in terms of who should be represented on it and how they are to be represented. In an early draft of the Bill, presented to IBEC and congress, nominations to the board from each of those bodies fluctuated between two or three. The final published version maintained three from each and increased the number of nominees from the independent sector to outnumber them. I would be interested to hear the Minister of State's view on the optimum number and how it is proposed they should be selected to ensure the board is representative of society as a whole and has the best people to ensure the legislation that we are enacting is best put in place.

This important legislation has been a long time coming. I welcome it and look forward to a detailed discussion on it in committee. I return to my opening comment regarding resources. We often rest on our laurels and see ourselves as legislators only and that on passing legislation our duty is done. This legislation will be useless unless we adequately resource the HSA to do the work we want it to do in the changing, expanding workplace that is Ireland, welcome as that is. We must ensure that workers, domestic and those we entice to work in our economy, work in the safest conditions we can put in place and that everybody understands their responsibility and, more so, that everybody understands there is an authority with an inspectorate, with the teeth and capacity to ensure that the highest standards are enforced as well as enacted.

Mr. Eamon Ryan: I welcome the Minister of State to his new post and wish him the best of good luck and fortune in his new job.

The Green Party supports the intent of this extensive Bill that comes on the back of earlier legislation, the 1989 Act, which has been of major significance to the economic and social welfare of the country. It is important first and foremost to recognise that.

I take on board Deputy Hogan's comments and am supportive of them. We must be careful as legislators not to choke the spirit of enterprise which it is important to foster and develop, particularly enterprise within smaller Irish companies which face major difficulties. I have had the experience of being a small businessman. It is not easy when one comes into work on a Monday morning and knows that one has to do a VAT return that should have been done the previous Friday afternoon, and there are also all the various forms that one is required to complete. From my experience of running a small bicycle shop, the health and safety legislation enacted in 1989 worked in that it had a real and effective force for good by simply forcing me as a small business person to ask myself did I have a safety statement.

That in itself had considerable positive consequences in that it forced me to create such a statement. It was correct for me to do this, not just because it fulfilled the legislative requirements, but because it was the right thing to do for the business. The business was fairly simple. One does not get much easier than fixing bikes, yet we had a blowtorch and grinder in the shop and we were lifting things and dealing with chemicals. One should work with oil on one's hands all day and see what the hands are like after a year.

The 1989 legislation required the three or four of us who worked in the shop to sit down to talk about safety and identify the relevant issues. This had a very positive effect and made us better organised and more effective in our business. It probably meant that we invested a certain amount in proper frames, on which we carried the bikes, and in proper gloves and fire equipment. My experience in business is very limited, as one does not get much smaller than fixing punctures on a wet Monday, yet I noted that the requirement to meet the safety requirements had a very beneficial effect. To the extent that this Bill is carrying on that tradition and improving the legislative record, I very much welcome it.

It is remarkable to note the economic consequences of such legislative changes in statistical terms. The Minister of State said there were 21,000 strike days in 2002, while ten times this number of days were lost through illness. If we as legislators can effect economic improvements and reduce the level of absence from work through injury, the State's investment in its legislators and the Civil Service will result in a good monetary return to the people of the State.

I have some concerns about the Bill. It is difficult for my party to amend the Bill considering that it will not have access to Committee Stage but I hope most of my amendments will be dealt with on Report Stage. I echo some of the concerns raised by the two previous speakers. The first, which the Minister of State regarded as one of the most controversial aspects of the Bill, relates to possible random testing of employees for drugs or alcohol. Two different views have already been expressed on this on this side of the House, but I agree with that of Deputy Howlin. I have very serious concerns about the State assigning to employers such a broad and sweeping right as that to randomly test employees. It is a legislative step too far and I caution the Minister on making such a dramatic change to the relationships between the State and employers and between employers and employees.

The Minister of State said that the details on random testing will be set by regulation. I take it he is not seeking the application of random testing to every administrative clerk in every single office in the country, as referred to by Deputy Howlin. However, the measure is so significant that if the Minister of State is proposing to restrict or limit the power to engage in random testing, it is better that he do so in the legislation rather than in any further regulations. This would

at least allow legislators to assess the merits of random testing.

If one allowed for random testing of people involved in shipping, aeroplane maintenance or flying, for example, there might be support for such a proposal considering that mistakes made by such employees due to their being incapacitated can have dire consequences. However, I do not and would not support the inclusion in the Bill of the broad legal possibility of a sweeping change resulting in random testing without its being qualified further at this stage. If we are to do so, we should specify in the Bill where exactly we intend such powers to apply.

In light of my example based on my experience as a small employer, I worry about the way in which the random testing of employees by employers would change the relationships in the workplace. I worry that we are not outlining in sufficient detail how such a power would apply and what sanctions would apply to its use. This is my fundamental concern about the way in which this legislation has been drafted.

My second concern relates to an area of health and safety which the Minister of State has recognised in his speech but which is not being addressed properly and fully in the Bill, namely, stress in or arising from the workplace. I asked a well-known occupational health practitioner about his experiences in a Dublin city centre clinic and he said he deals with stress cases every day. I do not know whether different circumstances obtain in other parts of the country. He also deals with broken bones and other complaints but 90% of his business is stress-related and involves patients who are working too hard, under too much pressure or are unable to cope with the demands being put on them. They are presenting with other symptoms and conditions but the reality, according to the practitioner, is that they are simply working too hard in stressful conditions. His advice to them is often to take two weeks off work to reduce the pressure under which they are putting themselves.

It was interesting to consider the statistics cited by the Minister. Some 34% of injuries are due to handling, lifting and carrying, and 26% are due to slips, trips and falls. This is a subjective area and it is hard to quantify specifically, but I believe a detailed analysis would show that a large percentage of lost days, lost productivity and real health and safety problems are attributable to the fact that we are working too hard and thereby becoming stressed. We are missing the opportunity to address this in much more detail throughout the Bill. We are not giving legislative effect to the type of prescriptions that the occupational doctor to whom I spoke is dispensing most of the time, namely, breaks from work, shorter hours and a better balance between family and working life. It is difficult to legislate for this area and to be scientific about it, but it is the reality on the ground.

If one considered how our society and health and safety standards in the workplace have

[Mr. Eamon Ryan.]

changed in the past 20 years, one would recognise that the increased working demands on ordinary office workers in a variety of different professions comprise one of the most significant changes. It is not necessarily a change for the better. There are certain professions in this city and elsewhere in which it is now expected that one must work a 12-hour day. People are going to work at 9 a.m. and feel that they are not doing their jobs properly and will not progress if they do not remain in their offices until 8 p.m. This has almost become a common work culture in certain professions. It is wrong and leads to people being burnt out and to a real drop in productivity. Although they might seem to be working hard and are seen to be in the office for many hours I question the work done in such circumstances.

As human beings, we do not function well in the long term under such stress. I look to the Minister of State to strengthen the legislative provisions on Committee and Report Stages in recognition of that fact. Employees should be able to refer to that condition in those working circumstances as a health and safety consideration, which needs to be addressed by the employer. Although the Minister referred to this in his speech, I cannot see in the Bill the detailed legislative proposals that address the concerns the Minister of State has raised.

Proper consultation is an important element in developing a positive working relationship between employers and employees. This is recognised in the Bill but I wish to refer back to my circumstances. One of the reasons the earlier health and safety legislation worked is that we tried to engage in proper consultation with the employees. That is where the benefit comes from, it allows an employee to discuss with an employer what everyday working conditions are like. That is not something that occurs every day in a small business where we tend to keep our heads down and work to certain targets, including producing products and getting orders out. Within the everyday working arrangements of business life, one does not have many opportunities to sit back and ask what the working day has been like for individual employees, how they function or what they feel about how the company is being run. To some extent, this health and safety legislation is an opportunity to push companies towards engaging in a consultation process they should be involved in anyway.

I remember being taught in college about what was known as McGregor's theories of X and Y. Theory X was that one has to brow-beat workers, pay them highly or threaten them with all sorts of punishments to get them to work effectively. Theory Y, which is the one I would subscribe to, is that people want to work, be part of an organisation and have flexibility, freedom and power of initiative. People's self-interest is in contributing positively to an organisation. In my experience, that is the correct and truer theory of how management should work and behave, particularly in

an economy where we should be moving towards more high value-added jobs and involving people in a much more creative way in the working process. In that regard, we must trust employees and recognise that if they have difficulties with regard to health and safety issues, we must address them in the legislation. The legislation should be framed in that spirit. I reiterate the importance of the consultation process, which better reflects the nature of the economy and the workplace.

I agree with Deputy Howlin on the need for the Bill to be encompassing in applying to all nationalities and worker grades, including migrants on work permits, working in small businesses. Section 9 provides that the safety statement's information should be provided in a given format and in appropriate language that is reasonably likely to be understood by the employee. Deputy Howlin's point was that we need to specify that those on work permits have exactly the same rights as others, including being able to understand one's health and safety conditions.

Previous speakers raised the issue of enforcement. In my limited experience, having been two and a half years in the House, I have come across a number of cases where the level of enforcement does not meet the required standards. The proper legislation may be in place but it is of no use if it is not enforced. I have specific concerns where health and safety issues are falling between the cracks. One example concerns the Bellanaboy upstream pipeline planned in County Mayo, where there was a lack of clear understanding as to who had responsibility for the pipeline's safety aspects. The Minister for Communications, Marine and Natural Resources supposedly had responsibility, while the Health and Safety Authority said it did not because the pipeline was outside the boundary of the particular facility. In that case, I felt the HSA needed to expand its remit and take responsibility for addressing the safety concerns that had been expressed. That is one example from the everyday work we do here where I considered we failed to address the real safety issues that were apparent in a particular industrial process. We had a narrow definition of where the health and safety issue belonged.

I could cite other issues. Concerns have come to my attention about the national car testing centres, where significant emissions are possibly being trapped in a narrow working environment. Enforcement officers were able to visit and monitor such centres, but it is unclear to me whether they had the legislative power to take action if they had such concerns. I have cited those two examples from my daily working life as a public representative because they involve people coming to me to express real concerns about those problems. To my mind, however, we are not currently able to carry out the role the State should be undertaking to protect employees in such circumstances.

I support the Bill in the hope that the new authority will strengthen its procedures and be

more effective. I hope that resources will be made available to provide the health and safety protection we need. That will be of benefit not just to employees but also to the economy.

I intend to revert to these matters on Committee and Report Stages. I welcome the fact that the Minister has introduced the Bill and I look forward to more detailed debate on the remaining Stages.

Mr. Dennehy: Déanaim chomhghairdeas le mo chara, an tAire Stáit nua, an Teachta Killeen. Everyone accepts that the commitment and contribution of the Minister of State, Deputy Killeen, in the Chamber over the past few years have demonstrated that he is capable of fulfilling any portfolio with which he is entrusted. I congratulate him and wish him the best in his new role.

Deputy Eamon Ryan called upon his experience as an employer in discussing this issue. In the same way I will call on my experience, having been involved in industrial safety for many years, including a term as safety officer in what was probably the most hazardous plant in the country, Irish Steel in Haulbowline. I have been working in this area for a long time and particularly welcome any updating of legislation dealing with safety in the workplace. Any such changes that will make the workplace safer are to be welcomed.

I welcome the point made by the Minister of State that we have the best workplace safety record in the European Union. He said that fatalities cannot be tolerated and I agree with that sentiment. At times, however, we knock ourselves a bit too much. Recently, I heard a complaint from a developer who said that on building sites in Portugal they did not have to observe the same kind of regime that we have, including obligatory hard hats and other safety requirements. He made the point that we could not compete. I agree with the comments made by Deputy Eamon Ryan, particularly that there is a financial benefit in avoiding accidents. I will touch on this aspect later.

I also agree with his point that people want to work. My biggest problem was supervising 50 or 60 tradespeople involved in mixed activities. Their excess of enthusiasm created a difficulty in trying to get them to slow down. Their wish to complete the job meant they could take shortcuts regarding safety. We must start from the basis that workers want to work.

I have already outlined to the Minister of State my concerns about the plethora of regulations in place. Deputy Eamon Ryan referred to a gas line. The split between various authorities and various areas is confusing, whether it relates to lifting manuals safely, gases, electricity, radiation and so on. There is a plethora of guidelines, rules and regulations which can be difficult to implement. I welcome that there is consolidation and a merging of the various aspects of the 1989 Act and the general application requirements of 1993, including the two EU directives of 1989 and 1991. I

encourage the Minister of State to continue in that vein.

One can plead ignorance at times because one is lazy and does not want to learn what they must do. However, there is a degree of confusion at times, and a splitting of responsibilities, which needs to be examined. Rules and regulations are helpful. They are introduced only after careful monitoring of the situation and with the intention of safeguarding everyone involved.

Deputy Eamon Ryan made the point, which is often made by employees of small companies or businesses, that these regulations are very onerous. However, the regulations force people to examine the situation regularly, which is to be welcomed. It is beneficial to everyone and creates an air of co-operation and a willingness by employees to become involved. They realise it is beneficial to them and most people are willing to help.

The spread of hazards and the regulations must be examined from the point of view of simplifying matters. I might get a chance later to comment on the wording in the Bill because I am not completely happy with some of it. There are significant demands on employers, and rightly so, because they have the health and at times the lives of their employees in their hands. We must devise the safest possible work practices.

When one reads the Bill first it appears that it may be difficult to implement, and there is a cost factor. However, as the Minister of State outlined — I have spoken widely on this topic — when the sums are done and the figures are calculated, apart from the pain and suffering and personal tragedy for families at either losing a member or a member suffering serious injury, and when all the other factors to which the Minister referred are counted, including loss of production and so on, we can prove that a good safety approach will pay off purely from the financial point of view. I would like to see more work carried out in this area because it would be beneficial to be able to prove to employers and everyone else involved that a safe workplace is financially beneficial.

Some 117,800 people suffered occupational injury in 2002, which is of concern. In my experience, for each injury, there were up to ten dangerous occurrences. One of the problems is that while a dangerous occurrence is clearly spelt out in the Bill, a considerable range of dangerous occurrences are simply ignored. Any good safety representative should have a full list of dangerous occurrences which take place in the workplace. It has been proved that for every injury, there are up to ten dangerous happenings. Some of them are small instances but they are a clear warning and indicator that there is potential for an accident, and often they are not acted on. They are ignored simply because they were not reportable or there was not an injury which had to be logged. We need to work on this aspect. When we show a safety film or hand out a safety booklet, it almost always shows a person being injured or a fatality. Many other incidents take place, and we should

[Mr. Dennehy.]

point out the hazards before anything happens. We are all familiar with tripping hazards and so on. If an employee is killed, it remains with the employer for the rest of his or her life. I witnessed fatalities and I saw some of the most serious injuries one could imagine, which is why I would strongly support any action taken by the Minister of State.

I cannot let this debate end without paying tribute to one group in particular, namely, the National Industrial Safety Organisation, for the work it does. It is comprised mainly of people involved in the industry, including safety officers, people involved in insurance, departmental inspectors and so on who organise seminars and various other activities. I know from speaking to him that the Minister of State is well aware of the work of these people. I put on record my appreciation, and that of the State, of their efforts. These people are mainly volunteers who give freely of their time. One of the things they do is run national safety quizzes. I captained the team in Irish Steel for a number of years. One of the advantages was that when a temporary vacancy arose in the company, I was able to step into the breach and take on the role of safety officer for six or eight months because of my participation in a supervisory role and because of the information I gleaned over the years when participating in the safety quizzes. Any such activity must be fostered, helped and sponsored because it creates a nucleus of employees who have a considerable awareness of potential difficulties. I send them my best wishes.

We must also pay tribute to FÁS. We see the fatality rate falling over the years despite rising employment, and FÁS has played a significant role in that. It carries out a wide range of work, not just training apprentices and so on, but sponsoring and carrying out many other activities. It runs classes on the SafePass course for building sites and so on. This is a one-day course which is held throughout the country. As a result of it, we no longer have the crazy situation where workers and suppliers were strolling casually around building sites and people eating sandwiches or moving equipment. There were many accidents and fatalities because of that approach. Now, even a potential house purchaser must complete the SafePass course before entering a site. This is welcome because it brings the potential difficulties to people's attention.

It is almost possible to quantify accurately the savings from all these preventative measures because one could argue forever that so many people would have been killed or injured if particular measures had not been introduced. There is undoubtedly a significant saving from accidents that do not happen, however, because of the approach we have taken. Although I would never have been a Seán Kelly or a Stephen Roche, my cycle racing career was ended by a serious foot injury which I suffered in Irish Steel. Such an accident could not have taken place a few years

later when steel toe cap shoes and boots were available. This is an example of the personal suffering that takes place and which we do not factor in when considering the costs. There are tens of thousands of people whose careers, enjoyment of sport, or entire health have been affected in the long term by accidents. The injuries to such people must be quantified in some manner.

Section 13 is already grabbing the attention of the Opposition spokespeople and the media. I am concerned by the approach taken by Deputy Howlin in his contribution because the regulation provision is only a possibility. It will be considered and may be included as part of the Bill. This potential provision has been transformed into a contention that all employers will have the right to test every employee for drugs. That is a big jump. Deputy Eamon Ryan was more balanced when he quoted the possibility of random testing.

It is too early to take a jump on either side of this. Deputy Eamon Ryan referred to airlines and shipping where people have been suspended and sacked because they were under the influence of an intoxicant. Most people would agree that it is undesirable to have somebody on a job who is incapable of performing their duties because of the effects of alcohol. I have in mind particularly those employees in difficult situations such as shift work, where they may have to start work at 8 p.m. or 10 p.m. or midnight, and who may have been out socially prior to starting work. This is just one aspect of it and one must also consider those employees who work a regular time pattern. Should we be saying that no matter the circumstances, regardless of how much alcohol or drugs have been taken, employees must be allowed to carry on with their tasks? If not, what should the cut-off point be? When should an employer advise an employee to go home because he or she is under the influence?

There is a clearly defined alcohol limit for motorists and a standard procedure associated with the breach of this limit. The same is required in industry. A vague precept that one cannot come on the job if under the influence of drinks or drugs is insufficient. In dangerous jobs such as metal working, where accidents can happen in microseconds, employees should not be allowed anywhere near their tasks if they are incapacitated. The difference of one or two pints or portions of drugs could make all the difference between serious injury and possible fatality.

If Deputy Howlin and Deputy Eamon Ryan agree that a regime must be in place, then the question of testing must arise. I appreciate that nobody would want every employee in the country tested for any reason. It sounds crazy even to suggest it. The issue must be discussed, however, and the ICTU will take a sensible and responsible approach to it. If we are going to tackle safety in the workplace properly, this issue must be addressed. The Bill states that an employee must ensure that he or she is not "under the influence of an intoxicant to the extent that the state he or

she is in is likely to endanger his or her own safety, health or welfare at work or that of any other person". A person could argue that he or she had taken one, four or ten pints, for example, but was still sober. The Minister of State must receive support on this. He does not have any commitment one way or the other except to the fact that he does not want people drunk or under the influence of drugs at work. I would like Opposition Members and spokespersons in particular to take a more balanced view on this and engage constructively in defining specific circumstances. It is a quantum leap from the provision that a regulation may be put in place to a contention that every employee will be tested.

I am happy that the situation of self-employed and temporary workers is explained clearly in sections 7 and 8. There has been much ambiguity in these areas and changed work practices and procedures have led to confusion. The issue of C2 certificates, for example, with everybody suddenly being dropped by the building companies and establishing companies of their own, led to significant difficulties with insurance and safety. Temporary employees are most at risk. There is a very blasé approach by many employers to students undertaking summer work, for example.

Section 10 elaborates on section 8 and lays out that instruction in workplace health and safety must be given in a form, manner and language that can be understood by the employee. I found this slightly amusing because I struggled to work through some sections of the Bill. With respect to the draftsmen and others involved, there a great deal of gobbledegook in the Bill. Even with 20 years' parliamentary experience, I found some parts difficult to translate into plain English, including the definition of terms in the opening pages. When I see this, I understand why it takes a year to draft the average Bill.

I commend the Bill to the House, compliment the Minister of State, Deputy Killeen, on beginning his work and wish him well.

Mr. P. Breen: I welcome the opportunity to speak on this important Bill. I congratulate my constituency colleague, Deputy Killeen, on his elevation to the position of Minister of State at the Department of Enterprise, Trade and Employment. This is my first opportunity to congratulate him publicly although I have already done so in private. I am delighted at his elevation. Yesterday, I was informed by my party leader that my brief has changed to enterprise, trade and employment and I look forward to working closely with my colleague, Deputy Hogan, and engaging in some lively and constructive debates with Deputy Killeen.

I thank the Minister of State for presenting his first Bill to the House. It is an important and timely one which Fine Gael supports. It can achieve its aim of strengthening safety in the workplace, reducing accidents and reducing further the number of workplace deaths. However, as Deputy Hogan and others said,

there are some sections which could ultimately be counterproductive. The Bill attempts to replace the framework as set out in the 1989 Act with a strict set of rigid, unworkable rules that are too prescriptive and difficult to police and in some instances unnecessary.

Workplace accident levels here remain too high, despite the fact that Ireland has the lowest number of accidents in the European Union, with a figure in 2002 of 61 people killed in work related accidents. In my constituency in County Clare, three people were killed in that year in work related accidents, one farm related and two construction industry accidents. There were also a number of accidents last year.

We live in an era of many large road projects and Ireland is becoming a construction site. I noticed a sign when I passed the ESB power station in Ennis — perhaps the Minister of State, Deputy Killeen, also noticed it — stating how many days it was since the power station's previous accident. It is important for workers to see a notice stating, for example, that the company has been accident free for 200 days. More such notices should be displayed in workplaces because they make people aware of the dangers as they enter the office or site. Last year there were a number of serious accidents related to the gas line being installed in County Clare and one fatality in Clarecastle where an Italian worker was killed when a bridge collapsed over the river Fergus. In my area, Kildysart, a worker was critically injured.

Last year 7,746 accidents involved more than four days absence from work. This is unacceptable. It is a huge burden on our health services, especially at this time when the amount of money being spent in that area is such a huge issue. We would have enormous savings if we could make people more aware of the dangers and prevent these accidents. Some 12,280 occupational injury benefit claims were made last year. Almost 1 million work days were lost due to occupational injuries and over 500,000 work days were lost due to work related illnesses. These make up the many personal, economic and production costs associated with accidents. Every death or serious accident is a blot on our industrial copybook.

It is right to spend time discussing this Bill. We all know the terrible grief caused in any household following an accident. Questions are only asked afterwards, whether if we had done this or that, we could have changed the outcome and a person could be alive or would not be crippled etc. This important Bill updates the Safety, Health and Welfare at Work Act 1989 and reflects the socio-economic changes that have occurred since. It reflects the changes in size and composition of our labour market, the development and expansion of sectors such as the IT and chemical sectors and an increase in people's expectations and public awareness and concern about workplace accidents and injuries.

[Mr. P. Breen.]

The Bill is particularly pertinent, given the huge changes that have occurred since 1989, for example, the influx of migrant workers which has benefited the whole country, the huge boom in industrial activity on the back of that and the huge strides in technology. The social scene and the workforce have changed. However, in the face of this new industrial landscape and in an attempt to meet the safety challenges it poses, the Government has thrown out the rule book and replaced a workable and successful system with a set of rules that may not have the desired effect.

There are problems with this Bill, just as there are with all Bills. It is important to address problems on Committee Stage. I will not raise all our concerns today, but will briefly refer to a few of them. Other speakers have mentioned some and I am sure others will be raised on Committee Stage.

The Bill provides for employees to allow themselves to be subjected to an appropriate, reasonable and proportionate test, if reasonably required by the employer. An employee is obliged to ensure that he or she is not under the influence of intoxicants, defined as alcohol or drugs, to such an extent that they are a danger to their health, safety and welfare at work. The difficulty with this provision is that it could provide an employee with a cause of action for unfair dismissal or victimisation. What is the position of a primary employer with regard to an employee of another employer on the premises and will that employee have to comply with such a request?

Section 84 gives rise to a concern to which other speakers referred. This section appears to place the burden of proof on an employer and leaves no presumption of innocence. Is this right or is there a derogation of natural justice in this provision? Perhaps the Minister of State will explain the Department's thinking on this.

I wish to raise the issue of the funding of the Health and Safety Authority in the context of this Bill. If the new legislation is to have a chance of achieving its aim of reducing workplace injury and death, the HSA must be properly funded. Many of the accidents that occur in workplaces, on construction sites, farms etc. are a result of carelessness. Many accidents also occur in schools as the authority and, I am sure, the Minister of State are aware. The HSA was recently brought in to produce a report on the condition of a school in Ennis as a result of an accident there. I hope that report will encourage the Department of Education and Science to provide the necessary funding for that national school in to upgrade its facilities.

I am delighted many industries conduct health and safety courses on a regular basis for their employees. That is important. I mentioned site notices which I believe have a positive impact. If the HSA is to carry out its function satisfactorily, it needs the resources to do so. For example, the HSA had an annual target of 8,000 building

inspections, but this figure may be reduced to 4,500 because of lack of resources.

There is a boom in the construction industry in every county, with houses and industrial plants being built in all areas. However, because of the increased number of inspectors involved in pursuing cases through the courts as a result of union pressure, the presence of inspectors on building sites has fallen. The new measures in this Bill will increase inspectors' workload. However, there is no provision in the Bill for additional resources for the HSA. Another effect of the boom in the construction industry is that workers take short cuts and are prepared to take chances to get a job done. We must have enforcement of the regulations if the legislation is to be successful. Therefore, it is important that we have inspectors around the country conducting regular checks and enforcing the law. I hope the Minister of State will deal with this matter in his response.

I would like to raise the issue of penalties imposed under this Bill. SIPTU has expressed its broad support for the Bill. However, it raised the matter of an employer, found guilty of a worker's death through negligence, who claims insolvency. Instead of being given a custodial sentence, the court imposed a fine of €6,000. This seems disproportionately low considering the gravity of the case. This is further evidence of what we feel is loss of law and not much order. There are pages of legislation without the framework and funding for its implementation.

The Bill will have implications for insurance premiums. The Irish Insurance Federation has developed interesting policies in this area. I welcome recent reductions in liability insurance premia, particularly for small and medium enterprises, although they primarily relate to damages and legal costs. Deputy Hogan referred to the press conference held by the Chambers of Commerce of Ireland yesterday, which highlighted that, while insurance premia had reduced, local authority charges were a significant burden on small and medium enterprises and, therefore, it launched a nationwide awareness campaign.

While it is hoped the current reforms will reduce claim costs, people will continue to face a high damages environment for some time to come. This makes it all the more necessary to do everything we can to prevent accidents. The IIF, therefore, is calling on the Government to use part or all of the proceeds of stamp duty on liability insurance, which amounts to almost €20 million per year, to beef up workplace safety law enforcement, otherwise the potential impact of this legislation will be diluted.

I ask the Minister to listen to IBEC, SIPTU, the IIF and Members who on Committee Stage will table sound, sensible, reasonable and practicable amendments designed to improve a well meaning but flawed Bill. Unusually, in comparison to what we normally debate, this legislation concerns life and death. We cannot take the issue of safety lightly nor can we wave through flawed

legislation that will not help in the long run. I look forward to the Minister's response on Committee Stage to the issues I have raised. I am grateful for the opportunity to contribute to the debate on the Bill, my first in my new role as junior spokesperson on enterprise, trade and employment.

Mr. Murphy: Any Bill that increases the safety, health and welfare of people at work is welcome but the Government is good at introducing rafts of well intentioned legislation, which is useless without the resources to implement it. It would be better to leave the issue alone if the resources for implementation are not made available as part and parcel of the Bill.

The penalty points system, when introduced, was a great success but, without the resources to implement and maintain it, it soon fell into disrepute and fatal accidents have again become an almost daily occurrence. The Garda does not have the resources to implement the system. It was a good idea, which worked well for a while, but it was ruined by the Government's inability to properly plan its introduction and failure to set up a traffic corps and properly resource the Garda. The resolution of law and order issues has been thwarted by the Government's failure to provide the 2,000 additional gardaí it promised.

Most of the Bill's provisions are welcome but if the Government fails to appoint sufficient health and safety officers, we will experience the same ineffective result — plenty of legislation but no implementation. The Bill is too serious for the same mistakes to be made. The Government's shabby handling of the points system is costing lives on an almost daily basis, and a failure to put resources in place to implement this legislation will also cost lives.

Unlike past Administrations, the Government cannot plead lack of resources or inability to pay. Day after day, we are reminded of how well the economy is doing and of unexpected tax revenues but instead of providing the necessary resources to implement legislation, the Government considers it more important to build a slush fund for the next general election, which it hopes to win again with hand-outs and false promises.

The Minister must ensure the legislation is properly resourced. Last year 65 people died in work-related accidents and, according to the Health and Safety Authority chairman, most of these deaths were avoidable. Even when an injury is not fatal, it can have serious consequences for the victim and his or her family and employer as well as impacting on the economy as a whole.

The provision of enough health and safety inspectors is essential to achieving results when the Bill is enacted. Sufficient inspectors will always be necessary to deal with rogue companies, fly-by-night directors and employers generally who have little regard for the law. Inspectors will also be needed to deal with careless and macho workers who put their own lives at risk

and endanger the health and lives of their co-workers.

The vast majority of employers and employees are extremely responsible and co-operate fully with health and safety directives. However, awareness is still a major problem and more work-based knowledge and education is needed among even the best intentioned employers and employees. Most people do not put enough emphasis on how the simplest accidents can cause death and serious injury. One of the questions asked in the FÁS safe pass programme is how far one has to fall to be killed. The examples provided demonstrate that one only has to fall from the platform or ground on which one is walking.

Safety devices such as harnesses can save one's life but they can also result in death. FÁS emphasises that too many contractors are unaware of the detrimental effect a safety harness can have on a suspended person. Harnesses can be deadly when a worker is suspended for more than five minutes in an upright position. A lone worker caught in mid-fall thinking his life has been saved can lose consciousness and die within 15 minutes if he is not removed from this position. These are only two examples of a lack of awareness among employers and employees of the consequences of the improper use of safety equipment.

The fostering and teaching of a safety culture must begin at an early age. Young people, in particular, feel invincible and believe accidents only happen to other people. Health and safety must become part of the curriculum at an early stage in the education cycle. It is a clear objective of the Health and Safety Authority to mainstream its activities on the curricula at all levels in education. While the authority has identified an action plan, its implementation will require resources. Close co-operation among the Department of Enterprise, Trade and Employment, the Health and Safety Authority and the Department of Education and Science will be necessary to achieve results at an early stage. Resources will also be important in this context.

While a good school programme will significantly improve awareness into the future, the Health and Safety Authority must be properly resourced to produce an immediate impact as it works with small and medium businesses and trade unions. It is important to emphasise that the Bill treats self-employed persons in exactly the same way as companies or employees. People working for and by themselves often take risks which would not normally be acceptable. Self-employed persons must get the message that disregard for personal safety will no longer be tolerated not only for their own sakes but because of the danger of their carelessness to others. The Bill sends a strong message to the those members of the public who take on builders or workers. A person must realise that he or she has an obligation to ensure that the company or person he or she hires abides by best safety practices.

Greater emphasis must be placed on agricultural accidents. Special education programmes

[Mr. Murphy.]
for rural schools should be implemented immediately and farmers should be informed in no uncertain terms that health and safety requirements apply equally to them. Obligations and penalties must be enforced on farmers who breach the regulations. While co-operation by the Health and Safety Authority, farm organisations and the Department of Agriculture and Food will be essential, none of the above can be achieved without proper resources to fund the activities to ensure the implementation of the Bill's provisions.

According to the annual report of the Health and Safety Authority, inspections in the agriculture area were carried out on machine operations, manual handling, livestock handling, working on heights and child safety. The authority carried out 856 agricultural inspections in 2003, 14% of which were follow-up inspections and 5% inspections made on foot of complaints. Enforcement action was taken in 17% of cases. Despite these activities and the publication of a code which was highlighted as part of a farm safety campaign and distributed and advertised at many farming events, including the national ploughing championships, accidents on farms continue to occur much too frequently, especially among young people. There is a need for a extensive educational programme, especially in rural schools. Such a programme should begin as soon as this Bill has been enacted. The Farm Safety Action Plan 2003-2007 was published last year and its implementation has begun. The core of the initiative was a farm safety self-assessment document which was produced by the Health and Safety Authority. The document has been distributed to the majority of farmers. While there has been a significant response from many, further resources for enforcement must be put in place to deal with rogue farmers who ignore the law.

I emphasise the importance of implementing and enforcing the health and safety regulations in this Bill on which lives depend. While there can be no higher priority, the Government must address concerns about implementation costs, especially through the Department of Enterprise, Trade and Employment. IBEC says businesses are told by the Government to be compliant with all its regulations and to operate more cheaply. IBEC feels there is no overview from Government of the combined impact of the wide range of new regulations on industry which now cover environmental rules, corporate governance, auditing, health and safety and many other areas. The higher cost of regulation cannot be recovered from customers and will have an adverse impact on future investment decisions. This is increasingly important given the growth in strong competition from new foreign direct investment.

As part of the national agreement, Sustaining Progress, the Government promised to bring forward analysis of how new regulations were affecting industry, our competitiveness and job creation. Without this analysis and Government

action, regulations will continue to undermine competitiveness at a time when export margins are being squeezed by higher costs. Static prices on world markets also cause problems. While the Government constantly tells us how business friendly it is and how our competitiveness as a nation has strengthened the economy, it fails to take into consideration the impact of new regulations. While regulations such as those in the health and safety area must be fully implemented and enforced, the cost to business should be examined to ensure that competitiveness is not affected.

The Government has imposed massive stealth taxes on businesses. By failing to fund local authorities adequately, the Government has pushed up the cost of rates while massively increasing charges for waste collection and water. Not only does the Government expect businesses, rightly, to spend large amounts of money to implement health and safety and other regulations, it imposes stealth taxes at a significant rate. The Government has introduced development charges at local authority level which will have the effect of increasing the cost of a house by between €15,000 and €20,000. It presides over a rip-off economy which is revealed in statistics on a daily basis. These actions have increased pressure for more wage rises which again affect the ability of industry and business to remain competitive. The Government must examine these problems closely. To move away from its rip-off and stealth tax mentality is the only way for the Government to deal with these issues. If the Government succeeds, individuals and businesses will be able to afford to implement the new health and safety regulations without damaging basic cost-effectiveness.

As well as being affected by the many new regulations outlined in the Bill, it will continue to be the duty of an employer to do everything possible to ensure the health, safety and welfare of employees is paramount. The list of specific duties and responsibilities on employers will include adequate instruction and training which must be provided without the loss of earnings to employees.

Employers must also ensure, as far as is reasonably possible, that others in the place of work who are not employees are not exposed to danger. All employers must identify hazards in the workplace in a risk assessment document. Employers will still be required to produce a written safety statement which identifies the risks and hazards in their workplace. Under this legislation, such safety statements will have to be renewed on an annual basis. Previous requirements together with the new regulations required under this Bill place an enormous responsibility on employers and allow for hefty penalties for non-compliance. It should be clearly understood this legislation also places obligations on employees who can be penalised for non-compliance.

Though it is not explicit in the Bill, there is an onus on the Government to provide the Health

and Safety Authority with the resources required to allow it adequately enforce the provisions of this legislation. Fine Gael welcomes the Bill and emphasises that without proper resourcing it will be yet more wishful thinking legislation introduced by this Government.

Dr. Upton: I wish to share time with Deputy Broughan.

Acting Chairman (Dr. Woods): Is that agreed? Agreed.

Dr. Upton: I welcome the opportunity to speak on this Bill and to address the serious health and safety issues in the area of agriculture. As the Labour Party spokesperson on agriculture I have had reason to look at the statistics in that area and have followed them for the past two or three years. Statistics in terms of accidents and fatalities in the farming community are particularly horrifying. It is an area which requires more attention.

A recent seminar held in University College Dublin and jointly hosted by Teagasc, UCD and the Health and Safety Authority highlighted the fact that agriculture is one of Ireland's most hazardous occupations. The fatality statistics, which are very stark, highlighted the fact that almost one-third of occupational fatalities between 1992 and 2004 occurred in agriculture. Earlier this year the Health and Safety Authority in a separate publication noted that the death rate on farms is four times that of all other Irish industries put together.

While I would particularly like to address the safety concerns in agriculture, there are other aspects of the Bill with which I would like to deal. The type of data accumulated in this area requires us to stand back and look at what is or, perhaps, is not happening on farms in terms of the implementation of safety statements. Another of the results of the research report presented at the seminar in UCD was that a work-related injury occurred on almost 10% of sample farms over a five year period. More than one-third of farms that experienced an injury reported an economic loss as a result while 45% of those injured were admitted to hospital. There are two very significant factors involved there. While prevention of fatalities is our primary concern, prevention of injury is also important. We must also take into account the enormous economic losses imposed on farm families as a result of such accidents.

Another interesting statistic produced in the report was that while farmers were aware of the dangers of farm work only 75% of them classified their farm as safe or believed they were responsible for the elimination of such hazards. Of the farms surveyed, only 10% had in place a safety statement. As Deputy Murphy said earlier, in terms of compliance, it is unacceptable that farmers do not have safety statements in place. It is important also we do not offload all of our criti-

cism on to farmers. The support agencies have an important role to play in this area. They should try to make it easier for farmers to become compliant and should assist them in dealing with what they view as another burdensome piece of bureaucracy. It is fair to say that farmers have an instinctive resistance to filling out forms. While that is understandable — I hope that will change somewhat in the future — it is not an excuse for non-compliance. It is more important farmers are compliant than that they put in place safety statements, but if they are not aware of their need to put in place a safety statement, they are less likely to be compliant.

It has been my experience in dealing with other aspects of safety statements that there is often an overload in terms of bureaucracy and documentation. Many of the quality assurance programmes drafted and presented in glossy folders are left to wilt and no one ever looks at them again. It is not enough to simply put in place a safety statement, one has to implement it.

While farmers appreciate and accept responsibility for their welfare on a farm the risks to which children can be exposed is much more important. The most heartbreaking accidents are those involving children as they are often the type of accidents that could and should be prevented. What may appear to children as an exciting game can often be hazardous. It is for that reason that those with responsibility for managing farms must take account of the hazards to which children might be exposed which do not pose the same threat to adults.

Deputy Murphy mentioned the code of practice for preventing accidents involving children and young people in agriculture. While many such codes of practice exist, the Health and Safety Authority's code of practice is specifically aimed at children. It might be worthwhile, to look at some of the ideas arising from practices in the United States such as, safety camps which are organised with farm children in mind. It is an entertaining way of introducing children to the risks and hazards of a farm. An analysis of the value of such camps was positive and showed that the children not only learned from it but that they also passed the knowledge on to their parents. There was a positive spin from the entertaining aspect of their learning experience.

Members will have noticed that most workplaces and shops display statements such as "Children must be supervised at all times." There are other reasons besides safety for displaying such signs such as, breakages and so on. I do not know how that could be applied to a farm where such statements are not displayed. There is no public awareness on farms of the risks to which children might be exposed.

The chief executive of the Health and Safety Authority recently noted two particular elements of the Bill which he believed were important. They related to farming practices and his concerns in that regard. He said at the seminar in UCD:

[Dr. Upton.]

. . . a Code of Practice on Safety Statements is proposed for sectors where an employer has less than 3 employees. [This would be important on small farms]. However, the legal requirement to have a workplace specific written risk assessment would remain in place, and completion of the Authority's Farm Safety Self Assessment Document provides farmers with the opportunity to satisfy that requirement.

On the second relevant change proposed in the Bill in terms of on-the-spot fines he said: "While the Authority has made no policy decision on the use of such measures in enforcing the legislation, I can see that such fines might be appropriate where inspectors observe serious risks to safety such as those associated with unfenced over-ground slurry pits and unguarded machinery." They are the two specific items identified by the chief executive of the Health and Safety Authority in relation to farm accidents. On-the-spot fines are a positive way to ensure people are compliant but, as Deputy Murphy pointed out, unless the resources are in place and there are enough inspectors to enforce the legislation, they are a waste of time.

The role of the farming organisations has been identified. They have been positive in providing back-up information and encouraging farmers to comply but that role should be expanded to ensure greater co-operation, particularly to provide support and information to farmers who are filling out safety statements.

The Minister of State drew attention to the fact that the primary responsibility for worker safety falls to the employer. It is important to emphasise the role of the employer and to lay the responsibility with them for issues where employees feel vulnerable. Protective clothing and equipment and appropriate training must be available. Last week I visited a waste disposal company in my constituency and employees were handling refuse, household waste, including organic waste, and other hazardous material. I noticed that employees were working without protective masks. As a casual observer, I saw this as unacceptable. I drew this to the attention of the line management staff and I was told that employees were supplied with masks but chose not to wear them. It is totally irresponsible for the employer not to enforce that requirement. I reported this to the Health and Safety Authority because this is a hazardous employment environment which does not need additional risk added.

I visited a school in my constituency during the week and I was appalled at the state of the windows. They had to be kept closed or they would fall out. The question then arises of safety. What would happen if there was a fire? The teachers are doing their best and there must be priorities for spending. After the wastage of last year on electronic voting, Punchestown and Abbotstown, priority should now be given to schools.

The needs of immigrant workers should be taken on board. They are contributing to the economy and, therefore, language barriers must be addressed. This is mentioned in the Bill but documentation and training should be provided in their languages — it is already happening throughout the food industry. It is also important that casual and temporary employees, who are not in work when health and safety training takes place, receive attention. We must, however, avoid the introduction of more layers of bureaucracy because documentation might take over and implementation might take second place.

Unless the resources are in place, with an adequate inspectorate and sufficient back-up for the Health and Safety Authority, no matter how good the Bill is, it will not be enforced. Overall, I welcome the Bill which is timely and appropriate and I am pleased that there will be an annual review of each safety statement.

Mr. Broughan: I welcome the opportunity to speak on this Bill and commend the Minister of State on bringing to the House the Safety, Health and Welfare at Work Bill 2004.

For the past seven years, the Labour Party has called for this legislation again and again. We wanted the 1989 legislation to be upgraded and strengthened and it is sad to note that it was only when the Tánaiste and former Minister for Enterprise, Trade and Employment finally left that Department that the Minister of State brought this legislation before the House. I congratulate Deputy Killeen on his appointment and welcome the fact that at long last we have this legislation.

Over the past seven and a half years, the burgeoning construction industry which, according to *Construction News*, employs 200,000 workers, has made up a significant percentage of our gross domestic product — this year 75,000 residential units will be completed. During the Tánaiste's period as Minister for Enterprise, Trade and Employment, however, there were appalling injury and death statistics in the construction industry, an unacceptable state of affairs. In the early part of 2002 there were 15 construction related deaths, with 19 between January and October 2001. In the past few years, the litany of disaster has continued, with 15 or 20 deaths and hundreds of injuries annually without the Government taking action to address it. A few years ago Judge Kelly started meting out reasonably serious punishment to employers who did not give a damn about safety on sites.

It is striking that the Health and Safety Authority in its report two years ago blamed mismanagement on building sites, particularly smaller ones, for being the major contributory factor in the appalling catalogue of deaths in the past seven years. It stated in the report that 45% of accidents resulted directly from site management failures. That is a shocking indictment of the Tánaiste's failure to address this issue.

My colleague in SIPTU, Mr. Eric Fleming, and colleagues in BATU have campaigned vigorously in recent years for this catalogue of carnage in construction to be addressed. The leader of the Labour Party has called many times for legislation to place the crime of corporate manslaughter on the Statute Book so recalcitrant employers who break the provisions for safety training and statements and general duties clearly set out in the legislation will be punished. It is appalling that we have not faced up to the problems that have existed in the past.

Some Deputies referred to the large numbers of immigrant workers. In my district on the north side of Dublin, a number of institutions are successfully operating the SafePass course which must be taken by construction workers every four years. Workers may not be sufficiently proficient in English, especially the workers from the new EU states such as Poland and Lithuania. I urge the Minister of State to give particular attention to this issue.

I commend the introduction of the Bill. Such legislation has been promised for many years but we had to wait until the change of Minister for it to happen. I thank the Health and Safety Authority for its efforts. It is striking that the authority is still under-resourced. Its inspection of sites in the agriculture, hunting and forestry area still seem to be much lower than desirable. It is extraordinary that 40% of sites in the construction industry do not have safety statements. I warmly welcome the legislation on behalf of the Labour Party and urge the Minister of State to ensure its speedy implementation.

Caoimhghín Ó Caoiláin: I wish to share my time with Deputy Deenihan. This legislation has been long-awaited, especially by those workers who are being denied what should be their right to a safe work environment. There should be no equivocation. All workers must have their rights to a safe work environment upheld and protected. It is stark and deeply regrettable that there have been 35 work-related deaths so far this year. Only yesterday, a man in his early 50s from Bunclody was killed in a workplace accident at Enniscorthy, County Wexford. The Health and Safety Authority is carrying out an investigation into this latest fatality.

In 2002, 3.156 million work days were lost due to work-related injuries and illnesses. According to the HSA, in 2003 alone, an estimated 20,900 persons suffered work-related injuries that required absences from work of three days or more. In 2003, there were 65 work-related fatalities.

Sinn Féin welcomes any legislation which seeks to bring about a reduction in the number of people killed and injured in work-related accidents. There has long been concern from trade unions and others that the penalties faced by negligent employers have not been severe and have not constituted proper deterrents. The resourcing of the Health and Safety Authority has also been

a cause of major concern. While welcoming this legislation, it is nevertheless crucial to mention that the Health and Safety Authority must be properly resourced if it is to fulfil its responsibilities under this legislation. A shortage of health and safety inspectors has been identified as a factor in hindering the authority's ability to carry out its functions. In recent years, the number of inspections has declined. The Minister of State needs to assure the House that this situation will be addressed.

Business and employer representatives should be keen to embrace measures which improve health and safety because not only do these measures have benefits in terms of reducing work-related deaths and accidents, they also bring about a reduction in absenteeism due to workplace accidents or ill-health and a decrease in the number of claims that can be brought.

I wish to address a number of issues, including the provisions for drug and alcohol testing of employees, the particular problems in the construction sector, including the problems caused as a result of sub-contracting, and the necessity to introduce legislation on corporate killing. I have serious concerns regarding the provisions in section 13(c) of the Bill that an employee shall, "if reasonably required by his or her employer, submit to any appropriate, reasonable and proportionate tests by a competent person as may be prescribed". Random drug and alcohol testing should only be undertaken in the most exceptional circumstances, given that the experience can be both degrading and humiliating. The benefits of random drug testing have never been conclusively proved either as a deterrent or as a method of discovering which employees are using intoxicants.

Without significant evidence, I ask the Minister of State to revisit the issue of giving employers such wide-ranging powers which are open to abuse in the form of harassment of workers if used improperly, including attempts by employers to get rid of employees. This is arguably a violation of the rights of workers and their dignity. It should be remembered that this proposition is against the backdrop that members of the Garda Síochána must have reasonable suspicion prior to testing a driver for intoxication. The former Minister for Transport was proposing that a provision for random testing would be included in the Road Traffic Bill and sources close to him were quoted as saying there was also a possibility that the Bill may be referred to the Supreme Court by the President because of the inclusion of random testing.

Similar concerns must be raised in respect of the provisions in this Bill. Employers should have a reasonable suspicion that a person is intoxicated before requiring an employee to submit to such a test. Will the Minister of State insert an amendment requiring reasonable suspicion? I hope my arguments offered and examples given are sufficient to sustain the case for him doing so. Will comprehensive regulations be introduced regard-

[Caoimhghín Ó Caoláin.]

ing the proposals on random testing, specifying exactly what employers may and may not do? Has any examination been undertaken prior to the publication of this Bill to the penalties which will be incurred by employers who abuse these provisions?

There is a real sense among workers and their representatives that until people go to jail or there is a real deterrent, accidents will continue to happen. I welcome the introduction of the on-the-spot fines and that company directors and managers may be held liable in circumstances where they are found to have contributed to any offence. I also welcome that the Bill contains provisions for safety representatives to refer matters to a rights commissioner if they are being penalised as a result of their safety duties. There were 19 construction-related deaths last year and there have been 12 to date this year. These are harrowing statistics. Studies by the HSA and the Health and Safety Executive found that a significant proportion of clients, designers and project supervisors fail to meet their statutory obligations. One such study indicated that at least 25% of the factors causing fatal accidents in the construction industry in this State in the past ten years were attributable to decisions taken prior to the start of construction work. I welcome the provisions in Chapter 3 in respect of the duties of designers, manufacturers, importers and suppliers. Proposed new construction regulations which place a range of new responsibilities on clients and supervisors have been approved by the HSA and its construction advisory committee, which includes representatives of trade unions and professional bodies.

Concerns have been expressed to me regarding the issuance of qualification certification in some areas allied to the construction industry and this is a matter I intend to reflect directly to the Minister over the coming days. I urge the Minister to pay attention to this area because there is a question as to whether people who are being certified to take up positions on construction sites in the State have gone through an adequate and properly chartered introductory course, examination, assessment and so on. In the interests of the safety of the individual and of all involved in the construction industry, and of the wider public, the highest standards must be applied in this area at all times.

I ask the Minister of State to address the concerns raised by trade unions and others that those proposed regulations are being rolled back as a result of having come under political pressure from vested interests, including professional bodies, such as the Royal Institute of Architects of Ireland, the Association of Consulting Engineers of Ireland and the Society of Chartered Surveyors who wish to stonewall changes in legislation. In the absence of those regulations this legislation will mean little for the construction sector. This is an issue the Minister of State must address in his response.

The other issue which has been cited as a major factor in the high level of accidents and fatalities at building sites is the system of sub-contracting, which is also well known to be the source of rampant abuse of workers' rights on sites. Workers employed by a sub-contractor enjoy no protection from labour law and get no entitlements to pension, job security, holiday or sick pay, or even wet money when the job is rained off. Dangers on sites have been aggravated for sub-contractors anxious to get the job done fast. They ignore crucial safety regulations.

The Revenue Commissioners have been severely criticised by BATU, the Building & Allied Trade's Union, among others, for facilitating what it has termed bogus self-employment. This matter is particularly relevant to this Bill because of the safety implications mentioned above and the fact that such workers, when injured in workplace accidents, have no protections or entitlements. That situation cannot be allowed to continue.

There is a long-standing demand also from unions for the introduction of a crime of corporate killing. There is a justifiable concern at the absence of criminal law to convict companies of manslaughter where a death has occurred due to gross negligence by the organisation as a whole. It is a widely held belief that corporate killing rules in force in many other states would create a strong deterrent. Some employers make what is effectively a cost benefit analysis in relation to compliance with existing health and safety regulations and come to the conclusion that it costs less to pay the penalties than to pay the cost associated with compliance with safety regulations.

I am aware that the Government has implied that plans to introduce a corporate manslaughter provision were not included on foot of legal advice that this complex area would require separate legislation. I hope the Minister of State will tell the House when that legislation will be introduced.

In October 2003 the Law Reform Commission published a consultation paper on corporate killing in which it pointed out that section 48(17) of the 1989 Act is limited in scope to the particular context of an employer in breach of duties within the workplace setting which has been imposed by that Act. It went on to point out that: "The offence is only committed where a death, wherever it occurs, is consequential upon a breach of duty to maintain a safe place of work." The Law Reform Commission pointed out that the most fundamental shortcoming of the offence under section 48(17) of the 1989 Act was that it may only be prosecuted as a summary offence rather than an indictment.

The Law Reform Commission recommended in that consultation paper that corporations should be subject to criminal liability for corporate killing. It recommended the establishment of a statutory corporate killing offence which would be prosecuted on indictment. The Government must establish a crime of corporate killing in law

and thereby ensure that company directors have a duty to safeguard their workers and the public. Only by making it legally enforceable can we expect a level of compliance that is absolutely essential.

While I have concerns, which I have expressed regarding the provisions on drug testing — I hope the Minister of State will take on board the case I have made allied to the situation currently pertaining to the Garda Síochána — I wish to record my welcome for the legislation. I hope the Health and Safety Authority will be properly resourced to carry out its functions adequately and effectively. I look forward to the legislation on corporate killing being brought before the House at an early date.

Mr. Deenihan: I thank Deputy Ó Caoláin for affording me some time to contribute to the debate. I congratulate the Minister of State on his portfolio, which is richly deserved. He has been an impressive contributor in the House since becoming a Member and certainly in his case talent was recognised and rewarded.

This is important legislation which I wish to look at from a different angle. I have been afforded the opportunity of looking at the whole area of corporate fitness. Every place of work and every employer should by law have a safety statement. A safety statement focuses an employer on possible hazards that may exist in the workplace. I am involved in one particular project where an extensive safety statement had to be drawn up. It focused everybody on possible hazards for the workers involved. Recent figures from the Health and Safety Authority show that of the employers inspected in 2003, 60% had a safety statement and, of that number, 60% had a statement that was deemed to be in full or broad compliance with the legal requirement. That is not good enough. In the agriculture and forestry sector only 18.5% had a safety statement. Therefore, there is a great deal of work to be done in the area of compliance.

During the past 30 years, the nature of work in Ireland has changed dramatically. Not long ago much of the energy that drove Ireland's economy in factories, construction work, farms, food outlets, road building and industry was derived from human muscle power. Ireland has experienced its own industrial revolution, with the workplace becoming more automated and computerised, and today muscle power accounts only for a small percentage of total energy expenditure. Fewer choose to walk or cycle as their main means of transport due to changes in lifestyle. There is a tendency to have the main meal of the day in the evening and afterwards to watch television. For many the work week continues to expand. Some of those in positions of management work up to 60 hours per week and many employees work the same number of hours. Workers arrive in the office earlier to avoid rush hour traffic and they work over weekends. Rather than the work week getting shorter, as was predicted in the 1970s

when we thought there would be a major problem in terms of the leisure time available to people, it is extending. It would be interesting to conduct a survey on the length of time people work.

As a result of the changing nature of work and the changing lifestyles outside the workplace, the country is experiencing what some medical experts have referred to as an epidemic of degenerate disorders. One in five Irish adults suffer from obesity. The levels are rising rapidly, with the number of those becoming obese doubling every ten years. Obesity is strongly linked to diabetes, increased risk of heart disease, high blood pressure and other life threatening conditions. The cost in terms of stress and employee burn-out is beginning to manifest itself right across the workforce. According to figures supplied in a written reply in July I note that in 2002 the total number of persons suffering injury in the workplace was 51,800, resulting in 857,300 days lost from work.

In 2003, the number of people suffering injuries reduced to 43,100 with the loss of 610,400 days. The total number of days lost due to illness and injury in 2003 was 1.286 million and in 2002 was 1.441 million. This demonstrates a substantial financial loss to companies as a result of reduced productivity. Employee burnout results in the loss of key personnel, in many cases because of ill health and early retirement. The Exchequer also loses out in terms of productivity, tax take and health care costs.

Companies and State agencies now realise that these costs are preventable in many cases. Research has shown that 20% of the burden of illness and associated costs is related to preventable illnesses caused by factors, including tobacco use, alcohol consumption, poor diet and nutrition and lack of exercise. Physical activity, once inherent in the workplace, can be replaced with fitness and wellness programmes which can be incorporated in the daily work routine.

There has been particular interest and encouragement in the US for incorporating fitness and wellness programmes into the daily routine of employees. In Ireland we are improving our efforts through such companies as Intel, Aer Rianta, Microsoft and Dell and we should encourage this aspect of health promotion. For example, employee's vouchers for fitness clinics should not be classed as benefit-in-kind should not be taxed. There should also be incentives for employers to provide exercise facilities on site for their employees.

Mr. G. Mitchell: I wish the new Minister of State well in his task. I hope he has an enjoyable term in office and keeps the seat warm for one of my colleagues.

I welcome the general thrust of the Bill but I have some concerns to which I referred on the Order of Business. I had some contact with the Health and Safety Authority recently in regard to incidents on the Luas line in my constituency.

[Mr. G. Mitchell.]

Before Luas was running, one Thursday night, two motorcyclists came off their motorcycles within 200 yards of one another and were both killed, which fact was known by that Saturday. Before the accidents took place, a constituent informed me he had contacted the Health and Safety Authority on Thursday about his concerns. The problem appeared to be that when the motorcyclists braked on the metal tracks they lost control. Two similar accidents occurred shortly afterwards — another involving a motorbike and one involving a push bike — in which the people involved could have been killed.

I contacted the Health and Safety Authority on the Monday and was surprised to discover that staff had not been to inspect the work site. Moreover, I had to get a bit shirty because of the response I received. I presumed that when I contacted the office first, staff would say how terrible the incident was and resolve to look into the matter. However, I was told staff could only investigate the matter on foot of a Garda complaint. These incidents had been the subject of major news stories over the weekend and were raised with me by a number of people who were concerned about the darkness of the site.

I was so concerned that I drove to the site on the Saturday night, which was like going through a military checkpoint late at night. Barriers were in place but it was not particularly well lit. I eventually got to speak to the chief executive of the HSA after he had sent someone to inspect the site in the afternoon. However, I made the point to him that his staff were sluggish to react to the situation and that they should not wait for a Garda complaint. I told him it was unacceptable that when a Member of the Dáil or a public representative telephones the office to ask if a situation is being investigated, he or she is told that the office normally waits until it receives a Garda complaint. I do not know whether it had anything to do with my actions but that Monday afternoon a Garda and an official from the Health and Safety Authority were on-site making the necessary inquiries. Nevertheless, I am not happy with that response. When two young people die on what was a work site, an independent body should be responsible for immediately inspecting the site, if not the Health and Safety Authority.

I do not wish to be alarmist, but I remain concerned about the safety of Luas in Dublin, particularly since a new Luas recently came off its rails. I fail to understand why and how that could happen, and it is a serious issue. There are teething problems with people getting used to Luas. However, my concerns are not confined to Luas.

The bus accident on the Wellington Quay some months ago was a terrible tragedy. As it is the subject of an ongoing investigation, I will make no further comment on it. Nevertheless, private notice questions in respect of the accident were, quite rightly, taken by the Minister for Transport in the House on the day. However, when the two motorcyclists died in my constituency in the cir-

cumstances to which I referred, I could not get an answer to a parliamentary question because the Department of Transport stated that it had no responsibility. This is a terrible inconsistency.

Neither the Department of Transport, Luas nor any other body should be allowed to police themselves. Rather, there should be a proactive, independent public safety authority which addresses all these issues. My understanding is that the Tánaiste, as Minister for Enterprise, Trade and Employment, received a report which has not yet seen the light of day and I ask that it be published. I understand the report recommends that an independent public safety authority be established which would examine Luas, airports, venues for events and so on, not just as workplaces but also from a public safety point of view. It may be possible to establish such a body as a subsidiary of the Health and Safety Authority, thereby precluding the need to have another authority. If it is, will the Minister of State see if the Bill can be amended on Committee Stage to provide for it?

Independent consultants have identified the need for a public safety authority, independent of Government and agencies operating facilities, to examine proactively and retrospectively the circumstances surrounding events and make recommendations and findings thereon. If such a body were in place, the Minister for Transport would not have to establish a body comprising national and international representatives to investigate the circumstances surrounding the terrible bus tragedy on Wellington Quay. An authority would already have been in place, which could not be called into question and which did not involve CIE, and with the powers to assess the public safety needs. Will the Minister of State consider that because it is an issue?

There needs to be less sluggishness on the part of the Health and Safety Authority. It needs to be more proactive and a little more sensitive, especially when there is a serious tragedy. It must also be quicker to investigate situations than my experience has shown. Beyond that, either the remit of the Health and Safety Authority as a sub-authority needs to be changed or a new authority needs to be set up to examine public safety issues such as those I have raised. I referred to Luas, but there are many other areas that the report, which was given to the Minister for Enterprise, Trade and Employment but has not seen the light of day, has probably addressed.

I would appreciate it if the Minister of State took my concerns into account and addressed them on Committee Stage. This is not a party political issue, but is an issue about which I am genuinely concerned. I do not think the Health and Safety Authority sees itself as having the role, but I would like someone to examine how LUAS operates, check if it is safe and, if not, what standards need to be put in place before there are any further accidents. That same principle should be extended to anywhere public safety could be endangered.

Mr. Connolly: I congratulate the Minister of State and the Acting Chairman, Deputy Stanton, on their recent promotions. I welcome the opportunity to speak on this Bill. The Safety, Health and Welfare at Work Act 1989 set out general duties of care and laid particular emphasis on the protection of employees and third parties in the workplace through prevention rather than cure. This Bill updates the 1989 Act and brings the legislation into line with changes in the interim period.

Employers have a duty to ensure that workplaces are safe, tasks are carried out safely, risks are eliminated or minimised and employees are competent to perform their duties and do not place others at risk. It is incumbent on employers to ensure the psychological well-being of employees and provide a stress-free and fulfilling atmosphere in the workplace. All too often, we are aware of employees who detest going to work. The thought of work on a Monday morning fills them with stress. Someone in that situation cannot be a happy individual and cannot be described as being safe at work. Someone who has a negative attitude at work will be much more prone to accidents and would not be as productive as other employees who are happy in the workplace. This is skipped over too often. Employers should be much more aware of employees who are unhappy.

The provision of child care would also lead to a happier workplace. Too often, this is not addressed and it is a fundamental aspect of people who come to work. We should examine providing crèches and child care facilities as employees do not have the luxury of having an extended family network which in the past cared for their children. A large chunk of employees' wages now goes on paying childminders and so on. Companies of a particular size should strive towards providing this type of facility in the workplace. Smaller companies might have a difficulty with that. In my constituency area of north Monaghan, small production units have major difficulties striving to survive without the additional thought of having to provide child care facilities. However, it is something that larger companies should examine.

Employers should take a proactive role in providing for the welfare of their employees by subsidising access to health services such as stress management and health insurance. Employers should be aware of such provisions and should give practical advice and financial support in helping to achieve these particular aims. The State should also play its part in encouraging healthy lifestyles for employees by enabling businesses to write off any expenses incurred in this way as a tax deductible expense. The State can play a significant role by leading by example. This is not necessarily the case in all areas.

The provision in this Bill for on-the-spot fines for employers or employees is to be welcomed. However, fines should be pitched at a more realistic level. A fine of €100 or even €1,000 is

unrealistic for some companies. The fine may not be enough to dissuade them from taking the risks. Fines would be accompanied by imprisonment if the offence were sufficiently serious. Minor offences in a District Court would be liable, on conviction, to a maximum fine of €3,000 or six months' imprisonment or both. Serious offences, on conviction in a Circuit Court, would attract fines of up to €3 million or two years' imprisonment or both. I sometimes wonder about legislation brought in. Are we likely to see a few convictions when this legislation is passed and the media show an interest in it? When the Public Health (Tobacco) Act was introduced, there were many on-the-spot checks and it got much publicity. It has now almost gone off the radar screens. It is important that we keep chasing it up and that we do not put legislation in place just for the sake of it and not use it. There will be times when it will be necessary to use such legislation. It would certainly act as a deterrent and would lead to a reduction of the 1.5 million work days lost annually through work related accidents and illnesses. If we comply and are more aware of safety in the workplace, the savings to be made are enormous.

There is also an excellent provision in the Bill for the Health and Safety Authority to name and shame those persons convicted in the courts and on whom a fine was imposed. Prior to now, we had a long established practice of naming and shaming restaurants where hygiene standards left much to be desired. It has an effect. How much more urgent is the necessity to publish the names of those who, by their actions, place the lives of employees and work colleagues at risk? Employers are often at fault, but we cannot escape the fact that fellow workers regularly do not treat their mates with the degree of safety in mind that they should. It is often the case that one employee is at fault for an accident to another. Employees should be mindful of that aspect of safety at work.

Employees also have a duty to co-operate with employers in ensuring the safety and well-being of all workers in a firm. The Bill specifies that employees may not be under the influence of an intoxicant and I presume that this provision also includes the influence of drugs. Employers are empowered to have testing carried out by a registered medical practitioner for such substances to which the employee is required to admit. It is a fact that employees sometimes turn up for work under the effects of drink, especially on a Monday morning. Before an employer would request that an employee be tested there should be reasonable evidence that he or she is creating a danger or suffering the effects of taking alcohol or drugs. Otherwise, it could leave people open to abuse. Employees may require medical examinations if they are considered to be intoxicated and they work in a particularly sensitive or potentially dangerous job. I welcome the section that provides for employees to have the right of

[Mr. Connolly.]

appeal against dismissal or penalisation in respect of health and safety matters.

I referred to naming and shaming companies that do not have a good safety record. We should also name companies that have a good safety record. I met an employee of the ESB in Monaghan recently and when talking about health and safety matters he mentioned that the ESB in the Monaghan area has the best safety record in the country and did not have a notifiable accident in a five year period. If that was highlighted, employees would take pride in their company having a good safety record. We should try to instil pride in employees who have a good safety record. I am not suggesting we should brush anything under the carpet. If accidents occur, they should be openly and fully investigated with the main objective being that they will not happen again. If blame needs to be laid on somebody, that should happen.

A sea change is required in attitude to health and safety requirements. People view adherence to health and safety requirements as a necessary evil and consider that what is involved can be cumbersome and expensive. There is often a temptation by employers and employees to take short-cuts and to dismiss the safety implications or the wearing of safety gear. In the past, ear muffs were provided by employers and some employees adopted the attitude that they would not wear them. Protective goggles and clothing, and steel-toe boots, particularly in the building trade, were also provided by employers. People must take time out to familiarise themselves with these requirements.

Health and safety costs money but it saves lives. If a cost benefit analysis was carried out, adhering to health and safety requirements should win by a long shot. Deaths still occur in places of employment and too often we read of accidents in workplaces, including construction sites, which could have been avoided. There is an onus on people to take their work seriously, including the health and safety aspects of it.

The election of a health and safety representative in a workplace is a key function to ensuring safety there. When elected, a health and safety representative has to undergo considerable training to gain a knowledge of substances, safety regulations and other such matters. It is not a position that should be changed every few years. If employers invest in training a health and safety representative, he or she should be allowed to function in that role for a long period. New representatives should have a training-in period. The position of such a representative is sometimes overlooked or an employer can simply toss the position to a, b, or c simply to give that person the status attaching to the post. This position is a key area in worker representation and should be taken seriously.

The Health and Safety Authority needs to be adequately funded, especially in view of the additional responsibilities being placed on it aris-

ing from the provisions of this Bill. It comes back to funding. I call for adequate funding to be made available to the authority.

Mr. Gregory: I wish to raise a health and safety issue that the Minister of State may be able to assist in addressing. It relates to the building industry and work on building sites. I am aware that some Members have spoken of the dangers related to the building industry. In Dublin city in particular and elsewhere throughout the country there is major redevelopment. There are building sites on virtually every street corner.

An issue has come to my attention in respect of which there is an anomaly and it should be addressed. When a local authority in Dublin grants planning permission, and this is the position in most other local authorities, it imposes conditions, one of the main ones being the stipulation of work times. The normal work times for a building site are from 8 a.m. to 6 p.m. If planning permission, when granted by the local authority, is appealed by residents or others, the appeal goes to An Bord Pleanála which rejects it and grants the permission it invariably removes the conditions, which I find quite incredible. However, that has happened time and again in instances of which I am aware. Having talked to planning consultants and others involved in planning, I gather this is happening throughout the country. I do not know the reason for this and it has been brought to the attention of An Bord Pleanála, but it continues to happen. I am dealing with such a case in my constituency and the end result is that the builders or developers, depending on how much of a rush they are in, how much money they want to make and how quickly they want to make it, can have employees work on a building site virtually right around the clock — I am slightly exaggerating — but from the early hours of the morning until late at night. This is happening, with all the implications that has for the health and safety of the workers concerned.

My attention has been drawn to this issue from a different angle, from the point of view of a person who lives next to a building site and the disruption caused, for example, by a lorry load of bricks being delivered at 3 a.m. and work on the site commencing at that time, or if one has young children and is trying to get them to sleep at 9 p.m. when work on the development is still going strong. Such work times on sites have clear implications. I am being honest in saying that this issue was not brought to my attention from the point of view of health and safety but from the point of view of the sanity of residents whose dwellings adjoin such building sites.

When I was investigating what could be done about this matter, I was told that the Health and Safety Authority has some powers but they are not very effective and only in certain and quite exceptional circumstances can it take action. That is the position as outlined by the planning consultant to whom I spoke. I am not interested in

changing the legislation or changing the brief of the Health and Safety Authority on an issue such as this. The Minister, the Department or the authority could bring this matter to the attention of An Bord Pleanála. I accept that it is an independent body and we cannot interfere with its decisions, but what I suggest does not constitute interference. It is simply to draw its attention to something that should not happen in the first place. Considering this issue logically, the board does not have to examine whether a site requires such work times to operate because of its proximity to residents or for some other reason. The local authority concerned would have done that. If the conditions relating to time of work are set down in the original planning application, it is clear that the local authority that granted the permission imposed those conditions for a good reason. It seems logical that when An Bord Pleanála decides to reject an appeal and grant a permission that it would grant it with those standard conditions attached. There is no difficulty in it doing that. I am told that if residents who make an appeal state in it that if the appeal is lost they wish those conditions to remain, An Bord Pleanála leaves those conditions attached.

It is quite extraordinary that the onus is virtually on the appellant. In many instances the appellant may be a householder or a small residents' group that is not familiar with the implications of making an appeal.

Most responsible builders and developers, when they receive their permission, will respect the standard times and safe times of work and will not keep workers on site after hours in poorly lit conditions with dangerous equipment, trenches and scaffolding. However, problems arise in respect of irresponsible or greedy builders and developers, of whom there are many, certainly in Dublin city and I have no doubt elsewhere. Will the Minister, through his Department and in co-operation with the Health and Safety Authority or other bodies, try to resolve this issue to ensure that such problems will not occur? Standard conditions that apply generally to building sites should continue to apply regardless of whether An Bord Pleanála is involved or whether there are appeals over planning permission.

Mr. Stanton: I wish the Minister of State well in his new position and I know he will do a good job.

This is a very important Bill and I welcome its publication. Many points have been covered by colleagues, which I do not want to repeat, so I will just raise a few issues. I am very interested in the issue of mental health and well-being at work. There is evidence that modern lifestyles contribute to considerable stress and strain. My colleague, Deputy Deenihan, made a very interesting contribution on fitness and other such programmes in the workplace. It is important that this be taken into account. If people are under stress because of our modern lifestyle and the rat-race society, they will suffer from depression,

health problems and possibly suicide and other attendant problems.

I welcome the provision in the Bill to deal with bullying and the growing awareness of its negative effects and the need for it to be addressed.

It is important that the Bill address the health and safety issues of people with disabilities. The visually impaired, hard of hearing and those with mobility problems have needs over and above those of people without such impairments and this should be a special focus of the Health and Safety Authority.

I welcome the provision in the Bill to protect whistleblowers from victimisation if they report dangers in the workplace. This is important.

Will the Minister of State consider the suggestion made in the House by many of my colleagues over the years to the effect that parliamentary questions should be allowed in respect of the Health and Safety Authority? We are talking about life and death matters. In the Minister of State's speech we heard the statistics on the number of people who die in the workplace. Deputy Gay Mitchell mentioned tardiness and the difficulty involved in obtaining responses. One way of obtaining responses is by way of parliamentary question. Where a life and death matter is brought to the attention of a Member of this House, it should be possible for that Member to table a parliamentary question to the Minister, even if it is only for information purposes. As the Minister of State well knows, this would put in train a process whereby action could be taken and awareness could be raised, such that issues would not be ignored.

I know the Health and Safety Authority is independent and operates outside the political arena, as should be the case, but the Minister should be able to obtain information from it and report back to the House thereon. This alone should be enough to promote action. I would like this to be debated.

There is an important provision in the Bill for a review of legislation. I would like to see it built in more firmly because technology is changing so quickly. We now have nanotechnology whereby microscopic computers can be inserted into one's skin to do all kinds of things. God only knows where it will lead. It is science fiction, but it is also science fact because it is actually happening today. All kinds of substances are being created. We must ensure there is a provision to allow for a constant review of legislation so it can be updated as required.

Will the Minister of State elaborate on the Health and Safety Authority's ability to carry out research? It is important that it can carry out research, the results of which could comprise part of its annual report.

There are many people from foreign countries working in Ireland and contributing to our economy. I have seen projections to the effect that we will have many more. They are all welcome. However, their coming here raises a language issue. Health and safety statements and warnings

[Mr. Stanton.] should be communicated through languages other than Gaeilge and Béarla so foreign workers will be able to read them. The Minister should take this on board because it could cause problems if an employee were involved in an accident because he or she could not read a safety notice. This is a simple matter but we must take it into account.

It should be incumbent on the Health and Safety Authority, the Department and society in general to constantly raise awareness of health and safety issues in the workplace. I know there are media advertisements on such issues and that awareness has increased, but an awful lot more needs to be done. The idea of the Finn McCumhails who refuse to wear the safety hats or protective clothing because it is not cool is almost gone and many workers now insist on wearing safety equipment. However, some still believe it is not macho to wear safety equipment, including proper gloves and eye protection. This culture must be changed and it should be mandatory for workers to adhere to safety requirements. It should be second nature to them. It is important that awareness of health and safety issues is raised in the many forms of workplaces that exist, starting in schools and at home.

Minister of State at the Department of Enterprise, Trade and Employment (Mr. Killeen): I thank all the Deputies who contributed to the debate, particularly for the very constructive manner in which it was conducted. On this occasion, I will use a considerably less formal approach in trying to address the issues raised.

As I stated in my opening remarks, the intention is that this legislation will improve considerably the safety and lot of the worker in the workplace. I thank the speakers from the other parties for their co-operation and commitment to this ideal. The provisions in the Bill will work towards the ideal and I am certainly open to amendments that will bring further benefits.

As always, the question of resources was raised. I never remember a Bill coming before the House that specifically provided for an exact amount of resources for anything. On this occasion, however, I am happy to report that there will be a 12% increase in the budget for the HSA next year. In addition, we were able to provide additional funding for the remainder of this year, which was important for a particular reason. The budget for this year is €14.336 million and there is an additional €266,000 for specific safety projects. To the best of my knowledge, that will encompass the idea Deputy Stanton had about research and other requirements of that nature.

I assure Deputies that I will approach Committee and Report Stages with an open mind. I was on the backbenches long enough to appreciate the value of Deputies' views. I also appreciate that people are prepared to be proactive and constructive in contributing to better legislation,

which is, ultimately, what we all want from this process.

Deputy Hogan raised the issue of agency workers and the kind of additional onus that the Bill seems, in his view, to impose on employers. This has arisen from the experience of the HSA which frequently has enormous difficulty and, in fact, is unable to find an employer to pursue over a safety issue. It may well be possible that we can address some of the Deputy's concerns on Committee Stage. Ultimately, however the legislation has arisen because of prior experience of dealing with this matter.

I am also interested in the Deputy's concerns about the quality of training, which I will certainly follow up. It has been my experience, long before my recent ministerial appointment, that one element of training in particular, the SafePass course for the construction industry, is one that has gained a considerable level of recognition and a positive response from builders. One of my sons, who is a student, worked with a builder during the summer and was dispatched to do a SafePass course. He was not enthusiastic about it in advance but was impressed when he had spent a day attending it. Therefore, there are positive aspects but where there are negative experiences, such as the one the Deputy recounted, we need to address them. I will certainly raise it with the authorities, including FÁS. An element of the matter is probably addressed by the Bill's definition of a "competent person". We are in the business of increasing quality and that definition will assist in that regard.

Deputy Howlin expressed concerns about bullying in the workplace. My predecessor, Deputy Fahey, established an expert advisory group on bullying. I met the group's chairman yesterday and I understand that a considerable volume of work has been done. The group hopes to have its report ready in about three months. Initially, I considered delaying this legislation to try to encompass the expert group's proposals in it. However, having examined the amount of work that was done by my predecessor and the fact that it had been cleared by the Government last June, I felt that on balance it was better to proceed with this Bill and deal separately with the report of the advisory committee. If it requires legislation, I will propose that, but I am told that it may not do so.

Deputy Howlin also referred to the O'Hare report on public safety, about which I have answered a parliamentary question. My understanding was that the recommendation to which he referred was a minority recommendation for an overarching body dealing with public health and safety in all kinds of areas. Deputy Hogan also referred to the O'Hare report. I see considerable merit in it but, to be honest, I would not like to try to capture the responsibility from several other Departments. In many respects it could be impractical because the differences between the kinds of responsibilities and jobs involved could make it impossible. In so far as we can tease out

the matter on Committee and Report Stages, we will examine what, if anything, can be done in that regard.

Mr. Hogan: It could give the Minister of State a few extra euro.

Mr. Killeen: Some people clearly have an understanding of what is proposed with regard to drug testing. I am surprised to find that there are partners and others who feel they have not been consulted because a wide consultation process was entered into by my predecessor in this regard. There are two choices. One can ignore that it is possible, in certain workplace situations, to be under the influence of drugs or alcohol and be a danger to oneself and others. The other option is to face up to the fact that there are circumstances where workers may be under the influence of drugs or alcohol and may pose a considerable risk to themselves, their co-workers and, in some circumstances, to a larger number of people. My intention is to address this serious problem regarding specific industrial sectors in a specific manner. There will be no question of random testing. All the kinds of safeguards referred to by Deputies Hogan, Ó Caoláin and others, will be incorporated. None of this will happen by regulation in advance of a complete examination of the implications. I intend to ensure that in no circumstances will an employer be empowered to abuse the provision which ultimately we hope to be able to incorporate in this legislation. I will also ensure that the regulations will extend only to those places of work where a considerable danger arises for workers or other members of the public. That is something about which we will have to go into great detail. In the event that it were to help the situation, I would have no difficulty in presenting the regulations before the appropriate committee where they can be discussed. There might be considerable value in doing so.

Deputy Eamon Ryan made an interesting point regarding the possibility of including exceptions in the legislation. I will examine the matter but I believe it would be difficult to do that. This Bill provides an enabling process so it would be difficult to have that narrowed in the legislation itself. I will look at how it could be done, however.

Deputy Howlin also queried the number of board members. I can assure him that the ICTU and IBEC representation will remain at three, as heretofore. The chief executive officer will be an *ex officio* member and there will also be an appointee, who must be a civil servant from my Department. The increased number, which in any event is a modest increase, gives me an opportunity to widen representation on the board.

Deputy Howlin also referred to the Bill's application to the Defence Forces. The position heretofore has been that the 1989 Act does apply to the Defence Forces, except when they are on active service. I understand from the HSA that it is quite happy with how it has developed. When I

met the chairman of the expert group on bullying yesterday, I was delighted to hear that a valuable code of practice has been drawn up by the Defence Forces and is in operation. Other codes of practice are useful in other sectors and will inform our debate and how we propose to go further in this regard.

I was encouraged by Deputy Eamon Ryan's approach and especially by his personal experience of running a small company. Some employers work flat out trying to run small businesses while keeping three or four people employed, and the last thing they want is a pile of paperwork. We appreciate that and it is reflected in the Bill. Where a company has three employees or fewer, the required provision is a code of practice. We hope that employers and employees will sit down together to agree a code of practice. By entering into that process, there will be a much greater awareness of the need to take care in the workplace and be cognisant of a wide range of issues, not just the traditional ones involving personal injury, but also stress, to which a number of speakers have referred. This code of practice will be sufficient and will be welcomed by small employers, including farmers. It will be a positive development.

At European level, the social partners have agreed a document which charts a way forward. When the European partners in Brussels manage to agree on something, it is a cause for celebration, so I look forward to reading that document when it becomes available.

I thank Deputy Dennehy for his support and for outlining his experience of working in a large industry where workers were exposed to a considerable degree of danger in many respects. He referred to the National Irish Safety Organisation, a relatively small voluntary body which does wonderful work. I presented its awards on Friday night but I was not very familiar with its work prior to that. One would have to be impressed at the pride people took in having their positive efforts in regard to health and welfare at work recognised at the awards ceremony. I was also impressed that it was done in co-operation with their colleagues from Northern Ireland and that a huge level of co-operation exists.

Deputy Dennehy was concerned about the legalese in the Bill. The HSA has undertaken to provide explanatory memoranda and other material to help people understand the regulations because, ultimately, unless they are understood, they cannot be implemented in the way we would wish.

Deputy Pat Breen referred to the ESB and other organisations which have great commitment to safety. It was the winner of the big award at the NISO function last week. Such a huge organisation has the resources, but it also has a challenge to harness these resources to achieve what it has in that regard. In regard to other employers, there will be a duty on them to comply with safety procedures on the site.

[Mr. Killeen.]

A number of speakers referred to penalties. Some said they should be bigger and some felt that perhaps they were making life difficult for small and medium industries in particular. Ultimately, neither the HSA nor the Oireachtas want to impose penalties in the context of the legislation. We want to create a climate which will result in far better practice. Of course, there must be an enforcement element. One of the striking elements of the Bill is that one will not be depending on 100 inspectors racing around the country and responding to complaints. The legislation transfers to individual employees and employers responsibility for their own safety and the safety of colleagues, which can be acted on, and the protection of the law will enable them to be key players in ensuring there is safety in the workplace. When we think about road safety, we probably think about the impact of enforcement. In this instance, however, we are introducing a new code in regard to the workplace which, effectively, gives everyone a central role *vis-à-vis* compliance.

A number of Deputies, including Deputies Pat Breen and Howlin, referred to the liability on directors. As I said in my speech, managers and directors have been found guilty under the 1989 Act and penalised. This issue is clarified in the legislation because it was felt necessary to make clear to directors and managers their responsibility in this regard. Last year, the Law Reform Commission issued a consultative report on the subject of corporate manslaughter. As far as I recall, it was a draft report. It may well be that, arising from the final report, the Government will introduce corporate manslaughter legislation. It would not be appropriate to introduce it in this legislation, nor do I believe it would be the appropriate place to do so.

Deputy Gerard Murphy advocates co-operation with the school authorities in providing awareness and training to our young population. I confess, harking back to my previous life as a teacher, I tended to be somewhat aggravated when people sometimes suggested that everything could be remedied at school level. Of course, a certain amount can be done there, but teachers will always say they have difficulty trying to deal with myriad issues. On this subject, which is so fundamental, a considerable amount can be done at an early stage. I will talk to the HSA about what links can be established with education. I am cognisant of the fact that my former colleagues have reservations about having additional workloads dumped on them.

Deputy Upton and others drew attention to the level of non-compliance in the agricultural industry and the need for support for the farming community. One of the things people tend to forget is the level of isolation in which people in agriculture tend to work and the huge need for support and a level of awareness of the dangers that exist. Sadly, particularly recently, a high proportion of the casualties on farms have been very

young children. The reality of a farm is that it is a working environment to which in general the family home is central. It is a fact of life that in many cases children are knocking about and awareness of the dangers is not always at the level it ought to be.

Deputy Broughan referred to the fact the legislation was brought before the House post the Tánaiste's move to the Department of Health and Children. In fairness, it went through Government last June but it has only arrived here now. He also referred to the role of the Judiciary, to which I referred in my speech, and which, by and large, is something we are quite pleased with recently. A positive aspect is the fact that the Judiciary has taken a very serious view of lapses in this whole area.

Deputy Ó Caoláin was among the Deputies who made the mistake of thinking I was gone mad, demanding random drug testing all over the place. I have already explained this. While it might be a somewhat contentious issue, it would be an act of cowardice to walk away from the reality. It is a huge issue which it is incumbent on us to address. He also referred to reasonable suspicion, which is something we can examine in the context of the regulations or in the context of the legislation. He also mentioned a penalty for employers who abuse this right, which we can examine.

Deputy Deenihan took a very interesting line in regard to the whole area of safety at work and lifestyle effects in terms of personal health and how it impacts on our capacity to work in a productive manner while ensuring safety in the workplace. It is an area we have not examined in the kind of detail we should. It is certainly something we will examine during Committee and Report Stages.

Deputy Gay Mitchell had specific questions on the construction phase of Luas and his dealings with HSA. I suspect from what I found out previously that the two sad and fatal accidents in question were probably initially adjudged to come within the road transport area which, in the first instance, would be a matter for the Garda. As he rightly pointed out, the whole thing was effectively a building site. Almost everyone in the House who had to drive through it would be aware it was very difficult to know exactly where the arrows were sending one. If one had the good fortune that the fellow in front was going in the right direction, it was a huge help. However, if one was first in line, it was very difficult. There were hazards which, unfortunately and sadly in this instance, resulted in road traffic fatalities, but these were begot in the building site. I will pursue the issues raised by Deputy Mitchell to see if there can be some progress in that regard.

He also made the point, as did Deputy Stanton, that Members of the House do not have the facility to question the Minister in regard to HSA issues. I will have no difficulty if this is changed. In general, democracy is better served if questions are answered publicly and openly. In this

particular area, the more frequently publicity is visited on it, the better for health and safety generally in the country. There is a provision in the Bill which requires the CEO of the HSA to appear before the Committee of Public Accounts or any other Oireachtas committee. This is a new provision which will go a considerable way towards addressing the concerns of Deputies.

Mr. Hogan: It is for the privileged few.

Mr. Killeen: That may be the case. If there is a way in which to do it, I will have no difficulty answering questions. The point was made fairly that the HSA needs to be seen to be very independent of the political process, which is the only slight concern I have. There are issues which are best teased out in the public forum of this Chamber or the other Chamber. Failing that, the committees are not a bad place to do so.

In regard to road traffic problems, in general, the Garda take precedence over all other agencies. They have an agreement with the HSA and a code of practice which operates quite well in most instances. It is interesting to hear the experience of Deputy Mitchell and if it is possible to improve matters we will certainly do so.

Deputy Gregory raised an issue with regard to ministerial demarcation which is relevant to health and safety and important to his constituents and others. I will ask the Minister for the Environment, Heritage and Local Government, Deputy Roche, if he can address this matter.

Deputy Connolly referred to prevention rather than cure being a good way to proceed. He also mentioned child care, an area to which the rest of us had not adverted, and the impact of the lack of same on worker stress. This is an issue which must be considered. There are costs associated with it which are being addressed by various Ministers, although many would say not as quickly as they should be. It is undoubtedly an area which can potentially create considerable stress.

Deputy Connolly also said that fines should be realistic and significant enough to deter people. Depending on the circumstances and size of a company, a fine of €1,000 may either be significant or minor enough to encourage safety shortcuts because it is an insufficient deterrent. It is a difficult balance to strike but we will strive to do so. Deputy Connolly made the fair point that the value of savings arising from good practice in health and safety is considerable. He welcomed the name and shame provisions and advocated a corresponding name and praise scheme. The Department will consider such a provision in terms of its discussions with NISO and the HSA.

I thank everybody who has contributed to the debate and look forward to further fruitful examination on Committee and Report Stages.

Question put and agreed to.

Safety, Health and Welfare at Work Bill 2004: Referral to Select Committee.

Minister of State at the Department of Enterprise, Trade and Employment (Mr. Killeen): I move:

That the Bill be referred to the Select Committee on Enterprise and Small Business, 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.

Driver Testing and Standards Authority Bill 2004: Order for Second Stage.

Bill entitled an Act to provide for the establishment of a body to be known as An tÚdarás um Thástáil agus Caighdeáin do Thiománaithe, or in the English language as the Driver Testing and Standards Authority to define its functions and to provide for connected matters.

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

Question put and agreed to.

Driver Testing and Standards Authority Bill 2004: Second Stage.

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

I congratulate Deputy Olivia Mitchell and wish her well. I look forward to working with her in the years ahead, as I do with Deputy Shortall if she stays in her position. I hope to be of assistance to the Deputies in any way possible and will be delighted to facilitate them with briefings and so on.

I am pleased to be in a position to bring this Bill to the House today. It will establish the driver testing and standards authority, the headquarters of which will be located in Ballina, County Mayo, where the existing administrative headquarters of the driver testing service is located. The establishment of the driver testing and standards authority is a crucial step in improving the delivery of the driving test service in the face of a continuing and unprecedented high level of demand for the service. The authority will be established outside normal Civil Service structures and should be in a position to deliver a more focused and flexible service which will be able to respond more readily to customer needs and future demand.

The decision to establish the driver testing and standards authority was taken after detailed analysis and full consideration of the issues involved. Its establishment will not only lead to improved service delivery for the driving test but will also see improvements in driver formation in general as the authority will have a particular duty to raise driving standards and will be assigned functions related to driver formation

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and control, in addition to the operation of the driving test. A particularly important objective of this exercise is to bring progressive and substantial improvement to the quality of the driving test service provided to the public and in particular to end present excessive and unacceptable waiting times.

The background to the development of this legislation is important to understanding the need to establish a separate public sector body to deliver the driver testing service and assume responsibility for related functions. Since the driving test was introduced in Ireland in 1964, more than 2.4 million tests have been carried out throughout the country. Over the years, the driving test has been developed and the parameters for the test reflect the high standards laid down in EU directives on driving licences. This in turn is facilitating the recognition of Irish driving licences in the EU and internationally.

In this context I would like to clarify the position regarding the transposition of EU Directive 2000/56 in respect of which the European Commission issued a press release on 13 October stating that it is taking Ireland to the European Court of Justice for not transposing the directive on driving licences into national law. The directive amends annexes 1 and 2 of Council Directive 91/439 by substituting some additional requirements and was to be implemented by 30 September 2003. The revised annexe 1 relates to some additional harmonised information codes on a driving licence which indicate restrictions on the type of vehicle to be used in certain circumstances such as adaptations to the vehicle in view of the medical circumstances of the licence holder. For example, codes are inserted on driving licences to indicate whether a person is required to have a modified clutch or braking system to drive. The revised codes are more detailed than the current general code.

The revised annexe 2 relates to minimum requirements for driving tests. The principal changes to the latter relate to technical checks to be performed during the practical test, for example, adjusting rear view mirrors, performing random checks on tyres, engine oil, coolant, brake systems, and so on. The annexe also revises minimum vehicle standards and dimensions for vehicles that can be used in a driving test. Some of these changes will not apply for up to ten years from 30 September 2003. Additional manoeuvres for motorcycles are also to be introduced by 30 September 2008. Draft regulations to transpose the directive have been prepared which I will sign shortly.

I would also like to clarify reports in today's newspapers which state that the directive requires a clear curriculum and fixed number of hours' tuition for learner drivers. This statement is not correct. There is no such requirement in the directive, nor is any such measure included in any proposed directive.

The driving test must determine whether an applicant is competent to drive a vehicle safely and with due regard for the safety and convenience of other persons. After successful completion of an oral and practical on-road test, a certificate of competency is granted when the necessary standard of driving is reached. This certificate is then submitted to the local licensing authority who will grant the individual a driving licence for the appropriate category of vehicle. The role of driver testing in ensuring that drivers reach an acceptable level of competence is important in the context of road safety. Driver competence and formation is an important part of the Government's road safety strategy.

Over the years, the number of applications for driving tests has seen considerable fluctuations. Applications on hand had risen to some 88,000 by 1999. The longest waiting times then were more than 40 weeks on average and were longer than they are now when 121,000 applications are on hand. The average longest waiting time is now 38 weeks. Between 1998 and 2002, considerable additional resources were put into the driving test service and waiting times fell to an average of ten weeks in the latter half of 2002.

However, the current waiting time problem began in 2003 when an unprecedented number of driving test applications were made to the Department in early 2003 in response to concerns about the possibility of stricter regulation of the use and renewal of provisional driving licences which were being reported in the media. In 2003, applications rose to an unprecedented 233,889, which was a 22% rise over the previous record of 192,016 applications in 2002. While applications in 2004 have reduced, we are on target to receive about 175,000 applications this year. Despite this unprecedented rise in demand, the service is in a position to deal with the underlying demand but the numbers on the waiting list are staying stubbornly high at about 121,000 with an average waiting time of 31 weeks. Significant additional resources have been allocated to the driver testing service over the past five years, with the number of testers now at 117 compared to 66 in 1998. Additional staff and productivity, together with Saturday working has increased the testing capacity of the service by over 90,000 tests to some 200,000 tests annually since 1998. Access to the service has also been improved through the provision of some additional test centres.

However, the demand for driving tests continues at a high level and my Department is in communication with the Department of Finance regarding measures to reduce the backlog of driving test applicants, including the recruitment of additional driver testers. A number of retired driver testers have been employed to deliver additional tests and driver testers continue to deliver additional tests by working overtime on Saturdays and at lunchtime. I emphasise that where individuals require a test for urgent reasons, they will be facilitated as far as possible. During the most recent period for which figures

are available, 25% of applicants were tested within 15 weeks.

I am conscious of the need to provide a testing service which can offer tests within a reasonable period of time and I see the establishment of the driver testing and standards authority which will have the necessary flexibility to respond to variations in demand as essential to the improved delivery of the driving test. There has been a number of improvements to the driving test in recent years, most notable of which is the introduction of a detailed report sheet that shows the test candidate where his or her driving skills are weak. The facility to apply on-line for a test was also introduced and has been well received. In addition, we will, in the near future, introduce a motorcycle test with radio communication between the tester and the candidate. This will enable the driver tester to carry out a much improved test. Motorcycle tests with radio communication have been carried out on a pilot basis and have been well received by both driver testers and test candidates.

In May 2000, the Comptroller and Auditor General published a value for money report on the driver testing service which concluded, *inter alia*, that the service was neither cost effective nor sufficiently flexible to meet changing demand patterns. In response to the report consultants PricewaterhouseCoopers were engaged. The brief given to the consultants was to examine the driver testing service and make recommendations on ways and means of making the organisation and delivery of the service more efficient and responsive to customer demands. The consultants' report recommended that the best organisational structure to deliver the driver testing service was a public service agency that would be self-financing and that significant investment in facilities, financed by an increased test fee, was required to upgrade the service. On this point, the current standard test fee of €38 does not fully meet the cost of providing the testing service, which is estimated to be approximately €11 million. Our testing fee compares unfavourably, or favourably depending on one's perspective, with a standard fee of £39, approximately €59, that applies in the United Kingdom.

The Government decided to accept in principle the consultants' main recommendation that a separate public sector agency should be established to deliver the service. Consequently, the Bill before us was prepared.

The purpose of the Bill is to establish the driver testing and standards authority whose primary responsibility will be the delivery of the driver testing service. In carrying out its functions, the authority will also have a general duty to promote the development and improvement of driving standards and will be able to make recommendations to the Minister in this regard. This provision will allow the authority to develop its services in such a way as to encourage better driving, rather than simply testing driver competence. I envisage that this provision will give the board

and staff of the authority the scope to be innovative in carrying out their functions. Provision is also being made for other functions that would be more appropriate to an executive agency than to a Department. These functions relate to the testing and control of drivers, driving instructors and vehicles.

I would particularly like to draw the attention of the House to the proposal that the authority will be responsible for the registration of driving instructors. Driving instructors are not currently regulated. Proposals have been developed by my Department for the regulation and quality assurance of driving instruction that will involve a test of the competence of individual instructors. A working group, comprising representatives of my Department and of instruction interests, has formulated the design of the standard that a driving instructor must meet. It will be a matter for the authority to determine how best to fulfil its obligations in carrying out its function in this area. The end result will be a register of driving instructors held by the authority. Instructors on the register will have passed appropriate tests of their competence to instruct which will be the responsibility of the authority to administer. Prospective instructors will have to demonstrate that they have appropriate instructional skills in addition to demonstrating their competencies in so far as driving skills are concerned.

I am aware that many existing driving instructors who have been instructing for many years are concerned as to how the proposals to regulate their profession will affect them. In the interests of ensuring an appropriate standard of instruction applies throughout the country, all instructors must demonstrate that they have reached the required standard. During a period of transition when all new instructors will have to undergo the appropriate tests in order to instruct, existing instructors who can show that they are bona fide instructors will be allowed to continue instructing before having to undergo appropriate competency tests. The length of the transition period and the manner in which the competency of existing instructors is assessed during that period will be considered in the context of the drafting of regulations to require instructors to be registered in order to give instruction for reward on the establishment of the authority.

Responsibility for the driver theory test, which is a prerequisite to getting a provisional licence, will also pass to the authority, as such a test is as much a part of the process of obtaining a driving licence as is the practical driving test. In the longer term responsibility for vehicle testing may also be transferred to the new authority as it would be more appropriate that a service, which is analogous to the driver testing service, be delivered by an agency outside of Civil Service structures.

In the driver licensing area the day-to-day operation of the licensing system, including the functions that involve my Department directly, such as the provision of blank licences and forms

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etc. to licensing authorities, would transfer to the authority. Policy on these areas and the making of driver licensing regulations would remain with my Department. There is considerable interaction between the driver licensing staff in the Department and local licensing authorities on licensing matters, in particular the application of driver licensing regulations.

I do not see this changing. The licensing system not only controls drivers, but is also the system that records penalty points and disqualifications incurred by drivers for road traffic offences. The licensing records are held in the national driver file which is administered by the Department of the Environment, Heritage and Local Government and located in the vehicle registration unit in Shannon. The record is updated by local licensing authorities which process licence applications and issue licences.

In the area of penalty points, the record will be endorsed electronically through electronic interfaces between the Courts Service, the Garda Síochána, and the vehicle registration unit. Pending final completion of the IT systems, any manual notifications received from gardaí and the courts are converted to electronic format by a company contracted to my Department for transmission to the VRU electronically. Queries relating to the application of penalty points to licensing records are dealt with by the driver licensing staff in my Department. The transfer of this function to the new authority will not affect this arrangement.

The proposed introduction of a smart card driving licence with a chip and enhanced security features which will be required by the third EU directive on driving licences, now before the European Parliament for consideration, will require greater involvement at central level in facilitating the issue of such cards. Due to the requirement for improved security features on such licences, as provided for in the directive, it is likely that such card licences will have to be produced at a central location rather than locally from motor tax offices, as is the current arrangement with the current paper licences.

The authority would be the ideal body to facilitate such an arrangement given the close connection between driver testing and driver licensing. As part of any such arrangement, I envisage that the current arrangement whereby applications for licences are made to local licensing authorities would continue, particularly in the interests of accessibility by customers.

Before going into the Bill's provisions, I would like to advise the House on the process which we have initiated to establish the authority. I intend this process to be open and transparent and to go forward in a spirit of partnership with all the staff associations. Consultation with staff interests has taken place. The forum is a sub-committee of a departmental council where staff have been kept advised of developments and have been given to opportunity to voice their concerns. The main

concern raised by staff is the retention of Civil Service status.

It is proposed is to transfer staff to the authority with a guarantee that their existing terms and conditions will not be affected. I am concerned that the retention of Civil Service status and the consequent alignment of the grading structure in the new authority with Civil Service structures might prove to be overly restrictive on the authority in carrying out its functions, which may require a more flexible staffing structure. Nonetheless I recognise that staff have genuine concerns, which I am prepared to consider with a view to alleviating them in the most effective way without compromising the ability of the DTSA to deliver a quality service.

It is proposed to recruit a chief executive officer at an early date to ensure he or she can drive forward the change process. I expect the post to be advertised shortly. The post will be based in Ballina and will be equivalent to the assistant secretary grade in the Civil Service.

Consultants have also been engaged to advise on the most appropriate organisational structure for the authority to enable it to carry out its functions in an efficient and cost-effective manner, as is required under the Bill. This process will involve full consultation with staff. A new organisational structure should enable the authority to take account of the need to make the service more responsive to customers' needs and address the need to ensure the testing service will, in the future, be able to respond effectively to fluctuations in demand and deliver a quality service to the public.

Driver formation is an important element of the Government's road safety strategy. The proposed system of regulating driving instruction should assist in the achievement of improved standards of driving and assist in the formation of drivers.

A related issue that is often raised in the context of road safety and the waiting period for driving tests is the number of provisional licence holders on the roads. Some misconceptions exist regarding the number of persons driving on provisional driving licences and the arrangement governing the number of provisional licences which a person may obtain. There is no limit on the number of provisional licences a person may obtain for any category of vehicle. The first two licences are each valid for two years. However, to be entitled to a third or subsequent provisional licence for any particular category of vehicle, a person must have undergone a driving test for that category within the preceding two years or failing that, have a driving test appointment arranged, in which case the provisional licence is granted for one year only.

Another misconception is that the estimated 380,000 provisional licence holders are driving without having undergone the driving test, but this is not the case. Approximately 48% of applicants in 2003 underwent the test for at least a second time. The overall pass rate was 54.5%

with the pass rates for first time candidates at 52.4% and other candidates at 56.7%. Notwithstanding that many provisional licence drivers will undergo the test, I recognise that the proportion of Irish drivers relying on provisional licences is too high at 17% of all current licences. We are determined to reduce this proportion significantly and the establishment of the authority should ensure we can offer driving tests more quickly than at present and, thereby, reduce the number of provisional licence holders.

As the waiting times for driving tests become more manageable, I propose, as signalled in the current road safety strategy, to bring forward appropriate amendments to the driver licensing regulations to discourage long-term reliance on provisional licences. Necessary changes to reform the provisional licensing system must be phased in and current attitudes towards driving on provisional licences must change. The number of provisional licence holders on their third or more provisional licence was about a quarter of the total of provisional licence holders at the end of 2003. A provisional licence is not a driving licence and it only allows a person to drive for the purpose of learning to drive.

Nevertheless it should not be assumed that provisionally licensed drivers are *per se* unsafe on the roads. There is no evidence to suggest that holders of provisional licences, as a group, are disproportionately involved in serious road accidents. International research indicates that age and driving experience are more important indicators of the likelihood of safe driving behaviour than the possession of a full driving licence. Young people need to be encouraged to cultivate safe and precautionary driving habits even after they have obtained a full driving licence. My Department's leaflet, *Preparing for your Driving Test*, is sent to all test applicants and advises them that, having passed the test, they should continue to drive carefully and build up their experience in different traffic, weather and road conditions.

The driver theory test, introduced in 2001, has assisted in driver formation and has ensured that provisional licence holders have an adequate knowledge of the rules of the road, etc. before being allowed to drive on the road. Success at the theory test is a prerequisite for obtaining a first provisional driving licence. The test covers the rules of the road, risk perception, hazard awareness and good driving behaviour. The operation of the theory test has been contracted to a private company as a public private partnership project. The test is carried out through a computer-based medium with multiple choice questions on a computer screen and is delivered to set performance standards. The delivery of the service has been well received by candidates with customer surveys showing 90% satisfaction.

The authority will have the option of performing its functions by means of outsourcing, the establishment of subsidiaries and participation in companies. It is important that the authority has such flexibility as the driver theory test is deliv-

ered on a public private partnership basis and this provision will allow such an arrangement to continue.

I refer to the main provisions of the Bill. Section 3 provides for the formal establishment, from a date to be set by order to be the establishment day, of a State body to be known as An tÚdarás um Thástáil agus Caighdeáin do Thiománaithe or the Driver Testing and Standards Authority.

Section 4 gives power to the Minister to require the authority, by order, to carry out certain functions. While the authority's primary function is to deliver the driver testing service, other functions which may be assigned to it include those relating to driver licensing, vehicle testing, the regulation of driving instructors and the regulation and control of vehicles. In general, the intent of this section is to ensure any functions under the Road Traffic Acts or required by EU directives relating to the control of drivers or vehicles that would be appropriate to an executive agency could be assigned to the authority in the future.

Section 8 enables the Minister, following consultation with the authority and any Minister who is concerned, to confer by order additional functions on the authority, by order to amend or revoke any order made to confer additional functions, and to lay all orders under this section before each House of the Oireachtas. Such additional functions would have to be connected to functions being carried out by the authority.

Section 5 provides that the authority may, with the consent of the Minister and the agreement of the Minister for Finance, come to an agreement with any person for the performance of its functions by that person. This section would facilitate the outsourcing of the authority's functions and allow the existing PPP arrangement for the delivery of the driver theory test to continue. Such a provision, in common with other provisions in the Bill, is designed to give the authority the maximum flexibility in fulfilling its obligations and delivering the services for which it will be responsible.

The general duty on the authority to promote the development and improvement of driving standards contained in section 6 gives the authority the scope to move beyond the basic task of testing and allows it to be more innovative in its approach to the development of better driving in this country. While ultimately the board of the authority will decide on the best approach to take, I envisage the authority taking a proactive approach towards encouraging better driving standards. This could take the form, for example, of closer liaison with the education sector, better communications with driving instructors — a process which has begun and is proving effective in developing better relations with instructors — and removing misconceptions about the driving test. There are many other possibilities and I do not propose to be prescriptive about how the authority should go about its business. The section also places a duty on the authority to con-

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duct its business at all times in a cost-effective and efficient manner and provides that the authority will have all powers necessary for the performance of its functions.

Section 7 provides that the Minister may issue general policy directions to the authority on the performance of its functions and that the authority shall comply with any such direction. Notice of such direction will be laid before each House of the Oireachtas and published in *Iris Oifigiúil*.

Section 9 provides that the Authority may, with the consent of the Minister and the Minister for Finance, establish subsidiary companies by itself or with another person to perform the functions conferred on it by this Act.

Debate adjourned.

Ceisteanna — Questions.

Priority Questions.

Mr. R. Bruton: Before we commence, I congratulate the Minister for Finance on his appointment and wish him well in office. We will be as vigilant as possible in keeping an eye on what he is doing. The Minister comes to his office with a great reputation inside and outside the House and I am sure he will bring great skills to bear on his work.

Ms Burton: I also welcome the Minister for Finance. He travelled the world in his last post and I hope he has as much fun travelling the highways and byways of the tax code in his new office. We look forward to having a positive working relationship with him. I wish the Minister luck in his job.

Mr. Boyle: Like previous speakers, I welcome the Minister. I do not know if he has found a geographical analogy for his new post, though Switzerland might be a good one. I hope we will have a positive working relationship in the coming months.

Caoimhghín Ó Caoláin: I congratulate the Minister and offer him good wishes in his new post. We will get on with the business.

Minister for Finance (Mr. Cowen): I am grateful to the Deputies who wished me well and I look forward to being kept busy by all sides.

Benchmarking Awards.

1. **Mr. R. Bruton** asked the Minister for Finance if he plans to institute changes in the benchmarking exercise proposed for assessing increases in public pay. [24590/04]

Mr. Cowen: In the public service pay agreement under Sustaining Progress, the parties committed to engage in consultation on the terms of

reference, *modus operandi*, establishment and timescale of any future benchmarking exercise. In the most recent agreement on the second phase of Sustaining Progress, the parties agreed that the benchmarking body would commence its next review in the second half of 2005 and report in the second half of 2007. The parties agreed to review the operation of the first benchmarking exercise and consider ways in which, having regard to the experience gained, the process can be improved and streamlined. The parties also stated that the body should seek to ensure the optimum level of transparency consistent with the efficient and effective operation of the benchmarking process.

The membership of the body and its terms of reference will be agreed between the parties not later than July 2005. The parties have also agreed that arrangements for the next parallel benchmarking process will be the subject of discussion between them. Consultation among the parties will commence formally later this year.

Mr. R. Bruton: Is the Minister aware that this House had no say in the partnership arrangement? It was never debated here. We depend on the Minister and the Government to represent the public interest in this area. Is the Minister satisfied that the last occasion on which settlements were reached the process was sufficiently open and transparent? Does he agree that it was not acceptable to taxpayers who had to stump up €1.3 billion that they were not shown the basis on which the awards were made? The basis for making awards was kept secret. Does the Minister agree it was surprising in a system designed to compare pay rates in the public and private sectors that every instance involved an increase in public pay? There was not a single instance of a decrease relative to the private sector.

The benchmarking commission said three quarters of the award was conditional on new reform. Does the Minister agree the Government introduced no new reform package after the commission reported and that no union was asked to move beyond its established position in the period before the payments were made?

Mr. Cowen: As I said in my answer and as stated in the agreement, the parties consider that the body should seek to ensure the optimum level of transparency consistent with the efficient and effective operation of the benchmarking process. As it is independent, how the body reflects this in its report is a matter for itself. In the last exercise, the body felt constrained in the amount of information it could provide due to assurances of confidentiality it gave when researching the data underlying its examination. In any event, to avoid endless debate and nit picking in the context of an exercise of this type, all information cannot be released. Some degree of selectivity must enter into the matter. While I take the Deputy's point that it would be desirable for the body to give

more information the next time around, this is a matter for it to decide.

The establishment in Sustaining Progress of monitoring of real change by independent performance verification groups was a significant departure. For the first time, real change and modernisation have been linked to pay increases. It is a welcome development. I will seek to ensure in future that under Sustaining Progress all pay increases whether general round or benchmarking will be tied to an ongoing programme of public service modernisation. Such modernisation is a far better criterion than the previous relativity considerations.

Mr. R. Bruton: Why does the Minister believe this is a matter for the social partners to decide? Is it not the taxpayers and we who represent them in this House who should have a say as to whether the process is sufficiently transparent? Why does the Minister put all faith in those who are sitting around the table as partners? Naturally, they will tend to approach this matter in a manner which fails to guarantee the level of transparency we who represent ordinary people expect. Does the Minister recall that the one strongly independent member resigned from the benchmarking commission because he felt the awards being made were insufficiently transparent and robust? Given this history of lack of transparency, will the Minister give leadership to opening the process to make it fully transparent for the benefit of all?

Mr. Cowen: It is important to point out that we set up this body and gave it a remit and terms of reference which arose out of the discussions under social partnership. One's view depends on one's commitment to social partnership. I believe it has brought far greater progress in economic management and social policy than would otherwise have been the case. If one wishes to suggest a more adversarial model which will not necessarily give the same value for money—

Mr. R. Bruton: The Minister is evading the question I asked to answer another one.

An Ceann Comhairle: The Minister without interruption please.

Mr. Cowen: I am not evading the Deputy's question. I am making the point that one either commits oneself to a social partnership model or one does not. I do not accept it is unaccountable. The independent body reports to the Government which decides whether to accept the recommendations. If the Government decided to walk away from social partnership, there would be consequences. I contend that—

Mr. R. Bruton: That is not the question the Minister was asked.

Mr. Cowen: I am trying to bring the Deputy to the *realpolitik* of the situation in terms of what is

consistent with a level of transparency. I have said to the Deputy that we can learn from what has happened to improve it in the next round. The question is how to make transparency consistent with creating an operation which has public confidence among social partners. If the Deputy's view is that the economy should be run by Government diktat and that if he were on this side of the House, the reservoir of public interest would lie with him, he has a far narrower view of how to conduct economic management in a modern economy than I have.

Mr. R. Bruton: I would love to answer that and I hope the Ceann Comhairle will let me. The Minister is attempting to create a caricature of the situation.

Mr. Cowen: In fairness, that has been a consistent Fine Gael position.

An Ceann Comhairle: We have already gone over time on this question.

Mr. R. Bruton: If the Minister insists on using his time to ask me questions, the Chair should allow me to answer.

An Ceann Comhairle: I request the Minister to address his remarks to the Chair in future.

Budget Statement.

2. **Ms Burton** asked the Minister for Finance when the Book of Estimates for 2005 will be published; the date on which he expects to deliver his Budget Statement; his priorities for the forthcoming budget; and if he will make a statement on the matter. [24850/04]

Mr. Cowen: The Abridged Estimates Volume will be published on Thursday, 18 November 2004. Budget 2005 will be presented to the Dáil and published on Wednesday, 1 December 2004. As the Deputy knows, it is not usual practice to comment on specific budgetary policy matters in advance of the annual budget and I do not intend to deviate. The Government's economic and fiscal priorities are based on our programme for Government and are designed to sustain and continue the record economic and employment growth we have seen since we first took office in 1997.

Ms Burton: Does the Minister agree with me that much of the buoyancy in tax receipts for the past two years has arisen from income tax largely on the backs of contributions made by PAYE workers for whom tax bands and tax credits have been frozen? As a consequence, these workers are looking to the Minister for tax justice in the forthcoming budget.

An Ceann Comhairle: A question, please.

Ms Burton: Does the Minister agree that it is not appropriate that more than 600,000 PAYE

[Ms Burton.]
workers pay tax at the top rate? The Minister spoke of social partnership to my colleague. He has indicated to the social partners that only 20%—

An Ceann Comhairle: The Deputy should confine herself to asking a question. Otherwise she will not have time to ask a supplementary.

Ms Burton: Does the Minister agree with what has been stated as Government policy to the social partners that only 20% of PAYE workers should pay tax at the top rate? Can we look forward to some tax justice for PAYE workers in the forthcoming budget?

Mr. Cowen: On tax justice, some 380,000 PAYE workers were exempt from tax when this Government took office in 1997. Today, as a result of seven successful budgets introduced by my predecessor, 622,000 taxpayers are exempt from tax. For the 240,000 taxpayers who previously paid tax under the rainbow coalition of previous Governments, that is defined as tax justice.

It is misleading to say that half of those paying tax do so at the top rate. The number of income earners exempt from tax has grown steadily since 1997 from 380,400 to 622,800. That represents an increase of well over 60%. A 60% increase in the number of people not paying tax has occurred under this Administration, yet I am asked to ensure more tax justice. Results from the very significant increases in the personal and employer tax credits, formerly allowances, in successive budgets have also brought about greater tax justice because, as the Deputy will be aware, they favour the lower paid. That was not the case under the previous system.

The problem with using the term “taxpayers” rather than “income earners” is that the more people we exempt from tax using the personal and-or employee credits, the higher the percentage of taxpayers in the top rate even if there is no increase in numbers. The more people we take out of the tax net, the fewer people who pay tax, yet Members opposite use statistics to suggest more people are paying tax at the higher rate in statistical percentage terms even though there has been no increase in numbers. While I would not suggest it is mischievous on the Deputy’s part, it is a misleading and a partisan use of statistics. If fewer people pay tax — to the tune of 240,000 — than was the case when this Government came into office, that is real tax justice. When one brings about change under the credit system introduced by my predecessor rather than the allowance system, that too is greater tax justice because it ensures more people pay tax at the standard rate.

The role of this Government will be to ensure that those on low pay receive the best benefits. I will not accept the contention that this Government has not been according tax justice to more

taxpayers. Not alone has it done so, it has reduced rates. The net tax take from those on the average industrial wage, including PAYE, PRSI and the health levy, has been reduced by 10% from 27% under the rainbow coalition to 17% under this Administration.

Ms Burton: Does the Minister agree that the same has not been done for those he describes as average taxpayers as has been done for the wealthy in terms of the creation by his predecessor of massive tax shelters? Some wealthy taxpayers in this society will make zero tax returns this month while 632,000 PAYE workers will pay tax at the rate of 42%. The Government has indicated—

An Ceann Comhairle: The Deputy must ask a brief question as we are running out of time.

Ms Burton: Does the Minister agree with the Tánaiste that something has gone sadly wrong with the PAYE tax system that so many workers now pay tax at the top rate of 42%?

An Ceann Comhairle: I will accept a brief reply from the Minister.

Mr. Cowen: I have just explained the situation for the Deputy.

Ms Burton: Does the Minister not agree with the Tánaiste? The Tánaiste agreed with me.

An Ceann Comhairle: Deputy Burton should allow the Minister to continue.

Mr. Cowen: I am trying to answer the Deputy’s question. Some 240,000 people who paid tax when Deputy Quinn was Minister for Finance do not do so now. There are 1.8 million people in the workforce. We have made significant improvements in terms of tax justice for ordinary PAYE workers. The rates previously charged when the Deputy’s party was in Government were reduced by 10% by my predecessor.

Ms Burton: More people pay tax at the 42% rate.

Mr. Cowen: That is further—

Ms Burton: It is not a low rate, it is a high rate.

An Ceann Comhairle: Deputy Burton should allow the Minister to continue without interruption.

Mr. Cowen: Some 0.76% of total taxpayers pay tax at the marginal rate.

Public Private Partnerships.

3. **Caoimhghín Ó Caoláin** asked the Minister for Finance the changes which have been implemented by his Department in the way in which public private partnership projects are developed and managed, based on experience of

the grouped school pilot partnership project as outlined in the value for money report of the Comptroller and Auditor General published on 28 September 2004; if his Department has examined the wider implications for continued use of PPPs in delivering infrastructure; and if he will make a statement on the matter. [24849/04]

Caoimhghín Ó Caoláin: Does the Minister accept that—

An Ceann Comhairle: The Deputy should allow the Minister to read his reply.

Ms Burton: Deputy Ó Caoláin is not in Government with Fianna Fáil yet.

Caoimhghín Ó Caoláin: No, not yet.

Mr. Cowen: In June 1999, the Government approved a programme of pilot PPP projects. The aim of the pilot projects was to learn practical lessons about how PPP processes can be developed in Ireland to contribute to the delivery of infrastructure programmes generally. The grouped schools project was the first of the pilot projects procured on a design, build, finance and operate basis.

Arising from the early experience of these PPP pilot projects my Department issued guidelines on the procedures for the assessment, approval, audit and procurement of PPP projects. These guidelines, which were published in July 2003, set out checks and balances to be applied in PPP procurement to achieve value for money. They outline the steps involved and introduce new requirements appropriate to PPP procurement. The Comptroller and Auditor General acknowledges this in the report and notes that lessons learned during the PPP pilot projects in the education, transport and environment sectors, including the grouped schools project, have been incorporated into the guidelines. Two significant developments include the setting of an affordability cap which is the maximum allowable budget for a project and the appointment of a process auditor in large projects to ensure that all required regulatory and administrative steps have been taken in the process prior to contract signing. My Department is engaged in the process of producing more detailed guidelines on specific aspects of the PPP procurement process.

Caoimhghín Ó Caoláin: I have noted what the Minister said. Does he accept that it is extraordinary that the Comptroller and Auditor General's report indicates it is expected this pilot project will likely turn out to be between 8% and 13% more expensive than traditional procurement and operation? Is it not also extraordinary that that report states that the Department of Education and Science should have concluded it was likely the PPP approach to procurement would work out at between 13% and 19% more expensive than conventional procurement? Does the Minister acknowledge that this was the — I emphasise

the word “the” — pilot project in terms of the Government's testing of the value for money from the PPP approach and that in this particular instance the project has clearly failed that test? Given the Department of Education and Science set no budget or spending limit for the project and estimated it would be 6% cheaper, has the Government reconsidered the PPP approach, especially in the delivery of projects signalled under the national development plan?

Mr. Cowen: I would like to put a simple question to Deputy Ó Caoláin.

Caoimhghín Ó Caoláin: I have asked a question of the Minister.

Mr. Cowen: I will answer the question in this way. If the Deputy prefers I can simply read the reply. Would the Deputy have a problem if any of the schools in Tubbercurry, Dunmanway, Clones, Ballincollig and Shannon had been built in Cavan-Monaghan?

Caoimhghín Ó Caoláin: One of them is in Cavan-Monaghan.

Mr. Cowen: Of course the Deputy would not have a problem then and I will tell him why.

Caoimhghín Ó Caoláin: If the Minister knew his geography he would know Clones is in Cavan-Monaghan.

An Ceann Comhairle: The Deputy should allow the Minister to continue without interruption.

Mr. Cowen: I have spoken to people—

Caoimhghín Ó Caoláin: The Minister should answer the question.

Mr. Cowen: —who have spoken with the parents in those areas and they are delighted with the projects.

Caoimhghín Ó Caoláin: So have I. Is this the way the Minister is going to continue?

Mr. Cowen: Let me move on to the next point.

Caoimhghín Ó Caoláin: This is outrageous.

Mr. Cowen: When Deputy Ó Caoláin and others ask how the Government will speed up projects—

Caoimhghín Ó Caoláin: The Minister answered Deputy Burton's question in the same manner.

Mr. Cowen: Are we to have a chat or is the Deputy going to continue interrupting?

Caoimhghín Ó Caoláin: The Minister should answer the question.

Mr. Cowen: I will. I have no problem answering it.

An Ceann Comhairle: Deputy Ó Caoláin should allow the Minister to reply without interruption. Also, if the Minister were to address his remarks through the Chair and not directly to the Deputy, there might be fewer interruptions.

Mr. Cowen: The Chair is a far more preferable representative of the constituency than the Deputy who tabled the question. I will direct my reply to the Chair.

An Ceann Comhairle: The Chair cannot be involved in any debate in the House, on questions or otherwise.

(Interruptions).

Mr. P. McGrath: Is the partnership off?

Mr. Cowen: The value for money of that project will best be gauged over its 25 year life span. Those projects are up and running much quicker than under traditional arrangements. There are people in my constituency who are anxious to find out when their school merger projects will be included in PPP, and if people are not like that in the Deputy's constituency, he must live in another country. These parents have gone to see these schools and they know, as I know, that if they become part of a PPP pilot project like this one, the lessons from the early days of the process will be learned. If we try new ways to do things, we learn as we go along.

If we were to depend, however, on the traditional procedures of the Department to get those five schools up and running, the Deputy and I both know they would not be built. That is a fact. We should not suggest, as the Deputy did, that the PPP is a failure as it is not. We must learn lessons as we go along and take into account some of the recommendations from the Comptroller and Auditor General. The quality of schooling available in those schools and the quality of the work environment for the teachers are much better but are not part of any tangible asset on a balance sheet that would be considered in an audit by the Comptroller and Auditor General.

We are politicians and while I respect the duty of the Comptroller and Auditor General to give his views on these matters because he has a job to do in terms of value for money in public procurement projects, I also know the PPP process is important if we are to deal with many of the infrastructural deficits about which the Opposition often moan. If the Deputy contends that we can do this through a traditional capital programme while staying within the stability and growth pact guidelines, he is not up to speed about what is available and what is possible.

Caoimhghín Ó Caoláin: The rationale of the Government is that the savings made through PPPs providing capital investment could be better

spent by the State. If the pilot project proves that there are no savings, does that not suggest there should be a re-evaluation? Of course it does. Does the Minister not accept that if there are no savings, the rationale must be questioned? That is the result of this test case. Clones is in my constituency and I am familiar with the satisfaction with the schooling in the school.

An Ceann Comhairle: The Chair cannot be flexible in future with time if Deputies abuse the time limits laid down in Standing Orders.

Caoimhghín Ó Caoláin: The Chair should address those remarks to the Minister, who used up more of the time than me.

Mr. Cowen: If the Deputy did not interrupt me, he could have asked two supplementary questions. A continuing evaluation of PPP processes, not a re-evaluation, to ensure they can be part of the drive to improve our infrastructural deficit is the considered and rational policy response.

Caoimhghín Ó Caoláin: Is the Minister acknowledging that this PPP has failed? It did not meet the criteria laid out.

Mr. Cowen: It has not failed. We have restricted the criteria. There will be further lessons to be learned from this first pilot project and, in the nature of any pilot project, we learn and improve as we go along. We do not decide that because there were some problems with the outline, which can be addressed in future PPP projects, it was a bad idea in the first place.

Tax Code.

4. **Mr. P. McGrath** asked the Minister for Finance the cost of extending the standard rate cut off point in order that the 632,000 taxpayers estimated to have paid at the top rate in 2004 be reduced to 400,000 in 2005. [24852/04]

Mr. Cowen: I am informed by the Revenue Commissioners that the cost of achieving a position where it is estimated that no more than 400,000 income earners will pay tax at the top rate in 2005 is approximately €1.3 billion in a full year.

Mr. P. McGrath: The Minister is quoting statistics but he neglects to mention the important ones. Someone on 90% of the minimum wage still pays tax. That was not the situation in 1997 for people on the minimum wage.

Mr. Cowen: There was no minimum wage in 1997.

Mr. P. McGrath: There was no minimum wage but there was a comparable wage. The Minister also neglected to say that 407,000 paid tax at the top rate in 1997 while 630,000 now pay tax at the top rate. That is despite that in 2001, the previous Minister announced in his budget statement that

he was removing 107,000 from the top rate of tax. In 2002 he announced that he was removing 57,000 from the higher rate. How does the Minister reconcile the fact that the former Minister gave those statistics when we know that year on year, the numbers paying tax at the higher rate have risen dramatically to the extent that now 53% of taxpayers pay at the higher rate? There are some not paying tax, about the same percentage as paying tax at the higher rate, but many of those are in part-time jobs working just a few hours a week.

Mr. Cowen: A problem in dealing with statistics is that if we compare apples and oranges, we end up with a mess.

Mr. P. McGrath: That is what the Minister is doing.

Mr. Cowen: The Deputy is talking about the top rate. The top rate in 1997 was totally different from the top rate in 2004.

Ms Burton: Many more people pay at the top rate today.

Mr. P. McGrath: The top rate of tax is paid by 50% more people.

Mr. Cowen: Is it the contention of the Opposition that we go back to the 48% rate and make 450,000 people pay that? Where is the Deputy coming from? He should get his act together. There is a different tax rate, the average industrial wage has risen by €10,000 and 240,000 people who used to pay tax do not pay tax at all.

Mr. P. McGrath: That is not true. It is an incorrect conclusion.

Mr. Cowen: There were 380,000 people in this State who did not pay tax when we entered office and 620,000 do not pay tax now, but I am being told that on the basis of those two statements, I cannot draw the conclusion that 240,000 more people do not pay tax now than in 1997.

Mr. P. McGrath: That was not what the Minister said.

An Ceann Comhairle: The Deputy must allow the Minister to finish.

Mr. P. McGrath: How can the Minister say that 240,000 who paid tax do not pay tax now? That is exactly what he said. An extra 600,000 people are working.

Mr. Cowen: At least the Deputy acknowledges that.

Mr. P. McGrath: Of the 600,000 who are working, 240,000 do not pay tax but a further 240,000 pay tax at the top rate. The Minister cannot conclude that they do not pay tax. How does he rec-

oncile that with what the previous Minister said each year that he was taking an increasing number of people from the higher rate when the reality shows that the numbers paying tax at the higher rate have been steadily increasing? The Minister is not too good at answering that question.

Mr. Cowen: The questions are not too good either. More pay tax at 42% than paid tax at 48%.

Mr. R. Bruton: An additional 55%.

Mr. Cowen: There are 600,000 more people working and 240,000 more who do not pay tax than was the case in 1997. The figure has gone from 380,000 to 620,000. When more 4 o'clock people are working and tax rates are reduced, it moves differently from before. The Deputy suggests that we are in a worse position now because 240,000 more do not pay tax and 600,000 more are working, and complains that 200,000 more pay tax at 42% instead of at 48%. I remind the Deputy that it is a function of higher earnings and more people working. Perhaps the Deputy's solution is to have nobody working, nobody paying tax and we will all be in Nirvana. Is that the logic of the Deputy's position? He is not prepared to acknowledge that is the function of a growing labour force, earning more wages, in the context of lower tax rates, a tax credit that helps the lower paid more than under the old allowance system which differentiated in favour of those on the higher rates—

Mr. P. McGrath: The Minister is talking rubbish now.

Mr. Cowen: —and with 240,000 less workers.

An Ceann Comhairle: The time for the question is concluded.

Mr. Cowen: We are in a better position than in the past.

Mr. P. McGrath: Ceann Comhairle, you are not sharing the time equally.

An Ceann Comhairle: Sorry, Deputy, so long as Deputies continue to ask questions—

Mr. P. McGrath: It allows for time to be shared equally.

An Ceann Comhairle: It does not, Deputy.

Mr. P. McGrath: It should be shared into times of two minutes for each reply and one minute for each answer.

An Ceann Comhairle: No, Deputy, that is not correct. The Minister has two minutes to answer a priority question. There is no time limit on the supplementary questions. The time limit does not apply on supplementaries until we move onto

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other questions. If the Deputies wish to change, they know the way to do it but the Chair will implement Standing Orders as laid down by the Members of this House. There is no time limit on supplementary questions in priority questions.

Tax Code.

5. **Mr. Boyle** asked the Minister for Finance the Government's position on the use of environmental fiscal measures in view of its decision not to proceed with a promised carbon tax. [24949/04]

Mr. Cowen: Taxation can play a part in attaining environment objectives. However, as Minister for Finance, I am concerned to ensure that in developing policy on tax measures we take into account any effects on Ireland's international competitiveness, particularly with regard to non-EU countries which compete with Ireland and which may have low taxes on energy. I am also concerned in framing policy about the effect that the imposition of such taxes may have on the consumer price index and how they could impact on the less well-off members of our community.

On the question of carbon tax, the Government decided it was not an appropriate policy option and that it would intensify action instead on the non-tax measures under the national climate change strategy. This decision followed an examination of the environmental, economic and social impacts of the proposal. The Government concluded that the environmental benefits of a carbon tax would not justify the difficulties that would arise, particularly for households, from the introduction of such a tax.

Apart from the carbon tax, the national climate change strategy envisages other initiatives in the tax area with one such example being tax reliefs for green initiatives. Essentially, this approach uses the tax system to provide incentives for certain behaviour. Such examples include capital allowances for corporate investment in renewable energy projects which have been available since 1998, and an excise duty differential, granted in budget 2002, to encourage sulphur-free diesel which resulted in the entire diesel market change-over within a few months. In addition, a provision in the Finance Act 2004 provided for the introduction of a scheme for excise tax relief for biofuels. The purpose of the scheme is to allow relief for pilot projects to investigate and evaluate the market for biofuels in Ireland. I am open-minded towards initiatives in the tax area which can impact positively on the environment but in reviewing any such initiatives I must be mindful of competitiveness issues and the impact of any particular measure across the overall community.

Mr. Boyle: Is the Minister aware that Ireland has the least number of environmental fiscal measures of any of the developed countries and is listed as such by the OECD and that his predecessor's decision not to fulfil a budget commit-

ment on carbon tax was largely the result of ignorance of how environmental taxes work? The ESRI has clearly stated that a carbon tax could have raised money which, if recycled, could have been spent on increased social welfare payments, added tax incentives, funding for research and development to encourage activities such as energy efficiency? What the Minister's predecessor has done and what the Minister seems to be maintaining is that a cost will accrue to the Irish taxpayer in a number of years when Ireland has to live up to its Kyoto commitments, a cost which currently can be judged at a value of €1.1 billion. That money will be made from traditional taxation sources. A carbon tax presented an opportunity to cope with that tax load over a longer time period and have it targeted at the source of the problem. We have failed to meet our international commitments.

Mr. Cowen: I do not agree with the Deputy that the decision was born out of ignorance. Considerable work was undertaken in examining proposals for a carbon energy tax, including an extensive consultation process. Following that process, the Government decided that a carbon tax was not an appropriate policy option and that the modest contribution which the tax would have made to tackling emissions would be replaced by alternative measures.

The Government concluded that the environmental benefits would not justify the difficulties that would arise, particularly for households, in the introduction of such tax. Furthermore, the Government cannot ignore developments in the international oil market. The recent price increases reflect the ongoing supply and demand situation in the oil market. In this situation the resultant increase in the real price of energy products will, in any event, give an enhanced incentive to energy conservation.

A carbon tax would have involved a range of compensation, recycling and tax abatement measures. Despite these measures, it would be likely to have some adverse economic and social effects that would not be fully dealt with by compensatory measures. In addition, it would impose price increases on many products already suffering sharp increases and would largely raise revenue from products already subject to existing excise duties and where a new tax is not specifically necessary to increase tax rates.

Mr. Boyle: The Minister should be aware that fuel poverty now exists in society and this Government does not have any measure in place to tackle the problems of fuel poverty. Carbon tax was one such measure that would have allowed revenue to be created and recycled and targeted towards those most in need in society. The Minister in his reply listed less than a handful of measures that could be in any way attributed as environmental tax measures or tax incentive measures. It shows the poverty of the Government's thinking in this area. The Minister's reply

as an opening contribution contrasts widely with the answers given earlier on public-private partnerships where the Minister stated he was in favour of new and innovative approaches in terms of finance initiatives, yet he is not prepared to address the same thinking to alternative taxation measures. These different types of taxes would relieve the burden on traditional taxpayers and allow less income tax, less VAT and spending taxes to be collected. It would allow for targeted measures to assist the environment as well as attacking those who are creating environmental problems in our society.

Mr. Cowen: The Deputy is obviously more taxed in his tax than the Government is. A difference of opinion exists. The rationale behind the carbon tax was to change the relative price of fuels based on carbon emission, thereby altering consumption patterns and to encourage energy efficiency and improve environmental quality. Carbon tax would have applied at a relatively low level to all carbon-based fuels, including peat, coal, heating oil, diesel, petrol, natural gas and LPG. The revenue raised from the tax would be recycled and used for a range of purposes, including measures to help alleviate the effects of the poorest in society, as the Deputy stated.

The carbon energy tax as proposed has been just one element of the Government's approach to meeting Ireland's commitment under the Kyoto Protocol to reduce emissions of CO₂. The overall reduction required is of the order of 9 million tonnes per annum and the direct effect of the carbon tax would have amounted to a possible maximum reduction of just over half a million tonnes. This modest contribution—

Mr. Boyle: The Minister cannot know that.

Mr. Cowen: —would be replaced by alternative measures, including support for emissions abatement mechanisms such as energy efficiency initiatives and also the purchase of additional carbon emission allowances on the international market.

Regarding alternative policy options which were referred to in the decision not to introduce a carbon tax, they are principally a matter for my colleague, the Minister for the Environment, Heritage and Local Government, who can answer further specific questions on this point. I understand the national climate change strategy provides a broadly-based framework for achieving greenhouse gas emissions reductions in the most efficient and equitable manner while continuing to support growth and prepare for the more ambitious commitments that will be required after 2012. Among the key measures in the strategy are switching towards less carbon-intensive fuels, expanding renewable energy, promoting greater energy efficiency in transport, industry and construction and a range of measures to reduce emissions from agriculture.

Mr. Boyle: Who will pay the bill?

Mr. Cowen: As I said in my reply, I am open-minded towards tax initiatives which can impact positively on the environment but in reviewing any such initiatives, the Government must be mindful of competitiveness and the impact of any measure on the overall community.

Other Questions.

Decentralisation Programme.

6. **Mr. McGinley** asked the Minister for Finance if modifications in the decentralisation programme announced in budget 2004 are being considered by his Department for presentation to the Cabinet sub-committee. [24600/04]

Mr. Cowen: The Government is determined to press ahead with the implementation of the decentralisation programme announced last December. Considerable progress has already been made and the latest figures from the central applications facility show there is very substantial interest in the programme within the public service. My Department is not considering any modifications in the decentralisation programme for presentation to the Cabinet sub-committee on decentralisation. The next significant milestone in the process will be a report by the implementation group later in the autumn to the Cabinet sub-committee outlining the group's views on sequencing and timing.

Mr. R. Bruton: I wish to ask the Minister for his response to some of the issues that have arisen in the Oireachtas hearings on these matters, since he says there will be no modification. Is he aware that in 17 out of the 30 agencies it is proposed to move, less than five individuals have offered to move and that in some cases there is a 100% meltdown of the key strategic skill base, that none of those in key strategic areas, such as the probation office, is moving? What is his reaction to the statement by the National Roads Authority that if it moved, as is proposed, its capacity to do its job would be seriously undermined? It came as a shock to me to learn the decentralisation programme was decided without any Government memorandum, strategy statement, human resource plan, or individual assessment of the business cases of each of the different agencies being moved.

Mr. Cowen: The Deputy asked if I am considering modifications. I am not considering any modifications. The implementation group has come before the joint committee and has outlined the progress to date. This is a rolling programme. What has to happen next is to identify who will come forward in the first tranche. That will be based on the sequence and timing which will be advised and suggested by the implementation

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group. The Deputy must recognise the implementation group has been given the job. We will proceed on the basis of the decisions which have been taken. The best way of assessing and monitoring progress is based on the implementation group's reports coming forward.

Mr. R. Bruton: Is the Minister aware that the chairman of the implementation group said to the joint committee that some of these proposals are not implementable? Is he aware that on the occasion of the last successful decentralisation programme, 50% of the jobs moved were filled either by new promotions or by new recruitment? Given that the Minister's predecessor gave an assurance there would be no new promotional positions and no new recruitment how does he propose that the implementation group can deal with these issues if there is no modification in the Government's position?

Mr. Cowen: We have to await discussions on the report of the implementation group in respect of any issues that arise.

Mr. R. Bruton: These are already known. They are in the public domain. The Minister is keeping his head in the sand.

Mr. Cowen: I look forward to meeting Mr. Flynn and I have every confidence in his chairing of the implementation group. I have worked with him in previous ministries and his capacity should not be underestimated. He will meet me based on the progress that has been made——

Mr. R. Bruton: So there will be modifications.

Mr. Cowen: No.

Mr. R. Bruton: It is very clear there will be modifications.

Mr. Cowen: That is the Deputy's view. Does the Deputy wish me to answer the question?

Mr. R. Bruton: No, it is his view.

Mr. Cowen: That is the Deputy's view. We will proceed based on the report of the implementation group and we will roll out the programme.

Mr. R. Bruton: In the meantime the Minister is keeping his head in the sand.

Mr. Cowen: In the meantime we will progress the report.

Ms Burton: Is the Minister aware of the statement by the chairman of the implementation group to the Joint Committee on Finance and the Public Service last week that there would be no big bang in relation to decentralisation because parts of the programme were unimplementable? Has any costing been done of the ongoing rev-

enue cost arising from decentralisation? The capital programme is a separate issue. Is the Minister aware of the detailed briefing the chairman of the implementation group gave to the joint committee last week on the supports and costs that would arise for the many civil servants who are opting to remain in Dublin? Is he aware that no solution has been found for the State agencies where few have opted to leave Dublin? Given that the Government has said those agencies will be relocated how will it get the expert people?

An Leas-Cheann Comhairle: The Deputy has exceeded the one minute time limit.

Ms Burton: Will it pay two sets of people, one to move and one to remain in Dublin? That is what the chairman of the implementation group told the joint committee.

Mr. Cowen: It is not a question of a big bang and that we will all wake up some morning and this will be finished. No decentralisation programme, whether one supported by the party of which the Deputy is a member, and which on one occasion deferred a decentralisation programme for over eight years, or this Government, produces a big bang. This is a voluntary scheme.

Ms Burton: Is the Minister aware of the former Minister's assurance——

An Leas-Cheann Comhairle: Deputies are not entitled to intervene or interrupt.

Mr. Cowen: This is a voluntary scheme. There is no need to misrepresent the nature of the scheme. As a Government we are committed to a very expansive programme of decentralisation. We have put an implementation group in place to roll out that programme. As it moves forward we will discuss the issues as they arise. The first issue was to ascertain how many were interested in the programme. Much to the chagrin of the Opposition thousands of people, Dublin based and in other parts, are interested in the programme.

An Leas-Cheann Comhairle: I call Deputy Boyle who has a supplementary.

Mr. Cowen: The next question is to what extent we are able to match those requirements and the willingness of those to engage with the programme set out.

Ms Burton: The Minister did not say if any relevant costings have been done.

An Leas-Cheann Comhairle: Members must obey the rulings of the Chair. I have called Deputy Boyle to ask his supplementary.

Mr. Boyle: Does the Minister not see irony in the fact the Civil Service Commission, the body with responsibility for recruitment and appoint-

ment to the Civil Service, can identify only two persons in its current staff who are willing to move to Youghal, County Cork, and that bodies such as the Equality Authority has not identified even one member of staff to go to Roscrea? Of the thousands of people he has cited in his reply, does he recognise, given that 50% are outside Dublin, that makes a nonsense of the Government's relocation policy which was based on the premise that Dublin would reallocate resources, become a better lived-in city in terms of resources and there would be an economic fillip for towns and cities around the country? In my constituency the Department of Agriculture and Food is moving to Macroom but the people working there will get no benefit. Given the inconsistencies it is a policy that is dead in the water.

Caoimhghín Ó Caoláin: The former Minister, Deputy McCreevy, said here on 17 September that 9,000 had registered with the central applications facility. Will the Minister accept the impression was given that all of these were Dublin-based civil servants applying to relocate? Will the Minister accept the reality is a much reduced figure? Will he agree with my assessment that the number of Dublin-based civil servants and State agency employees applying to relocate outside Dublin is of the order of 4,800? In his contribution to the Joint Committee on Finance and the Public Service, Mr. Phil Flynn said the decentralisation programme, if it is to succeed at any level — from that signalled and signposted initially last December to now what looks more likely — the Government will have to invest in child care facilities in each of the new locations identified.

Mr. Cowen: The central applications facility is still open and people are still applying. We have given an update on its progress. One cannot simply ask for a big bang as if that was the intended outcome of the decentralisation programme. It is a rolling programme. There are people who are showing an interest in leaving and others who are hesitant and not showing any interest in leaving. We will have to deal with that position though the implementation group process as we proceed and find solutions where we can. Let us be clear, this is a voluntary scheme. It was never suggested it would be anything other than a voluntary scheme. The level of interest shown is far greater than was anticipated by those who have been naysaying from the beginning. We will continue to work out that scheme in the best way we can, consistent with the fact that it is voluntary.

7. **Ms B. Moynihan-Cronin** asked the Minister for Finance the estimated cost of providing and equipping buildings for the Government's proposed decentralisation programme; and if he will make a statement on the matter. [24658/04]

Minister of State at the Department of Finance (Mr. Parlon): The Budget Statement 2003 set out a major new programme of public service decen-

tralisation involving the relocation of 10,300 civil and public service jobs to 53 centres in 25 counties. Further announcements since then increased the scope of the programme to over 10,500 jobs in more than 56 locations.

My office has been tasked with procurement of development sites in the designated locations and the procurement of accommodation solutions to the office and facility requirements of the Departments and agencies involved.

The decentralisation implementation group recommended a public private partnership approach, where appropriate, to the procurement of office accommodation. To this end my office has been developing a comprehensive risk-adjusted costing of project elements to measure the value for money of future PPP bids. It is possible that the scale and location profile of some decentralisation projects would not fit within a PPP-procured model. Accordingly, the cost profile of such projects may vary from the standard model.

It is anticipated that in the vast majority of cases the accommodation facilities will be provided by the construction of new office buildings and cost estimation can be approached on that basis. However, in advance of actual market testing of any procurement methodology, it is possible at this time only to assign the most general measurements of cost to such a large-scale and diverse programme.

It is estimated that approximately 210,000 sq. m. or 2.26 million sq. ft. of office space will be required to accommodate the total numbers included in the programme. Current industry cost norms in respect of commercial offices indicate an average build cost to fit-out standard in the range of €1,450 to €2,000 per sq. m. Such figures exclude VAT, professional fees and inflation.

In addition, the cost of equipping the accommodation to standard office equipment levels could be estimated at c. €4,000 per person. This would exclude the cost of information and communication technology and specialised equipment requirements. Such general measurements of cost do not include site procurement costs, specialised facility and equipment requirements and other variables which would arise from the spread of possible procurement methodologies.

In addition, general cost indicators of this type show a snapshot in time. The chairman of the decentralisation implementation group laid out a sequencing approach to members of the Joint Committee on Finance and the Public Service on 6 October.

Additional information not given on the floor of the House.

The group's views on sequencing and timing are to be submitted to the Cabinet sub-committee on decentralisation for its consideration. The outcome of these deliberations will clearly have an impact on how we can more closely assess programme costs going forward.

[Mr. Parlon.]

It is axiomatic that a firmer scale of costs for the decentralisation programme will only emerge on foot of actual cost proposals being received from the market. Nevertheless we can clearly anticipate that, generally speaking, the cost of providing accommodation infrastructure in provincial locations compared with central Dublin locations should yield considerable cost savings to the State over time in terms of site costs, capital build costs and indeed maintenance costs.

Ms Burton: Does the Minister of State have a costing for the overall programme given that it was announced almost a year ago? We have seen various estimates of the overall capital cost in the region of €1.5 billion and, although the Minister of State has referred to this figure being offset against the money raised from the sale of some Government properties, I am concerned that the taxpayer gets value for money rather than property developers making a killing in 53 locations around the State.

Last week the chairman of the implementation committee spoke about property solutions being agreed for seven locations and nearly agreed in respect of 16 others. Will the Minister of State give the House costings in respect of those locations and inform Members what he is doing to ensure value for money for the taxpayer as opposed to providing killings for property developers?

Mr. Parlon: We can only be guided by the normal industry costs of procuring buildings, the basis of which I have laid out.

Ms Burton: Is the figure of €1.5 billion correct?

Mr. Parlon: I have laid out the figures. The Deputy can do her own sums.

Ms Burton: That is not a reasonable answer.

Mr. Parlon: We do not have the figures.

Ms Burton: The Minister of State is supposed to have the figures from the Department of Finance.

Mr. Parlon: The former headquarters of the Department of Justice, Equality and Law Reform was recently sold for €52.3 million.

Ms Burton: Is that the building on St. Stephen's Green?

Mr. Parlon: That is correct. The price is on the public record and is substantial. We can expect a substantial saving in respect of providing that scale of accommodation in any of the provincial locations.

In regard to sequencing, the chairman of the implementation committee will come before the Cabinet sub-committee shortly with a recommendation of a number of relocations and we will

begin with those that fit. Despite some of the poor figures suggested by the Opposition, the central applications facility has found that a substantial number of locations have been substantially over-subscribed. All the right people want to move to decentralised locations. Likewise, the OPW is close to finalising site deals and, in some places, the deals are finalised.

Mr. R. Bruton: How will the Minister of State deal with a situation, which almost certainly will occur, whereby 50% of staff are willing to move and an office is set up for them while the remaining 50% stay put? In such a case there will effectively be two operations of, for example, the Equality Authority or the NRA. At what point will the Minister of State tell the people who have opted to stay put that they must go elsewhere? Does the voluntary element still remain if they are shunted into another office because the Minister of State wants to vacate a property? How does the Minister of State envisage handling situations where shadow staff in Dublin say they want to stay in their posts and are entitled to do so?

Mr. Parlon: The implementation group has examined all those problems and I recall the chairman informing the Joint Committee on Finance and the Public Service that he saw solutions to them.

Ms Burton: The chairman also said he was concerned about office blocks lying idle.

Mr. R. Bruton: What are the solutions?

Mr. Parlon: We can worry forever but Deputies can be assured that the Department of Finance will come forward with solutions based on the good advice of the implementation committee.

Mr. R. Bruton: Are these solutions too valuable to be released to the public and the taxpayers who will have to pay for them?

Mr. Cowen: It is too early to assess them.

Mr. Parlon: We have not addressed all of them yet.

Mr. R. Bruton: These are all on the public record. These are issues which must be addressed. The Minister of State cannot treat us like idiots.

Mr. Parlon: The CAF was designed primarily for and lent itself to applications from civil servants.

Ms Burton: We are talking about the costs not the CAF.

Mr. Parlon: I am addressing a question.

Mr. Boyle: Having made a virtue of trying to sell as much OPW property as possible in the past

year, what efforts have been made to match what property remains in the OPW portfolio to meet the Government's office relocation programme? What steps is the Department taking to avoid such situations where, for example, hotels were purchased for refugee reception centres or IDA advance factories were purchased on 35 year leases and remain unused? Members on this side of the House have little confidence that those lessons are being learned.

Mr. Parlon: We sought expressions of interest from the public in all the locations and they are now being dealt with. Generally, where suitable State options have been available, the first deals done have been in respect of them. Local authority and State lands have been used everywhere they have been available. The OPW would not even consider selling property which had a continued use for the State. Any property sold has been surplus to requirements.

There are solutions everywhere. On the basis of advice from the implementation group, we can now look at addressing the specific problems of the State agencies. For instance, different cultures pertain in respect of different State agencies and staff may not be able to transfer between them. The implementation group has solutions to propose in this respect which will be coming forward shortly.

Caoimhghín Ó Caoláin: What exercise will be undertaken in cases where Departments and agencies, for example, the Combat Poverty Agency and Comhairle, which were originally assigned to Monaghan and Carrickmacross, respectively, and have now indicated that they will not transfer to those locations? What amelioration of the procurement process for equipment and so on has taken place or does the Minister of State believe a template exists which can automatically apply, commensurate with the numbers designated? Will the Minister of State explain the position and give the House a sense of the status of towns such as Monaghan and Carrickmacross where a question mark remains as to whether they will be part of the final programme?

Mr. Parlon: I recall that, before her new appointment, the then Minister for Social and Family Affairs, Deputy Coughlan, referred specifically to Comhairle and confirmed that another element of her Department would move to Monaghan.

Capital Spending Guidelines.

8. **Mr. Stanton** asked the Minister for Finance if he has satisfied himself with the standard of project evaluation operated within Departments. [24844/04]

Mr. Cowen: While much has been achieved as a result of the increased investment by Government, I accept that there have been issues in regard to value for money and cost overruns on

major capital projects raised by, among others, the ESRI in the mid-term evaluation of the national development plan.

The onus is on Departments and implementing agencies to appraise and manage properly capital projects and programmes under their aegis. My Department's capital appraisal guidelines provide a framework for this. The Government has taken a number of initiatives which are designed to secure better value from public expenditure and to improve project appraisal and evaluation. The new rolling five-year multi-annual capital envelopes announced in last year's budget will enable Departments to plan, implement and manage their capital programmes and projects more effectively and efficiently and to secure better value for money from their capital expenditure. Under the general conditions of Department of Finance sanction to expenditure from the envelopes, Departments are required to comply with the capital appraisal guidelines of my Department in all cases, to report regularly to their management advisory committee on the evaluation of capital projects prior to approval and to report progress on the management of capital programmes and projects. Departments are also required to put in place appropriate contractual arrangements for all significant grants of public funding to private companies and individuals or community groups to protect the State's interest in the asset created by the funding.

My Department is in the process of updating and revising its 1994 guidelines for the appraisal and management of capital expenditure. Revised draft guidelines have been circulated to line Departments for their comments and I envisage that the revised guidelines will be published before the end of this year. The capital envelopes and the revision of the capital appraisal guidelines will be complemented by planned changes in the format of public construction contracts and contracts for construction related services through the introduction of more fixed priced contracts and a much more sensible approach to design and other overheads. This latter initiative will provide greater certainty on outturn costs.

There is evidence of significant recent improvement in the management of capital programmes and projects. In the transport area for example, there have been a number of major projects which have recently been delivered on time and under budget. I intend through the operation of the envelopes system to keep project appraisal, management and outturn costs under review to ensure the requisite level of physical output for the substantial level of investment being provided.

Mr. R. Bruton: Does the Minister accept that the Comptroller and Auditor General found that the reason for cost overruns in the roads programme was not, as the Minister suggests, the lack of rolling envelopes or poor contract arrangements? The reason was poor estimation of the cost to the tune of €4.1 billion. In the case

[Mr. R. Bruton.]

of some projects such as the port tunnel and the south-eastern motorway, the explosion in costs was more than three times the original estimate. What is happening, and it was largely admitted by the Minister, is that rosy pictures are being painted at the time of the Government's approval of these projects, after which they rely on ministerial momentum and the fact that no Government is willing to abandon or dramatically reduce a project because it is too expensive. Does the Minister not accept that there is a major problem with these initial evaluations? It is not just in Ireland but is particularly acute in Ireland at present with the Comptroller and Auditor General's finding on the roads programme. There has been an increase of more than 100% in two years. Does the Minister accept that more needs to be done than what he says in his reply? Does he agree that he needs to accept the ESRI recommendation of an independent evaluation rather than relying on the rose-tinted glasses that many Departments use when viewing these projects?

Mr. Cowen: The point being made is that prices are often tendered to prospective projects based on the support by a line Department for a capital project, the initial evaluation of which is often based on general assumptions. The real issue regarding value for money is that the price of a project is the price at tender stage. We must figure out if we are getting value for money by comparing that price to do the job at the time with the eventual outcome rather than referring back to an initial evaluation or round figure that was mentioned perhaps ten years before and which has no relevance——

Mr. R. Bruton: On a point of information. The Comptroller and Auditor General stated that these projects were only running two years prior to when he evaluated them. These were not long remote history projects. The Minister is wrong in suggesting that.

Mr. Cowen: At its most extreme, I can cite Luas projects. Twelve years ago I was in that Department and a figure was given for it.

Mr. R. Bruton: That is not what the Comptroller and Auditor General dealt with in his report.

Mr. Cowen: If the Deputy wants a specific question on the Comptroller and Auditor General's report on the roads programme, then he should ask it and we can have a specific discussion about it.

Mr. R. Bruton: It will be disallowed by the Chair.

Mr. Cowen: That is fine. The Deputy will have to accept that the supplementary question is not specific to the roads. We must make the comparison between the price at the time we decide to go with a tender and the outturn costs, which is

the real value for money issue at that stage. One can argue about whether a project can proceed but that is a different argument. In terms of value for money, there is much contention in the public eye.

Mr. R. Bruton: They are both value for money issues.

Mr. Cowen: There is a suggestion that under no circumstances do projects come in on time and under budget. There are projects which do. There is a need under the revision of the guidelines for fixed price contracts. There are a range of new innovations which will assist us in that. We treat the public service unfairly if, knowing the tender price and the outturn cost, we refer to an evaluation price which greatly pre-dates the time when the decision was taken to proceed with the project.

Mr. R. Bruton: That is not what we are discussing and has nothing to do with the evaluation by the Comptroller and Auditor General.

Mr. Cowen: That is a general point I would say in defence——

Mr. R. Bruton: Yes, but it is not a relevant point.

Mr. Cowen: I find it relevant because too often figures are given for the cost of capital projects which bear no relation to the tender costs, let alone the outturn costs. They are unfairly used as a means of overt criticism of Ministers.

Mr. R. Bruton: Much of it is fair.

Mr. Cowen: Much of it is unfair.

Ms Burton: The Minister's predecessor rushed legislation through this House regarding the National Development Finance Agency. That was to have a major role in clearing up some of what was happening in this area of overshooting. What has happened to the NDFA since? What projects have been cleared through it?

Mr. Cowen: Again if the Deputy asks a specific question I can give a full answer to it. The NDFA——

Ms Burton: It was Government strategy to clear up this area. Surely we can ask a question about it.

Mr. Cowen: I am sorry for opening my mouth. I was just about to answer. The NDFA deals with projects in excess of €20 million to help line Departments find the best way to finance those where they are outside the Exchequer envelope and going through the public private partnership process. That is one purpose of the NDFA and it is an add-on under the aegis of the National Treasury Management Agency where the NDFA is

located. We are at the infancy stage of PPPs and we need to address that more quickly and not run down PPPs as not being an available option to us. That is what the NDFA is doing and it will have the expertise to assist greatly in ensuring that some of the overruns do not recur.

Caoimhghín Ó Caoláin: I want to ask a brief supplementary.

An Leas-Cheann Comhairle: We are way over the time limit.

Caoimhghín Ó Caoláin: Surely we are all entitled to equal opportunity.

An Leas-Cheann Comhairle: Yes, but within the time limit. If the time limits are not adequate, then the Deputy should seek a review of the rulings.

Carbon Tax.

9. **Mr. Timmins** asked the Minister for Finance his reasons for the decision on carbon taxes. [24626/04]

Mr. Cowen: The Government decision on carbon tax was made following a thorough examination of the issues involved, including how a carbon tax would be implemented and the associated environmental, economic and social impacts. In addition, my Department carried out an extensive consultation process in which 117 written submissions were received. Following this examination, the Government decided that a carbon tax was not an appropriate policy option and that, instead, it would intensify action on other measures under the national climate change strategy.

Mr. Boyle: On a point of order, can the Minister refer to his answer under priority?

Mr. Cowen: I am just about to do that.

Mr. Boyle: He is repeating the answer. It might give us more time to ask supplementaries.

Mr. Cowen: The Deputy is unbelievable.

Mr. Boyle: That does not make any sense.

Mr. R. Bruton: The Minister has much to live up to.

Mr. Cowen: If Deputy Timmins tables a question, he is entitled to an answer. I was about to say that on the basis that this was a question with which we had already dealt, to give courtesy to the Deputy who tabled the question, I should mention the first two paragraphs and then refer to the question and answer session we had previously. The Deputy is not the only one who wants to make sure we make sense in this place.

Mr. R. Bruton: I will not go over the ground that Deputy Boyle has explored already. When the Minister referred to the mitigating alternative policies, he said that one of these was to buy more on the emissions market. Does he accept the estimate that has been put out by independent experts that the cost of buying those on the open market by 2008 is about €1.4 billion? That is the equivalent of €1,100 per household. By 2012, it will have gone to €4.3 billion, which is almost €3,500 per household. Who will pay that? Where will that money come from? Is there a sting in the tail here in that perhaps the Minister will not announce a carbon tax now, but he will have to raise this tax later and that will result in distortions and effects from those impositions on households and on the economy?

Mr. Cowen: The question asked for the reasons for the decision on carbon taxes, the answer to which I gave in a previous reply, which I do not want to repeat. Specific questions regarding the type of supplementary the Deputy asked should properly be directed to the Minister for the Environment, Heritage and Local Government who could give a detailed reply. All I can say based on——

Mr. R. Bruton: No, these are issues of tax policy. The Minister will have to raise this revenue.

Mr. Cowen: To answer that point — the problem is that when one is honest one also gets stopped — I explained in the previous reply that we will examine incentivising alternative energy uses, renewal energy and all that area from the fiscal point of view. The specific supplementary the Deputy asked regarding the cost of going to the market and being able to buy the equivalent of whatever — there is a term for this that does not readily come to mind — to make up the national requirements——

Ms Burton: Credits.

Mr. Cowen: Yes, credits. If a question on that matter was directed to the Minister for the Environment, Heritage and Local Government, he would give a detailed and accurate reply.

Mr. R. Bruton: The Minister will have to raise the tax revenue. He is avoiding applying a tax now, but he will have to raise the tax revenue.

Mr. Cowen: We have explained the position — perhaps I should give the reply on that side of the House. We have explained that there are competitiveness issues. We do not believe that applying a carbon tax would deal with the problem in a way that would not affect our competitiveness.

Mr. Boyle: There is still a bill to be paid.

Mr. Cowen: We feel there are other options. I gave a detailed reply on this earlier.

Mr. R. Bruton: The tax bill will also distort and have competitive effects.

Mr. Cowen: The reason we did not proceed with applying carbon taxes was given in the reply to the previous question. If there are specific questions on the alternatives, they should be directed to the Minister for the Environment, Heritage and Local Government for the purpose of getting information — the purpose of Question Time is to obtain detailed information and not to have an argument.

Mr. Boyle: The Minister is responsible for tax matters.

(Interruptions).

Ms Burton: I believe the Minister will like this question because it relates to his old haunts. Does he agree that now that the Russians have signed up to the Kyoto Protocol that the ball game on climate energy has changed? What has his Department done to come up to speed with the new situation?

I listened and was delighted to hear him say he was willing to take action against improper uses of resources and so on and that he was open to ideas. Has he any proposals to take on those gas guzzlers, the 4x4s that one sees in deepest Donnybrook? Other member states of the European Union have imposed differential rates of tax on cars or on vehicles like SUVs which grossly over-use energy resources in urban environments. With the Russians now having signed up to the Kyoto Protocol, does the Minister agree the ball game has changed? This country has no climate change strategy.

Caoimhghín Ó Caoláin: Given that the Government has clearly ruled out a carbon tax, what measures does the Minister propose this State will introduce to ensure we reach our obligations under the Kyoto Protocol? Has he plans for any accelerated efforts in regard to the development of alternative energy sources?

Mr. Cowen: I referred to the details in my reply to Deputy Boyle's supplementary question on the alternative policy options and I will not repeat them.

Regarding the Kyoto Protocol, the fact that Russia——

Mr. Boyle: It is not that long a list.

Mr. Cowen: That is why the Deputy is in the Green Party and I am in Fianna Fáil.

Mr. R. Bruton: There are three or four paragraphs.

(Interruptions).

Mr. Cowen: When his party gets 75 or 80 Deputies, we will all listen to the Deputy.

Mr. Boyle: Come the day.

Mr. Cowen: Come the man, come the hour.

Regarding the question of Kyoto commitments, the fact the Russian Federation is prepared to sign up to the Kyoto Protocol is an important step on its part. With its level of natural resources, including afforestation etc., and its ability to do what is required to be in compliance with that measure, we can all aspire in a far more realistic way to what is outlined in the protocol. We are fully committed to the Kyoto Protocol and the international response to combat climate change. Ireland will meet its greenhouse gas emissions reduction target under the protocol and has decided to intensify action on the non-tax measures under the national climate change strategy.

Regarding an earlier question, to which Deputy Richard Bruton also referred——

Ms Burton: What about the 4x4s and the gas guzzlers?

Mr. Cowen: These are matters for consideration in the context of the budget.

Ms Burton: Has the Minister an open mind on that?

Mr. Cowen: My mind is far more open than the Deputy gives me credit for.

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 Neville — the review of the care and treatment of a person (details supplied) at the Mid-Western Regional Hospital; (2) Deputy Gregory — 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; (3) Deputy Broughan — the need for the Minister to ensure that all matters causing difficulties at An Post are urgently resolved; (4) Deputy Cowley — to ask the Minister why six people have to travel to Galway for dialysis treatment from Mayo when there is a Mayo dialysis unit which could put on an extra dialysis shift if they could employ four extra nurses; (5) Deputy Durkan — the lack of delivery of hospital services to north Kildare caused by a lack of resources at both Naas General Hospital and James Connolly Memorial Hospital, Blanchardstown; and (6) Deputy Upton — the matters he proposes to discuss with the EPA in his forthcoming meetings.

The matters raised by the Deputies Neville, Durkan, Gregory and Upton have been selected for discussion.

Adjournment Debate.

Mental Health Services.

Mr. Neville: I thank the Ceann Comhairle for allowing me to bring to the attention of the House the death in Limerick Regional Hospital at 1.30 p.m. on 20 September 2002 of a 21 year old student who was found hanging by her dressing gown belt from a shower curtain support in a bathroom of the acute psychiatric unit in the Mid-Western Regional Hospital, Limerick.

I express our deep sympathy to the parents and brother of the patient who died and know that whatever reports are carried out will not bring back their beloved daughter and sister.

The patient suffered from severe depression from age 18 and on two occasions, one of which was the day following her 21st birthday, the patient attempted suicide. On 13 September 2002 she was admitted to St. Patrick's Hospital in Dublin without a full check by the hospital of her VHI cover, and it was found that the VHI did not cover her treatment. This forced the family to terminate the private treatment and to transfer her back to Limerick Mid-Western Regional Hospital. This should not have happened and her private insurance status should have been identified by the hospital prior to her admission.

Despite the patient showing serious suicide risk, she was discharged into her parent's care, who travelled by train. If the patient was suffering from a serious general medical condition, the transfer would have been arranged by ambulance with medical back-up.

The consultant psychiatrist at St. Patrick's informed the clinical director of the Limerick Mental Health Services that there were concerns in relation to the patient's risk of suicide and that she was in a special care unit with 15 minute nursing observations. However, the treating consultant at the Mid-Western Health Board hospital had not been advised of a significant suicide risk. It is clear that communications regarding the patient between the consultants was insufficient, indirect and lacking in detail.

In his ward round on the morning of 20 September, the treating consultant failed to notice the hand-written letter to him from St. Patrick's Hospital, which contained concerns about the patient's current mental state and registered unease about the risk of self-harm, including details about medication that had ameliorated the patient's agitation and attendant subjective distress. The patient's life was at risk as a result.

The psychiatric nurse in ward 5B brought to the attention of the treating consultant that the collapsible curtain rails had become detached, but this was regarded as insignificant.

The report drew attention to the fact that the treatment plan was based on the clinical examination and opinion of two junior doctors without direct consultant assessment. The transfer

material failed to outline the settings in which the patient was treated and the level of nursing intervention applying in St. Patrick's Hospital.

Serious concern is expressed regarding the trainee psychiatrist who admitted the patient. His psychiatry experience commenced two months previously in child and adult psychiatry but he had on-call duties for adult mental health. The report expressly states that a doctor of such limited training should not be rostered on a general adult psychiatry duty rota.

The documentation from St. Patrick's Hospital failed to identify that the patient had been cared for in a special care unit. The documentation was misaligned and in the case of some of the documents foolscap-sized material had been photocopied on to A4 sized paper with the loss of information including the letters CU appearing instead of SCU, which stands for special care unit. This would have alerted admitting staff to the patient's serious condition. The initial nursing assessment failed to read through the detailed clinical information forwarded from St. Patrick's, although these notes were available.

The absence of a high-observation area in ward 5B and a dedicated child and adolescent unit is identified as a serious deficiency in the facilities of the ward. Such facilities, if available, will contribute to the more efficient observation of patients in danger. The observation of Anne in her ward created difficulty for severely overstretched nursing staff. At midday, two student nurses who had been detailed to observe her went off duty and a nurse detailed to observe another patient was asked to take over. She advised she was unable to do so. However, she was misinformed by another nurse who presumed that she had seen Anne in the dining room. It was not Anne, who, at approximately 1.30 p.m., was discovered missing and found hanging from a shower railing.

Minister of State at the Department of Health and Children (Mr. B. Lenihan): I thank Deputy Neville for raising this matter on the Adjournment. The case to which he referred is tragic and I extend my condolences to the family concerned. Every sudden death of a patient in psychiatric care, from whatever cause, is most regrettable.

In accordance with section 272 of the Mental Treatment Act 1945, the Office of the Inspector of Mental Health Services was informed of the death of the individual at the Mid-Western Regional Hospital in September 2002. The Mid-Western Health Board indicated at that time that it was conducting its own investigation into the circumstances of the case. Following completion of that investigation, it decided to establish an independent review committee to carry out an independent clinical review and audit regarding the care and treatment of the person concerned.

The committee was established by the Mid-Western Health Board in October 2003 and its final report was presented to the board on 28 June 2004. A copy of the report was also made

[Mr. B. Lenihan.]

available to the family of the deceased and to my Department. It would be inappropriate for me to comment in detail on the content of that report. However, I am informed by the Mid-Western Health Board that the Limerick Mental Health Service has considered the report and welcomes its recommendations as a means to guide continuous improvements within the service. The board has agreed a process to achieve implementation of these recommendations. The process includes converting the recommendations into detailed and specific action plans and the establishment of a working group to carry out and implement the actions identified. Implementation will be monitored, reviewed and directly supported by the executive of Limerick Mental Health Service.

Upon receipt of a copy of the report of the independent review committee in July, my colleague, the Minister of State, Deputy Tim O'Malley, referred it to the Mental Health Commission. One of the functions of the commission is to promote and foster high standards and good practices in the delivery of mental health services. The commission endorsed the recommendations of the committee and indicated that those recommendations which are applicable to all mental health service providers will be incorporated into the quality framework being developed by the commission. This framework includes the development of standards for mental health care, clinical governance and codes of practice. The inspections by the Office of the Inspector of Mental Health Services provide for the ongoing monitoring of such policies and standards by the Mental Health Commission.

I am satisfied that the circumstances surrounding the unfortunate death of the individual concerned have been fully investigated. My Department will continue to monitor developments in the Limerick mental health services to ensure that the recommendations of the independent review committee report on local services are implemented. At national level, the ongoing work of the Mental Health Commission regarding quality standards in the delivery of services will ensure that the lessons that can be learned from this tragic event are incorporated into national frameworks and guidelines for the future.

Hospital Services.

Mr. Durkan: I thank the Leas-Cheann Comhairle for exercising his good offices in allowing me raise the issue of the need to provide the extra resources and ancillary facilities required in the provision of hospital services in Naas and Peamount hospitals and the James Connolly Memorial Hospital in Blanchardstown, all of which serve the north Kildare area.

Some €42 million has been spent on reconstructing Naas Hospital. The project is excellent and state-of-the-art facilities have been incorporated. Everything is fine except for the fact that two state-of-the-art theatres are unopened because of a lack of staff and commitment on the

part of the Department of Health and Children. There are 21 ICU beds unopened and two CCU beds are unopened due to a shortage of nurses. There are four unopened rooms in the radiology unit, two general rooms, an ultrasound room and a screening room. There is a capacity for 50 persons per day at the outpatients clinic, but only 21 can be dealt with daily simply because of a lack of adequate staff. The accident and emergency unit, which opened in September 2003, is operating only to the same extent as was the case in the old hospital.

I compliment the staff of Naas Hospital on their excellent work in attempting to deliver a service with their hands tied. Having regard to the initial extensive capital outlay, for which there was an obvious need, will the Minister for Health and Children consider the equally important need to provide the back-up services necessary to enable the hospital to work to its full potential?

On Peamount Hospital, with which the Minister and Minister of State will be familiar, there is a proposal to relocate the TB and respiratory sections to an unknown location. This proposal has not been well-received in the locality or catchment area. An adequate response has not been given, either in response to parliamentary questions or by the Eastern Regional Health Authority which replies to questions perhaps three months after they have been asked. This is hardly satisfactory.

Will the Minister and Minister of State examine the issues involved with a view to retaining the TB and respiratory units that are already in the hospital? They have served the community well and will continue to do so. The need for them already exists and I do not accept the notion that some mysterious way can be found to replace them. I believe the service will be discontinued.

The James Connolly Memorial Hospital in Blanchardstown, which covers the north Kildare area, also has a requirement for extra facilities. Some have been provided but not all.

Mr. B. Lenihan: All have been provided.

Mr. Durkan: There was an attempt to provide the facilities in the course of the local election campaign.

Mr. B. Lenihan: It is part of the ministerial announcement.

Mr. Durkan: The Minister of State can address these issues in his response, making reference to Naas and Peamount hospitals also. I hope his response to my queries on Naas and Peamount hospitals will be as loquacious as the one he intends to give on James Connolly Memorial Hospital which I hope is now functioning to its full capacity. I hope people's hands are not tied behind their backs as regards accessing the necessary facilities and resources.

Mr. B. Lenihan: Overall responsibility for the provision of services at Naas General Hospital and James Connolly Memorial Hospital rests with the Eastern Regional Health Authority. Peamount Hospital is a voluntary hospital and it provides services under an arrangement with the authority.

Naas General Hospital has a 199-bed complement and provides general, medical and surgical services, acute psychiatric services and medical and social assessments for patients aged over 65 years to more than 180,000 people in the Kildare and west Wicklow catchment areas.

A major development programme, phase 2, commenced at Naas General Hospital in November 1999. In addition, phase 3A, which includes accommodation and enabling works for future phases, 3B and 3C, commenced on site in April 2002. All the departments constructed in phases 2 and 3A are in operation.

The Deputy will be aware that my Department recently approved additional revenue funding of €7.5 million to the ERHA in respect of the commissioning of additional services at Naas General Hospital. On the accident and emergency department at Naas, my Department is advised that the additional funding will be used to provide the following additional facilities: nine observation beds; two treatment rooms; two additional treatment bays; one additional resuscitation bay; a dedicated triage room for operation of 24 hour nurse-led triage; a dedicated plaster room; three additional radiology rooms, including the provision of CT service; two additional operating theatres; additional outpatient suites; pharmacy; pathology; and a geriatric day hospital.

It is anticipated that the remainder of the development, phases 3B and 3C, will be procured on a phased basis with construction planned for commencement in late 2004 and completion in 2007. When complete, the development will provide an additional 31 beds at the hospital, bringing the total complement up to 230 beds.

James Connolly Memorial Hospital provides acute medical and surgical services to the catchment areas of north-west Dublin, north Kildare and south Meath, which have a combined population of 256,000. There are currently 348 beds at the hospital, 110 of which are extended care beds, and some 1,000 staff.

Accident and emergency services are provided in the James Connolly Memorial Hospital on a 365-day, 24-hour basis, as part of the eastern regional network. The major development at the James Connolly Memorial Hospital is being funded jointly by the Northern Area Health Board, through the sale of surplus lands, and the Department. The projected full cost of the project is over €100 million. The construction of the new hospital was completed on target and within budget. Equipping and commissioning of the new hospital is ongoing.

The first phase of the transition to the new development at James Connolly Memorial

Hospital, Blanchardstown, was completed in 2003, with the transfer to the new building of the coronary care and cardiac unit, the therapeutic psychiatry of old age unit, the day hospital and the rheumatology service.

Earlier this month, the Department of Health and Children approved funding of €10 million necessary to commission the acute psychiatric unit, the new surgical block, the emergency department, the critical care unit and the operating theatres. This has enabled the hospital to proceed to full commissioning. When fully commissioned the capacity of the hospital will be significantly increased with the provision, for example, of two additional theatres, ten new day beds, eight critical care beds and three preoperative assessment beds. The necessary funds and sanction for additional posts have been put in place. The only practical obstacle to the full commissioning of the hospital concerns the practicalities associated with recruitment. The accident and emergency unit, to which the Deputy referred, is scheduled to open this month.

The new psychiatric unit is a 56-bed unit comprising 44 acute psychiatric beds, six high observation beds and six psychiatry of old age beds. Patients from the existing acute admission unit at the hospital will be relocated to the new unit. Patients in the acute unit at St. Brendan's Hospital will also be moving to this new unit.

The authority provided funding to Peamount Hospital in 2004 at a level consistent with the level of services commissioned across all the care areas that they provide: older people, neurological disability, intellectual disability, TB and non-TB services. There was no reduction of funding from 2003 and additional funding was provided for intellectual and physical disability services.

Peamount will also benefit this year from sessions from two new consultants in rehabilitation and old age medicine. The authority has recently agreed to the appointment of a new respiratory physician for the south-west area who will also provide some sessions to Peamount.

The Eastern Regional Health Authority has established a working group on tuberculosis services in the eastern region and respiratory services in the South Western Area Health Board to examine the options for the future management of TB, both acute and non-acute, in the eastern region. This group will also address and identify other respiratory services that might be appropriately delivered in Peamount Hospital, taking into account best practice.

The group consists of a respiratory physician, a specialist nurse and director of nursing from Peamount, a management representative from Peamount, two local general practitioner representatives, a public health specialist and an acute hospital accident and emergency representative. The group has clear terms of reference which will address the key issues regarding future service delivery. It is envisaged that the group will report by the end of the year. Existing day and residential services for older people, people with intellec-

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tual and physical disabilities continue to be provided.

I assure the Deputy that the Government will continue to invest in the development of high quality, equitable and accessible hospital services so that those availing of the services continue to receive timely and appropriate care.

Temporary Release Procedures.

Mr. Gregory: I thank the Ceann Comhairle for allowing me to raise this matter on the Adjournment. Two weeks ago I tabled parliamentary questions to the Minister for Justice, Equality and Law Reform on the need for action by the Garda Síochána following a series of house break-ins in the Clonliffe-Ballybough area of Dublin 3. I was assured in the replies that the Garda Síochána was giving the matter serious attention. Subsequently, I was told that gardaí had arrested the person they believed to be implicated and had charged him, that he was in Mountjoy Prison and that all was well.

During that time I had attended a meeting of 200 or more residents, many of them elderly, who were very concerned by the break-ins. Senior gardaí were present at these meetings and were fully aware of the serious public concern which was widespread in the area.

I now understand that when the person was arrested he was unlawfully at large; that is, he had been in Mountjoy Prison, had been granted temporary release, but had not returned from temporary release. During that time he committed the alleged break-ins. He was then arrested, charged with the break-ins — or, so I am told — and returned to Mountjoy Prison. I was astounded to hear that within days of being put back in Mountjoy Prison he was again granted temporary release. I was even more astounded because I heard this not from the Garda Síochána but from people in the presence of the gardaí. The gardaí denied it or that it knew nothing about it, and said they would check it out. When they checked it they found that the people were correct.

I may be mistaken in fact, but on the very day the Minister of State, Deputy Brian Lenihan, was replying to an Adjournment debate on this issue, the individual was being released from Mountjoy Prison for a second time. I heard the Minister, Deputy McDowell, say that he had got rid of the revolving door system. I felt it necessary, therefore — not just for that reason, but including it — to bring this matter to the Minister's attention. It seems the door is revolving faster than ever.

People in the Clonliffe area have reacted with disbelief to these farcical but very serious events. There appears to be no communication whatever between the Garda Síochána and the authorities in Mountjoy. Despite the background to the re-arrest of this individual, no effort was made by the Garda Síochána to inform the authorities in Mountjoy that the individual should not be given

further temporary release. Perhaps they felt in the circumstances that this was self evident.

At the same time, as far as I can establish, no effort was made by the prison authorities to consult local gardaí on the wisdom or otherwise of a further granting of temporary release to the individual concerned. The affair seems almost laughable but for its seriousness. The Garda attitude now is that this individual is out and nothing can be done about it until he comes to trial whenever that might be. It certainly will not be this year.

How can the Minister stand over this farcical state of affairs? Surely there were conditions to the man's temporary release. I would like to hear a full explanation and be told what, if anything, the Minister can do about it. Residents have asked me if, at the very least, an exclusion order can be served on this individual barring him from the area at risk. Meanwhile, people there are living in fear of break-ins or perhaps even worse. I am simply quoting the fears I have heard from people at public meetings. What can the Minister do or say to alleviate the fears and concerns of local people, not to mention the breakdown in trust and confidence in the gardaí, the prison authorities and, indeed, in the Office of the Minister for Justice, Equality and Law Reform? What can be done to prevent this sort of thing from recurring? Can the Minister of State give an assurance that the area at risk will be properly and effectively policed?

Minister of State at the Department of Justice, Equality and Law Reform (Mr. B. Lenihan): I thank Deputy Gregory for raising this matter on the Adjournment. He also raised it with me earlier this week in the course of a parliamentary debate.

In relation to the issue of temporary release in general, early release on a case by case basis is a feature of prison systems worldwide. It is accepted as an important feature for reintegrating an offender into the community in a planned way. In every case, due regard is had to the risk which a particular release might pose.

Temporary release may be granted for various reasons to prisoners serving sentences of imprisonment. Short-term releases may be granted for different periods of time ranging from a few hours to one or two days and for a variety of reasons. Prisoners may also be released towards the end of their sentence as an aid to their rehabilitation.

In the past, a persistent, high level of overcrowding in the committal institutions in the Dublin area resulted in the granting of early release to some offenders who would not normally be considered suitable for such release. There has, however, been a significant reduction in the proportion of prisoners on temporary release from a peak of 550 during the height of the revolving door crisis in the 1990s to a figure of 253 today. This represents 7% of the total prison population.

The person referred to by the Deputy was serving a six-month sentence in Mountjoy Prison for the unauthorised taking of a mechanically propelled vehicle. Allowing for the normal remission of one quarter of sentence, he was due for release on 25 September 2004. In light of his impending release date, the length of sentence served, the fact that he was serving a sentence for a non-violent offence and had not been in prison custody for a number of years, this individual was granted temporary release from 1 September 2004. The views of the Garda were sought on this case prior to this release.

However, the person concerned subsequently failed to sign on at Mountjoy Prison the next week and was declared unlawfully at large. The Garda returned him to custody on 2 October 2004 and his release date was recalculated as 20 October 2004, to reflect the time he was at large. No additional committal warrant was served on the prison authorities in respect of this offender. The individual's case was resubmitted by the local prison authorities again for consideration for temporary release on 6 October 2004, at which stage he had two weeks left to serve, and he was granted full temporary release.

The Minister for Justice, Equality and Law Reform has sought urgent reports from the Garda Commissioner and the prison authorities in the matter. It must, however, be pointed out that the individual concerned has not yet been convicted of any new charges and, as such, it is not appropriate for me or the Minister for Justice, Equality and Law Reform to comment in any further detail on the case. It must be borne in mind that the courts did not remand the individual in custody when he appeared in court on new charges in early October 2004.

The Minister for Justice, Equality and Law Reform intends to commence the Criminal Justice (Temporary Release of Prisoners) Act 2003 within the next week.

Waste Disposal.

Dr. Upton: I thank the Leas-Cheann Comhairle for allowing me to raise on the Adjournment the serious matter of a large illegal landfill at Grand Canal Harbour, Dublin 8. I am disappointed that the Minister is not here to respond to the motion. The site in question is adjacent to James's Street CBS and close to Dublin's busiest tourist attraction, the Guinness Storehouse. I want to address two issues this evening. One is the answerability of Ministers to the Dáil and the other is the urgent need for all agencies to find a resolution to this illegal dump.

The site in question on Grand Canal Harbour has been in use as an illegal dump for scrap metal, household white goods and rubbish for two years. The site is mainly in the ownership of Dublin City Council but it has reneged on its responsibilities in this regard. I tabled a parliamentary question to the Minister, Deputy Roche, on this issue last week. This followed his reputation for highlighting similar problems in County Wicklow. I

had hoped he would take the same "zero tolerance" approach to illegal dumps everywhere. On Thursday, 7 October, my question was disallowed on the grounds that the Minister did not have responsibility for this matter. I was disappointed to receive this response and I had intended to follow this up with a letter to the Minister.

An article by Lara Bradley in the *Sunday Independent* of 10 October highlighted the magnitude of this illegal dump and the failure of Dublin City Council to act. Following this article, the Minister appeared on "Today with Pat Kenny" on Monday, 11 October to comment on this issue. The interview in question discussed the Grand Canal Harbour issue and the Minister voluntarily went on RTE. We now have a situation where Ministers are more answerable to the media than to Dáil Éireann. The Minister, Deputy Roche, aired his views on RTE, yet he was not able to air the same views in the Dáil. The Minister could have declined to go on RTE, referring the matter directly to Dublin City Council or the Environmental Protection Agency.

I appreciate the media have an important role to play in the affairs of the country. However, this role should not take supremacy over the role of the national parliament. The media themselves are not accountable and they also have the luxury of picking and choosing the issues they like. Ministers should be more accountable to the Dáil and so should all State agencies. This includes the local authorities. As I said earlier, this illegal dump has operated unchecked for two years. The matter has been raised by my colleagues on Dublin City Council, the local school and me on a number of occasions. I took the trouble to e-mail senior council officials photographs of the problem to bring to their attention its serious nature. I suggest that colleagues look at last weekend's *Sunday Independent* for a good aerial photograph of the landfill.

It is not acceptable that students, staff of the school and residents in the area must put up with this revolting sight, with the associated health risks. The school principal, Willie O'Brien, said:

"We have to call the fire-brigade on a regular basis because the black smoke blows in through the windows. The smoke is dense and has a rubbery, plastic smell. It is full of poisonous gases. There is an area between the school and the halting site which becomes flooded and is infested with rats. We can see the rats from the school. Rats are always dangerous, but it is also very bad for the morale of the staff, and for parents and pupils."

I would be grateful for every assistance from the Minister in resolving this matter. The staff of CBS James's Street are frustrated that their efforts have failed to get a satisfactory response from Dublin City Council.

Mr. B. Lenihan: I thank Deputy Upton for raising this matter on the Adjournment. I am making this reply on behalf of the Minister for the Envir-

[Mr. B. Lenihan.]

onment, Heritage and Local Government, Deputy Roche. The Minister is on business abroad today and is unable to deal with this matter. In the course of the broadcast concerned, he was asked to comment on instances of illegal waste activity, including some examples in County Wicklow and an allegation of such activity at a location in Dublin 8, which I take it is the location to which the Deputy refers. As pointed out by the Minister, these are enforcement matters which are the responsibility of the relevant local authorities and the Office of Environmental Enforcement.

Substantial powers were provided to local authorities under the Waste Management Act 1996 to enable them to tackle illegal waste activity. These were further strengthened by the Protection of the Environment Act 2003. Local authorities are empowered to order measures to be taken in regard to the disposal of waste, including the remediation of any adverse environmental impacts. They may also directly take appropriate actions to remedy or counteract such activities and to recover their costs through the courts. Local authorities also enjoy substantial powers to halt vehicles, inspect premises and examine records found.

The courts can now assume, in certain cases, that a landowner consented to the illegal activity unless the contrary can be shown. It should also be noted that the maximum penalties attaching to illegal waste activities are substantial, up to €15 million or a ten-year sentence. To assist local authorities in acting on these powers, €7 million has been allocated from the environment fund to support directly the ramping up of the overall environmental enforcement effort, with a particular emphasis on combating dumping and other unauthorised waste activities.

Of equal importance is the recent establishment of the Office of Environmental Enforcement whose primary initial focus is to improve implementation and enforcement of waste man-

agement legislation. The office has established an unauthorised waste working group, including representatives of the local authorities and my Department, whose functions include co-ordination of enforcement actions against companies and individuals involved in the illegal movement and disposal of waste in Ireland. The office has also established an enforcement network consisting of the various stakeholders concerned and they will be holding a two-day conference in November dealing exclusively with waste enforcement matters. This will serve to energise and focus further the more aggressive approach now being taken by the relevant authorities to this type of environmental crime.

The Government has already demonstrated the seriousness with which it views incidences of illegal dumping. The Garda Síochána was requested to assist in the investigation of such activities in Wicklow. An investigative team from the national bureau of criminal investigation is involved in ongoing inquiries into these matters. Individuals are before the courts and further prosecutions are in prospect.

In a further measure, the Minister is giving consideration to issuing statutory guidance to the local authorities on the question of remediation of such sites. He will meet the director general of the Environmental Protection Agency to explore further the actions that can be taken to enhance the capacity of the authorities to deal with these illegal activities.

I am sure the House will acknowledge that, taken together, these measures will greatly assist local authorities in tackling the problem of illegal waste activities and send out a clear message to those involved that such activities will no longer be tolerated. Substantial powers and funding have been put in place for local authorities to deal with these matters. In the first instance, addressing the issue raised by the Deputy is a matter for which Dublin City Council has responsibility.

The Dáil adjourned at 5.20 p.m. until 2.30 p.m. on Tuesday, 19 October 2004.

Written Answers

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

Questions Nos. 1 to 9, inclusive, answered orally.

Semi-State Bodies.

10. **Mr. J. O’Keeffe** asked the Minister for Finance if he has satisfied himself with the payments made to terminate the employment of the chief executive of Aer Rianta; and the papers which were presented to him in this respect before he issued his approval. [24842/04]

53. **Dr. Upton** asked the Minister for Finance if he approved the severance package for the former chief executive of Aer Rianta (details supplied); the value of the package approved by him; if there was consultation with the Department for Transport on this matter; and if he will make a statement on the matter. [24647/04]

Minister for Finance (Mr. Cowen): I propose to take Questions Nos. 10 and 53 together.

The previous Minister, as shareholder, indicated his consent to arrangements, outlined to him by the chairman of Aer Rianta on 24 September last, concerning the package the board proposed to make to the deputy chief executive who was leaving the company. I understand that the proposed package included a lump sum of 2.5 times salary, a contribution to pension fund, payment of a bonus and retention of company car.

Financial Services Regulation.

11. **Mr. McCormack** asked the Minister for Finance if he has satisfied himself with the response from financial institutions to the shortfall on endowment mortgages compared to the projections at the time of sale. [24619/04]

Minister for Finance (Mr. Cowen): Recent publicity about endowment mortgages has focused on the possibility that a significant number of holders of such mortgages will have a shortfall of funds when the mortgage reaches the end of its normal term. These products inherently require customers to take some risk; they are exposed to market fluctuations, just like any market based life assurance investment. The fact that a person does not gain as much as expected is not in itself an indication of any inappropriate practices on the part of the bank or insurance company concerned.

There is already a substantial volume of legislation in place relating to these products. The Consumer Credit Act 1995, for example, requires that all endowment loan application forms must contain a prominent notice to the effect that there is no guarantee that the proceeds of the insurance policy will be sufficient to repay the loan in full when it becomes due. The Act also obliges the provision of ongoing information on the perform-

ance of the policy, as do the Life Assurance (Provision of Information) Regulations 2001. The Central Bank and Financial Services Authority of Ireland Acts 2003 and 2004 established the Irish Financial Services Regulatory Authority or IFSRA and considerably strengthened the regulatory environment, including an enhanced structure for dealing with consumers’ complaints about financial institutions.

IFSRA is already studying the situation, having commenced a survey earlier this year, to determine whether and to what extent there will be difficulties for customers. It would be premature at this stage to second guess the outcome of the survey. I will continue to review the adequacy of the legislative framework as the information developed by IFSRA becomes available.

Special Savings Incentive Scheme.

12. **Mr. Neville** asked the Minister for Finance if he has commissioned any study on the impact of the release of funds under the SSIA scheme; and if he will make a statement on the matter. [24627/04]

Minister for Finance (Mr. Cowen): The SSIA scheme opened on 1 May 2001 and entry to it closed on 30 April 2002. The accounts are due to mature between May 2006 and April 2007 at the end of the five year period. A total of 1.17 million accounts were opened during the period outlined; approximately 400,000 accounts existed at 31 December 2001.

The impact of such maturing funds on consumer demand in 2006 and 2007 is difficult to estimate and will depend on how the accumulated SSIA savings are spent or saved, how that portion of an individual’s income that was previously saved in SSIA’s is used and the extent to which savings are rolled over into other investment products. To date, two reports have been carried out on the impact of the SSIA’s, one by Goodbody stockbrokers and one by Lansdowne Market Research. However, there is no consensus in these reports as to how these funds may be used, with both reaching differing conclusions regarding the division between consumption and saving. The ESRI, in its autumn bulletin, does not hypothesise about the likely impact on the economy of the release of SSIA funds because it believes there are too many uncertainties around the likely behaviour of fund recipients.

I have not commissioned a specific study on the impact of the release of the funds. My Department is keeping the issue under review in the context of the normal assessment of the economic and budgetary position going forward. However, it is important to emphasise that, as the scheme will not commence to mature for another two years, there are many uncertainties regarding the maturity of the SSIA’s, which makes the task of analysing the impact particularly difficult.

Decentralisation Programme.

13. **Mr. Deasy** asked the Minister for Finance

[Mr. Deasy.]
if he envisages making any special provision for promotion and for new recruitment in the context of the decentralisation programme; and if he will make a statement on the matter. [24638/04]

Minister for Finance (Mr. Cowen): Existing promotion and recruitment practices and procedures will have to be reviewed and revised to take account of the decentralisation programme. There are already discussions underway with Civil Service unions about these and other human resource aspects of the programme.

Tax Collection.

14. **Mr. S. Ryan** asked the Minister for Finance if his attention has been drawn to the serious reduction in the number of random audits undertaken by the Revenue Commissioners, which fell from 720 in 2002 to 274 in 2003; if, in view of the finding of the Comptroller and Auditor General that the Revenue Commissioners failed to meet their targets for audits due to pressure of other work, he intends to provide additional staff or resources to allow the full complement of audits to be undertaken; and if he will make a statement on the matter. [24670/04]

Minister for Finance (Mr. Cowen): As reported by the Comptroller and Auditor General, the reduction in the numbers of random audits completed during 2003 was due to the resources required to carry out investigations into the holders of bogus non-resident accounts. This resulted in the number of random audits completed, 274, being less than the number targeted, 500. However, it should be noted, as pointed out in the Comptroller and Auditor General's report, that in 2003 cases were not selected purely at random but revenue districts selected those cases for audit which represented the greatest risk from an initial random selection.

It is anticipated by the Revenue Commissioners that the bogus non-resident investigation will be largely completed by the end of 2004 and the Revenue Commissioners assure me that there is in place an adequate staffing resource to carry out effective audit and compliance campaigns. This includes the resources necessary to carry out the targeted number of random audits.

Fiscal Policy.

15. **Mr. Stanton** asked the Minister for Finance if he has satisfied himself that the extra tax collected in the past seven years is delivering value for money through the spending increases which it was used to finance. [24845/04]

Minister for Finance (Mr. Cowen): Between 1997 and 2004, the Government has more than doubled total spending on public services to over €41 billion. Priority has been given to expenditure on social welfare, health, education and investment. Gross current spending on health has increased by 176% to €9.6 billion in 2004, spending on social welfare has increased by 97% to

€11.3 billion while expenditure on education has increased by 103% to €6.1 billion. Voted capital spending to address the country's infrastructural deficit has increased by 178%. The general Government debt ratio has decreased from 65 % of GDP in 1997 to an expected ratio of less than 32% by the end of this year. In addition, nearly €10.5 billion has been set aside for long-term pension and social security costs by investing in the National Pension and Reserve Fund.

This level of spending has been achieved in tandem with the preservation of a stable budgetary position and major reductions in personal taxation. It has resulted in significant improvements in public services across the board and I invite the Deputy to raise this aspect with individual Ministers.

Presentation of Estimates.

16. **Mr. Coveney** asked the Minister for Finance if he plans to introduce changes in the presentation of Estimates in 2005. [24598/04]

Minister for Finance (Mr. Cowen): I have no plans to change the way the Estimates are presented and approved for 2005 but I will be considering this issue further at a later date.

The Government's spending proposals are outlined in the two Estimates volumes. They are presented to Dáil Éireann in accordance with its Standing Orders. The pre-budget or Abridged Estimates volume, AEV, is presented to Dáil Éireann approximately two weeks before budget day. This year, the presentation date will be 18 November. For the past two years the AEV has been debated in the Dáil very soon after publication. There is also scope for discussion in the House of the Government's expenditure proposals in the debate on the budget. In this way Deputies are afforded the opportunity of commenting on the Government's expenditure plans in advance.

The post-budget or Revised Estimates volume, REV, is normally presented to the Dáil within eight weeks of the start of the fiscal year to which it relates. The Estimates by departmental Vote are then subject to full scrutiny by the relevant Oireachtas committee, which notifies the Dáil of its consideration. It is then up to the Dáil to approve or reject the Estimates.

I am open to considering future changes and will be doing so in the general context of a pilot project underway to examine ways of improving the links between departmental strategy statements, business planning and resource allocation and outputs. The pilot project is progressing under the aegis of my Department and involves the Departments of Agriculture and Food, Social and Family Affairs and Transport as pilot Departments. When the report of the pilot project is finalised the results will be evaluated and considered by Government.

The core of the issue is to consider putting in place at the outset of a financial year an integrated business and resource plan for each area

of Government, and at the end of the year an annual report and accounts. The existing approach of producing separate Estimates, strategy statements, annual reports and appropriation accounts is unsatisfactory.

Special Savings Incentive Scheme.

17. **Mr. Sherlock** asked the Minister for Finance the number of special savings investment scheme accounts opened at the latest date for which figures are available; the average amount of savings per investor per month; if, on the basis of any such figures, his Department can now give a definite figure for the likely cost to the Exchequer of the special savings investment scheme; and if he will make a statement on the matter. [24672/04]

Minister for Finance (Mr. Cowen): I am informed by the Revenue Commissioners that, based on the analysis of the 2003 returns furnished by all qualifying savings managers, the total number of active accounts at 31 December 2003 was 1,113,880 and the average monthly subscription at that date was €165.

As indicated in replies to previous questions, it is not possible to give a definitive answer as to the eventual cost of the scheme as it is subject to a number of variables, such as where participants die, withdraw from the scheme or vary their monthly contributions. The cost of the scheme in 2003 was €531.9 million. If the current average monthly payment for the first nine months of 2004 continues for a full year, the annual cost in 2004 would be approximately €545 million. This, however, is not a conclusive figure and the final figure may be different if account holders change their monthly contributions. The total gross cost over the period of the scheme will be reduced by the exit tax to be received at the end.

Decentralisation Programme.

18. **Ms Lynch** asked the Minister for Finance if, in view of the recent figures published by the central applications facility showing that virtually all targets in regard to staff numbers and grades required for the decentralisation programme, particularly in regard to the numbers now working in Dublin, have not been met, he proposes to review the plan announced by his predecessor; and if he will make a statement on the matter. [24655/04]

Minister for Finance (Mr. Cowen): The latest figures from the central applications facility show there is substantial interest in the programme within the public service. There has been a substantial increase in the figures since July. We are still at a relatively early stage in the implementation process. The figures are also well in excess of those which many commentators were predicting. The CAF remains open for applications and new applications continue to be lodged. I believe that the latest CAF figures reinforce the

need to press ahead with implementation of the programme.

Stability and Growth Pact.

19. **Mr. Cuffe** asked the Minister for Finance his views on the opinion of the president of the European Central Bank that the terms of the Stability and Growth Pact should not be relaxed. [24800/04]

Minister for Finance (Mr. Cowen): The Stability and Growth Pact is an important framework that underpins sound macroeconomic policies within the EU's economic and monetary union and thereby promotes economic growth and job creation. Equally, however, the need for improvements in the workings of the Stability and Growth Pact has been recognised for some considerable time. In response to this need, the European Commission presented a formal communication on 3 September 2004, outlining its proposals for strengthening economic governance and clarifying the implementation of the Stability and Growth Pact.

The Commission's proposals are quite wide ranging and detailed, and the process of discussion and debate is in its early stages. However, some of the proposals are in keeping with Ireland's economic priorities. Ireland has long argued, for example, that countries with low debt levels and with clear investment needs should not be unduly constrained from making the necessary resources available. The Commission proposals represent a move in this direction. I look forward to engaging in a constructive debate with my EU colleagues on this point, and on other proposals for enhancing the Stability and Growth Pact, in the months ahead.

As regards the views of Mr. Trichet, the president of the ECB, he has reportedly stated that the ECB governing council is convinced that substantial improvements in the implementation of the pact would be beneficial and that most of the Commission's proposals in this regard appear to him to be well advised. Mr. Trichet has also reiterated the ECB's view that the 3% deficit limit laid down in the treaty should not be undermined and that changes to the text of the treaty or of the pact's regulations would, therefore, not be advisable.

I have no problems with Mr. Trichet's position. Indeed, at the informal meeting of the eurogroup and the ECOFIN Council on 10 and 11 September 2004, Ministers issued a statement reiterating that the 3% deficit and 60% debt criteria in the treaty were of paramount importance and that any changes to the pact's regulations should be minimised, if necessary at all. The statement also emphasised that Ministers are not looking for a weakening of the pact but rather for strengthening, clarification and better implementation.

Fiscal Policy.

20. **Mr. Murphy** asked the Minister for Finance

[Mr. Murphy.]
if he has plans to introduce greater transparency in tax expenditures in budget 2005. [24596/04]

Minister for Finance (Mr. Cowen): Tax expenditures are regularly reviewed and are invariably looked at in the context of the annual budget and Finance Bill process to ensure they continue to meet the purpose or purposes for which they were introduced. Where tax changes are announced in the budget, they are set out in the summary of budget measures together with an estimated cost or yield, where possible. This will continue to be the position.

On the question of costs, it is the Office of the Revenue Commissioners which is the main source of information, statistics and data on tax incentives and expenditures. However, the Revenue Commissioners' primary functions are the administration of the tax system and the collection of tax. The extraction of statistical information flows from those primary functions.

My Department has been working closely with the Revenue Commissioners to investigate information and data capture issues with a view to improving data quality and transparency without overburdening compliant taxpayers. On foot of this work, the Revenue Commissioners are introducing a number of changes to the forms which will yield additional information regarding the cost of various tax reliefs and relief relating to pensions. Provisions were included in Finance Act 2004 to underpin these changes.

Changes were made in this area previously. The Finance Act 2003 stipulated that returns of income must henceforth be made for stallion stud fees and commercially managed woodlands. This will provide better data in this area and enable estimates of the tax foregone to be made. In addition, the use of electronic filing of tax returns by means of the Revenue Commissioners' on-line system, ROS, has been increasing and will continue to be encouraged. Returns filed using ROS can more readily accommodate information data capture.

Finally, I do not believe that each and every relief needs to be captured as some of them are on such a small scale that the cost involved in doing so would not be commensurate with the value of the information sought. Equally, the

manner of capturing information on tax reliefs is not limited to examining return forms. For example, there is no need to seek information on tax returns relating to the tax exemption for child benefit as the cost involved can be estimated from other sources.

Tax Code.

21. **Mr. Kehoe** asked the Minister for Finance if he has satisfied himself with the equity of the stamp duty code. [24623/04]

Minister for Finance (Mr. Cowen): Stamp duty is a tax on property and property rights. As ownership of property is positively correlated with income, the incidence of this tax will tend to fall more on those on higher incomes. The equity of this depends on one's viewpoint but such a tax is generally regarded as progressive from the point of view of equity.

As for equity between different classes of purchasers of property, the following points are of relevance. Stamp duty does not arise in the case of transfers on death or in the case of transfers between spouses. Half the normal rate applies in the case of transfers between other close relatives. No stamp duty applies in the vast majority of purchases of new houses by first time buyers or other owner occupiers, whereas investors pay the normal rates on the purchase of new houses. In the case of the purchase of a second-hand house by a first time buyer, stamp duty only applies if the value exceeds €190,500. It is always difficult to achieve complete equity in taxation but this issue is borne in mind where relevant in the case of stamp duty.

Public Service Staff Levels.

22. **Mr. Perry** asked the Minister for Finance the progress made on his arrangement to reduce public service numbers by 5,000 by the end of 2005; and if this will underpin the preparation of Estimates for 2005. [24640/04]

Minister for Finance (Mr. Cowen): I am satisfied with the progress being made in regard to the reduction in public service numbers since the announcement of the measure in December 2002. There were 280,121 public servants serving at end June compared with a target at the end of 2004 of 280,171.

Public Service	Target end 2004	Serving end June 2004	Difference Serving/Target 2004
Civil Service [Non Industrials]	36,269	35,447	-822
Civil Service [Industrials]	2,163	2,003	-160
Health Sector	96,950	97,660	710
Education Sector	78,000	78,911	911
Defence	11,580	11,412	-169
Gardaí	12,200	12,099	-101
Local Authorities	33,633	33,330	-303
Non Commercial Semi-States	9,376	9,259	-117
Total	280,171	280,121	-50

The overall total masks differences between sectors. Since the 5,000 target reduction was originally set, the ceilings for the numbers employed in the education and health sectors have been adjusted to reflect subsequent developments. My predecessor already agreed to increases in numbers in the education sector, to meet the demand in the special needs area, and in the health sector, to meet the demand for extra staff arising from disability needs, the opening of new units and the takeover of functions previously performed by voluntary agencies. The revised authorised targets will underpin the preparation of the 2005 Estimates.

Departmental Estimates.

23. **Dr. Cowley** asked the Minister for Finance the amount his Department will allocate to the horse racing and greyhound racing industry in 2004; the way in which this compares in percentage terms with the amount given towards the provision of Irish emigrant services in the UK and elsewhere; and the Government's priorities in this regard. [24587/04]

Minister for Finance (Mr. Cowen): The allocation of funding to the areas mentioned by the Deputy is a matter for the individual Ministers concerned, in this case the Minister for Arts, Sport and Tourism and the Minister for Foreign Affairs.

Public Sector Salaries.

24. **Dr. Upton** asked the Minister for Finance the amount of money paid to date under the performance related bonus scheme for senior civil servants, gardaí and members of the Defence Forces; the average amount paid; the largest amount paid; the number of such persons who applied for the bonus and the number who were refused; the way in which and the persons by whom decisions are made in regard to whether such persons should receive the bonus; if he has plans to review the scheme; and if he will make a statement on the matter. [24646/04]

Minister for Finance (Mr. Cowen): Following the recommendations of the review body on higher remuneration in the public sector in its report dated 25 September 2000, the Government decided to replace the then existing scheme in the Civil Service with a new scheme of performance related awards and to introduce the new scheme in the Garda Síochána and the Defence Forces.

The new scheme applies to Civil Service posts at the levels of assistant secretary and deputy secretary, to deputy commissioners and assistant commissioners in the Garda Síochána and to major generals and brigadier generals in the Defence Forces. The scheme applied with effect from 1 January 2002 in the Civil Service and with effect from 1 May 2002 in the other sectors. The funding for awards is based on 10% of the payroll

for the posts covered by the scheme. Within this overall limit, payments of up to 20% can be made to individuals.

In accordance with the recommendations of the review body, a committee for performance awards was established to oversee the operation of the scheme of performance related awards. The members of the committee are: Eddie Sullivan, chairperson, Secretary General, public service management and development, Department of Finance; Dermot McCarthy, Secretary General to the Government; Ann Fitzgerald, Secretary General, Irish Association of Investment Managers; Maurice Keane, former group chief executive, Bank of Ireland group; Tony O'Brien, chairman, C&C Group PLC.

Decisions on performance related awards for individual posts are made by the committee based on recommendations from Secretaries General in the case of the Civil Service, the Garda Commissioner or the Chief of Staff of the Defence Forces. The recommendations made to the committee are based on assessments of performance against pre-set objectives. The first awards under the scheme were made in 2003. The awards covered a 12 month period from 1 January 2002 in the case of the Civil Service grades and an eight month period from 1 May 2002 in the case of the other groups. The awards made in 2004 were in respect of the 12 month period from 1 January 2003 in all cases.

The cost of the awards approved by the committee for performance awards amounted to approximately €2 million in 2003 and approximately €2.2 million in 2004. As already indicated, the awards in 2003 related to an eight month period only in the case of the ranks in the Garda Síochána and the Defence Forces. In the case of the Civil Service grades, where the awards related to a 12 month period, the average amount paid was in the region of €10,000. The highest award made in 2003 was approximately €20,500 and the lowest award was approximately €1,700. In 2004, the average amount paid in respect of all groups was in the region of €10,600, the highest award made was approximately €21,500 and the lowest award was approximately €2,000.

The numbers of people who participated in the scheme of performance related awards were 213 in the case of the awards made in 2003 and 205 in the case of the awards made in 2004. In 2003, some award was made to all persons who participated in the scheme. In 2004, one person who participated in the scheme did not receive an award. The scheme of performance related awards and the guidelines approved by the committee for performance awards allow discretion to give some award in situations where demanding targets have been narrowly missed. The scheme of performance related awards will be considered by the review body on higher remuneration in the public sector as part of its next general review.

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The information sought by the Deputy, as well as other information relating to the scheme of performance related awards, is contained in the annual reports of the committee for performance awards. The report for 2003, covering awards made in 2004, is available on the website of my Department — *www.finance.gov.ie*.

Exchequer Returns.

25. **Mr. Howlin** asked the Minister for Finance the main features of the Exchequer returns for the first nine months of 2004; the way in which spending and the tax take for this period compare with the projected levels; and if he will make a statement on the matter. [24653/04]

Minister for Finance (Mr. Cowen): The full detailed Exchequer statement is published on my Department's website each month. The Exchequer balance for the first nine months of 2004 showed a deficit of €418 million. There was a current budget surplus of €2,348 million and a capital budget deficit of €2,766 million.

Tax receipts to end September 2004, at €24,598 million, were €1,638 million or 7.1% ahead of the Department's tax profile published in January. This was due to extra once-off moneys from Revenue Commissioners special investigations and better than anticipated receipts from nearly all tax heads, with the exception of corporation tax which was behind profile. In excess of €660 million of total tax receipts was due to once-off moneys from Revenue Commissioners special investigations. This high level of once-off moneys must be borne in mind in assessing the picture for the year.

Overall net voted spending, at €22,685 million, was €1,075 million below the Department's spending profile, with both current and capital spending behind target. The indications are that overall voted expenditure for the year as a whole will be broadly in line with profile. In light of the end of quarter returns, my Department's budget day Exchequer balance forecast for 2004 as a whole has now been revised to a deficit of €1.2 billion. However, as stated above, the once-off nature of some of the extra tax receipts must be borne in mind in assessing the picture for the year.

The Exchequer returns to end September confirm the improvement in the public finances revealed at mid-year. This is a result of prudent fiscal management which I intend to maintain.

Tax Code.

26. **Ms B. Moynihan-Cronin** asked the Minister for Finance if he intends to make changes to the legislative provisions regarding residency abroad for tax purposes; and if he will make a statement on the matter. [24659/04]

Minister for Finance (Mr. Cowen): The residence rules for tax purposes were last updated in the 1994 Finance Act by the then Government following a comprehensive review of the matter by the Revenue Commissioners and the Department. Prior to this the rules were based on a mixture of statutory provisions, old case law and Revenue Commissioners administrative practice, which was an unsatisfactory situation. The new residence rules set out in the 1994 Finance Act both simplified and clarified the area and were generally welcomed. 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 budget or legislative changes.

Report of Comptroller and Auditor General.

27. **Mr. Morgan** asked the Minister for Finance the action he proposes to take on foot of the findings of the annual report for 2003 of the Comptroller and Auditor General in so far as they affect his Department; and if he will make a statement on the matter. [24826/04]

Minister for Finance (Mr. Cowen): Two parts of the annual report of the Comptroller and Auditor General for 2003 relate directly to my Department. Action has been taken on both.

In chapter 2 of the report, about returning officers' expenses, the main concerns raised by the Comptroller and Auditor General were about delays in the Department's checking of accounts received and about ensuring that returning officers submit their accounts in time. As regards checking of accounts, my Department has assigned significant resources to eliminating the backlog. Almost all the accounts mentioned by the Comptroller and Auditor General as unchecked at end 2003 have been examined. The majority of these have been settled and queries have been raised with the relevant returning officers on the rest. The remaining few are being worked on.

As regards outstanding accounts, it is the responsibility of returning officers to ensure the timely submission of their accounts. However, my Department wrote some months ago to all returning officers with outstanding accounts stressing that they should be submitted without delay, and reminders have been issued as appropriate. More than half of the outstanding accounts have been received. All of these either have been examined, with the majority settled and queries raised on the rest, or are being worked on. The remaining outstanding accounts have been promised within a further short period.

As regards the June 2004 elections and referendum, the accounts for which are due by mid-December, my Department inserted a new provision in the charges order made in advance of those elections to enable returning officers to pay for any support necessary to facilitate the timely submission of their accounts.

Chapter 6 of the Comptroller and Auditor General's report outlines the factors contributing to a small excess vote — some €25,000 — for 2003 for the Office of the Ombudsman. My Department carries out a number of financial functions on behalf of that office and the problems encountered stemmed from the introduction of a new shared financial management system in 2003. A number of steps have been taken to prevent a recurrence. In the Department these include checklists to ensure that tasks are carried out in a timely way and, as an interim measure, a manual work around for the relevant part of the new system pending installation of an appropriate system modification, a matter which is under discussion with the Department's technical advisers.

The circumstances of this excess vote and of the other excess vote for 2003, in the Civil Service Commission, were examined by the Dáil Committee of Public Accounts on 7 October and the committee indicated that it saw no objection to the excess sums being sanctioned by the Dáil by means of excess Votes. A formal interim report from the committee is awaited.

Tax Collection.

28. **Ms O'Sullivan** asked the Minister for Finance if he has received a request from the Revenue Commissioners for a change in the law to make it easier to pursue banks and financial advisers for aiding and abetting tax evasion; his views on such a request; and if he will make a statement on the matter. [24663/04]

Minister for Finance (Mr. Cowen): This issue and any other powers issues of concern will be considered in the context of the next Finance Bill along with the recommendations of the Revenue powers group. It is not normal practice for a Minister to comment in the lead up to the budget and Finance Bill on what tax or legislative changes may be introduced.

Freedom of Information Act.

29. **Mr. M. Higgins** asked the Minister for Finance if, in view of the huge decrease in the number of applications received under the Freedom of Information Act 1997 and in the number of cases in which decisions made by Departments are processed to internal appeal, he will review the restrictions imposed by his predecessor on the operation of the Freedom of Information (Amendment) Act 2003; and if he will make a statement on the matter. [24651/04]

77. **Mr. Howlin** asked the Minister for Finance if his attention has been drawn to the call made by the Information Commissioner (details supplied) during the course of an address to the finance and public services committee on 7 July 2004 for a review of the scale and structure of charges under the Freedom of Information Act

1997; if he intends to act on the call; and if he will make a statement on the matter. [24652/04]

Minister for Finance (Mr. Cowen): I propose to take Questions Nos. 29 and 77 together.

I have no plans to review the amendments made to the Freedom of Information Act last year. These amendments followed careful consideration of the operation of the Act by a high level group of Secretaries General and were fully debated at the time. While I am aware of the Information Commissioner's statements about charges that apply under the Act, I have no plans to review the system that has been put in place.

Tax Collection.

30. **Mr. S. Ryan** asked the Minister for Finance if he has satisfied himself that all appropriate measures are being taken to stamp out tax evasion, having regard to the continuing number of settlements, some involving huge sums of money, being reported by the Revenue Commissioners each quarter; the policy of the Revenue Commissioners in regard to prosecutions; and if he will make a statement on the matter. [24669/04]

Minister for Finance (Mr. Cowen): I am satisfied that the Revenue Commissioners are pursuing a programme which is dealing in a very determined way with tax evasion. The Revenue Commissioners are taking an approach which combines the use of monetary settlement, publication, criminal investigation and prosecution and which has yielded significant results in recent years.

Having regard to the extensive resources required and the significant evidential requirements in prosecuting cases of serious tax evasion, the majority of cases are dealt with by means of monetary settlement. This involves payment of the tax evaded, interest and penalties and, provided the case meets the criteria in section 1086 of the Taxes Consolidation Act 1997, publication. It is worth noting that in settlement cases the ultimate sum paid is usually a multiple of three to four times the tax originally evaded and that this constitutes a significant and painful penalty.

The Revenue Commissioners also now have a clear policy of prosecuting cases of serious tax evasion each year despite the evidential difficulties involved and the resource intensive nature of this work. This work is dealt with in their investigations and prosecutions division which has a clear mandate to increase the number of such cases coming to court. Recent figures indicate that this new approach is proving successful. Currently, 41 cases are under investigation for prosecution and 11 cases are with the DPP. Directions to prosecute have been received from the DPP in another nine cases and these are proceeding to

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court. Bench warrants have been issued in two cases and one case is before the courts.

It should be noted that the Revenue Commissioners also take in excess of 1,000 prosecutions in the district courts each year in cases related to non-filing of tax returns.

Tribunals of Inquiry.

31. **Ms Burton** asked the Minister for Finance the proposed new schedule of fees for existing tribunals and inquiries; the reason the new schedule of fees will not, in a number of cases, apply until 2006; the estimated savings that would accrue in the case of each tribunal or inquiry if the reduced fees were to be applied from 1 September 2004; and if he will make a statement on the matter.
[24643/04]

76. **Mr. Sargent** asked the Minister for Finance his views on initiatives proposed by his predecessor on limiting legal fees paid at tribunals.
[24816/04]

Minister for Finance (Mr. Cowen): I propose to take Questions Nos. 31 and 76 together.

My predecessor announced on 19 July last that the Government had decided that, with effect from 1 September 2004, the cost of all legal representation, including that of third parties, at newly established tribunals or other forms of inquiry will be paid by way of a set fee payable for the entirety of the tribunal. The calculation of daily rates will be based on this fee. These rates are as follows: senior counsel — €213,098 pa or €969 per day; junior counsel: €142,065 pa or €646 per day. In the case of a solicitor, the rate is €176,000 pa or €800 per daily appearance or €100 per hour for work other than appearing at the tribunal.

It was also decided at that time that the new fee structure should apply to existing tribunals and inquiries with effect from such dates as may be determined by the Government following consultation between the Attorney General and the chairperson of each tribunal/inquiry. Arising from the above mentioned consultations and as announced in the Government press statement of 5 September last, the Government has agreed the dates on which the new schedule of fees would be applied to most existing tribunals and inquiries. These are as follows: the Murphy inquiry into child sexual abuse in Ferns — 1 December 2004; the Clarke inquiry into events at Our Lady of Lourdes Hospital, Drogheda — 31 March 2005; the Barr tribunal investigating the shooting dead of John Carty at Abbylara — 1 June 2005; the Moriarty tribunal investigating payments to Mr. Haughey and Mr. Lowry — 11 January 2006; and the Morris tribunal investigating activities by gardaí in Donegal — 30 September 2006.

The relevant date in respect of the Mahon tribunal will be set once changes to the terms of reference of that tribunal have been made. Such changes will be made in the context of the consideration by the Houses of the Oireachtas of that tribunal's fourth interim report. With regard to the Dunne post mortem inquiry, the Government has decided to direct that inquiry to complete its work and issue its final report by 31 March 2005, by which date the inquiry will cease to exist.

The Government decided to set different dates for different tribunals and inquiries having regard to the individual circumstances of each tribunal or inquiry and after communication with each of their chairpersons. The Government determined not to set dates which were unrealistically early, as to do so might have involved extensive disruption of the tribunals and inquiries by reason of changes in legal personnel involved. The delays and costs which such changes would have entailed could have added to, rather than reduced, the costs of the tribunals and inquiries.

The effect of the new schedule of legal fees will be to greatly reduce the cost of tribunals and inquiries should they continue their work beyond the set dates. It is not possible to calculate the savings, if any, had the new fees been applied to all existing tribunals and inquiries from 1 September last. As indicated above, this was not a realistic proposition and could have added to rather than reduced the cost of the affected tribunals and inquiries. I fully support the initiatives announced by my predecessor in July last. They will lead to significant savings in the case of new tribunals and in the case of existing tribunals which run beyond the dates specified above.

Public Private Partnerships.

32. **Ms O. Mitchell** asked the Minister for Finance if he has satisfied himself with the performance of PPP projects to date; and his expectation for expenditure funded in this way in 2005.
[24602/04]

Minister for Finance (Mr. Cowen): Public private partnerships have an important role to play in addressing our infrastructural needs. While the performance of individual PPP projects is a matter in the first instance for the Minister with primary responsibility for the areas to which these projects relate, the initial programme of projects was a pilot phase and the lessons learnt have been incorporated into guidelines issued by my Department. We are still learning and will keep our processes and procedures under review.

A major change in the financial treatment of capital spending was initiated in budget 2004 with the introduction of five year capital investment envelopes. These included significant provision for PPP/NDFA funded investment in the future. The allocations in these envelopes for expendi-

ture in 2005 will be reviewed in the normal manner, in the context of the formulation of the budget.

Decentralisation Programme.

33. **Mr. Connolly** asked the Minister for Finance the progress made in the acquisition of premises, sites and facilities for the proposed decentralisation of the various Departments to the relevant centres throughout the country; and the estimated costs entailed in such acquisitions. [24585/04]

Minister of State at the Department of Finance (Mr. Parlon): The Office of Public Works received in excess of 700 proposed property solutions for the programme. Detailed evaluation of the proposals was undertaken and the OPW has made significant progress in sourcing possible sites at the locations concerned.

To date, eight property solutions have been agreed in principle and a further 20 are at an advanced stage in the acquisition process. The balance of the sites will be pursued over the coming months. A broad range of factors will influence the cost of acquiring sites and these include: proximity of the site to commercial, leisure and educational facilities; proximity to public transport; access to and from a good quality road network; and zoning for development.

The prevailing property market conditions in each geographical area will also have a significant bearing on the cost of acquiring sites. In the circumstances, and taking into account that the acquisition process is still in progress, it is not possible to provide an estimate of the cost of the site acquisition programme.

Financial Services Regulation.

34. **Mr. Stagg** asked the Minister for Finance the number of individuals, companies and trusts being investigated by the Revenue Commissioners arising from the Clerical Medical Insurance-NIB inquiry at the latest date for which figures are available; the number of cases where settlements have been agreed and the amount paid to date; and the number of cases still outstanding. [24675/04]

Minister for Finance (Mr. Cowen): I am informed by the Revenue Commissioners that the inquiry has led to 452 cases being targeted for investigation.

To date 295 cases have been settled on payment of tax, interest and penalties amounting to a total of €48.12 million. A further 113 cases were finalised with no additional liability arising. The remaining 44 cases are the subject of ongoing investigation for which €4.70 million was paid on account.

In the course of 2003, three cases were prosecuted in the courts, with fines being imposed in two cases and a suspended sentence imposed in the other. The individuals concerned have also settled their tax affairs and paid the outstanding tax, together with interest and penalties. A further case is currently under investigation with a view to prosecution.

Aggregate results of the ongoing investigations have been published each year since 1998 in the annual reports of the Revenue Commissioners. Individual details of settlements were also published where the provisions of section 1086 of the Taxes Consolidation Act 1997 applied.

Decentralisation Programme.

35. **Ms McManus** asked the Minister for Finance if, in view of the recent figures published by the central applications facility in respect of State agencies showing that few staff and, in some cases, no staff had indicated a wish to transfer to the new locations proposed, he will review the plan for State agencies; his views on the potential loss of skills and expertise for specialist State agencies should they be decentralised with so few people willing to transfer; and if he will make a statement on the matter. [24656/04]

Minister for Finance (Mr. Cowen): The latest figures from CAF show there is very substantial interest in the programme within the public service. The figures for the Civil Service are much better than those for the State agencies. The former has considerable experience of decentralisation and has a long tradition of interdepartmental transfers. I see no reason, in principle, that State agencies should always remain in Dublin. There are issues that arise in dealing with the State agencies and it was always going to be the case. The correct approach is to tease out the issues and develop good long-term solutions in consultation with all of the parties involved. The Flynn group has adopted this approach.

Tax Collection.

36. **Ms O'Sullivan** asked the Minister for Finance the response received to date by the Revenue Commissioners to the letters sent by ten top banks to approximately 120,000 customers warning them to regularise their tax affairs by the end of March; the number of responses received; the amount collected to date; the number of such cases finalised; and if he will make a statement on the matter. [24662/04]

Minister for Finance (Mr. Cowen): I am advised by the Revenue Commissioners that precise figures are not available on the number of letters which issued from the financial institutions. It is understood to be in excess of 100,000. It is not known how many accounts or

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individuals this represents because some individuals had accounts in different banks or in different branches of the same bank. In other instances there was more than one name on the account.

The Revenue Commissioners have advised that, following issue of the letters by the financial institutions, written responses were received from approximately 25,000 persons. Of these, approximately 15,000 persons advised that they would submit a statement of disclosure. Approximately 10,000 persons who gave details of their offshore accounts were subsequently notified by the Revenue Commissioners that a statement of disclosure was not required. I am also advised that a further 5,000 persons, approximately, phoned the Revenue Commissioners and, on the basis of the information provided, were advised that a written response was not required.

To date the total amount collected by the Revenue Commissioners from this investigation amounts to approximately €700 million. The cases will shortly be transferred to the Revenue Commissioners' districts to finalise the affairs of the taxpayers involved.

Government Expenditure.

37. **Ms Lynch** asked the Minister for Finance the reason for the significant reduction in capital spending during the first nine months of 2004; his views on whether the decline in capital spending will have implications for the implementation of the national development plan; the steps being taken to address the slowdown in capital spending; and if he will make a statement on the matter. [24654/04]

43. **Mr. Boyle** asked the Minister for Finance the budgeted capital expenditure that has not been spent to date; and the reason such expenditure has yet to occur. [24797/04]

48. **Mr. Durkan** asked the Minister for Finance if the underspend by various Departments in 2004 will result in a reduction in their budget in 2005. [24822/04]

Minister for Finance (Mr. Cowen): I propose to take Questions Nos. 37, 43 and 48 together.

The Revised Estimates volume provided for an increase of 7.2 % in net voted spending in 2004. The current indications are that expenditure for the full year will be close to this target, notwithstanding underspends to date.

Net voted capital spending during the first nine months of 2004 amounted to €2.6 billion compared to €2.8 billion 2003. It represents a 6.4% decrease on the corresponding period in 2003, compared to a REV increase of 3.5% for the year as a whole. The capital underspend is mainly due to timing reasons.

Rolling five year multi-annual capital envelopes were introduced in budget 2004 to enable Departments to plan, implement and manage their capital programmes and projects within a framework of relative multi-annual financial security. A key element of the envelopes is that Departments will be able to carry over up to 10% of voted capital from one year to the next. Whilst latest indications are that Departments generally do not anticipate significant underspends on capital at year end, they will, subject to the 10% ceiling, be able to carry over capital savings to next year. The first preliminary indication of the overall scale of the proposed capital carryover by Departments will be known when the Abridged Estimates volume is published on 18 November.

The introduction of the rolling multi-annual capital envelopes that involve a commitment to maintain public investment at 5% of GNP in the 2004-2008 period will ensure that the progress made under the NDP in addressing infrastructural needs is maintained. Total cumulative expenditure under the economic and social infrastructure operational programme to end 2003 accounts for the bulk of infrastructural investment under the NDP. It amounted to €14.9 billion, over €1 billion more than forecast originally.

Pension Provisions.

38. **Mr. M. Higgins** asked the Minister for Finance the main features of his proposals for further public service pension reform announced on 14 September; and if he will make a statement on the matter. [24650/04]

Minister for Finance (Mr. Cowen): In budget 2004 my predecessor announced a package of public service pension reforms. He also indicated that further pension changes benefiting both serving and new entrant public servants, along the lines originally recommended by the Commission on Public Service Pensions, were being considered.

The recent announcement provides for changes to take place in a number of key areas of public service pension delivery. The changes concerned that form another significant element in the Government's modernisation and reform of the public service are as follows: cost neutral early retirement; integration formula; *pro rata* integration; teachers access to the revised spouses' and children's pension scheme; notional added years; reckoning of allowances for pension purposes; and the compound interest rate.

The cost neutral early retirement facility will allow public servants to retire early with actuarially reduced superannuation benefits. Workers whose current minimum pension age is 60 years will be able to avail of the facility from age 50 years and upwards. Those whose minimum pen-

sion age is 65 years will be eligible from age 55 years and upwards. The facility is being made available to serving staff and the option will be extended to staff who resigned with an entitlement to preserved superannuation benefits as and from 1 April 2004. Superannuation benefits in such cases will be based on pensionable service at the time of resignation reduced, appropriately, to take account of early payment. For example, a person with a minimum pension age of 60 years who leaves service under this facility at 55 years would have their pension reduced to 77.8% of its value. Their superannuation lump sum would be reduced to 90.7% of its value.

Public servants with full social insurance get an old age contributory pension and their public service occupational pension is reduced to take account of this fact. The process, known as integration, is an arrangement whereby, in the case of public servants with full social insurance cover, the OACP is merged with the occupational pension to provide a combined pension which, at 40 years' service, is no greater than the pension would be with an occupational pension alone. This can mean that lower paid workers get only small public service pensions or none at all where their pensionable remuneration is less than twice the OACP, currently just under €17,500.

The calculation formula underlying integration is being adjusted to deliver a boost to the public service pension income of lower paid public servants. Accrual rates under the new formula are: 1/200 for pensionable remuneration below 31/3 times OACP; and 1/80 for pensionable remuneration in excess of this limit. This will be of benefit to those whose pensionable remuneration is around €29,000 or less. The revised basis of calculation will apply to existing pensions with effect from 1 January 2004 and all relevant retirees as and from that date.

Pro rata integration, as opposed to full integration that applies at present, will apply to part-time public servants and relevant pensioners with full social insurance as and from 20 December 2001. The terms "full" and "*pro rata*" integration refer to different methods of co-ordinating OACP with public service occupational pension in the case of part-time employees. The new method of *pro rata* calculation and the new integration formula will be of significant benefit to part-time workers.

Teachers will have access to the revised spouses' and children's pension scheme. An option to join the revised scheme, available for a fixed period, will be made available to all primary and secondary teachers serving at 31 March 2004. Revised contribution rates of 2%, periodic, and 1.5%, non-periodic, will apply. Existing schemes of notional added years will be replaced for new entrants, from a current date, by a single

transitional scheme which will be reviewed in 2015.

There will be a reckoning of allowances for pension purposes. The calculation of pension on variable pensionable allowances will be based on "the best three consecutive years in the ten years preceding retirement," rather than on the present requirement of three years immediately prior to retirement. The new system will apply to relevant staff who retire or have retired from the public service as and from 1 April 2004.

The current compound interest rate that applies, in particular, to repayment of marriage gratuities will be reduced from 6% to 4% for repayments due for periods from 14 November 2000 onwards.

A number of other commission recommendations are under active consideration. They include the establishment of joint management-union working groups to consider the commission recommendations on SPEARS, a single AVC type scheme for the public service, and proposed revision of the spouses' and children's pension schemes, including benefits for non-spousal partners.

Implementation of the various changes will commence as soon as detailed guidelines have been prepared and circulated by my Department. My officials will carry out the work, as a matter of urgency.

Decentralisation Programme.

39. **Caoimhghín Ó Caoláin** asked the Minister for Finance if he will report on the progress to date of the decentralisation programme announced as part of budget 2004; and if he will make a statement on the matter. [24823/04]

Minister for Finance (Mr. Cowen): The two reports of the decentralisation implementation group dated 31 March and 30 July provide detailed accounts of the progress made in implementing the programme announced last December. An analysis of the applications registered with the central applications facility by 7 September has also been published. I refer Deputies to the presentations made to the Oireachtas Joint Committee on Finance and the Public Service on 6 October by the chair of the implementation group. I am pleased with the progress that has been made in driving forward the programme.

Tax Code.

40. **Mr. Cuffe** asked the Minister for Finance the reason maintenance payments made to separated spouses are considered taxable income, in view of the fact that such amounts have already been taxed. [24799/04]

Minister for Finance (Mr. Cowen): Maintenance payments, depending on arrangements, made to a separated spouse may be subject to income tax in the hands of the payer or the receiver. However, the maintenance payment is not taxed twice.

The general position in the case of legally enforceable maintenance agreements is that the spouse who pays the maintenance is entitled to a tax deduction for payments made for the benefit of the other spouse. The maintenance payments are taxed in the hands of the receiving spouse and the couple are treated for tax purposes as if unmarried.

A separated couple may, except where a civil annulment has been obtained, jointly elect to be treated for tax purposes as if the separation had not taken place provided they are both resident in the State and, if divorced, neither have remarried. When such an election is made the maintenance payments are ignored for tax purposes. Therefore, the payer does not receive a tax deduction for them and the receiving spouse is not taxable on them. Where the receiving spouse has income other than the maintenance, separate assessment will apply in respect of that income. The Revenue Commissioners' information leaflet IT2, taxation of married couples, sets out how separate assessment works and is available at www.revenue.ie.

Non-legally binding maintenance payments are not taxable in the hands of the receiving spouse and the paying spouse cannot claim a tax deduction for them. However, the paying spouse would be entitled to the married person's tax credit if he or she is wholly or mainly maintaining the other spouse.

It is important to note that in the arrangements which apply, there is an underlying principle in place that income, including income in the form of the maintenance payments, should be subject to taxation. As explained above, the tax may be paid by the recipient or by the paying spouse, depending on the arrangements in place. The option in certain circumstances of tax treatment as if a separation had not taken place may result in no tax being paid by the recipient spouse but it also means that the paying spouse receives no deduction, thus ensuring that the income is subject to taxation.

If the Deputy has a particular case in mind and wishes to furnish the details, the Revenue Commissioners will examine it to ensure that the correct tax treatment applies.

Non-Resident Accounts.

41. **Ms Shortall** asked the Minister for Finance the number of individuals, companies and trusts being investigated by the Revenue Commissioners arising from the Ansbacher accounts at

the latest date for which figures are available; the number of cases in which settlements have been agreed and the total amount paid to date; the number of cases still outstanding; if additional action has been taken by the Revenue Commissioners arising from the report of the Ansbacher inspectors; and if he will make a statement on the matter. [24674/04]

Minister for Finance (Mr. Cowen): I am advised by the Revenue Commissioners that their Ansbacher review team has inquired into 289 cases to date and 92 of these cases have concluded settlements with the Revenue Commissioners. The 289 cases, taking account of spouses and connected companies, consist of 300 names. The 289 cases are made up of 179 cases listed on the High Court inspectors' report and 110 similar cases discovered by the Revenue Commissioners or listed on the authorised officer's report.

A total of 211 cases have been under active investigation. The remaining cases consist of 62 non-resident persons, including 17 former Irish residents, 12 individuals who claimed the 1993 amnesty provisions and four cases with insufficient identity information.

The investigation includes examining the tax position of disclosed entities and accumulating and assembling information on other connected entities. The number of connected entities in cases under investigation is now nearly 700.

The Revenue Commissioners continue to make extensive use of their legislative powers to seek books, records, documents and information in the cases being investigated. Where appropriate, prosecutions will be considered but these will depend on the level of evidence available.

The Revenue Commissioners have made five successful applications to the High Court for the production by financial institutions and third parties of books, records and other documentation, which are relevant to liabilities of Ansbacher account holders. Some 150,000 documents have been received under the terms of the High Court orders. Advanced investigative computer software is used in controlling and managing the documentation.

To date, a total of €43.94 million has been received, mostly by way of payments on account, in respect of 92 cases. A breakdown is as follows:

	Cases	€ million
Cases involving Ansbacher or Ansbacher type arrangements	76	35.24
Other cases involving offshore funds or deposits	16	8.70
Total	92	43.94

The 92 cases which have concluded settlements with the Revenue Commissioners consist of 54 cases which were settled on payments of €32.47 million, included in the amount above, 25 non-resident cases that are covered by the provisions of double taxation agreements, 11 had no additional liability and two were covered by the 1993 amnesty provisions.

The Revenue Commissioners made an application under section 11 of the Companies Act 1990 for a copy of the High Court inspectors' report and that was made available on 6 July 2002. Its information has been carefully considered as regards the tax liabilities of the persons concerned. In addition, the Revenue Commissioners made a further application to the High Court for access to the supporting papers to the High Court inspectors' report. Judgment was delivered by the president of the High Court in May 2004. It allows the Revenue Commissioners access to documents on clients of Ansbacher named in the High Court inspectors' report and those persons and companies, including members of the board, found by the High Court inspectors to have failed to co-operate with their inquiry. The judgment also allows for the Revenue Commissioners to make application and grounding affidavit for the obtaining of information and documents on any other individual or company. Access to documents is subject to the direction of the High Court. The High Court orders in the matter were granted in June 2004.

The Revenue Commissioners have informed me that the investigations are time consuming and complex and are likely to continue for some time to come.

Decentralisation Programme.

42. **Mr. P. Breen** asked the Minister for Finance if he has satisfied himself with numbers of persons from within the State agencies who have indicated a willingness to decentralise with their agencies; and his views on the assessments from some of the agencies of the risk of damage to delivery of services. [24632/04]

Minister for Finance (Mr. Cowen): I accept that the number of applications to CAF from the Civil Service are much better than those from the State agencies. The Civil Service has considerable previous experience of decentralisation and has a long tradition of interdepartmental transfers.

The decentralisation implementation group asked all organisations participating in the programme to prepare detailed implementation plans, including risk mitigation plans. The plans were prepared and submitted to the group and most included risk mitigation strategies. The DIG recommended in its July report, paragraph 9.3, that in preparing the next version of its implementation plan each organisation should ensure that a risk mitigation strategy is included. I am

satisfied that is a realistic approach to risk identification and mitigation.

Question No. 43 answered with Question No. 37.

Ethics in Public Office.

44. **Mr. Stagg** asked the Minister for Finance if his attention was drawn to the concerns expressed by the Standards in Public Office Commission by his Department's failure to change regulations to ensure that public bodies are covered by ethics legislation; when he will take the appropriate steps to ensure that all such bodies are covered by the relevant legislation; and if he will make a statement on the matter. [24676/04]

Minister for Finance (Mr. Cowen): I am aware of the comments made in the 2003 annual report of the Standards in Public Office Commission. They concerned the delay in revising the regulations, under the Ethics in Public Office Act 1995, made in 1996 covering Civil Service positions and in 1997 applying to directorships and positions of employment in the wider public sector.

Work on two draft regulations is at an advanced stage. One draft is intended to update the regulations covering positions in the Civil Service. Another draft is intended to update the regulations made in 1997 that cover directorships and positions of employment in public sector bodies. I intend that the latter regulations will extend the provisions of the 1995 Act to public sector bodies not already covered. They will address the concerns expressed by the commission regarding the name changes or amalgamation of bodies since 1997.

EU Tax Harmonisation.

45. **Mr. Gogarty** asked the Minister for Finance his views on the decision by the EU Council of Finance Ministers to investigate the way corporation tax can be harmonised throughout the European Union. [24801/04]

Minister for Finance (Mr. Cowen): Last July the Commission published two papers on company taxation. One paper seeks an indication of the degree of support for a proposal to start developing a common corporate EU tax base while the other seeks to assess the degree of support for the Commission's proposed pilot project on home state taxation for small and medium sized enterprises.

On 11 September the papers were discussed at an informal ECOFIN meeting. Some member states, including Ireland, opposed the idea. However, a large majority supported the creation of a working group, chaired by the European Commission, to consider the idea of allowing all companies to use a common consolidated set of rules for calculating their EU wide taxable pro-

[Mr. Cowen.] fits. The group will also consider a pilot project that would allow SMEs to use the tax rules of their home state for calculating their EU wide taxable profits.

The Commission considers that efforts should be concentrated on developing a common consolidated tax base, thereby reducing the compliance burden of companies. Commissioner Bolkestein, the outgoing Commissioner for the Internal Market and Taxation, stated that wholesale harmonisation of the tax system is not on the Commission's agenda.

Ireland's position is consistent and will continue to be clearly articulated. We support efforts to eliminate unfair business tax practices within the EU and the removal of barriers to cross-border trade and business. We are opposed to the Commission's proposals for a common consolidated base. All efforts are best spent in tackling specific issues identified as barriers to trade. In any technical discussions on a common consolidated tax base, Ireland will be seeking to protect its interests.

Ireland is also opposed to the harmonisation of corporation tax rates. It is important that the tax rights of member states are retained at national level.

Tax Code.

46. **Mr. G. Mitchell** asked the Minister for Finance the cost of removing the minimum wage entirely from the scope of income taxes in 2005. [24613/04]

Minister for Finance (Mr. Cowen): The statutory minimum wage is €7 per hour and is equivalent to an annualised figure of €14,196.

I am informed by the Revenue Commissioners that the full year costs to the Exchequer of ensuring no tax is paid by a single employee earning this amount would be €350 million in a full year, if done through an increase in the employee PAYE credit. It would be €525 million in a full year if the personal credit were used. If the required increase was divided between the personal and employee credits then the full year cost would be €440 million. A married earner on €14,196 would not be liable to tax given the current level of credits. These figures are estimated by reference to projected 2005 incomes. They are also provisional and are likely to be revised.

The mid-term review of part two of Sustaining Progress — Pay and the Workplace — was published last June. It contained an agreement that the Labour Court will review the national minimum wage and make a recommendation to apply with effect from 1 May 2005, in accordance with the National Minimum Wage Act 2000.

47. **Mr. Gormley** asked the Minister for Finance if persons on early retirement pensions, with voluntary salary protection, are not entitled to

participate in PRSA schemes, and avail of subsequent tax relief. [24812/04]

Minister for Finance (Mr. Cowen): Relief from income tax is available for contributions to a personal retirement savings account by an individual with earnings from any trade, profession or employment. The same rule applies to other pension products. A pension is drawn down in retirement to replace earnings made before retirement. A person on an early retirement pension is thus already retired and the facility to gain tax relief on pension contributions from that income is not available. If the person has separate earnings from other employment or self employment, they would be entitled to contribute to a pension from these earnings and claim tax relief on the contributions up to age 70 or 75 depending on the product.

Question No. 48 answered with Question No. 37.

National Development Plan.

49. **Mr. Morgan** asked the Minister for Finance the procedures within his Department for ongoing review of the national development plan; and if he will make a statement on the matter. [24825/04]

Minister for Finance (Mr. Cowen): My Department has a range of mechanisms in place for the ongoing review of the implementation of the NDP. The NDP-CSF monitoring committee plays an active role in the monitoring of the NDP. It meets at least twice yearly to receive detailed implementation reports on each of the operational programmes. The committee consists of a wide partnership of interests, including implementing Departments, the social partners, sectoral interests and members of local authorities representing the regional assemblies. My Department provides the chair and secretariat for the committee.

Each operational programme has a similar widely based monitoring committee that meets twice yearly to monitor the ongoing implementation of the programme. The managing authorities and the Department or agencies responsible for implementing specific aspects of the operational programmes have additional procedures in place to monitor and manage them.

In addition, my Department is assisted by a number of dedicated units that were established to meet the requirements of the Structural Funds regulations. These units are concerned with the proper financial control of the funds, ongoing evaluations of key elements of the NDP, collection of implementation data and providing information and publicity on the operational programmes.

As part of the ongoing review process, my Department commissioned a comprehensive

review of the NDP at its mid-term. It was undertaken by a team of evaluators led by the ESRI and a report was published in November 2003. This major review was based on similar independent mid-term reviews conducted at the level of the operational programmes.

In addition to the mid-term evaluation, the NDP-CSF evaluation unit carries out periodic evaluations on key aspects of the NDP. This unit operates under the aegis of the technical assistance monitoring committee that is chaired by my Department. Key Departments also report through their Ministers to the Cabinet sub-committee on infrastructure, housing and public private partnerships on the implementation and delivery of infrastructure programmes under the NDP.

Tax Code.

50. **Mr. Sherlock** asked the Minister for Finance the reason he decided not to proceed with the plan to introduce a carbon tax; and his view on the role taxation should play in the promotion of the climate change strategy. [24671/04]

Minister for Finance (Mr. Cowen): A decision on carbon tax was made following a thorough examination of the issues involved, including how it would be implemented and the associated environmental, economic and social impacts. My Department also carried out an extensive consultation process in which 117 written submissions were received. Following this examination, the Government decided that a carbon tax was not an appropriate policy option and instead it would intensify action on the other measures under the national climate change strategy.

The Government concluded that the environmental benefits of a carbon tax would not justify the difficulties that would arise, particularly for households, from the introduction of such a tax. The carbon energy tax would have imposed price increases on many products already suffering sharp increases, particularly as a result of recent increases in international oil prices.

While a carbon tax would have involved a range of compensatory measures, these would not fully address the adverse economic and social effects arising. It would apply to products that are already subject to excise duties and where a new tax is not specifically necessary to increase the tax burden on such products.

The carbon energy tax was just one element of the Government's approach to meeting Ireland's commitments under the Kyoto Protocol. The Government remains fully committed to it.

Taxation can play a part in attaining environment objectives. As Minister for Finance I must ensure that policy on tax measures takes account of possible effects on Ireland's international competitiveness, particularly in relation to non-EU countries that compete with us and that may have low taxes on energy. I am also con-

cerned, when framing policy, about the effect that the imposition of such taxes may have on the consumer price index and how they could impact on the less well off members of our community.

The national climate change strategy envisages other initiatives in the tax area with one such example being tax reliefs for green initiatives. Essentially it uses the tax system to provide incentives for certain behaviour. Such examples include capital allowances for corporate investment in renewable energy projects that have been available since 1998 and a provision in the Finance Act 2004 that provides for the introduction of a scheme for excise tax relief for biofuels. I am open minded about initiatives in the tax area that can have a positive impact on the environment. However, I must be mindful of competitiveness issues and the impact any particular measure may have on the overall community.

Decentralisation Programme.

51. **Ms McManus** asked the Minister for Finance if 2007 remains the Government's target for the completion of its decentralisation programme; and if he will make a statement on the matter. [24657/04]

Minister for Finance (Mr. Cowen): I am satisfied with the level of progress to date in the context of the overall scale of the programme and the timeframe involved. Recently the chair of the implementation group gave a presentation to the Oireachtas Committee on Finance and the Public Service. He made it clear that he saw considerable merit in having a target timeframe. I am determined to drive forward the process of implementation and to ensure that the benefits of the programme are delivered as quickly as possible.

Tax Collection.

52. **Mr. Penrose** asked the Minister for Finance the progress made by the Revenue Commissioners into allegations that tax improprieties may surround trust operations in a bank (details supplied); if the Revenue Commissioners have reached a determination on whether these trusts facilitated tax evasion as distinct from tax avoidance; and if he will make a statement on the matter. [24666/04]

Minister for Finance (Mr. Cowen): I am advised by the Revenue Commissioners that substantial progress has been made. Arising from the voluntary disclosure initiative, the Deputy will be aware that 254 individuals came forward and made voluntary disclosures. To date the programme has recovered in excess of €105 million for the Exchequer.

Inquiries by the Revenue Commissioners are now identifying the individuals who failed to make voluntary disclosures. They will be investigated by the Revenue Commissioners. It is clear from some of the disclosures and the amount col-

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lected to date that some trusts were used to facilitate tax evasion.

Question No. 53 answered with Question No. 10.

Public Private Partnerships.

54. **Mr. Broughan** asked the Minister for Finance if he intends to undertake any review of the public private partnership scheme in view of the recent findings of the Comptroller and Auditor General in a value for money report that five schools built under the scheme could end up costing up to 13% more than if built by the State; and if he will make a statement on the matter.

[24644/04]

Minister for Finance (Mr. Cowen): My Department had already taken account of many of the findings of the Comptroller and Auditor General's report in guidelines published last year and is currently engaged in producing more detailed guidelines on specific aspects of the PPPs procurement process. Two significant developments include the setting of an 'affordability cap', which is the maximum allowable budget for a project, and the appointment of a process auditor in large projects to ensure that all of the required regulatory and administrative steps have been taken in the procurement process, prior to contract signing.

In tandem with the development of these guidelines the Government brought forward legislation for the establishment of the National Development Finance Agency which provides advice on the optimal means of financing public investment projects in order to achieve value for money and on all aspects of the financing, refinancing and insurance of public investment projects.

We are still learning with regard to PPPs in Ireland and the processes and procedures will be kept under review. The grouped schools project was just one of a programme of pilot projects which also includes, for example, PPPs procured by local authorities and the toll roads being delivered by the National Roads Authority. Overall, I believe that PPPs have the potential to make an important contribution, on a value for money basis, in helping to meet the public infrastructure needs of the country.

Tax Code.

55. **Mr. Penrose** asked the Minister for Finance the progress made by his Department and the Revenue Commissioners in their consideration of the recommendations of the Revenue powers group; and if he will make a statement on the matter. [24667/04]

Minister for Finance (Mr. Cowen): My predecessor established the Revenue powers group,

under the chairmanship of Mr. Justice Frank Murphy, to examine Revenue's main statutory powers and report on changes needed. The group's report was published on 4 February 2004 and the Minister indicated at that time that he wished to allow a period for debate and public reflection on the many and varied issues dealt with in the report. Interested parties have contacted my Department and a number of submissions have been made in this regard. My Department is also discussing relevant issues with other Government Departments.

The group's recommendations and the views received on them are being examined in the context of the Finance Bill 2005.

56. **Mr. Quinn** asked the Minister for Finance the progress made to date with regard to the negotiations between the Revenue Commissioners and the authorities in the Cayman Islands with a view to the conclusion of a tax information exchange agreement; and if he will make a statement on the matter. [24665/04]

Minister for Finance (Mr. Cowen): First round negotiations between the Cayman Islands authorities and the Revenue Commissioners for a tax information exchange agreement were held in Dublin on 24 November 2003. A second round of negotiations took place on 7 April 2004. A date has not yet been fixed for a further round of negotiations. As the Deputy will appreciate, it is not possible at this stage to comment on the likely outcome of the negotiations.

Coroners Service.

57. **Mr. O'Shea** asked the Minister for Finance if the transfer of the State Laboratory from its present location at Abbotstown to its new location at Backweston has now been completed; the estimated final cost of the transfer; the steps being taken at the new location to ensure that delays in the completion of tests are ended, especially in view of serious concerns expressed by coroners at the delays in inquests; and if he will make a statement on the matter. [24661/04]

69. **Mr. Costello** asked the Minister for Finance if his attention has been drawn to the serious concern expressed by coroners at delays in inquests as a result of the inability of the State Laboratory to complete test results; the steps being taken to deal with this situation in view of the distress caused to families by such delays; and if he will make a statement on the matter. [20695/04]

Minister for Finance (Mr. Cowen): I propose to take Questions Nos. 57 and 69 together.

I am informed by the State chemist that it is anticipated that the relocation will take place in stages between November and January next year. The project team will have the new location and equipment ready for each of the nine sections of

the laboratory, which will then move in turn, keeping disruption of testing and other laboratory procedures to a minimum. Particular care will be taken in this regard in the case of the toxicology section which handles reports for the coroners.

The overall final cost of the facility at Backweston is estimated to be €87.5 million including €9 million provided in 2004 for equipment.

I am conscious of the importance of the service provided to the coroners by the State Laboratory and the impact it inevitably has on relatives of people whose deaths are the subject of inquests at a time of great distress. I know that the management of the laboratory shares that sensitivity and constantly monitors the service by reviewing available resources, outsourcing possibilities and the complexity of analyses.

Additional resources have been allocated to the toxicology section and there has been a substantial increase in the number of analyses completed. However, there is still a backlog of cases, due to an increase of 50% in the past two years in the number of cases referred and a general increase in the complexity of the analyses required.

A range of measures are being taken at present to reduce the turnaround time of samples sent to the laboratory and processed by its toxicology section. Additional priority is to be given to the coroners' cases over other work of the section. Laboratory management is also reviewing the procedures and processes in the toxicology area with a view to automating as much as possible.

I am told by the management of the laboratory that the completion of the relocation to Backweston will enable the enhancement of the quality of service provided to all its clients, including the coroners' service.

Tax Code.

58. **Mr. Sargent** asked the Minister for Finance the situation regarding the study of the tax status of the horse breeding industry. [24817/04]

Minister for Finance (Mr. Cowen): It is not clear what is the precise study that the Deputy is referring to in the question. The Deputy may be referring to the provisions in the Finance Act 2003 which required details of all income and gains, as well as any losses, arising from stallion fees to be returned to the Revenue Commissioners. The first of these returns for individuals under self assessment rules will be required by 31 October 2005 in respect of the current tax year, 2004. The date of the return for companies will vary depending on the company's accounting period. Where a company has a calendar year accounting period, which is the case for many companies, the return will be required by 30 September 2005 in respect of the tax year 2004. In this context the information on costs is not yet available.

Alternatively, the Deputy may be referring to a recent report which was produced by Indecon, the economic consultants, entitled An Assessment of the Economic Contribution of the Thoroughbred Breeding and Horse Racing Industry in Ireland. This report was commissioned jointly by the Irish Thoroughbred Breeders' Association, the European Breeders' Fund and Horse Racing Ireland. The report was published last July and is available from any of the commissioning parties. A copy was also received by my Department.

Banking Sector Regulation.

59. **Ms Burton** asked the Minister for Finance the action which has been taken by his Department and the Revenue Commissioners arising from the report of the High Court inspectors on a bank (details supplied) which was published on 30 July 2004; and if he will make a statement on the matter. [24642/04]

Minister for Finance (Mr. Cowen): I am advised by the Revenue Commissioners that prior to the receipt of the report of the High Court inspectors, the Revenue Commissioners were investigating investments made by individuals through the financial institution named. Settlements made to date with individuals amount to €48.12 million in respect of tax, interest and penalties with a further €4.7 million received as payments on account of the individuals' final liability. The investigations into the tax liability of the remaining cases are continuing. The report of the High Court inspectors is being examined in detail as part of the Revenue Commissioners' continuing investigation, including the possibility of prosecution of offences under the taxes Acts should the appropriate evidence be available.

Apart from the tax matters, the behaviours outlined in the report may suggest weaknesses or failings in compliance with certain other regulatory and legislative requirements, such as those relating to money laundering, exchange controls and notification of fees and charges. The findings in the report and the bank's response are being examined in detail by the Irish Financial Services Regulatory Authority, IFSRA, which has already stated that any actions or measures that are required will be taken. In light of this and other widely reported issues IFSRA is currently engaged in an industry wide exercise focusing on appropriate systems and controls to ensure that all credit institutions are fully in compliance with all relevant laws and requirements. IFSRA is also making sure that there is proper monitoring of the fee and interest reimbursement programme, which has been commenced by the bank.

The role of the Minister for Finance in financial regulation is to bring forward legislative proposals whereby a duly empowered financial regulator can regulate and supervise the financial sec-

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 tor in accordance with those powers. The necessary legislative framework has been put in place and day to day responsibility for the supervision of credit institutions is a matter for IFSRA. IFSRA is independent in the exercise of its supervisory functions and my Department does not get involved in its day to day activities. However, my Department has recently written to IFSRA seeking its views as to whether there are any issues to be addressed regarding the reported practices, and in particular on whether any legislative change might be required to strengthen the regulatory framework in this regard.

The regulatory structures governing financial institutions have changed enormously in recent years, taking into account many of the lessons already learnt from this case and others. However, if further examination by IFSRA or my Department indicates that additional powers are required to prevent a recurrence of similar practices I will address that as a matter of priority.

The exchange control implications of this case were first raised in early 1998, and as this House has previously been informed, were investigated by the Central Bank, at the request of the then Minister for Finance. The bank's interim report to the Minister for Finance in May 1998 was not conclusive and the bank indicated that it would defer concluding its consideration of exchange control matters pending the finding of other investigations. Legal advice at the time was that the report was not sufficient to warrant its referral to the DPP. It should be noted that exchange controls were phased out progressively, especially from 1988 and were finally abolished on 31 December 1992. My Department has written to the governor of the Central Bank asking him to arrange for a review of the situation having regard to both the recent High Court inspectors' report and the 1998 report of the authorised officer.

Finally, the report has been referred to the DPP and criminal charges might therefore follow. While it would not be a matter for me, the relevant authorities will presumably consider whether the behaviours reported in this case are of a type that could also have potential implications for named individuals both from a company law and a financial services regulatory point of view.

Tax Code.

60. **Mr. Boyle** asked the Minister for Finance if he is planning a review of tax relief on pensions, in view of the fact that such relief for private personal pensions now exceeds the amount being spent on direct non-contributory State pensions. [24798/04]

Minister for Finance (Mr. Cowen): There are two main components to the pensions system in Ireland, a flat rate social welfare pension that

provides a basic payment and a supplementary component on a voluntary basis that provides an earnings related component. Expenditure on means tested social welfare pensions is estimated at €725 million in 2004. The State encourages persons to supplement the State pension with private pension provision by offering tax relief on such pension provision.

The cost of tax relief for private pension funding for 2000-01 has been estimated by the Revenue Commissioners at €2,615 million. This covers tax relief on contributions by employers, employees and self employed and the exemption from income and gains in the pension fund. However, as a *quid pro quo* for these reliefs, tax arises when the income is withdrawn from the pension fund in retirement. Furthermore, there are limits on the tax relief in the form of a cap on the level of earnings that qualifies for relief and a limit on the pension benefits payable. It should be noted that these costs are very tentative and that efforts are being made to improve information on the cost of tax relief for pensions.

A large part of the tax foregone relates to the working age group while the non-contributory pension costs relate to those over 66 years, which is a different group.

The national pensions policy initiative, NPPI, report in 1998 recommended that the existing tax relief regime for pension contributions should not be diluted. This structure of taxation treatment for pensions is long standing and has helped a significant portion of the labour force to arrange supplementary pensions thereby lessening the pressures on the Exchequer to fund pension needs. This approach, though long standing in Ireland and some other countries, is now gaining wider emphasis in other EU countries.

While the tax relief arrangements for pensions are kept under review and considered in the context of annual budgets and finance Bills, I do not envisage that it would be desirable to move from the current policy of encouraging pension provision through tax relief for private pension provision, given the ageing population and the Government policy of increasing pension coverage.

Departmental Properties.

61. **Mr. Costello** asked the Minister for Finance the plans for the disposal of the old Department of Justice, Equality and Law Reform offices at St. Stephen's Green; the amount expected to be raised by the sale; if this money will be available for use by his Department; and if he will make a statement on the matter. [20736/04]

Minister of State at the Department of Finance (Mr. Parlon): The old Department of Justice, Equality and Law Reform building at 72 to 76 St. Stephen's Green has recently been disposed of for a figure of €52.3 million. The money raised

from the sale of the property will go towards the funding of the decentralisation programme.

Banking Sector Regulation.

62. **Mr. Gormley** asked the Minister for Finance his policy on encouraging or discouraging further bank mergers in the financial sector here. [24813/04]

Minister for Finance (Mr. Cowen): The Government has not adopted any policy stance either encouraging or discouraging further mergers or takeovers in the banking sector. Any such proposal would fall to be considered in accordance with the provisions of national and EU competition legislation and also under banking regulation legislation.

Where any acquisition would involve more than a 10% stake in a bank, the Irish Financial Services Regulatory Authority, IFSRA, is required to make a decision as to whether to approve the takeover from the point of view of the orderly and proper regulation of banking. The Minister for Finance must approve mergers involving more than 20% of total banking assets in the State, after consulting the Minister for Enterprise, Trade and Employment.

Separately, various competition rules apply. The Irish Competition Authority or the EU Commission must generally also give a clearance.

It is, of course, essential that any new entity be properly managed and regulated, and the legislative provisions for this regulation have been much enhanced over the past two years. The Central Bank and Financial Services Authority of Ireland Acts 2003 and 2004 represent a radical restructuring of financial regulation in Ireland: for example, the establishment of a single structure to take in work previously done by four separate bodies, the greater emphasis on consumer concerns, the enhancement of the regulator's powers, including in administrative sanctions, enhanced provision for co-operation between the various authorities, the provision for establishment of a statutory financial services ombudsman scheme and of new consultative mechanisms for consumers and industry. All of these achievements will contribute to the better regulation of the sector.

However, it is my intention, of course, to learn from the experience of the operation of IFSRA and from various recent and expected reports, so as to keep our legislative framework efficient and up to date. I have recently initiated a public consultation process with a view to consolidating, simplifying and updating our financial services legislation. My ongoing aim is to ensure that our legislation continues to meet the Government's consumer protection and stability objectives in a way that minimises the regulatory burden on industry and otherwise complies with the Government's better regulation agenda, and promotes the development of a sector that is com-

petitive both domestically and internationally and operates to high standards.

EU Presidency.

63. **Mr. Gilmore** asked the Minister for Finance the final cost to the Exchequer arising from Ireland's presidency of the EU; the way in which the final figures compare with the original estimate; and if he will make a statement on the matter. [24648/04]

Minister for Finance (Mr. Cowen): In the 2004 Estimates, the Government set aside €64.24 million to meet the additional costs associated with Ireland's tenure as President of the European Union. In 2003, an amount of approximately €15.3 million was spent on additional costs incurred in the lead up to our term of office.

From the information reported to my Department the latest indications are that the final cost in 2004 will be approximately €94.5 million. These costs, including general staffing, training, accommodation, cultural events, communications and information technology and transport and security, represent once-off expenditure necessary to ensure a successful discharge of the functions and responsibilities arising from Ireland's EU Presidency.

This was the sixth occasion that Ireland has undertaken the Presidency of the European Union. Since the last Irish Presidency in 1996, there has been a significant increase in the work load of the Presidency, notably in the areas of common foreign and security policy and in justice and home affairs. In addition, Ireland was the first member state to preside over a further enlarged Union of 25 member states with the addition of ten new member states during our term. Deputies will appreciate the difficulties of accurately estimating costs for a substantially changed and enlarged event and a much changed security environment.

During the Presidency, 36 ministerial summit level meetings were held in various locations throughout the country. The provision of the necessary logistical support and infrastructural services for these meetings involved a huge amount of work and cost.

The level of works, services and costs involved in the 1 May enlargement ceremony and in the EU-US summit were substantially higher than anticipated. In particular, the direct and ancillary security costs, such as temporary accommodations for Garda personnel, security fencing, lighting and so forth, incurred in respect of these events was significant.

Stability and Growth Pact.

64. **Mr. Gilmore** asked the Minister for Finance his views on the need for reform of the Stability and Growth Pact; and if he will make a statement on the matter. [24649/04]

Minister for Finance (Mr. Cowen): The Stability and Growth Pact is an important framework that underpins sound macroeconomic policies within the EU's economic and monetary union, and thereby promotes economic growth and job creation. Equally, however, the need for improvements in the workings of the Stability and Growth Pact has been recognised for some considerable time. In response to this need, the European Commission presented a formal communication on 3 September 2004, outlining its proposals for strengthening economic governance and clarifying the implementation of the Stability and Growth Pact.

The Commission's proposals are quite wide ranging and detailed, and the process of discussion and debate is in its early stages. However, some of the key proposals accord well with Ireland's economic priorities. Ireland has long argued, for example, that countries with very low debt levels and with clear investment needs should not be unduly constrained from making the necessary resources available. The Commission proposals represent a welcome move in this direction. I look forward to engaging in a constructive debate with my EU colleagues on this point, and on other proposals for enhancing the Stability and Growth Pact, in the months ahead.

At the informal meeting of the eurogroup and the ECOFIN council on 10 and 11 September 2004, Ministers issued a statement agreeing that the Commission communication provides a good basis for discussion. The statement reiterated that the 3% deficit and 60% debt criteria in the treaty were of paramount importance and that any changes to the pact's regulations should be minimised, if necessary at all. The statement also emphasised that Ministers are not looking for a watering down of the pact, but rather for a strengthening, clarification and better implementation.

Non-Resident Accounts.

65. **Ms Shortall** asked the Minister for Finance the number of High Court orders sought to date by the Revenue Commissioners under the Finance Act 1999 to require financial institutions to supply names, addresses and other relevant information regarding holders of bogus accounts at the latest date for which figures are available; the number of cases in which orders have been granted; the general progress made to date in identifying the holders of such accounts who did not avail of the recent voluntary disclosure scheme; and if he will make a statement on the matter. [24673/04]

Minister for Finance (Mr. Cowen): Authorised Revenue Commissioners officers are empowered to make an application to a judge of the High Court seeking an order requiring financial institutions to supply names, addresses and other rel-

evant information concerning account holders who may have held bogus non-resident deposit accounts. Such applications are made under section 908 of the Taxes Consolidation Act 1997, as amended by the Finance Act 1999. Information supplied by the financial institutions under section 908 orders is the principal basis for identifying bogus non-resident account holders who did not avail of the voluntary disclosure scheme in 2001. This inquiry work commenced on 16 November 2001.

I am advised by the Revenue Commissioners that 18 applications for orders under section 908 have been made and have been granted. When one includes institutions which have been taken over or amalgamated with other institutions, these orders seek information in respect of accounts in 26 financial institutions. No further applications for such orders are pending in regard to the bogus non-resident account enquiries.

A large volume of information has been reported to the Revenue Commissioners under the High Court orders. Inquiry work in the examination of the first batch of taxpayers commenced on 11 October 2002. Further general issues of inquiry letters were made in January, May, July, September, October 2003 and January 2004. These general inquiry letter issues relate to 91,000 non-resident accounts that had Irish addresses connected to them. A total of 177,000 inquiry letters have been issued to taxpayers in respect of these non-resident accounts. The final general inquiry letter issue took place in January 2004.

While it is clear that this is an extensive investigation programme the Revenue Commissioners have informed me that they are satisfied that significant progress has been made in this the final phase of the investigations. Since 15 November 2001 payments of €325 million have been made to the Revenue Commissioners by taxpayers who held bogus non-resident accounts.

Decentralisation Programme.

66. **Mr. Gogarty** asked the Minister for Finance his views on whether decentralisation as promoted by the Government cannot now proceed to the extent or in the time period originally proposed. [24802/04]

Minister for Finance (Mr. Cowen): I am satisfied with the level of progress that has been achieved to date in the context of the overall scale of the programme and the timeframe involved. I note that in his recent presentation to the Oireachtas Committee on Finance and the Public Service the chair of the implementation group made it clear that he saw considerable merit in having a target timeframe. I am determined to drive forward the process of implementation and to ensure that the benefits of the programme are delivered as quickly as possible.

67. **Mr. Rabbitte** asked the Minister for Finance the way in which the proposed centralised application system will work for Dublin based civil servants who do not wish to move as part of the Government's decentralisation programme in regard to the recent announcement; and if he will make a statement on the matter. [18313/04]

Minister for Finance (Mr. Cowen): Under the Government's decentralisation programme, the central applications facility, or CAF, offers 9,558 posts: 7,213 in the Civil Service and 2,345 in State agencies. Separate arrangements apply for senior posts in Departments and State agencies and the Defence Forces and Garda Síochána.

On 7 September, the closing date for the preliminary round of applications, a total of 8,958 people lodged applications for or expressions of interest in a move under the programme. In the Civil Service, 4,236 Dublin based staff want to move out of Dublin either to the new locations identified in the programme or to existing decentralised offices; a further 577 State agency employees want to move out of Dublin to these locations, giving a total of 4,813 who want to move out of Dublin, equivalent to 50% of the posts available. In my view, these results are a very significant milestone in the implementation of the programme.

The CAF will remain open throughout the decentralisation programme to receive further applications and expressions of interest from staff.

At present, the Civil Service Commission, which operates the CAF, is working to produce lists of names, addresses and grades of staff who have applied so that detailed planning of the necessary transfers within and between Departments can start. It is expected that this information will be available soon.

The Government and the decentralisation implementation group, chaired by Mr. P. Flynn, have continually stressed that, as the programme is entirely voluntary, special attention must be paid to the interests of those staff who, for a range of personal and other reasons, have decided not to relocate from Dublin. The personal and career needs of those who opt to remain in Dublin are just as important as the needs of those who decide to relocate.

Discussions have been held with the Civil Service and public service unions on the procedures used to deal with applications under the CAF. A document which records the main features of these discussions on human resource issues is on the CAF website.

In the light of the information on numbers and grades already available from the CAF, further discussions are about to begin between the management side and the unions on the next stages of the programme. These discussions will concentrate, in particular, on the transfer arrangements for staff who have applied under the CAF for

moves within and between Departments, and also on the most appropriate ways of supporting those staff who do not wish to relocate.

Staff serving in areas which are being decentralised and who wish to remain in Dublin will also have to be reassigned, if possible to other posts in their existing Departments and offices or else to other Departments and offices. It is clearly in the interests of all staff and of the efficient implementation of the programme that the approach to be adopted in managing this meets staff needs and the business needs of their employing Departments and organisations. Detailed arrangements for managing this will be an important feature of the new round of discussions.

Public Service Salaries.

68. **Mr. Broughan** asked the Minister for Finance if his approval was sought and given for the salary payable to the newly appointed chief executive of the Health Services Executive; if his attention has been drawn to concern expressed by senior public servants that the salary scale agreed for this position will create serious anomalies in regard to pay levels for other senior positions in the public service; and if he will make a statement on the matter. [24645/04]

Minister for Finance (Mr. Cowen): The salary which has been agreed for the newly appointed chief executive officer of the Health Service Executive, HSE, was approved by my predecessor, Deputy McCreevy.

The CEO of the HSE will have responsibility for leading the HSE through its establishment phase to be an effective and efficient manager of overall service delivery in the health service. This will involve managing the reformed health service to deliver the goals and objectives of the Government reform programme. In light of the particular challenges arising for the first appointee to this post, my predecessor agreed to a special package in order to attract a suitably qualified high calibre candidate.

I do not accept that the salary agreed for the first incumbent of this post will create serious anomalies elsewhere in the public service. The salary was set in the context of the establishment of a new body which will be a bigger and more complex organisation than any of the other non-commercial State sponsored bodies. The CEO will be responsible for a budget of €10 billion approximately and an approved level of staff of about 100,000. The appointment is for a five year fixed term and is non-renewable.

The package has been agreed on an exceptional basis in the light of the uniqueness of the position and the particular circumstances arising for the first appointee. The remuneration of subsequent CEOs of the HSE, like that of all other top public service posts, will be determined by

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the review body on higher remuneration in the public sector.

Question No. 69 answered with Question No. 57.

Tax Code.

70. **Mr. Eamon Ryan** asked the Minister for Finance the tax relief given to date under the Finance Act provision to encourage the development of private health facilities; and if he will make a statement on the matter. [24814/04]

Minister for Finance (Mr. Cowen): A scheme of capital allowances in respect of capital expenditure on the construction or refurbishment of buildings used as private hospitals was introduced in Finance Act 2001 and extended in 2002 to sports injury clinics and to day care hospitals in 2003. The local health board is required to certify that the hospital complies with certain conditions of the scheme such as range of services provided.

I am informed by the Revenue Commissioners that tax relief for these schemes are not at present captured in such a way as to provide a specific basis for compiling estimates of cost to the Exchequer of these schemes.

My Department has been working closely with the Revenue Commissioners to seek improved information on the costs of individual tax reliefs to facilitate assessments of these tax reliefs. On foot of this work, 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. These changes will yield additional information regarding the cost of various tax reliefs, including this one. Provisions in the Finance Act 2004 underpin these changes.

I understand from the Department of Health and Children that that Department is aware of a number of proposals to develop private health care facilities which are at various stages of planning and development, and which may come within the provisions of the relevant legislation.

Departmental Programmes.

71. **Caoimhghín Ó Caoláin** asked the Minister for Finance if he will report on the progress to date on efforts to extend the PEACE II programme to 2006 and to establish a PEACE III programme; and if he will make a statement on the matter. [24824/04]

Minister for Finance (Mr. Cowen): I am very aware of the valuable role the PEACE II programme has played in building peace and reconciliation in Northern Ireland and the Border region and am hopeful that it will be extended for a further two years as proposed.

Officials in my Department are working closely with the Department of Finance and Personnel in the North, the special EU programmes body,

SEUPB, and the Commission to make sure that the possibility of an extension is realised. The SEUPB, which manages the programme, carried out extensive public consultation over the summer to find out how, if the extension is granted, the additional moneys should be focused. There was a very good response to this consultation; over 70 written responses and a wide attendance at public meetings. This shows the high level of engagement with the PEACE II programme. Based on these consultations my Department, in conjunction with the Department of Finance and Personnel in Northern Ireland, submitted proposals for an extension to the European Commission on 30 September last.

The proposal requires a Commission decision and ratification by the European Parliament by the end of the year. I am hopeful that we can get a positive decision so that further funding will be available under an extended programme in 2005 and 2006.

As the Deputy is aware, the proposed extension would bring the programme in line with other Structural Funds programmes which run to 2006. Spending in the PEACE II programme may occur until 2008. A PEACE III programme would form part of the 2007 to 2013 financial perspective. Discussions on post-2006 Structural Funds are at a very early stage. In due course, a PEACE III package will be considered as part of the 2007 to 2013 financial perspective.

Tax Code.

72. **Mr. O'Shea** asked the Minister for Finance the progress made to date with regard to the commitment given in An Agreed Programme for Government to remove all those on the national minimum wage from the tax net; the steps he intends to take to ensure that this commitment is honoured; and if he will make a statement on the matter. [24660/04]

Minister for Finance (Mr. Cowen): The Deputy will be aware that the Government programme, An Agreed Programme for Government, states that "over the next five years our priorities...will be...to achieve a position where all those on the minimum wage are removed from the tax net". The five year period mentioned commenced when the Government was elected to office in 2002. It is also the case that the commitment to exempt the minimum wage from tax is given in the context of a broader economic and budgetary strategy which provides, among other things, that the public finances will be kept in a healthy condition and that personal and business taxes will be kept down in order to strengthen and maintain the competitive position of the Irish economy. The current national partnership agreement Sustaining Progress contains a commitment in generally similar terms.

The statutory minimum wage is an average hourly rate of gross pay for an employee as

defined under the National Minimum Wage Act 2000. The wage currently stands at €7 per hour having been increased on 1 February 2004 from the previous amount of €6.35 per hour. The annualised equivalent of the present minimum wage is just under €14,200.

As the Deputy will be aware, it was the present Government who legislated for the introduction of the statutory minimum wage which came into effect in April 2000. At that time less than 64% of the annualised figure of €11,330, £8,923, was exempt from taxation. In budget 2002, 90% of the minimum wage became exempt from tax and this position has been maintained in budgets 2003 and 2004 even though the minimum wage has increased twice in the intervening period. Currently, the position is that a single PAYE person may earn up to €12,800, that is, 90% of €14,200, without paying tax.

The Government has made clear that it intends to complete its programme over the remainder of its term of office and I will be addressing the exemption of the minimum wage from taxation in that context. However, the question of when those earning the amount equivalent to the statutory minimum wage annualised will not be liable for income tax is a matter for consideration in the context of the annual budgets over the next number of years consistent with the Government's overall economic and budgetary strategy.

Garda Stations.

73. **Mr. Deenihan** asked the Minister for Finance if his Department has acquired a site for the new Garda station at Castleisland, County Kerry; and if he will make a statement on the matter. [24586/04]

Minister of State at the Department of Finance (Mr. Parlon): The Commissioners of Public Works continue to negotiate for a suitable site in Castleisland for a new Garda station.

The commissioners have identified a number of sites which are regarded as suitable by the Garda. However, despite extensive negotiations and a number of firm offers, it has not yet been possible to agree an acceptable price. The prices quoted to date are significantly above the open market value in each case.

The commissioners will, of course, continue with their efforts to acquire a suitable site for the gardaí in Castleisland.

Tax Code.

74. **Mr. Quinn** asked the Minister for Finance the progress made by the Revenue Commissioners in their discussions with the Portuguese authorities with a view to closing off a tax loophole which allows those who sell off assets here to avoid tax by taking up residence in such countries as Portugal; and if he will make a statement on the matter. [24664/04]

Minister for Finance (Mr. Cowen): I am informed by the Revenue Commissioners that a further round of negotiations between the authorities in Portugal and the Revenue Commissioners for a protocol to amend certain provisions of the Ireland-Portugal double taxation convention took place in Dublin on 10 and 11 May 2004. The negotiations on a protocol, designed to address the issues, are at an advanced stage and it is hoped that the formal signature of the protocol will take place in the coming months. The protocol would then be ratified during 2005.

It should also be noted that section 69 of the Finance Act 2003 amended Irish domestic law to impose a charge to capital gains tax on an individual in respect of a deemed disposal of certain assets on the last day of the last year of assessment for which the individual is taxable in the State, prior to becoming taxable elsewhere, where the individual disposes of these assets while resident outside the State and returns to the State within five years. This anti-avoidance measure was announced in the 2003 budget on 4 December 2002, with effect from that date.

Tax Compliance.

75. **Mr. Rabbitte** asked the Minister for Finance the number of breaches detected of the Waiver of Certain Tax, Interest and Penalties Act 1993 in respect of each year since 1994; the number of prosecutions initiated and convictions secured arising from such detections; if he has satisfied himself that the law is being applied in the manner intended by the Houses of the Oireachtas; and if he will make a statement on the matter. [24668/04]

Minister for Finance (Mr. Cowen): I understand that there are two ways in which a taxpayer may have been in breach of the amnesty, first, in making a false declaration, or, second, in not making a declaration. I am informed by the Revenue Commissioners that they do not have figures for the number of detected breaches of the amnesty. Due to the confidentiality conditions built into the 1993 amnesty legislation such breaches are difficult to identify and prove.

No individual has been successfully prosecuted to date for failure to comply with the obligatory provisions of the Waiver of Certain Tax, Interest and Penalties Act 1993. As the Deputy is aware, growing numbers of individuals and companies have been successfully prosecuted in recent years as a result of Revenue Commissioners investigations, and although these investigations have in some instances involved consideration of possible amnesty breaches, it was not possible in any of them to obtain the evidence necessary to meet the required standards of "beyond reasonable doubt" with regard to those offences.

The Revenue Commissioners' criminal investigation programmes have been refocused recently with the establishment of an investigations and

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prosecutions division, one of whose functions is to increase the number of prosecutions for serious tax evasion. Where in the course of investigations, amnesty offences are identified they will be investigated with a view to taking a criminal prosecution.

Given the evidential difficulties which arise in successfully bringing a case through the courts for amnesty non-compliance, and having regard to their focus on taking prosecutions for breaches of tax law, I am satisfied that the Revenue Commissioners are making every effort to ensure the law is applied in the manner intended by the legislation as passed by the Houses of the Oireachtas.

Question No. 76 answered with Question No. 31.

Question No. 77 answered with Question No. 29.

Tax Reliefs.

78. **Mr. Eamon Ryan** asked the Minister for Finance the tax relief given to date under the Finance Act provision to encourage development through the experimental use of biofuel; and if he will make a statement on the matter. [24815/04]

Minister for Finance (Mr. Cowen): I assume the Deputy is referring to section 98 (a) of the Finance Act 1999 as inserted by section 50 of the Finance Act 2004 which provided for the introduction of a scheme for excise tax relief for biofuels. The purpose of the scheme is to allow qualified and conditional relief from excise of biofuel used in approved pilot projects for either the production of biofuel or the testing of the technical viability of biofuel for use as a motor fuel.

The details of the scheme are currently being finalised in conjunction with the Department of Communications, Marine and Natural Resources. The European Commission has confirmed that the scheme would represent a State aid and consequently its approval is required. The EU energy tax directive of 2003 envisages such tax relief and the Commission has approved schemes for excise relief of biofuel in other EU member states. Formal application for Commission approval will be made shortly and, assuming approval is granted, the necessary commencement order will then be signed.

Company Investigations.

79. **Mr. Ring** asked the Minister for Enterprise, Trade and Employment the person who was involved in the investigation by his Department into a company (details supplied) including details of members of the legal profession; the amount these persons have been paid on an individual basis; the expenses they have received; and other costs in this investigation. [24941/04]

Minister for Enterprise, Trade and Employment (Mr. Martin): The investigation in question is one of three investigations under section 19 of the Companies Act 1990 remaining to be concluded. The investigations are being carried out by an official of my Department, appointed as an authorised officer under section 19. He is being assisted by other departmental staff. The authorised officer is further assisted by a legal adviser as required. The authorised officer and the departmental staff are paid their Civil Service salaries. In the most recent 12 months an amount of €92,263, inclusive of VAT of €16,012.50, was paid in respect of legal advice to the legal adviser assisting the authorised officer. In the same period an amount of €7,388.44 was paid to a law firm based outside this jurisdiction for work carried out on behalf of the authorised officer.

The total costs incurred since 1997 on the 16 company investigations initiated by or on behalf of my Department currently amount to approximately €10.8 million, of which approximately €1.6 million was spent on section 19 investigations, including the three outstanding section 19 investigations. This amount does not include the salary costs of Civil Service staff working on a number of these investigations or the legal costs which are primarily being borne by the Vote of the Chief State Solicitor. Costs incurred by the authorised officer relate mainly to legal advice and stenographer fees.

80. **Mr. Ring** asked the Minister for Enterprise, Trade and Employment if an investigation by his Department into a company (details supplied) is complete; if so, when it will be published; and when the witnesses who had to appear will be reimbursed for their legal costs. [24942/04]

Minister for Enterprise, Trade and Employment (Mr. Martin): The investigation in question is one of three investigations under section 19 of the Companies Act 1990 remaining to be concluded. The authorised officer has been directed by my predecessor to cease investigative work and to commence writing up his reports with a view to facilitating appropriate follow up action as soon as possible by the relevant authorities. My Department is currently in discussion with the authorised officer regarding an updated timetable for the completion of these investigations.

Reports of investigations under section 19 of the Companies Act 1990 are not published. Section 21 of the 1990 Act provides that the information obtained under section 19 may be disclosed only in certain circumstances, for example, where disclosure is necessary for further investigation or for the purposes of a prosecution, for the purpose of taking action to disqualify a person from acting as an officer of a company, for assessing a person's tax liability, in order to assist a tribunal of inquiry or where the information would assist the work of certain specified com-

petent authorities. A decision on this can only be taken when the reports have been received.

The investigation in question is being conducted by an authorised officer appointed by me under section 19 of the Companies Act 1990, which provides that the Minister or an authorised officer appointed by the Minister may require the production of books or documents of a company or other body corporate carrying on business in the State, if the Minister is of the opinion that there are circumstances suggesting *inter alia* that it is necessary to determine if an inspector should be appointed to the company or that its affairs are being conducted with intent to defraud or the body was formed for fraudulent or unlawful purposes. This power includes a power to require production of documents from individuals and to require individuals to provide explanations to the authorised officer and to give all assistance to the authorised officer as the individual is reasonably able to give in connection with the investigation. In this respect, it is an offence for an individual not to comply with a request by the authorised officer.

Witnesses called by the authorised officer are complying with their statutory obligation to assist the investigation. The question of whether they wish to be accompanied by their legal representative is entirely a matter for the individuals concerned.

There is no specific legal provision covering payment by the Minister of costs under a section 19 enquiry. The question of whether costs would be reimbursed on an *ex gratia* basis in any particular case could only be considered when the investigation had been completed and the report of the authorised officer had been received in the Department, after careful consideration of the applicant's involvement in the matters under investigation, including a consideration of any views of the authorised officer, and the nature and quantum of the costs for which reimbursement was sought.

Grant Payments.

81. **Cecilia Keaveney** asked the Minister for Agriculture and Food the position regarding an application for funding by a co-operative (details supplied) in County Donegal; and if she will make a statement on the matter. [24867/04]

Minister for Agriculture and Food (Mary Coughlan): My Department has received a grant application from the co-operative under the capital investment scheme for the marketing and processing of certain agricultural products. This application is being assessed and a decision will be taken in the coming weeks.

Afforestation Programme.

82. **Mr. Neville** asked the Minister for Agriculture and Food if she will arrange removal of trees severely restricting light to the house of a

person (details supplied) in County Tipperary. [24868/04]

Minister for Agriculture and Food (Mary Coughlan): The plantation adjacent to the land of the person in question was established in 1993. At that time a "set back" distance of 30 meters from any dwelling house was applicable for plantations grant aided by the forest service of my Department. As there were no breaches of the environmental guidelines relating to the grant aiding of the plantation, I regret I cannot compel the plantation owner to remove trees. This is a matter for resolution between the plantation owner and the person concerned. The removal of trees would require the granting of a felling licence by the forest service.

Grant Payments.

83. **Mr. McGinley** asked the Minister for Agriculture and Food when area based compensatory allowance will be awarded to a person (details supplied) in County Donegal. [24884/04]

Minister for Agriculture and Food (Mary Coughlan): The holding of the person named was selected for an on the spot inspection. The inspection has been completed and his 2004 area aid application fully processed with a forage area determined for payment purposes of 40.63 hectares. Payment of his full entitlement under the 2004 area based compensatory allowance scheme will issue shortly.

84. **Mr. Deenihan** asked the Minister for Agriculture and Food when a decision will be made on the appeal by a person (details supplied) in County Kerry against the decision rejecting their application for consideration of a *force majeure* case, regarding a single payment application; and if she will make a statement on the matter. [24893/04]

Minister for Agriculture and Food (Mary Coughlan): The person named applied for consideration of *force majeure*-exceptional circumstances on 19 January 2004 on grounds of animal disease outbreak during the reference period and was notified that he was deemed ineligible for *force majeure*. However, having fully examined the circumstances outlined by the person named, my Department is satisfied that *force majeure* circumstances should apply in this case. The reference years 1997, 1998 and 1999 will be used in the calculation of the provisional entitlements. The person named will be notified shortly of this decision.

Milk Quotas.

85. **Mr. Naughten** asked the Minister for Agriculture and Food if an application for hardship milk quota for a person (details supplied) in County Roscommon will be approved; and if she will make a statement on the matter. [24919/04]

Minister for Agriculture and Food (Mary Coughlan): Allocations of milk quota from the national reserve are granted on the basis of recommendations from the milk quota appeals tribunal. The tribunal is a body established to consider and advise on applications for additional quota from individual producers who have suffered severe hardship in the context of the milk quota system.

The person named submitted an application for additional quota on the grounds of hardship in the 2003-04 milk quota year. However, there was insufficient quota available in the 2003-04 milk quota year to enable the tribunal to deal with all applications received and some, including that from the named individual, were held over for consideration in the current 2004-05 quota year. A letter issued to him outlining this position.

The tribunal will examine the cases referred to above in the next few weeks and, when the application of the person named has been considered, he will be notified of the outcome accordingly.

Grant Payments.

86. **Mr. Naughten** asked the Minister for Agriculture and Food, further to Parliamentary Question No. 85 of 8 July 2004, the status of the appeal; and if she will make a statement on the matter. [24920/04]

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 committee made a recommendation and a letter issued to the person named on 2 September 2004. The findings of the committee were that the original decision taken by my Department should be upheld.

Pigmeat Sector.

87. **Mr. N. O'Keeffe** asked the Minister for Agriculture and Food if a copy of the Prospectus study on the pig industry, published in 2000, will be made available, which she referred to in page 2, paragraph 4, of her speech to the House on 5 October 2004; the date on which this study was published; and if this study was available in the Oireachtas Library and in the public domain. [24928/04]

Minister for Agriculture and Food (Mary Coughlan): The Prospectus report was published in December 2000 and was made available in January 2001 to those who commissioned it. Shortly thereafter, the report was given to a wide range of interested parties, in particular, organisations representing pig producers and pig processors. A

copy of the report has been forwarded to the Deputy.

Disease Levies.

88. **Mr. Ring** asked the Minister for Agriculture and Food her plans to decrease the animal disease levies as committed to during negotiations on Sustaining Progress. [24948/04]

Minister for Agriculture and Food (Mary Coughlan): The Sustaining Progress agreement, which was concluded in 2003, provided for the bovine disease levies to be reviewed from 1 January 2004 in light of possible efficiencies in the tuberculosis and brucellosis disease eradication schemes. Following a review of expenditure on these schemes in 2003 and in anticipation of a reduction in the cost of compensation arising from improved disease levels in 2004, the disease levies were reduced by 25% from 1 January 2004. The disease levies will be reviewed again in the context of the Estimates for 2005.

Rural Environment Protection Scheme.

89. **Mr. Durkan** asked the Minister for Agriculture and Food, further to Question No. 95 of 30 September 2004, if she will review the recoupment of moneys awarded under the REP scheme, in view of the fact that the person complied with all required conditions laid down under REPS I when he entered the scheme but was unable to comply with REPS II due to commitments he had already entered into, of a contractual nature, and over which he had no control (details supplied); and if she will make a statement on the matter. [24975/04]

Minister for Agriculture and Food (Mary Coughlan): The person named began his REPS contract on 1 January 2000 and as a result was subject to the arrangements governing the transition between the first rural environment protection scheme and the second one. These required him to give a written undertaking to complete the measures specified in his REPS plan over a five year period and to integrate and adapt that plan for the new scheme when it came into operation or to give back any payments he had received.

The new REP scheme came into operation on 27 November 2000, but the person concerned never adapted and integrated his plan as he had undertaken to do. Consequently, my Department must recoup the REPS payments that he had received.

Tax Collection.

90. **Mr. Boyle** asked the Minister for Finance his views on the recent reduction in receipts from corporation tax. [24950/04]

Minister for Finance (Mr. Cowen): Corporation tax receipts to end September were €185 million below target. Part of the reason for this

may be that a number of companies over-paid their advance preliminary tax, particularly in the autumn of last year. This has resulted in much reduced residual preliminary tax payments in 2004 to date. It may also be the case that the improvement in the economy has yet to result in greater company profits and higher corporation tax receipts. I ask the Deputy to note that almost 40% of the expected yield from corporation tax in 2004 is profiled for collection in the last quarter of 2004. In November alone, 28% is collected. As such, it is too early to speculate about the extent to which corporation tax might recover from its current shortfall position by the year's end.

Budget Submissions.

91. **Mr. F. McGrath** asked the Minister for Finance if he will give consideration to the NAMHI budget submission 2005; and if persons with intellectual disabilities will receive the maximum support. [24873/04]

Minister for Finance (Mr. Cowen): At this time of the year, I receive a large number of pre-budget submissions requesting funding for a wide range of activities. Each submission will be considered in the context of the forthcoming budget.

There is already a significant level of investment by Government in disability specific services through a number of Departments. Currently, some €2.5 billion, representing 7% of gross current public expenditure on services, is provided specifically for people with disabilities. This includes health sector services specifically for persons with an intellectual disability or autism, physical or sensory disabilities and mental illness; first and second level special needs education funded through the Department of Education and Science; the specialised training and employment support services provided by FÁS; the cost of various tax relief schemes and local authority spending to adapt accommodation specifically for people with disabilities.

The figures do not take account of the income support and other services provided through the Department of Social and Family Affairs or the fact that many people with a disability participate in, or benefit from, mainstream public service programmes and services. For example, speech and language therapy, physiotherapy and other similar key services for people with a disability are provided as part of the mainstream health services. Similarly, improving access to public transport services for persons with mobility and sensory impairments is an integral requirement of all Exchequer funded new investment in buses, rolling stock and station infrastructure.

The Deputy will be aware that the Disability Bill was recently published. Publication of the Bill was accompanied by an announcement of new funding arrangements for capital and current spending on disability support services. On the capital front, a multi-annual capital investment

programme for disability-specific services will be developed within the overall system of five year multi-annual capital envelopes that was introduced in budget 2004. This was a major change in the treatment of capital spending and provided for a rolling investment programme and a structured and planned approach to capital spending. These envelopes will be reviewed and rolled forward in the forthcoming Estimates and budget process. Decisions on the investment programme for disability-specific services will be announced as part of that process.

The Government has decided on a fundamentally different approach to current funding for high priority disability support services. In contrast to the traditional year to year basis, a multi-annual funding package for current expenditure on these services will be agreed within the Estimates and budget process. This is the first time the Government has adopted this approach in the case of spending on services. This new approach shows the Government's commitment to funding for disability support services and overall to implementing the initiatives announced with the publication of the Disability Bill.

Tax Code.

92. **Mr. Kehoe** asked the Minister for Finance if he will consider making home security systems VAT exempt in order to make them more affordable to all in times of rising crime; and if he will make a statement on the matter. [24880/04]

Minister for Finance (Mr. Cowen): The purchase and monitoring of home security systems are subject to the standard VAT rate of 21%. The VAT rating of goods and services is subject to the requirements of EU VAT law with which Irish VAT law must comply. While we can maintain the zero rating on those goods and services which were zero-rated before 1 January 1991, the purchase, installation and monitoring of such alarms do not fall within this category. Therefore, it is not possible to apply a zero VAT rate to these goods and services.

However, under the Value Added Tax (Refund of Tax) (No. 15) Order 1981, it is possible to obtain a VAT refund in respect of the purchase of a personal security alarm by or on behalf of a disabled or elderly person. A personal security alarm is considered a medical device for the purpose of this refund order. Applicants should contact the Revenue Commissioners, VAT Repayments (Unregistered Section), Kilrush Road, Ennis, County Clare.

Furthermore, under a scheme of community support for older people operated by the Department of Community, Rural and Gaeltacht Affairs, grant aid is available to fund the once-off cost of purchase and installation of small scale physical security equipment such as strengthening of doors and windows, window locks, door chains and security lighting and socially monitored

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alarm systems, such as pendant alarms, which are operated via telephone and worn around the neck or wrist. Annual monitoring fees or maintenance fees associated with socially monitored alarm systems are not provided for under the scheme.

The VAT refund available in respect of the purchase of a personal security alarm by or on behalf of a disabled or elderly person combined with the scheme of community support for older people outlined above are important measures which help to ensure that those most in need of security systems can avail of them.

93. **Mr. Kehoe** asked the Minister for Finance if he will consider introducing tax incentives for home security systems; and if he will make a statement on the matter. [24881/04]

Minister for Finance (Mr. Cowen): As the Deputy will be aware, section 478 of the Taxes Consolidation Act 1997 — formerly section 5 of Finance Act 1996 — introduced a tax relief in respect of the purchase and or installation of house alarms systems for persons aged 65 years and over who were living alone. The legislation provided that the tax relief would only be available for the period 23 January 1996 to 5 April 1998. The tax relief was allowed to lapse in part because of the small numbers of claims being submitted. While I have no plans at this time to reintroduce the relief for persons over 65 years or more generally, I will bear the Deputy's suggestion in mind.

House Prices.

94. **Mr. Durkan** asked the Minister for Finance the extent to which house price inflation is affecting the competitiveness of the economy; the action he plans to address this issue; and if he will make a statement on the matter. [24892/04]

Minister for Finance (Mr. Cowen): House prices have risen significantly over the last number of years. Between 1995 and 2003, new house prices rose at an annual average rate of just under 14%, the equivalent rate of increase for second-hand house prices was 16%. The increase in prices over this period reflects the substantial increase in housing demand. This, in turn, reflects very strong wage growth, a large increase in employment, net inward migration and an increase in the population in the household formation age cohort. To the extent that prices were driven by these demand side factors, house price developments do not have a significant impact on the competitiveness of the economy.

It is also the case that housing supply has risen sharply in recent years. This year, many commentators are forecasting housing output of around 80,000 units, the largest ever number of completions in a single year. If this proves to be the case, then over 300,000 additional housing units will have been added over the last five years,

which in *per capita* terms is unprecedented. The sharp increase in supply can reasonably be expected to result in a more moderate rate of house price inflation in future.

Tax Code.

95. **Mr. Ring** asked the Minister for Finance if he will consider the exemption of capital gains tax on the disposal of assets to the extent that the proceeds are invested in full into an approved retirement fund for retirement income in the farming sector. [24935/04]

Minister for Finance (Mr. Cowen): Capital gains tax, or 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. As the Deputy may be aware, the rate was halved from 40% to 20% in budget 1998. Reliefs and exemptions made sense when CGT rates were 40% and above. The current position is in accordance with the overall taxation policy of widening the tax base in order to keep direct tax rates low.

The Deputy mentions investment in an approved retirement fund. He may be referring to the pension product known as an ARF. This is a post-retirement product which is an alternative to an annuity as an income source in retirement. A pension product such as a retirement annuity contract may be transferred into an ARF on retirement in certain circumstances. Generous tax relief is already available for contributions to retirement annuities in the form of marginal income tax relief. To exempt the moneys involved from capital gains tax as well would be affording relief on the double which would be excessively generous.

96. **Mr. Ring** asked the Minister for Finance if he will introduce a special environmental protection expenditure tax allowance to give farmers the option of deducting 100% of the net grant expenditure on environmental protection facilities against income with an option to claim a lesser deduction to the extent that the total cost of the investment may be written off over a three year period. [24936/04]

Minister for Finance (Mr. Cowen): To encourage investment in environmental protection in the farming sector, a scheme of improved capital allowances in respect of expenditure incurred on buildings or structures necessary for the control of pollution was introduced for a three year period from 6 April 1997. This relief was extended for three years in the Finance Act 2000 and a further three years in the Finance Act 2004 until 31 December 2006.

The relief has been improved since its original introduction. The ceiling on the maximum amount which can be claimed in the first year was increased from €12,700 to €19,050 in the Finance Act 1998 and to €31,750 in the Finance Act 2000.

A more flexible writing down arrangement was introduced in the Finance Act 2000 whereby the writing down period was reduced from eight to seven years. These writing down arrangements allow farmers, in respect of expenditure incurred on or after 6 April 2000, to elect to have allowances granted over the writing down period at 15% for the first six years and 10% in year seven. Alternatively, farmers can elect to claim the 50% year one allowance in whole or in part at any time over the seven year writing down period, subject to a cap of €31,750 on the amount which can be written down in any one year. The remaining expenditure is claimed as normal at 15% for the first six years and 10% in the final year of the writing down period. Farmers elect which of the two types of writing down arrangement they wish to avail of when they first make a claim for this relief.

I consider that this relief is already very generous in scope. However, as is customary, I can make no further comment on the intention or otherwise to make changes in taxation in the lead up to the annual budget and Finance Bill.

97. **Mr. Ring** asked the Minister for Finance if he will introduce a significant increase in the flat VAT refund to non-VAT registered farmers from its current 4.4% level to over 5.3%. [24937/04]

Minister for Finance (Mr. Cowen): The flat rate refund for unregistered farmers is examined every year in the context of the budget. It is not customary for me to comment on any possible changes to the existing rate which may arise in the context of the forthcoming budget.

The flat rate VAT refund is a simple administrative system designed to compensate farmers who are not registered for VAT for the VAT they incur as part of their farming activities. The calculation of the flat rate is governed by EU VAT law and is based on the relevant macroeconomic data for the farming sector for the previous three years. The macroeconomic information is drawn from statistics on agricultural production, agricultural inputs and the deductible VAT content of such inputs. The flat rate is arrived at by calculating the VAT payable by unregistered farmers on agricultural inputs as a percentage of the value of agricultural sales by these farmers.

98. **Mr. Ring** asked the Minister for Finance if he will extend the PAYE tax credit to all taxpayers through increases in personal tax credits to benefit farmers and other self employed taxpayers. [24938/04]

Minister for Finance (Mr. Cowen): The PAYE allowance, as it was then, was introduced in 1980 to improve the tax progression of PAYE taxpayers and to take account of the fact that the self employed generally then had the advantage of paying tax on a preceding year basis. The argument was also made at the time that the general

scheme of allowances discriminated against employees and in favour of other taxpayers.

There have been changes since 1980 — the self employed now pay tax on a current year basis, for example. However, the PAYE allowance has become a tax credit. Moreover, given that there can be significant timing advantages in the payment of tax for the self employed, the employee credit is still perceived as necessary to ensure a balance in the system. It would be inappropriate to comment in the lead up to the annual budget and Finance Bill on tax measures which may or may not be made.

99. **Mr. Ring** asked the Minister for Finance if he will extend the relief from stamp duty on the purchase of farm land by trained farmers to farmers below the age of 55. [24939/04]

Minister for Finance (Mr. Cowen): 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 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 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.

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.

100. **Mr. Ring** asked the Minister for Finance if he will consider exempting capital gains tax on the disposal of land by committed farmers where the proceeds of the disposal are utilised to consolidate holdings and are applied in the acquisition of other farm land to achieve this within a specified period. [24940/04]

Minister for Finance (Mr. Cowen): 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 farm land.

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It was announced in the 2003 budget that no roll-over 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.

Disabled Drivers.

101. **Mr. Durkan** asked the Minister for Finance the progress with the interdepartmental review of the disabled drivers and disabled passengers tax concession 1994 regulations; and if he will make a statement on the matter. [24956/04]

Minister for Finance (Mr. Cowen): An interdepartmental review group was established to examine the operation of the scheme and its report was published in early July 2004. It sets out in detail the genesis and development of the scheme, the current benefits, the Exchequer costs, the various requests to broaden the eligibility criteria and various recommendations for changes to the scheme.

Following on from the report's recommendations concerning the appeals process, amendments to the regulations governing the disabled drivers and disabled passengers tax concessions scheme were drafted to improve the operation of the medical appeals board. These were signed by the Minister for Finance on 23 July 2004. The amendments provide for changes to the existing regulations as follows: expanding the panel of medical practitioners serving on the medical board of appeal from three to five; amending the appeals process by introducing a six month waiting period between an appeal and a subsequent application and introducing the requirement for a second or subsequent application to be certified by a registered medical practitioner to the effect that there has been material disimprovement in the medical condition since the previous application.

The Government has agreed that the Minister for Finance will consider the report on an

ongoing basis in the overall budgetary context having regard to the existing and prospective cost of the scheme.

Decentralisation Programme.

102. **Mr. Durkan** asked the Minister for Finance if he will report on the progress to date on the plans for decentralisation as announced in budget 2004; the number of civil servants now available for relocation to designated areas; and if he will make a statement on the matter. [24957/04]

Minister for Finance (Mr. Cowen): The two reports of the decentralisation implementation group dated 31 March 2004 and 30 July 2004 provide detailed accounts of the progress made in implementing the decentralisation programme announced last December. An analysis of the applications registered with the central applications facility by 7 September 2004 has also been published. I would also refer Deputies to the presentations made to the Oireachtas Joint Committee on Finance and the Public Service on 6 October 2004 by the chairman of the implementation group. I am very pleased with the progress which has already been made in driving forward the implementation of the programme.

Tax Yield.

103. **Mr. Durkan** asked the Minister for Finance the sectors or Department most likely to benefit from the buoyancy of revenue returns in 2004; if these surpluses are likely to be diverted to the most sensitive areas; and if he will make a statement on the matter. [24958/04]

Minister for Finance (Mr. Cowen): Tax revenue has performed better than expected in 2004 to date. Even so, there will still be a need to borrow €1.2 billion to fund public services. In the light of this, the Deputy's reference to surpluses being diverted is not relevant.

Fiscal Policy.

104. **Mr. Durkan** asked the Minister for Finance his vision in respect of fiscal policy now and in the future; and if he will make a statement on the matter. [24959/04]

Minister for Finance (Mr. Cowen): The Government's fiscal policy is set out in the programme for Government which states that it is committed to sustaining economic growth and maintaining full employment in the Irish economy. We see low inflation, responsible fiscal policies and effective investment policies as central to this.

Financial Services Regulation.

105. **Mr. Durkan** asked the Minister for Finance if he has satisfied himself regarding the adequacy of the regulations appertaining to the

banking and financial services sector; and if he will make a statement on the matter. [24962/04]

Minister for Finance (Mr. Cowen): The Minister of Finance is responsible for the development of the legal framework governing financial regulation. Once the necessary legislative framework has been put in place, day to day responsibility for the supervision of credit institutions is a matter for the Irish Financial Services Regulatory Authority, IFSRA, and the Minister for Finance does not get involved in the day to day activities of the financial regulator. The legislative provisions which have been put in place provide a sound basis for financial regulation in Ireland. Moreover, this code of legislation is being adequately applied and enforced by IFSRA.

The Central Bank and Financial Services Authority of Ireland Acts 2003 and 2004 represent a radical restructuring of financial regulation in Ireland: for example, the establishment of a single structure to take in work previously done by four separate bodies, the greater emphasis on consumer concerns, the enhancement of the regulator's powers, including in administrative sanctions, enhanced provision for co-operation between the various authorities, the provision for establishment of a statutory financial services ombudsman scheme and of new consultative mechanisms for consumers and industry. All of these achievements will contribute to the better regulation of the sector.

It is my intention to learn from the experience of the operation of IFSRA and from various recent and expected reports, so as to keep our legislative framework efficient and up to date. I have recently initiated a public consultation process with a view to consolidating, simplifying and updating our financial services legislation. My ongoing aim is to ensure that our legislation continues to meet the Government's consumer protection and stability objectives in a way that minimises the regulatory burden on industry and otherwise complies with the Government's better regulation agenda, and promotes the development of a sector that is competitive both domestically and internationally and operates to high standards.

Departmental Staff.

106. **Mr. Durkan** asked the Minister for Finance if and when a person (details supplied) in County Dublin will be offered a transfer; and if he will make a statement on the matter. [24963/04]

Minister for Finance (Mr. Cowen): The applicant's human resources directorate is aware of his interest in obtaining a transfer and he will be among those considered for reassignment if a suitable vacancy arises.

The Department of Foreign Affairs is currently finalising the staffing of its new passport office in

Balbriggan, County Dublin, and has invited applications from within the Civil Service to fill a small number of vacancies remaining there. That Department will shortly be in communication with those applicants who will initially be offered a transfer to Balbriggan. Those applicants who will not be offered a transfer at this time will also be contacted and informed of the outcome of their applications.

Garda Stations.

107. **Mr. Durkan** asked the Minister for Finance the progress over the summer months of 2004 on the project to provide a new Garda station at Leixlip, County Kildare; the extent to which the issue has been advanced in that period with particular reference to the need to proceed without delay; when it is likely that the station will be built and commissioned; and if he will make a statement on the matter. [24967/04]

Minister of State at the Department of Finance (Mr. Parlon): A revised brief was received from the Department of Justice, Equality and Law Reform which has increased the scale of the Garda station. In consequence it has been necessary to open negotiations with Kildare County Council with a view to maximising the development potential of the proposed station site. It is hoped to complete these negotiations as soon as possible to finalise a revised sketch scheme for the new station which will be issued to the Department for its approval.

Price Inflation.

108. **Mr. Durkan** asked the Minister for Finance if, with a view to obtaining a more comprehensive evaluation of inflation, he will consider including house and other prices in the CPI; and if he will make a statement on the matter. [24968/04]

Minister for Finance (Mr. Cowen): The director general of the Central Statistics Office, CSO, has sole responsibility for and is independent in deciding the statistical methodology and professional standards to be used in compiling the consumer price index, CPI. The CPI is designed to measure the change in the average level of the prices paid by consumers for goods and services. It measures in index form the monthly changes in the cost of purchasing a representative basket of consumer goods and services.

The purchase of a house is an investment in a capital asset, purchased over a long period of time, that usually appreciates in value. It does not form part of consumption and so house prices are excluded from the index. The CPI does, however, include the current costs of housing, such as mortgage interest costs. These costs reflect not only changes in interest rates but also the increasing size of the average mortgage. Measurement of the latter takes into account the trend in house prices

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and as a result these price trends are taken into account, indirectly, in the index. Rental costs are also included in the CPI.

The latest CPI release shows the annual inflation rate in August was 2.5%. Inflation has averaged 1.9% in the first eight months of this year, compared to an average of 4.2% over the same period last year. The moderation in inflation is a very welcome development. In the Economic Review and Outlook, which was published in August, my Department forecast an annual average rate of CPI inflation of 2.2% for 2004 as a whole, down from 3.5% last year.

Flood Relief.

109. **Mr. Durkan** asked the Minister for Finance if he has received submissions from or made submissions to Kildare County Council in regard to the permanent alleviation of flooding at the Mill Lane, Leixlip, County Kildare; and if he will make a statement on the matter. [24969/04]

Minister of State at the Department of Finance (Mr. Parlon): The Office of Public Works met with officials from Kildare County Council earlier this year to discuss flooding problems at a number of locations. The county council confirmed that it had commissioned a report on flooding at Leixlip and agreed to forward a copy of the report to the OPW when available.

Flooding problems in the Mill Lane area of Leixlip are a matter for the local authority in the first instance and the OPW is happy to assist with technical advice and guidance. It should also be noted that no flood relief scheme is planned for this location.

Economic Competitiveness.

110. **Mr. Durkan** asked the Minister for Finance the most important steps that he can take in his Department to improve the competitiveness of the economy; and if he will make a statement on the matter. [24970/04]

Minister for Finance (Mr. Cowen): Given the importance of trade and investment to the continued development of the Irish economy, regaining and improving the competitiveness of the economy is a key priority for the Government and also for social partnership. Keeping a downward pressure on costs is essential. The consensus approach to wage determination has a crucial role in improving competitiveness, by delivering moderate wage increases. In this context, wage increases must be limited to those negotiated under Sustaining Progress. My Department participates fully in the negotiations of these agreements. Officials from my Department are also participating in the anti-inflation initiative set up as part of Sustaining Progress with a view to examining ways of reducing inflation.

It is also important to maintain spending growth in line with revenue growth, thus keeping the burden of taxation low in order to maximise our economic growth potential. Finally, we can maintain capital expenditure at the current high levels relative to GNP in order to reduce the existing infrastructural deficit.

111. **Mr. Durkan** asked the Minister for Finance the merits and demerits of a high wage economy; the extent to which this will be reflected in the future; and if he will make a statement on the matter. [24971/04]

Minister for Finance (Mr. Cowen): Wages in Ireland have risen significantly over the last number of years as we have successfully repositioned large parts of the economy in more knowledge intensive, higher value added employment. As a result, incomes in Ireland have converged to, and subsequently exceeded, the EU average.

One of the potential downsides of this is the fact that Ireland has become a high cost base, particularly for some lower skilled sectors. As a result, there have been job losses in some of these sectors. While this may be considered as part of an ongoing process of moving up the value added chain, it nonetheless has adverse implications for those whose skills have become relatively less important over time. This highlights the importance of investment in training and education. Moreover, for those sectors which have relatively limited scope for productivity growth, restoration of cost competitiveness is a crucial concern.

The challenge is to maintain and build on our performance over the last decade. We will need to be in a position to adapt and to develop our strengths, as highlighted in the recent report of the enterprise strategy group, if we are to succeed in the knowledge economy.

Tax Code.

112. **Mr. Durkan** asked the Minister for Finance if the correct amount of income tax is being deducted in the case of a person (details supplied) in County Kildare; and if he will make a statement on the matter. [24972/04]

Minister for Finance (Mr. Cowen): I am advised by the Revenue Commissioners that amended tax credit certificates will issue to the taxpayer and his spouse in the coming days and that all income tax deducted to date in 2004 will be refunded to them.

113. **Mr. Durkan** asked the Minister for Finance the extent of capital gains or other tax liability in the event of disposal of all or part of an inheritance from a parent in view of the fact that the beneficiary is the registered owner for more than ten years; and if he will make a statement on the matter. [24973/04]

Minister for Finance (Mr. Cowen): I am advised by the Revenue Commissioners that chargeable gains arising on the disposal by the beneficiary of all or part of an inheritance from a parent will be liable to capital gains tax, notwithstanding that the beneficiary has been the registered owner for more than ten years.

The chargeable gain is the difference between the net sale proceeds, after deducting the incidental costs of sale, and the allowable expenditure, that is, the aggregate of the market value of the asset on the date the parent died and the cost of any enhancement expenditure incurred by the beneficiary, after adjusting both for inflation up to 31 December 2002. The first €1,270 of an individual's annual gains are exempt from capital gains tax. The excess is chargeable at 20%.

The liability will be relieved, wholly or partially, where the beneficiary is entitled to relief, for example, on the disposal of his or her main residence or certain business assets. This relief is subject to conditions. On the information given, it appears that the beneficiary is not liable to taxes other than capital gains tax on the disposal in question.

Disabled Drivers.

114. **Mr. Durkan** asked the Minister for Finance, further to Parliamentary Question No. 308 of 29 September 2004, the respect in which the application made under the disabled driver and disabled passenger tax concessions scheme did not meet requirements; and the criteria now deemed to be required in order to qualify. [24979/04]

Minister for Finance (Mr. Cowen): Under the Disabled Drivers and the Disabled Passengers (Tax Concessions) Regulations 1994, before a vehicle can qualify for tax relief, adaptations amounting to at least 10% of the tax free cost of a vehicle must be carried out.

I am advised by the Revenue Commissioners that this requirement has been communicated to the named person on a number of occasions and that none of the claims received was supported by evidence that the necessary adaptations were carried out. Unless adaptations, as required by the regulations, are carried out, the named person cannot qualify under the scheme. If the named person wishes to clarify the minimum cost of adaptations required to qualify, he should ring Seosaimhín Ní Bhriain, Border Midlands West Region, Central Repayments Office, Office of the Revenue Commissioners, Coolshannagh, Monaghan, at telephone number 047-38011.

School Transport.

115. **Mr. Kehoe** asked the Minister for Education and Science the reason a decision was taken to provide only one bus to transport the pupils of a school (details supplied) in County Carlow; the person responsible for the pupils

when they are waiting for the bus after school hours; and if she will make a statement on the matter. [24862/04]

Minister for Education and Science (Ms Hanafin): My Department has requested a report from Bus Éireann on this matter. The case will be considered on receipt of the report.

Higher Education Grants.

116. **Mr. Hayes** asked the Minister for Education and Science if a parent (details supplied) in County Tipperary is entitled to a top-up grant for their child, even though the parent is receiving a small maintenance payment. [24863/04]

Minister for Education and Science (Ms Hanafin): The report of the action group on access to third level education makes detailed recommendations concerning the introduction of special rates of maintenance grants for disadvantaged students, usually referred to as top-up grants. The target group of those most in need has been defined in terms of the dependants of people receiving long-term welfare payments, where the necessary conditions are fulfilled.

The special rates of grant are also available to mature students who meet the prescribed conditions. To qualify for the top-up grant all candidates must satisfy the following conditions: qualify for the ordinary maintenance grant in respect of the academic year; total reckonable income limit in the tax year to 31 December 2003 must not exceed €14,693, net of standard exclusions, as set out in the 2004 maintenance grants schemes and net of CDA payments, where applicable; as at 31 December 2003, the reckonable income of parent(s)/guardian(s), the candidate himself/herself, or the income of the spouse/partner, as the case may be, must include one of the eligible social welfare payments prescribed under the scheme.

When a student submits an application for grant assistance the application will automatically be assessed for the special rate of grant where the income includes one of the eligible social welfare payments prescribed under the scheme. Decisions on applications are taken by the awarding authority based on the conditions and terms issued by my Department. The awarding authorities do not refer individual applications to my Department except in exceptional cases where, for example, advice or instruction regarding a particular condition is desired. It appears that no such advice or instruction has, to date, been sought in the case of the student referred to by the Deputy.

If an individual applicant considers that s/he has been unjustly refused the special rate of maintenance grant, s/he may appeal to the relevant local authority or VEC. Where an individual applicant has had an appeal turned down, in writing, by the relevant local authority or VEC and remains of the view that the body has not inter-

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preted the conditions correctly in his/her case, a letter outlining the position may be sent to my Department.

No appeal has been received in the student support unit of my Department from the student referred to by the Deputy. Alternatively, as already indicated, the local authority or VEC may, itself, in exceptional circumstances, seek clarification on issues from my Department. It is not open to me or to my Department to depart from the terms of the schemes in individual cases.

Special Educational Needs.

117. **Ms Cooper-Flynn** asked the Minister for Education and Science the reason a person (details supplied) who was in receipt of 2.5 hours resource teaching up June 2004 has had their hours reduced despite the fact that the educational psychologist recommended that they receive a minimum of four hours resource teaching per week. [24874/04]

Minister for Education and Science (Ms Hanafin): My officials will investigate the matter referred to by the Deputy and contact will be made with the school as soon as this process has been completed.

118. **Mr. Stanton** asked the Minister for Education and Science further to circular SP ED 09/04, the date on which it was issued to schools; the number of applications for SER support for persons in the low incident categories from the commencement of the 2004-05 school year which were to be submitted to the special education section by 30 June 2004; the number of these applications that were accompanied by the relevant professional reports as per appendix 2 of the circular; the further number of these applications which have been allocated resources, refused resources and are pending decision respectively; and if she will make a statement on the matter. [24875/04]

Minister for Education and Science (Ms Hanafin): The circular to which the Deputy refers issued on 22 June 2004 and is available on my Department's website, www.education.gov.ie.

There were 2,865 special educational resource, SER, applications submitted to my Department for pupils in the low incidence disability categories from the commencement of the 2004-05 school year up to 30 June 2004. Of these cases, applications in respect of 1,551 pupils have been approved for SER support. This includes applications for pupils commencing school in September 2004. It is considered that all of the approved applications were accompanied by the relevant professional report(s). The remaining 1,314 applications received have been unsuccessful, are subject to appeal, have not yet been processed or are incomplete applications. The processing of the applications is ongoing.

The applications not yet processed includes applications for special needs assistant support. The Deputy may be aware that my Department is currently considering the levels and deployment of SNA support in mainstream national schools generally. A decision on these applications will be conveyed to schools as soon as this process has been completed.

School Transport.

119. **Mr. R. Bruton** asked the Minister for Education and Science the amount spent on second level school transport for the most recent year for which statistics are available and for each of the five years prior to the most recent year for which statistics are available; the corresponding numbers carried at second level on school transport for each of these years; and if she will make a statement on the matter. [24876/04]

120. **Mr. R. Bruton** asked the Minister for Education and Science the amount spent on primary school transport for the most recent year for which statistics are available and for each of the five years prior to the most recent year for which statistics are available; the corresponding numbers carried at primary level on school transport for each of these years; and if she will make a statement on the matter. [24877/04]

Minister for Education and Science (Ms Hanafin): I propose to take Questions Nos. 119 and 120 together.

The expenditure provided are global figures for both primary and post-primary school transport including grants paid under the various grant schemes. The cost of school transport for each of the past six years is as follows: 1998 — €51.2 million; 1999 — €57.9 million; 2000 — €65.0 million; 2001 — €77.0 million; 2002 — €95.9 million; 2003 — €101.7 million.

The overall number of pupils carried on services operated by Bus Éireann during the same period is estimated as follows: 1998 — 154,000; 1999 — 145,000; 2000 — 139,000; 2001 — 140,000; 2002 — 136,000; 2003 — 138,000. The Deputy will appreciate that the numbers carried may vary from month to month. The number of post-primary and primary pupils carried is estimated at 60% and 40% respectively of the overall total.

Schools Building Projects.

121. **Mr. F. McGrath** asked the Minister for Education and Science the position regarding the building programme for a school (details supplied); and if she will make a statement on the matter. [24878/04]

Minister for Education and Science (Ms Hanafin): My Department is currently investigating a number of options to cater for the long-term accommodation needs of the school referred to by the Deputy. Among the options under consideration is the possible purchase of a site. The

Office of Public Works, which acts on behalf of my Department in site acquisition matters generally, is investigating this particular option.

School planning section is also looking at the overall future provision of primary education in the area in which the school is located. In this regard, it is engaged in discussions with the primary education providers concerned. The purpose of the examination is to determine the likely demand for primary school places in the medium to long term and how existing provision can be maximised to cater for this demand.

No decisions will be taken regarding capital investment for the school in question pending the conclusion of this broader examination of the area.

Special Educational Needs.

122. **Mr. J. O’Keeffe** asked the Minister for Education and Science if her attention has been drawn to the urgent need for the appointment of a special needs care assistant on a full-time basis and for adequate resource hours for a person (details supplied) in County Cork; and if she will immediately approve same. [24879/04]

Minister for Education and Science (Ms Hanafin): Where a pupil with special educational needs enrolls in a post primary school, it is open to the school to apply to my Department for additional teaching and-or special needs assistant support for the pupil.

My Department allocates additional teaching support and special needs assistant support to second level schools and vocational educational committees to cater for pupils with special educational needs. Each application is considered on the basis of the assessed needs of the pupils involved and the nature and level of support provided is determined on the advice of the psychological service.

The school concerned has been allocated 39.5 hours per week teaching support and 10.0 hours per week special needs assistant support for the 2004-2005 school year to cater for the special educational needs of a number of pupils, including the pupil referred to by the Deputy. The level of resources allocated by my Department was determined after detailed consideration of the school’s application, the supporting documentation provided, including the recommendations made by the National Educational Psychological Service, and having regard to the overall level of resources already available to the school.

If the school authority is of the view that the level of needs within the school is such as to be incapable of being addressed from within its current allocation, my Department will be prepared to consider these concerns. Such consideration will require a clear demonstration of the inadequacy of the allocation by reference to the current utilisation of the school’s available resources.

Schools Building Projects.

123. **Cecilia Keaveney** asked the Minister for Education and Science the position with a school building project (details supplied) in County Donegal; and if she will make a statement on the matter. [24894/04]

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 two rating and is at stage three, detailed plans-costs. This project was not authorised to proceed to tender and construction this year. My Department’s technical staff are currently examining the stage three documentation and the school authorities will be kept advised of developments.

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.

Payment of Arrears.

124. **Mr. P. McGrath** asked the Minister for Education and Science if, in view of a recent decision by a labour relations commissioner concerning the rate of pay for special needs assistants in junior classes in primary schools, a person (details supplied) in County Westmeath is entitled to back payments from her Department; the amount they are entitled to for each of the relevant years; and when these payments will be made. [24895/04]

Minister for Education and Science (Ms Hanafin): My Department has received an application from the person referred to for the payment of arrears in respect of the period that she worked with children in infant classes. The person’s application is currently being processed and payment will be made in the payroll issue of 4 November.

Schools Building Projects.

125. **Ms Enright** asked the Minister for Education and Science when she expects the extension to a school (details supplied) in County Cork to commence; the reason work on the extension has not proceeded since it was sanctioned in 2000; if her attention has been drawn to the fact that this four teacher school has had only three classrooms for the past 17 years and that the general practitioner room is now used as a classroom; and if she will make a statement on the matter. [24896/04]

Minister for Education and Science (Ms Hanafin): The refurbishment-extension project for the school referred to by the Deputy is at an

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early stage of architectural planning. It has a band two rating. This project was not authorised to proceed to tender and construction this year. My Department's technical staff are currently examining the stage two-three documentation, detailed plans-costs. The school authorities will be kept advised of developments.

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.

Special Educational Needs.

126. **Ms Enright** asked the Minister for Education and Science when an education plan will be carried out on a person (details supplied) in County Offaly; and if she will make a statement on the matter. [24897/04]

Minister for Education and Science (Ms Hanafin): The person named currently attends a class for children with autistic spectrum disorders. The practice in this school is to provide individual educational plans for all the children in the class. An individual educational plan has already been prepared for this person. The development of individual educational plans is the responsibility of the school with advice from external professionals, as needed. In this case, a senior psychologist from the National Educational Psychological Service is available to the school on request for additional advice and support on developing the plan.

The National Educational Psychological Service intends to continue to offer support to this class and a review of the effectiveness of the individual educational plan will be carried out in consultation with the person's parents and teachers.

127. **Ms Enright** asked the Minister for Education and Science if further resource hours will be sanctioned for a school (details supplied) in County Dublin in view of the fact that the allocation does not take into account the number of children in the school and their specific needs; and if she will make a statement on the matter. [24898/04]

128. **Ms Enright** asked the Minister for Education and Science the reason the letters of a principal of a school (details supplied) in County Dublin sent on 27 May, 8, 21, 29 June and 10 September 2004, on the issue of special education have not been replied to; and if she will make a statement on the matter. [24899/04]

Minister for Education and Science (Ms Hanafin): I propose to take Questions Nos. 127 and 128 together.

I can confirm that following receipt of correspondence from the school referred to by the Deputy a Department official telephoned the school principal on 23 September to discuss the matters raised in the correspondence. The official explained the current position relating to the school's application for special needs supports. It was explained that while the new weighted system has recently been developed, it is not yet fully implemented. It is a genuine effort to improve the special education resource allocation process. My Department will continue to examine how the new system will affect schools, including schools that have been established in recent years and have a limited level of special education resources.

An additional 350 teacher posts are being provided to facilitate the introduction of the new system. This system will involve a general weighted allocation for all primary schools to cater for pupils with higher incidence special educational needs, that is, those with borderline mild and mild general learning disability and specific learning disability, as well as those with learning support needs. In addition, it will continue to allow for individual allocations in respect of pupils with lower incidence of special educational needs.

129. **Ms Enright** asked the Minister for Education and Science if she will provide the information on which the decision to provide higher learning support to boys' and mixed schools than to girls' schools was based; and if she will make a statement on the matter. [24900/04]

Minister for Education and Science (Ms Hanafin): The revised system for allocating teaching resources to mainstream national schools for special needs comprises two elements. The first element is a general weighted allocation for pupils requiring learning support and pupils with higher incidence disabilities, that is, those with dyslexia and those with mild and borderline mild general learning disability. The second element enables schools to apply for specific support for those pupils with lower incidence disabilities and those applications are considered on their individual merits. In the case of specific pupils with lower-incidence disabilities, no differentiation is made on the basis of gender.

The general weighted allocation method discriminates positively in two important respects. First, it discriminates on a gender basis as a considerable body of evidence shows that boys are more likely than girls to have learning delays and special educational needs. Data available to the Department from its census of special educational needs in primary schools support this position as do successive literacy studies. Second, it recognises the connection between learning delay and special educational need on the one hand and socio-economic disadvantage on the other.

These considerations are reflected in the following weighted allocations. In the most disadvantaged schools, as per the urban dimension of Giving Children an Even Break scheme, 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 girl schools with an enrolment of greater than 30% boys, one for every 150 pupils; and in all girl schools, including schools with mixed junior classes but with 30% or less boys overall, one for every 200 pupils. Any all girl school which comes within the most disadvantaged category indicated above will attract the most favourable allocation.

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. 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.

Schools Building Projects.

130. **Ms Enright** asked the Minister for Education and Science the number of primary schools awaiting the assignment of the band rating to establish priority; and if she will make a statement on the matter. [24901/04]

131. **Ms Enright** asked the Minister for Education and Science the number of post primary schools awaiting the assignment of the band rating to establish priority; and if she will make a statement on the matter. [24902/04]

Minister for Education and Science (Ms Hanafin): I propose to take Questions Nos. 130 and 131 together.

The school planning section of my Department is currently nearing completion of an examination of all primary and post-primary building projects on hand in line with the project prioritisation criteria that were recently revised in consultation with the education partners.

School Staffing.

132. **Mr. Naughten** asked the Minister for Education and Science the number of vacancies for deaf teachers within the regional service; the regions involved; the plans she has to fill these posts; when each position became vacant; the measures taken to date to fill each post; and if she will make a statement on the matter. [24912/04]

Minister for Education and Science (Ms Hanafin): My Department is assessing the role of the visiting teacher service in the context of the level and range of teacher supports now being

provided for children with special educational needs. I expect that the review will be completed within the current school term.

There are four vacancies in the visiting teacher service for hearing impaired or deaf pupils. The regions in question are Cavan, Monaghan and Leitrim; Galway; Wicklow, Carlow and Waterford; and north-east Cork. The position in the Cavan, Monaghan and Leitrim area is vacant since 31 August 2003 and the remaining three are vacant since 31 August 2004. A decision on the filling of vacancies, to which the Deputy refers, will be based on the outcome of the review.

133. **Mr. Naughten** asked the Minister for Education and Science, further to Parliamentary Questions Nos. 531 and 532 of 29 September 2004 and correspondence (details supplied), if her Department will now accept that circumstances in regard to school staffing have now changed and the school is no longer over quota; and if she will make a statement on the matter. [24922/04]

Minister for Education and Science (Ms Hanafin): Post-primary schools may apply to my Department for additional teaching hours to help cater for the needs of Traveller and non-national pupils enrolled. In situations where schools have over quota posts, my Department routinely requires that these posts be utilised to meet new and emerging needs within such schools, including the needs of Traveller and non-national pupils, where appropriate.

Following consideration of the application from the school concerned, my Department decided that the school should cater for the needs of the Traveller and non-national pupils enrolled from within its existing resources, which include 2.5 wholtime equivalent surplus posts. This case was referred to the independent appeals committee which upheld the original decision. This committee operates independently of my Department and its decisions are final.

In the event that there is any subsequent change in the staffing of the school which alters its quota position, my Department will be prepared to review the case. To date, no such change has been notified to my Department.

Special Educational Needs.

134. **Mr. Wall** asked the Minister for Education and Science when an appointment of a teacher and special needs assistant will be made at a school (details supplied); and if she will make a statement on the matter. [24924/04]

136. **Mr. Wall** asked the Minister for Education and Science the way in which a school (details supplied) in County Kildare can provide special resources for a number of children under the new system of qualification for special resources when it has not been allocated a teacher; and if she will make a statement on the matter. [24926/04]

Minister for Education and Science (Ms Hanafin): I propose to take Questions Nos. 134 and 136 together.

The school referred to by the Deputy was advised of its teacher allocation under the new weighted system on 24 June 2004. The school has the services of one full-time shared resource teacher post and one full-time shared learning support teacher post.

An additional 350 teacher posts are being provided to facilitate the introduction of the new system. This system will involve a general weighted allocation for all primary schools to cater for pupils with higher incidence special educational needs, SEN, that is, those with borderline mild and mild general learning disability and specific learning disability, as well as those with learning support needs. In addition, it will continue to allow for individual allocations in respect of pupils with lower incidence SEN.

The weighted allocation will be made as follows. In the most disadvantaged schools, as per the urban dimension of the Giving Children an Even Break scheme, 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 SEN; in all boy schools, the ratio will be one teacher for every 140 pupils; in mixed schools or all girl schools with an enrolment of greater than 30% boys, one for every 150 pupils; and in all girl schools, including schools with mixed junior classes but with 30% or less boys overall, one for every 200 pupils.

The weighted allocation will enable teaching support to be provided to pupils with higher incidence SEN and learning support needs. This will obviate the need for schools to submit individual applications for pupils in those categories. Schools may continue to apply for specific teacher allocations in respect of pupils with lower incidence SEN.

My Department now proposes to devise school clusters in respect of allocations to be made under the weighted model. Sanction for the filling of posts will be considered in the context of these clusters and the weighted arrangements. In order to facilitate the full introduction of the weighted model from the school year 2005-06, my Department has agreed not to re-deploy surplus teachers from full-time posts via the panel redeployment process during the current school year. Schools have been informed, also, that they may retain excess part-time teaching hours to the extent that such hours are required for children with lower incidence SEN.

With regard to special needs assistant, SNA, support, the school referred to by the Deputy currently has the services of a full-time special needs assistant post. I can confirm that my Department received additional applications for SNA support. 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 applications will be conveyed to the school as soon as this process has been completed.

135. **Mr. Wall** asked the Minister for Education and Science the number of special resource teachers appointed for the proposed 350 placements; if all of the positions are not filled, the timetable for the completion of the appointments; and if she will make a statement on the matter. [24925/04]

Minister for Education and Science (Ms Hanafin): My Department has allocated the equivalent of 345 additional resource teaching posts to the primary system. The allocation process is ongoing. Responsibility for the recruitment and appointment of resource teachers is a matter for individual school boards of management. The overall position will be determined as a result of panel redeployment arrangements which will take effect from the 2005-06 school year.

Question No. 136 answered with Question No. 134.

Educational Disadvantage.

137. **Mr. J. O'Keeffe** asked the Minister for Education and Science the position regarding the future of the GCEB co-ordinator for four schools in west Cork; if her attention has been drawn to the fact that the scheme has had a very positive influence on the school community over the past eight years; and if the scheme will be continued in the area covered by Togher, Kealkil and Coomhola national schools and Scoil Mocomóg [24930/04]

Minister for Education and Science (Ms Hanafin): My Department is currently finalising a review of educational disadvantage schemes with a view to building on what has been achieved to date, adopting a more systematic, targeted and integrated approach and strengthening the capacity of the system to meet the educational needs of disadvantaged children and young people. The future position of the scheme referred to by the Deputy will be clarified in the context of this review.

Special Educational Needs.

138. **Ms Burton** asked the Minister for Education and Science if her attention has been drawn to the difficulties of the board of management of a school (details supplied) in Dublin 15 and its request to her Department to acknowledge the unique situation that exists in the school regarding international pupils currently on the roll; the need to allocate two additional resource teachers to the school and restore the four special needs assistance posts for international students revoked in 2003 and 2004; if she has received a copy of the report from the board of management of the school; and if she will respond to the

special need which the school has, as disclosed in this report. [24953/04]

Minister for Education and Science (Ms Hanafin): My Department received a copy of the report referred to by the Deputy and is aware of the situation with regard to the level of international pupils in attendance at the school.

The allocation of resource teaching support and special needs assistant support to primary schools is based on the assessed needs of individual pupils with special educational needs. Therefore, any applications for such support submitted by the school should be in the context of the criteria in my Department's circulars relating to special needs provision. In this context, my Department has no plans to sanction additional resource teaching provision or special needs assistant support to meet the needs of the international pupil cohort in the school.

The school currently has an allocation of three language support teachers and this is the maximum number of such teachers that is sanctioned to any school for this purpose. Where a school meets the criteria for allocation of resources under any scheme, it will be allocated the resources as appropriate. There are no exceptional measures open to my Department under which an additional allocation can be made to the school. In making resources available, my Department has to devise processes which treat schools equitably.

Notwithstanding the above, arrangements will be made to have the case made by the school examined in more depth in the context of additional resources becoming available. Any expansion of existing schemes can only be done on a phased basis having regard to available resources and subject to spending priorities within the education sector.

Schools Refurbishment.

139. **Mr. Naughten** asked the Minister for Education and Science the status of the application which is with her post-primary building unit for a school (details supplied) in County Roscommon; if she will approve funding for this project; and if she will make a statement on the matter. [24954/04]

Minister for Education and Science (Ms Hanafin): The extension project for the school referred to by the Deputy is at an early stage of architectural planning, namely, stage 1, site suitability and site analysis. It has a band 2 rating. 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.

140. **Mr. Durkan** asked the Minister for Education and Science if a higher education grant is available to a person (details supplied) in County Kildare; and if she will make a statement on the matter. [24977/04]

Minister for Education and Science (Ms Hanafin): The decision on eligibility for third level 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 regarding a particular clause in the relevant scheme is desired. It appears that no such advice or instruction has, to date, been sought in the case of the student referred to by the Deputy. If an individual applicant considers that he or she has been unjustly refused a maintenance grant, or that the rate of grant awarded is not the correct one, that applicant may appeal to the relevant local authority or VEC.

Where an individual applicant has had an appeal turned down, in writing, by the relevant local authority or VEC, and remains of the view that the body has not interpreted the schemes correctly in his or her case, a letter outlining the position may be sent to my Department. Alternatively, as already indicated, the local authority or VEC may itself, in exceptional circumstances, seek clarification on issues from my Department.

Marine Safety.

141. **Mr. Ferris** asked the Minister for Communications, Marine and Natural Resources if he will make a statement on the decision by an inspector in his Department to delay the embarkation of a ship carrying a cargo of bulls from Waterford for a company (details supplied). [24872/04]

Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey): Under Irish and international law all cargo vessels trading into and out of Irish ports are required to carry the appropriate certification to demonstrate compliance with International Maritime Organisation and International Labour Organisation requirements. The surveying staff attached to the maritime safety directorate of my Department carry out regular inspections of all vessels, including unannounced checks, to ensure compliance with the relevant conventions and regulations. Where a vessel is found to be non-compliant it is detained until the matter is rectified.

I am advised that this cargo vessel, a foreign vessel registered in the Lebanon, was found to be deficient during a recent port State control inspection. Once the deficiencies were rectified the ship was re-inspected by the same surveyor and was subsequently permitted to proceed on its voyage. I believe that the monitoring of vessels by regular inspections is proving to be an effective measure in encouraging compliance and implementation of the international safety standards.

Broadcasting Legislation.

142. **Mr. Deenihan** asked the Minister for Communications, Marine and Natural Resources the total sum to date of the BCI innovation fund established under the Broadcasting (Funding) Act 2003; the details of moneys spent to date; and if he will make a statement on the matter. [24889/04]

143. **Mr. Deenihan** asked the Minister for Communications, Marine and Natural Resources the number of staff recruited to date to administer the BCI innovation fund; the number that will administer the fund when the schemes become operable; and if he will make a statement on the matter. [24890/04]

Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey): I propose to take Questions Nos. 142 and 143 together.

The Broadcasting (Funding) Act 2003 provided for the establishment of a fund to support certain television and radio productions and projects out of an amount of 5% of net receipts of television licence fees and in accordance with a scheme to be administered by the Broadcasting Commission of Ireland. The Act provided that the 5% of the net proceeds from television licence fees would be paid into the fund with effect from 1 January 2003. To date €14.3 million has been paid into the fund.

The BCI has drawn up a draft scheme and recently completed a public consultation on that draft scheme. In accordance with section 2(1) of the Broadcasting (Funding) Act 2003, the BCI must submit the finalised scheme to me for approval, following which I will lay the scheme before the Oireachtas. I expect to receive a proposed scheme from the BCI in the next few weeks. Any scheme is likely to require State aid approval from the European Union. The BCI has submitted a proposal to my Department on how the scheme should be administered, including a proposed staffing structure. My Department at present is examining this proposal.

Marine Safety.

144. **Mr. Stanton** asked the Minister for Communications, Marine and Natural Resources if an assessment has been carried out on the Coast Guard station in Ballycotton; if so the results of any such assessment; if his attention has been drawn to the need to build a new Coast Guard station in a new location in Ballycotton; his plans in this regard; and if he will make a statement on the matter. [24923/04]

Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey): The Irish Coast Guard of my Department operates a station house building programme to upgrade its 54 coastal unit stations around the coast. The Office of Public Works is the project manager for the Coast Guard.

To date, nine stations have been built or rebuilt and two further stations have been extended. The programme is delivering one to two new stations per year and it is kept under regular review. The project team has looked at several prospective sites for a new station at Ballycotton and this station remains part of the programme.

Harbours and Piers.

145. **Mr. J. O'Keeffe** asked the Minister for Communications, Marine and Natural Resources his views on whether the condition of the existing pier at Dinish Island, Castletownbere, is a cause for concern, particularly at the point where ice and other supplies are loaded; the steps that have been taken since the project for the improvement and extension of the pier, dredging and a new auction hall was announced over four years ago; and when this project is now likely to get under way. [24929/04]

Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey): Consultants on behalf of my Department carried out a limited structural assessment of the existing pier at Dinish Island, namely, where the ice plant and so forth are located. The consultants reported on this on 24 September 2004. This report is being examined currently by my Department.

Invitations to tender for the development works comprising dredging, quay construction and the building of an auction hall have been prepared as a single contract. However, invitations in respect of the dredging and disposal works were prepared as a nominated sub-contract to allow earlier mobilisation of the dredging contractor.

The invitations to tender for the dredging and disposal works were issued in early June 2004. During the tender stage a number of contractors requested an extension of time for return of tenders. The dredging tenders were returned on 10 September 2004. Tender assessment is ongoing. It is expected that a letter of intent will be awarded to the successful dredging contractor later this month. This will allow the contractor to commence work on preliminaries, put in place the statutory permits appropriate to its proposed methodology and arrange mobilisation in advance of award of the main contract.

Pre-qualification of contractors for the main contract is completed and invitations to tender were issued on 24 September 2004. The tender period is six weeks and tenders are due for return on 5 November 2004. The dredging tender will be incorporated in the main tender but will effectively already be in progress. The other elements of the main contract will follow the dredging phase.

Racing Revenue.

146. **Mr. Rabbitte** asked the Minister for Arts, Sport and Tourism the amount he anticipates will be raised from excise duty on off-course betting and Exchequer subvention in regard to the pro-

posed increase in the amount for the horse and greyhound racing fund; and if he will make a statement on the matter. [24908/04]

Minister for Arts, Sport and Tourism (Mr. O'Donoghue): As the Deputy is aware, the Horse and Greyhound Racing Fund was established under the Horse and Greyhound Racing Act 2001 for the purpose of giving support to both racing industries. Under section 12(4) of the Act, there shall be paid into the fund out of moneys provided by the Oireachtas, in 2002 and in each subsequent year, an amount equivalent to the revenue from excise duty on off-course betting paid into the Exchequer in the preceding year or 2000 increased by reference to the consumer price index, whichever is greater.

Section 12(5) of the Horse and Greyhound Racing Act 2001 states the aggregate amount paid into the fund shall not exceed £200 million or €254 million. As this amount will be exceeded by the end of 2004 by €4 million, the Horse and Greyhound Racing Fund Regulations 2004 have been prepared with the purpose of increasing the limit to not exceed €550 million and were laid before both Houses of the Oireachtas in draft form on 22 September 2004.

It is anticipated that approximately €290.5 million will be paid into the fund in the period 2005 to 2008. Based on current growth levels in off-course betting, it is estimated that in the period 2004 to 2007, €247.5 million will be raised from excise duty on off-course betting, which would go towards the fund in the years 2005 to 2008. Assuming a consumer price index of 2.5% for the period, the amount of direct Exchequer subvention required is likely to be €43 million up to 2007 when it is expected that the fund will be financed fully from duty on off-course betting.

Health Board Services.

147. **Mr. F. McGrath** asked the Tánaiste and Minister for Health and Children if she has plans to assist children whose parents are involved in drugs or who have died as a result of their drug use; and if she will take action to assist these families. [24869/04]

Tánaiste and Minister for Health and Children (Ms Harney): The provision of drug treatment services is the statutory responsibility of the health boards. All health boards provide a wide range of services including counselling, education, treatment and rehabilitation.

There are two types of family support services funded by health boards: (i) general family support services which are offered to a wide range of families for the purpose of either preventing problems or addressing them after they have emerged; and (ii) child care family support services which are offered to families to promote child development in a family context.

These services include the springboard projects, which is a family support programme designed to improve the well being of children

and families in Ireland and to improve the organisation and delivery of services more generally. All springboard projects have a general strategy of being open and available to all families, parents and children in their communities, as well as a more specific strategy of working intensively with those who are most vulnerable. As with other family support programmes, it offers a range of interventions, including individual work, group work, peer support, family work, advocacy and practical help.

Within the Eastern Regional Health Authority, ERHA, the South Western Area Health Board has employed a family therapist to work with the young persons programme in Fortune House. The Northern Area Health Board has developed a young persons programme in City Clinic, Denville House and the Crinan Project. It also has facilities available for the development of a young persons programme in the Finglas/Cabra area. The East Coast Area Health Board has developed a psychological intervention programme for young people. The assessment phase has commenced and the programme will begin shortly. Counselling services are currently offered to this group, to parents and to significant others.

The Drug Treatment Centre Board, through the young persons programme, provides family support counselling to families attending this service, which is offered on an individual basis or within a group setting. A family support group facilitated by its counselling team meets on a weekly basis.

The Western Health Board drug service offers a community based direct access counselling and support service to children of drug using parents. Together with its family support service and its psychology service it also offers bereavement counselling and support to children and families who have experienced loss. The national advisory committee on drugs is currently conducting a family support study and its report is due for publication shortly.

Furthermore, the Department of Social and Family Affairs is preparing a national strategy on the development of family policy and support. The overall aim of the strategy is to develop a co-ordinated integrated strategy across the various relevant policy areas designed to strengthen families in carrying out their functions in the light of demographic and other changes which have taken place, including issues related to poverty and social inclusion. The Department of Health and Children is represented on the interdepartmental committee which has been formed to progress this strategy.

Medical Cards.

148. **Mr. Ring** asked the Tánaiste and Minister for Health and Children the number of medical cards, the number of persons covered by same and the percentage of population which this represents in the Western Health Board region, giving details on a monthly, quarterly and county

[Mr. Ring.]
basis from 1 January 2003 to date in 2004.
[24870/04]

number of persons covered by same and the percentage of population which this represents in the Western Health Board region from 1 January 2003 to date in 2004 is as follows:

Tánaiste and Minister for Health and Children (Ms Harney): The number of medical cards, the

County by month	Number of cards	Number of eligible persons	Percentage of population
<i>January 2003</i>			
Galway	44,641	68,060	32.59%
Mayo	32,345	49,577	42.22%
Roscommon	13,318	20,114	37.38%
<i>February 2003</i>			
Galway	44,594	67,888	32.51%
Mayo	32,303	49,436	42.10%
Roscommon	13,339	20,107	37.37%
<i>March 2003</i>			
Galway	44,240	68,514	32.81%
Mayo	32,130	49,785	42.40%
Roscommon	13,278	20,207	37.56%
<i>April 2003</i>			
Galway	44,663	67,907	32.52%
Mayo	32,416	49,497	42.15%
Roscommon	13,405	20,145	37.44%
<i>May 2003</i>			
Galway	44,849	68,040	32.58%
Mayo	32,416	49,351	42.03%
Roscommon	13,478	20,248	37.63%
<i>June 2003</i>			
Galway	44,813	67,880	32.51%
Mayo	32,441	49,319	42.00%
Roscommon	13,465	20,223	37.59%
<i>July 2003</i>			
Galway	44,736	67,671	32.37%
Mayo	32,411	49,217	41.91%
Roscommon	13,511	20,257	37.67%
<i>August 2003</i>			
Galway	44,753	67,571	32.32%
Mayo	32,406	49,143	41.84%
Roscommon	13,486	20,132	37.44%
<i>September 2003</i>			
Galway	44,698	67,433	32.25%
Mayo	32,319	49,012	41.73%
Roscommon	13,509	20,115	37.41%
<i>October 2003</i>			
Galway	44,820	67,596	32.33%
Mayo	32,289	48,916	41.65%
Roscommon	13,513	20,136	37.45%
<i>November 2003</i>			
Galway	44,896	67,587	32.33%
Mayo	32,377	48,987	41.71%
Roscommon	13,586	20,207	37.58%
<i>December 2003</i>			
Galway	44,572	67,244	32.16%
Mayo	32,176	48,680	41.45%
Roscommon	13,598	20,165	37.50%
<i>January 2004</i>			
Galway	44,051	66,704	31.90%
Mayo	32,349	48,859	41.60%

County by month	Number of cards	Number of eligible persons	Percentage of population
Roscommon	13,633	20,154	37.48%
<i>February 2004</i>			
Galway	43,945	66,432	31.77%
Mayo	32,195	48,590	41.37%
Roscommon	13,199	19,687	36.61%
<i>March 2004</i>			
Galway	44,197	66,556	31.83%
Mayo	32,290	48,624	41.40%
Roscommon	13,286	19,771	36.77%
<i>April 2004</i>			
Galway	44,320	66,588	31.85%
Mayo	32,290	48,554	41.34%
Roscommon	13,291	19,757	36.74%
<i>May 2004</i>			
Galway	44,467	66,627	31.87%
Mayo	32,304	48,544	41.33%
Roscommon	13,362	19,775	36.77%
<i>June 2004</i>			
Galway	44,487	66,596	31.85%
Mayo	32,165	48,241	41.08%
Roscommon	13,400	19,774	36.77%
<i>July 2004</i>			
Galway	44,543	66,444	31.78%
Mayo	32,049	47,927	40.81%
Roscommon	13,487	19,881	36.97%
<i>August 2004</i>			
Galway	44,547	66,377	31.75%
Mayo	31,977	47,709	40.62%
Roscommon	13,495	19,876	36.96%
<i>September 2004</i>			
Galway	44,643	66,432	31.77%
Mayo	31,942	47,635	40.56%
Roscommon	13,524	19,901	37.01%

149. **Mr. Ring** asked the Tánaiste and Minister for Health and Children, further to Question No. 202 of 7 October 2004, the comparison figure for September 2003 for the number of medical cards, number of persons covered and percentage of

population for each health board area.
[24871/04]

Tánaiste and Minister for Health and Children (Ms Harney): The details, as requested by the Deputy, are set on in tabular form below.

Health Board	No of medical cards		No of persons covered		Percentage of population	
	2003	2004	2003	2004	2003	2004
Eastern Regional Health Authority	225,906	228,017	340,109	338,777	24.27%	24.17%
Midland Health Board	46,219	46,589	70,315	69,879	31.20%	31.01%
Mid- Western Health Board	66,541	68,034	98,416	99,605	28.98%	29.33%
North Eastern Health Board	64,894	64,592	103,200	100,048	29.92%	29.1%
North Western Health Board	59,237	60,273	98,074	98,445	44.26%	44.19%
South Eastern Health Board	89,094	90,289	138,049	137,683	32.59%	32.5%
Southern Health Board	121,618	120,982	176,152	172,701	30.35%	29.76%
Western Health Board	90,526	90,119	136,560	133,968	35.91	35.23%
Grand Total	764,035	768,895	1,160,875	1,151,106	29.64%	29.39%

It should be noted that the upward trend in the population may marginally affect the 2004 percentage over time.

Hospitals Building Programme.

150. **Mr. J. O'Keeffe** asked the Tánaiste and Minister for Health and Children the position

[Mr. J. O’Keeffe.]

with the extension to Schull Community Hospital, in view of the fact that the draft design brief was sent by the health board to her Department more than two years ago; the action which has occurred in the meantime; the prospective timetable for the completion of this work; and if she will make a statement on the matter. [24883/04]

Tánaiste and Minister for Health and Children (Ms Harney): A draft design brief for this proposed development was prepared by a project team established by the Southern Health Board and submitted to my Department. The proposal to provide an extension to the Community Hospital, Schull, can only be considered by my Department, in conjunction with the Southern Health Board, in the context of prioritising new capital commitments under the health capital investment framework 2004-08. This will have to take account of the funding resources, both capital and non-capital, required for the project, in line with the overall resources available to my Department.

In the period since the draft brief was submitted, various other capital priorities have been progressed for the board, including the Community Hospital at Bandon. In the circumstances, it is not yet possible to give a timescale for the completion of this proposed development. My Department fully appreciates the need for improved infrastructural works at the hospital and will continue to liaise closely with the Southern Health Board in the matter.

Hospital Services.

151. **Mr. Ring** asked the Tánaiste and Minister for Health and Children when a person (details supplied) in County Mayo will be given a bed in the regional hospital in Galway. [24943/04]

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.

Pharmacy Regulations.

152. **Mr. Ring** asked the Tánaiste and Minister for Health and Children her views on pharmacies being opened by doctors; and her further views on whether there will be a conflict between doctors on the GMS having their own pharmacies. [24944/04]

Tánaiste and Minister for Health and Children (Ms Harney): The opening and operation of retail pharmacies in Ireland is governed by the Pharmacy Acts 1875-1977, subject to restrictions imposed by non-pharmacy legislation such as the Planning Acts. Any individual or company, including a medical doctor, may open a pharmacy

provided that the shop and the dispensing and compounding of medical prescriptions are personally supervised by a full-time pharmacist who is not acting elsewhere in a similar capacity. This has been the position since 1990.

Notwithstanding this, the dispensing and supply of medicines under the general medical services and community drugs schemes is governed by a contract between the health boards and the pharmacists under the community pharmacy contractor agreement 1996. Section 21(1) of this agreement states that the contract shall be void if a practitioner, defined as a registered medical practitioner or a registered dental practitioner, is the owner, beneficial owner, director or a shareholder of a body corporate in the area in which the pharmacy is located.

The very good reason for this is to prevent any suggestion of impropriety whereby a practitioner would prescribe medicines which are subsequently purchased in the pharmacy in which he or she has a beneficial interest. For the same reason the pharmacy review group recommends that there should be no beneficial ownership or business interest of any kind between dispensing and prescribing.

My own view is that there are valid reasons for retaining this distinction but the report of the pharmacy review group is still under consideration and I expect to take definitive decisions on it shortly.

Hospital Waiting Lists.

153. **Mr. Durkan** asked the Tánaiste and Minister for Health and Children when hip replacement surgery will be offered in the case of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [24974/04]

Tánaiste and Minister for Health and Children (Ms Harney): Responsibility for the provision of health services to persons residing in counties Dublin, Kildare and Wicklow rests with the Eastern Regional Health Authority. My Department has, therefore, asked the regional chief executive of the authority to investigate the matter raised by the Deputy and to reply to him directly.

Driving Tests.

154. **Mr. S. Ryan** asked the Minister for Transport if he will report on the proposed timescale for the establishment of the proposed driver testing and standards authority; his views on the professional relationship that has been established over the past 14 years between his Department and the driving instruction register of Ireland in the interest of road safety and the need to ensure that the highest standards were imparted to learner drivers by driving instructors; and if he will accept and recommend the validity of the

current RDI status within the new authority.
[24934/04]

Minister for Transport (Mr. Cullen): The Government's Strategy for Road Safety 1998-2002 acknowledged that pre-driving test training in Ireland was available from private motoring schools, many of whom were enrolled under the voluntary driver instruction register, DIR, scheme. This is an industry led scheme which has received financial support from both my Department and the Irish Insurance Federation. The DIR was encouraged to attain an appropriate quality certification and in this regard additional funding was subsequently provided for the purpose of attaining ISO 9000 certification.

Proposals being developed by my Department for the regulation and quality assurance of driving instruction will involve a test of the competence of individual instructors. A working group comprising representatives of my Department and of instruction interests has formulated the design of the standard that a driving instructor must meet. I am considering what arrangements will be put in place to oversee implementation of the standard in the context of the establishment of the driver testing and standards authority, which will have responsibility for the registration of driving instructors. The Driver Testing and Standards Authority Bill 2004, which provides for the establishment of the authority, was published on 6 July 2004 and is listed for Second Stage reading in today's Order Paper.

Regulations will be required to give effect to the proposals for introducing regulation of driving instruction and the position of existing driving instructors will be considered in the context of the drafting of the regulations.

Garda Strength.

155. **Mr. Crawford** asked the Minister for Justice, Equality and Law Reform the number of gardaí that have retired from the force in each of the past three years and to date in 2004; the number of new gardaí that have been trained in each of the past three years and to date in 2004; if he has satisfied himself that he will reach his target of at least 2,000 extra gardaí within the next two years; and if he will make a statement on the matter. [24853/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I have been informed by the Garda authorities responsible for the detailed allocation of resources, including personnel, that the numbers of gardaí who have left the Garda Síochána due to ill health, retirement, death, dismissal or otherwise, and the number of gardaí who have graduated from the Garda College in each of the past three years and to date in 2004 are as set out in the following table:

Year	No. of gardaí who left the force	No. who graduated from Garda college
2001	322	531
2002	406	485
2003	417	475
2004 to date	389	363

In addition, a further 175 persons will graduate from Garda College later this month, making a total of 538 graduations in 2004.

I am satisfied that the commitment in the programme for Government to increase the strength of the force to 14,000 will be achieved. To that regard the Government, at its meeting earlier this week, considered my proposal to increase the strength of the Garda Síochána to 14,000 and I outlined today, in Garda headquarters, the manner in which that increase will be achieved.

Registration of Title.

156. **Mr. Ring** asked the Minister for Justice, Equality and Law Reform if the Land Registry Office will expedite an application by a person (details supplied) on a folio in County Mayo; and when this application will be completed.
[24855/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed by the Registrar of Titles that this is an application under section 49 — that is, acquisition of title by virtue of long possession — of the Registration of Title Act 1964, which was lodged on 29 September 2004. Dealing number D2004SM008371J refers.

I understand that due to their complicated nature, applications under section 49, which require detailed examination of claims for registration as owners, can take some time to process. Accordingly, it is not possible to estimate a completion date at this stage. I am further informed that the application is receiving attention in the Land Registry and will be completed as soon as possible.

Garda Strength.

157. **Ms O. Mitchell** asked the Minister for Justice, Equality and Law Reform if, in regard to the implementation of proposals based on the recent Garda Síochána SMI steering group report, there will be no diminution in the number of gardaí available during night time hours in the areas currently covered by the Dundrum, Rathfarnham and Stepside Garda stations.
[24856/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): No diminution in the number of gardaí on duty at night in any area is envisaged arising from this report.

Citizenship Applications.

158. **Mr. Curran** asked the Minister for Justice, Equality and Law Reform when a decision will be made regarding an application for naturalisation made by persons (details supplied) in Dublin 22. [24857/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): As I have already informed the Deputy, applications from the three members of the family referred to by the Deputy were received in the citizenship section of my Department in January 2003 and January 2004.

The average processing time for an application for naturalisation is currently 24 months, due to the increase in the volume of applications being received. There are over 650 staff members employed by my Department in the provision of services for or in respect of non-nationals. Unfortunately it has been the case that over 70% of those staff are engaged full-time in activities associated with the actual processing of asylum claims or in the provision of support for asylum applicants. However, the major reduction in the numbers of asylum applicants is now giving me an opportunity to refocus those resources on areas of service provision for non-nationals which are under resourced at this time. The citizenship area is one of the areas which will benefit from that process.

The applications in question will be processed according to the date they were received and I will inform both the Deputy and the persons concerned as soon as I have reached a decision on the applications.

159. **Mr. Curran** asked the Minister for Justice, Equality and Law Reform when a decision will be made regarding an application for naturalisation made by persons (details supplied) in Dublin 22. [24858/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The two persons referred to in the question arrived in the State in 2002 and applied for asylum. Subsequently, they withdrew from the asylum process and applied for leave to remain based on their parentage of an Irish born child. In early 2004, they re-entered the asylum process and their applications for refugee status were then refused by the Office of the Refugee Applications Commissioner and, on appeal, by the Refugee Appeals Tribunal.

On 15 July 2004, in accordance with section 3 of the Immigration Act 1999, as amended, the persons concerned were informed that it was proposed to make deportation orders in respect of them and they were given the following options: to make written representations within 15 working days to the Minister for Justice, Equality and Law Reform setting out reasons they should not be deported; to voluntarily leave the State or to consent to deportation.

Applications for leave to remain in the State were received from the legal representatives of

the persons concerned and I expect the case to be submitted to me in due course.

Proposed Legislation.

160. **Mr. F. McGrath** asked the Minister for Justice, Equality and Law Reform if he will review the Explosives Act 1875 with reference to fireworks; and his proposals to deal with the increasing number of serious injuries to young persons (details supplied). [24859/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I assure the Deputy that I am very much aware of the distress illegal fireworks cause to people especially in and around Halloween. 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.

Refugee Status.

161. **Mr. F. McGrath** asked the Minister for Justice, Equality and Law Reform if assistance will be given to persons (details supplied) in their application for family reunification and in securing their departure from a refugee camp; and if this case will be made a priority. [24860/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): Section 24 of the Refugee Act 1996 which deals with programme refugees, provides, *inter alia*, for the admission to the State of a person to whom leave to enter and remain for protection or resettlement, as part of a group of persons, has been given by the Government and whose name is entered in a register established and maintained by the Minister for Foreign Affairs. Such persons are usually admitted as part of Ireland's annual programme refugee quota. The selection of that quota is based on a submission from the office of the United Nations High Commissioner for Refugees arising from its objective analysis of the status of the persons concerned and the need for resettlement as a durable solution.

The Irish based applicant, who is 78 years of age, was admitted to the State, together with other members of her family, under the aforementioned programme in 2003. The current application fell to be dealt with under the provisions of section 18 of the Act of 1996 which provides a statutory mechanism for the evaluation of applications for family re-unification with family members by refugees, including programme refugees, who are resident in this jurisdiction. Under section 18(3) such permission will be granted to immediate family members, that is, spouses, minor children and parents of minor children, upon verification of the authenticity of the relationship.

Applications for other dependent family members may also be made under section 18(4). Dependent members of the family mean any

grandparent, parent, brother, sister, child, grandchild, ward or guardian of the refugee who is dependent on the refugee or is suffering from a mental or physical disability to such an extent that it is not reasonable for him or her to maintain himself or herself fully. If such dependency is proved these applications may be granted at my discretion.

As the six additional family members who are the subject of the current application do not come within the ambit of either of these provisions I am not in a position to grant family re-unification under the provisions of the Act.

Crime Prevention.

162. **Mr. F. McGrath** asked the Minister for Justice, Equality and Law Reform if there are Irish criminals living in the Alicante region of Spain; and the number of persons suspected of having criminal connections with Ireland. [24861/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I understand from the Garda authorities that the activities of individuals with known criminal backgrounds living outside this jurisdiction are monitored in co-operation with our European partners. I further understand from the Garda authorities that intelligence is collected and collated as an aid to criminal investigations with a view to bringing prosecutions against those involved in criminal activity.

The disclosure of any aspect of such criminal intelligence would breach agreed protocols with foreign police forces and intelligence services regarding the ongoing exchange of information of mutual benefit. Such disclosure would also be likely to have a negative impact on the potential value of intelligence to criminal investigations.

Departmental Programmes.

163. **Dr. Upton** asked the Minister for Justice, Equality and Law Reform the names and addresses of, and the amount sought by all persons under the equal opportunities child care programme in regard to applications which have been paid in full; and the same details in regard to the applications still pending. [24886/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): In July 2004, my Department circulated a comprehensive review of the progress on the implementation of the Equal Opportunities Childcare Programme 2000-2006 to all Deputies and Senators for their information. This review contains a detailed list of all grants approved to December 2003 under the programme and includes location by county, the funding approved and impact on child care places in each case, where appropriate. This document is also available on my Department's website and it is intended that updates of key data will be circulated half yearly with a further comprehensive review in 2006.

To date I have approved almost 3,000 grant applications under the EOCP, making €266 million in capital, staffing and quality improvement grants for child care nationwide. A total of €223.1 million has been approved for a wide range of capital and staffing projects across the country and, on completion of the EOCP, this funding is projected to create over 30,000 new child care places. A significant part of the remaining funding will be required to roll over staffing grant supports being made available to child care facilities which cater for disadvantaged families and for ongoing supports to the city/county child care committees and the national voluntary child care organisations.

In a programme with over 2,000 grant beneficiaries, including almost 800 grants receiving ongoing current funding, the provision of a list of grants which have been paid in full is unlikely to give a meaningful picture of progress under the EOCP.

Expenditure for the programme to June 2004 is €171.9 million under capital, staffing and quality improvement measures. Of the total spend to June, €138.4 million has been spent by child care groups which are developing and directly providing child care places. I also understand that 20,500 new places are currently in place as a result of the EOCP expenditure to date. In addition, over 20,600 existing places have received support under the programme.

Given their commercial sensitivity, the Department does not release the details of grant applicants in advance of the completion of the appraisal and decision processes. I would also note to the Deputy that in addition to applications on hand a large number of projects are now beginning to come to the end of their original funding cycle. Proposals for 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.

United Nations Conventions.

164. **Mr. Stanton** asked the Minister for Justice, Equality and Law Reform the position, with reference to Ireland, regarding the United Nations Convention on the Elimination of all forms of Discrimination Against Women; the reservations entered into by Ireland on any article of this convention; and if he will make a statement on the matter. [24887/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): Ireland acceded to the United Nations Convention on the Elimination of all forms of Discrimination Against Women, CEDAW, in 1985 with a number of reservations,

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many of which have been removed over the intervening years, including one earlier this year. Ireland currently retains three reservations on the convention relating to: employment, Article 11(i); certain provisions of the social welfare code, Article 13 (a); and guardianship rights of fathers of children born outside of marriage, Article 16.1 (d) and (f).

With regard to Article 11 (i), the Department is currently considering whether the recent enactment of the Employment Equality Act 2004, which amends some of the provisions of the Employment Equality Act 1998, could allow for the lifting of this reservation. The point at issue here relates to exclusions in the 1998 Act in respect of the Garda Síochána and the Prison Service and in regard to privacy concerns and decency considerations, including in the care of the elderly or people with disabilities in their own home.

The reservation to Article 13 (a) is required due to provisions of Irish legislation in areas of social security which are more favourable to women than men, such as the payment of child benefit to the mother and transitional payments to some women relating to the pre-1997 one parent family payment which have yet to run their course.

Finally, with regard to the reservation in respect of Article 16.1 (d) and (f), the position is that in Ireland mothers of children born outside of marriage are automatically the guardians of their children, whereas non-marital fathers must acquire the status of guardian under procedures outlined in the Guardianship of Infants Act 1964, as amended by Acts of 1987 and 1997. The Attorney General has advised that this practice prevents the withdrawal of this reservation.

Grant Payments.

165. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform when the grant assistance application in the name of a person (details supplied) in County Kildare will be awarded in view of the fact that same was applied for in May 2004; and if he will make a statement on the matter. [24891/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): An application for capital grant assistance from the 2000 — 2006 Equal Opportunities Childcare Programme was submitted by this private child care provider to my Department in May 2004. The day to day administration of the programme is undertaken by Area Development Management Limited, which has been engaged by my Department to carry out thorough assessments against the programme criteria of all applications for grant assistance, on my behalf.

The assessment process can involve lengthy dialogue with the applicant and, in this instance, this capital application is in the final stages of the assessment process. On completion of this assessment process, the project will be referred to the

programme appraisal committee, chaired by my Department, which makes a funding recommendation to me before I make a final decision on the matter. In the interim, it would be premature of me to comment further on this capital grant application.

Tribunals of Inquiry.

166. **Caoimhghín Ó Caoláin** asked the Minister for Justice, Equality and Law Reform if he or his predecessor's attention has been or was drawn to the unauthorised and improper tapping by gardaí of the telephone of persons (details supplied) in County Donegal as revealed at the Morris tribunal; and if he will make a statement on the matter. [24911/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I understand that the question of the obtaining of telephone call related data — as opposed to the interception of telephone calls — arose recently during the course of the hearing of evidence in the Morris tribunal. It is for the tribunal to reach its own conclusions in the matter, and it would not be appropriate for me to comment in any way on the issue at this point.

Visa Applications.

167. **Mr. Naughten** asked the Minister for Justice, Equality and Law Reform if a C visa issued by his Department can be renewed or extended; the procedure involved; and if he will make a statement on the matter. [24913/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): A wrap around information sheet accompanies every visa application form. That sheet makes it clear to the applicant that, in general, persons granted visas for particular purposes are not permitted to involve themselves in any activity or to remain in the State for any purpose other than that for which the visa was granted.

Every visa applicant is required to state on the application form the dates on which he or she proposes to enter and leave Ireland. He or she is also required to declare that the information supplied is correct and complete.

A C visa is granted for visits of less than 90 days. As a consequence, it is not the general policy to extend permission to remain to persons who are admitted initially for a period of 90 days or less on a C visa, save in very exceptional and unforeseen circumstances. However, applications to extend permission to remain in such cases — supported by reasons underpinning the inability to comply with the prior existing commitment — should be made in writing to the immigration division of my Department.

Citizenship Applications.

168. **Mr. Naughten** asked the Minister for Justice, Equality and Law Reform if he will furnish a response to correspondence from a person

(details supplied) in County Roscommon; and if he will make a statement on the matter. [24914/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The immigration division of my Department has no record of the correspondence referred to by the Deputy. The person concerned should write to the Immigration and Citizenship Division, Department of Justice, Equality and Law Reform, 13-14 Burgh Quay, Dublin 2, giving full details of the matter. On receipt of the relevant information a suitable response will be furnished.

Detention Centres.

169. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the serious concerns which have been expressed concerning the current position in an institution (details supplied) particularly about the lack of adequate and proper education, welfare and care facilities for young persons aged 16 and 17 years; if in fact these young persons or some of them are mixing with adult prisoners; if school and gym facilities and workshops are being used; if not, the reason; and if he will make a statement on the matter. [24931/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am not aware of serious concerns in regard to the provision of education, welfare or care facilities for young persons committed to the institution referred to in the question. I am informed by the director general of the Irish Prison Service that the school at this institution is fully operational at present with an inmate participation rate of almost 50%. The main gymnasium is fully operational and a second small gym facility located in one of the wings of the institution operates for most of its scheduled hours and is closed only when the staff have to be assigned to other more pressing duties.

Welfare services are currently provided by a team comprising one senior probation and welfare officer and three probation and welfare officers — a resource level which is above average for institutions managed by the Irish Prison Service. The two small workshops, woodwork and metalwork, at this institution are closed at present because of continuing restrictions on prison officer overtime and because of health and safety considerations. However, it is planned to re-open these facilities in the coming months when they have been renovated to provide computer classes and training in painting and decorating.

This institution is a closed place of detention for young persons, male, aged between 16 and 21 years of age. As of yesterday, there were 192 young persons in custody there, of whom 60 were aged 16 or 17 years of age. There is no provision at present for segregation on grounds of age at this institution but, resources permitting, it is

planned to bring a mixture of new and renovated accommodation into use there in the near future which will allow for a total of 44 sixteen and 17 year olds to be accommodated separately.

Public Order Offences.

170. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform his policy on the imposition of on the spot fines for those who commit public order offences; and if he will make a statement on the matter. [24932/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): My proposals on the imposition of fixed charges for certain public order offences are contained in the Criminal Justice Bill 2004 which I published in July this year. Section 29 of that Bill amends the Criminal Justice (Public Order) Act 1994 to provide for a fixed penalty procedure for certain public order offences under that Act. The procedure will apply to an offence under section 4, intoxication in a public place, and section 5, disorderly conduct in a public place. It is intended that the fixed penalty procedure will be an alternative to criminal proceedings being taken in the first instance. The Bill is awaiting Second Stage in the Dáil.

Garda Deployment.

171. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform his views on the proposal that nightclub owners and retailers should pay for the cost of putting extra gardaí outside their premises to combat late night street crime; and if he will make a statement on the matter. [24933/04]

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 possibility of nightclub owners and retailers contributing to the cost of putting extra gardaí outside their premises to combat late night street crime is being considered by a working group set up under the chairmanship of an assistant commissioner.

Citizenship Applications.

172. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the residency and employment status of persons (details supplied) in County Kildare; if either or both are eligible for citizenship applications; and if he will make a statement on the matter. [24976/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The first named person in question arrived in the State on 25 June 1999 and claimed asylum. The Office of the Refugee Applications Commissioner recommended that he should not be declared as a refugee and he was notified of this recommendation on 29 February 2000. He then appealed this recommendation to the Refugee Appeals Tribunal. Following an

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oral hearing, the original recommendation was affirmed and he was informed of this decision on 28 November 2001.

The second named person in question, who resides at the same address as the first named person, arrived in the State on 23 May 2000 and claimed asylum. The Office of the Refugee Applications Commissioner recommended that she should not be declared as a refugee and she was notified of this recommendation on 30 January 2002. She then appealed this recommendation to the Refugee Appeals Tribunal. Following an oral hearing, the original recommendation was affirmed and she was informed of this decision on 18 October 2002.

In accordance with section 3 of the Immigration Act 1999, as amended, both persons were informed — on 28 December 2001 and 30 December 2002 respectively — that it was proposed to make deportation orders in their cases. They were given the options of making representations within 15 working days setting out the reasons as to why they should not be deported; leaving the State voluntarily before orders were made; or consenting to the making of deportation orders. Representations were received on behalf of the persons concerned on 21 January 2002 and on 23 January 2003, respectively.

Both persons' case files must now be considered taking account of section 3(6) of the Immigration Act 1999, as amended, and section 5 of the Refugee Act 1996, prohibition of *refoulement*. The files will be submitted to me for decision in due course and the persons concerned will then be informed of the outcome.

The right to work for asylum seekers is based on the Government decision of 26 July 1999 which allowed asylum seekers to seek employment once they had applied on or before that date, had been 12 months without a final determination on his/her asylum application and had been compliant with their obligations in the asylum process. The first named person concerned was issued with a right to work letter on 15 August 2000 but has not been entitled to seek employment since the refusal of his asylum application on 28 December 2001. The second named person concerned was not issued with a right to work letter.

As no final decision has been made on these persons' leave to remain applications, they are not eligible to apply for citizenship.

Tribunals of Inquiry.

173. **Mr. Blaney** asked the Minister for Justice, Equality and Law Reform the reason a number of constituents of this Deputy in Donegal who are involved in tribunals do not have the right to legal representation of their choice by lawyers who are known to them and trusted by them (details supplied); and if he will make a statement on the matter. [24978/04]

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(Mr. McDowell): From the details supplied it is not clear exactly to whom the Deputy is referring. A number of parties applied to the tribunal and were granted the right to representation before it. The criterion used by the chairman in deciding this was whether the good name of the individual concerned was likely to be in jeopardy or called into question during the course of the proceedings. On this basis a large number of individuals were granted representation and it was only where the chairman considered that an individual's good name was not in peril that representation was not granted.

It has transpired that a number of parties granted the right to representation have chosen not to exercise their right or have exercised it only to a limited extent. A number of these parties have cited the ongoing costs as a reason for not engaging a legal team or for not continuing to brief a legal team where one had previously been engaged. Some parties have sought to have their legal fees paid in advance or guaranteed by the State. However, the fact is that under the legislation governing tribunals the question of costs is a matter solely for the tribunal to decide.

With regard to the Morris tribunal, it may be reassuring for parties to note that the chairman has recently addressed the question of costs relating to the report on the first module very soon after the publication of the report rather than waiting until finalisation of all the tribunal's work. It is hoped that this prompt settling of the costs on a modular basis will be of comfort to those parties who may be in two minds over the question of engaging counsel to represent their interests.

Waste Disposal.

174. **Mr. Stanton** asked the Minister for the Environment, Heritage and Local Government the progress regarding plans to introduce pay by weight systems as part of refuse collection services nation-wide; if it is mandatory for all domestic waste collection, including private operators, to be operating pay by weight systems by a certain date; the incentives that are in place to encourage private waste disposal operators to use pay by weight systems; and if he will make a statement on the matter. [24882/04]

Minister for the Environment, Heritage and Local Government (Mr. Roche):

The 2004 policy statement 'Waste Management: Taking Stock and Moving Forward' sets 1 January 2005 as the date for the introduction of weight-volume based waste charges on a national basis. It is a matter for the local authorities, whether as direct service providers or waste collection permitting authorities, to oversee the move to weight-volume based charging.

Service providers will be allowed discretion as to the precise systems to be used, provided that the fundamental principle of use based charging is respected. I understand that the relevant local

authorities are currently reviewing waste collection permits with a view to ensuring consistency with the new policy requirement.

Planning Issues.

175. **Mr. Stanton** asked the Minister for the Environment, Heritage and Local Government the regulations and guidelines in place to ensure that civic and social amenities are put in place in conjunction with housing development; if he has satisfied himself that any such guidelines or regulations are being followed; his plans to examine the need for civic and social amenities in communities; and if he will make a statement on the matter. [24888/04]

Minister for the Environment, Heritage and Local Government (Mr. Roche): Section 10(2)(j) and (l) of the Planning and Development Act 2000, requires planning authorities to include in their development plans objectives for the preservation, improvement and extension of amenities and recreational amenities, and also for the provision of services for the community including, in particular, schools, crèches and other education and child care facilities.

I intend to issue draft guidelines on development plans shortly, which will emphasise the consideration that needs to be given to the future availability of, or the capacity to provide, supporting infrastructure, such as community facilities, health care, education, public open space, retail and other service provision and public transport when allocating land for development. These guidelines will support planning authorities in ensuring that such facilities are put in place in parallel with new development, through the development control process.

I am satisfied that these provisions, underpinned by the new guidelines, will help to ensure that the necessary social and community facilities complement future developments.

Private Rented Accommodation.

176. **Mr. Naughten** asked the Minister for the Environment, Heritage and Local Government the projected income in 2004 and in 2005 by the Private Residential Tenancies Board from registration fees charged to landlords; the projected operational costs in both years; and if he will make a statement on the matter. [24915/04]

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): As the Private Residential Tenancies Board is not yet fully operational, it is difficult to provide reliable estimates at this stage. Expenditure will depend to a large extent on the number of disputes referred to the board's dispute resolution service. Expenditure in 2004 is considered unlikely to exceed €0.25 million. Full year operational costs in 2005 are estimated as likely to be in the region of €2.5 million.

Registration fee income will depend primarily on the number and timing of tenancy registrations. It will also be influenced by a range of factors the likely effect of which cannot be quantified in advance. These include the duration of tenancies, the turnover of registrations in respect of a particular dwelling, the availability of a reduced composite fee for certain multiple registrations in respect of a single property and the incidence of late registrations, which attract a double fee.

177. **Mr. Naughten** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the fact that the Private Residential Tenancies Board registration fee discriminates against student accommodation which requires at least two registrations in each calendar year; the plans he has to review the fee structure; and if he will make a statement on the matter. [24916/04]

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): Under the provisions of the Residential Tenancies Act 2004, each new tenancy coming into existence in respect of any particular dwelling must be registered with the Private Residential Tenancies Board. This applies to any tenancy of a private rented dwelling, including dwellings let to students. Where a particular student tenancy is continued from one academic year to the next, re-registration does not arise. In this regard, student representatives have emphasised the need for students, depending on their circumstances, to have access to improved security of tenure in common with other occupants in the private rented sector.

However, where student accommodation is re-let, no more than two registration fees are payable in any 12 month period. Where accommodation is let for holiday purposes, as frequently occurs during student vacations, there is no requirement to register and therefore no further payment of a registration fee arises. Accordingly, I do not consider that a review of the statutorily based registration fee structure in this matter is warranted.

178. **Mr. Naughten** asked the Minister for the Environment, Heritage and Local Government the reason for the Private Residential Tenancies Board collecting such detailed information from landlords; the intended use of this information; and if he will make a statement on the matter. [24917/04]

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): The particulars to be provided with a tenancy registration application are prescribed in the Residential Tenancies Act 2004, based on the recommendations of the Commission on the Private Rented Residential Sector.

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I am satisfied that the requirements are reasonable and appropriate for the operation of the legislation.

The Private Residential Tenancies Board's registration database will be of key importance to the operation of its dispute resolution service, especially with regard to disputes over rents in excess of market levels, tenancy terminations and notice periods. It will also be an important source of information to the board in the performance of its statutory functions of providing information, research and policy advice on the private rented sector. Up to date information is essential for the development of informed policy on this segment of the housing market. The registration data collected by the board will, for example, enable it to identify the size of the market, the type of dwellings and rent levels and trends for different dwellings and locations.

Turbary Rights.

179. **Mr. Naughten** asked the Minister for the Environment, Heritage and Local Government if he will allow additional compensation to be given to bog owners who sold their turbary rights to Dúchas prior to the year 2000 in line with the commitment given by Dúchas at the time of purchase; and if he will make a statement on the matter. [24918/04]

Minister for the Environment, Heritage and Local Government (Mr. Roche): Under the cessation of turf cutting scheme, operated by my Department, all sales of bogs and turbary rights are entered into voluntarily. All parties entering 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 already sold bogs or turbary and the £1,000 or €1,270 incentive payment, where already paid, will be deducted.

Local Authority Funding.

180. **Mr. Ring** asked the Minister for the Environment, Heritage and Local Government the local authorities which have submitted applications for funding under the rural water programme for 2004; and the amounts which have been approved for and drawn down by each local authority. [24946/04]

Minister for the Environment, Heritage and Local Government (Mr. Roche): Details of my Department's 2004 block grant allocations to county councils under the rural water programme, and of the value of recoupments made to councils to date this year, are set out in the following table.

County Council	2004 allocation	Recoupments to 12/10/04
	€	€
Carlow	2,440,000	1,414,716.94
Cavan	12,133,333	6,778,567.37
Clare	6,100,000	2,345,052.80
Cork North	1,462,000	0.00
Cork South	1,775,000	969,430.00
Cork West	1,700,000	1,700,000.00
Donegal	3,648,000	0.00
Galway	7,483,333	2,379,258.59
Kerry	2,750,000	1,525,000.00
Kildare	1,600,000	753,114.57
Kilkenny	1,786,000	650,000.00
Laois	1,700,000	1,125,000.00
Leitrim	4,550,000	1,832,183.00
Limerick	3,750,000	0.00
Longford	1,950,000	0.00
Louth	1,010,000	0.00
Mayo	8,000,000	4,795,747.49
Meath	2,191,667	736,366.55
Monaghan	5,720,000	1,477,163.98
North Tipperary	3,000,000	2,011,665.00
Offaly	1,750,000	1,750,000.00
Roscommon	2,777,334	1,419,000.00
Sligo	4,650,000	2,456,442.44
South Tipperary	2,070,000	400,000.00
Waterford	1,670,000	635,000.00
Westmeath	2,583,333	0.00
Wexford	2,300,000	0.00
Wicklow	1,750,000	375,000.00

Local Government.

181. **Mr. Boyle** asked the Minister for the Environment, Heritage and Local Government the urban areas in this country with a population of over 7,500 persons yet without town council status; and when such towns will be considered by him and his Department to receive such a status. [24951/04]

Minister for the Environment, Heritage and Local Government (Mr. Roche): Section 185 of the Local Government Act 2001 provides that qualified electors of a town having a population of at least 7,500 as ascertained at the last preceding census and not having a town council may make a proposal for the establishment of such a council. Under the relevant provisions of the Act, which I hope to commence in the near future, a proposal to establish a town council is a matter for the local community in the first instance and thereafter a decision on whether to proceed further with such a proposal is a reserved function of the relevant county council, following a public consultation process. While towns with a population of 7,500 or more may be identified from the published 2002 census report, volume 1, the process of establishing a town council must be initiated at local level. It is not possible to indi-

cate the towns which may decide to initiate such proposals or the timing of any such proposals.

Social Welfare Benefits.

182. **Mr. Ring** asked the Minister for Social and Family Affairs the number of persons in the past three years who have applied for the back to school clothing and footwear scheme; the number who were approved and were awarded the scheme; when the guidelines were last increased with regard to this scheme; and if entitlement to this grant is retained if a person returns to work on a back to work allowance, as is the case with other secondary benefits. [24947/04]

Minister for Social and Family Affairs (Mr. Brennan): The back to school clothing and footwear allowance scheme provides assistance towards the cost of school clothing and footwear for children attending mainly primary and post-primary schools. Under the scheme, an allowance of €80 is payable in respect of qualified children aged two to 11 years while €120 is payable in respect of qualified children aged 12 to 22 years. The income limits for the scheme are adjusted on an annual basis. Details of the income limits for 2004 are set out in the tabular statement below, together with the number of applications received, awarded and refused for the years 2001, 2002 and 2003. In 2004, 73,268 applications have been received in the period to 30 September. However, details of the number of applications awarded and the number refused in 2004 are not yet available.

A person may qualify for payment of the back to school clothing and footwear allowance if he or she is in receipt of a qualifying social welfare or health board payment or is participating in an approved employment scheme, such as the back to work scheme or a recognised education or training course, and has household income at or below the prescribed levels. Where the prescribed income limits are exceeded in the case of persons participating in approved employment schemes, including the back to work scheme, special arrangements are in place which allow such people to retain entitlement to back to school clothing and footwear allowance subject to a separate income limit of €317.43 per week. Back to work allowance and family income supplement, in cases where one or both of these are in payment, are disregarded in the assessment of the €317.43 weekly income limit.

In effect, this means that people who had been unemployed and who commenced employment through the back to work scheme can have a weekly household income significantly in excess of €317.43 and still qualify for the back to school clothing and footwear allowance. In the first year of his or her participation in the back to work scheme, a single person can have combined income from the back to work allowance and wages of €418.50 while a couple with two children can have an income of €510.75. A participant on a back to work scheme may be assessed under

either the retention rules applicable to employment scheme participants or the income limits of the back to school clothing and footwear scheme itself, whichever is more beneficial.

Back to school clothing and footwear allowance scheme

Year	Applications received	Applications refused	Applications awarded
2001	71,660*	7,691*	63,969
2002	78,181	6,422	71,759
2003	81,851	6,649	75,202

* Does not include applications refused by the South Eastern Health Board as this data is not available.

The BSCFA standard income limits for 2004 are as follows:

Couple with	Income limit	Lone parent with	Income limit
1 child	348.10	1 child	238.90
2 children	367.40	2 children	260.50
3 children	386.70	3 children	282.10
4 children	406.00*	4 children	303.70**

* Limit is increased by €19.30 for each additional child

** Limit is increased by €21.60 for each additional child

183. **Mr. Durkan** asked the Minister for Social and Family Affairs the reason dietary allowance has been reduced in the case of a person (details supplied) in County Kildare who is a celiac; and if he will make a statement on the matter. [24965/04]

Minister for Social and Family Affairs (Mr. Brennan): The South Western Area Health Board was contacted regarding this case and has advised that a review of the person's diet supplement was carried out in May 2004 during which it came to light that an incorrect amount of diet supplement was in payment. The amount of supplement was duly corrected and a revised supplement was awarded from June 2004. The board has further advised that this person's diet supplement is subject to a further review, the outcome of which may affect the amount payable.

184. **Mr. Durkan** asked the Minister for Social and Family Affairs the reason for the fluctuation of rent allowance in the case of a person (details supplied) in County Kildare; and if he will make a statement on the matter. [24966/04]

Minister for Social and Family Affairs (Mr. Brennan): Under the standard rules for entitlement to rent supplement, the supplement is of such amount as to ensure that the person's income after payment of rent is the rate of supplementary welfare allowance appropriate to his or her family circumstances, less €13. Where a person is in receipt of a basic weekly payment other than supplementary welfare allowance, any change in household composition, for example,

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an additional child, will mean some change in the level of rent supplement. Any other change in household income also effects the amount of rent supplement payable.

With regard to the person concerned, there have been a number of changes in both family composition and the level of household income which necessitated reviews and consequent

adjustments to the amount of supplement payable. The South Western Area Health Board has advised that the amount of supplement was adjusted most recently in light of additional maintenance payments, as advised by the person concerned, in respect of her second child. The adjustments which were made were in accordance with the rules governing payment of rent supplement under the scheme.