



## DÁIL ÉIREANN

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*Dé Céadaoin, 18 Bealtaine 2005.*  
*Wednesday, 18 May 2005.*  
 —

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

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*Paidir.*  
*Prayer.*  
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### Leaders' Questions.

**Mr. Kenny:** The country is somewhat weary of reports that the Government is close to a decision on the issue of a second terminal at Dublin Airport. There are further newspaper leaks today to the effect that this is imminent. When Senator Mary O'Rourke was Minister for Public Enterprise she recognised the need for more capacity back in 1999. The programme for Government promised a second terminal and the former Minister for Transport, Deputy Brennan, promised a decision in early 2003. For the past nine months, the current Minister, Deputy Cullen, has been saying the decision would be made shortly.

The Government has dithered about the issue for a very long time. Can the Taoiseach confirm that the Cabinet will make a decision today? Will he elaborate on the answer he gave yesterday in Warsaw when he said he wanted a longer and greater vision for the airport, not just for the road or second terminal but all developments that feed into Shannon, Cork and the regional airports? He overflowed that particular runway when asked about his view on the second terminal. Will the Government make a decision today in respect of the issue?

Is the favoured site located on land owned by the Dublin Airport Authority? Is it true that Fingal County Council, in its county development plan, does not recommend the DAA site as suitable? Did the Skidmore Owens Merrill report, commissioned by the Dublin Airport Authority, not recommend against the site? If the Cabinet decides that the terminal should be built on the DAA site, either the cargo terminal or the former Team Aer Lingus building, now a high-tech facility, will have to be knocked down at a cost of €70 million.

Is the Government about to make a decision in a similar manner to that made with regard to the M50? In its longer vision of future need for the airport it is proposing a terminal that will be obsolete on the day it is opened.

**The Taoiseach:** The Government will discuss these matters today and make a decision shortly, whether today or next week. Dublin Airport Authority is quite clear about the site that it wants and Fingal County Council does not disagree. It believes it is the proper site and the correct location. The authority has always been clear about the issue. A second terminal is needed because the numbers passing through Dublin Airport are greatly increasing. It was predicted that the numbers would reach 10 million to 12 million by the end of this decade, but the figure is already 17 million and people are now predicting 30 million and over.

However, it is not just a question of a second terminal and there is a number of other considerations such as road and transport access, what happens to landside areas, the use of pier D and maximising the usage and turnaround time of planes. There are also issues with regard to Shannon, the ongoing work in Cork and regional airports, equity into Aer Lingus and a host of other aviation matters. The Government has been in consultation with all of these bodies over the past number of months trying to make a decision for the long-term and not just for now.

I presume Deputy Kenny is tongue in cheek when speaking of the M50. It is a good joke now but in 1991 the experts were not sure whether it would work and if enough people would use it. People were concerned after the first six months and thought it might perhaps be a white elephant. It is part of the problem with much of what we do in this country, and not just in the political system. People are almost afraid to plan for the big picture because if one does not get it right one is strongly criticised.

**Mr. Durkan:** The bowl was one such example.

**The Taoiseach:** Nobody in 1991 said that private money was a huge rip-off because many people thought that the Roche family was insane to put money into something that might not work. Of course, now everybody sees it the other way around. One cannot have it both ways.

**Mr. Kenny:** The Taoiseach should return to the issue of Dublin Airport.

**The Taoiseach:** I will answer the question that Deputy Kenny asked.

**Mr. Allen:** He will refer to it. This is a daily occurrence.

**The Taoiseach:** We are not looking at what might be the issue this year or next year, but forward to ten or 15 years, which is the right thing to do.

With regard to the airport, it would have been cheaper a number of years ago to build it to accommodate 30 million people, but everybody said the maximum figure before 2010 would be 10 million or 12 million. We should not play

[The Taoiseach.] games with this issue. The reality is that we have to try to provide for 30 million or 40 million users.

**Mr. Kenny:** The Taoiseach might have raised the matter but he did not answer the question. I give him two marks out of ten for wandering all over the place on the issue.

*(Interruptions).*

**An Ceann Comhairle:** Deputy Kenny, without interruption.

**Mr. Kenny:** Will the Taoiseach confirm that the Cabinet is about to make a decision in respect of a second terminal on the grounds currently owned by the Dublin Airport Authority? Is that to be the decision? A total of 18 million people passed through the airport in 2004 and there has been an 8% growth for the first quarter of 2005. It is obvious to me, who was hauled out of the Guantanamo shuffle last week for a random search, that the Taoiseach has not passed through that line for a very considerable time as he is escorted, being a privileged person doing his duty, through the airport. He does not know what people have to put up with.

I will give him an example of investors who came into this country last week. When they went upstairs, downstairs and through all the corridors to the point where their luggage is returned to them, in an overcrowded room with a low ceiling, they asked if this is the first welcome to this country as business people, investors or holidaymakers. What the Taoiseach is about to do now, apparently, is to make a decision to build a terminal that will be inadequate by 2010.

The State authority has a very poor record in building infrastructural projects. Will the Taoiseach outline the economic projects on which he will base his decision? How long will it take to build this terminal and is it to be on the ground owned by the Dublin Airport Authority? I agree with the Taoiseach that there appears to be no difference now between himself and the Tánaiste. She started out with her party, whose members are now absent except for one Minister of State and a Deputy—

**Mr. McCormack:** And a former Minister.

**Mr. Kenny:** —on the basis that they wanted an independently run and managed terminal. The Taoiseach's far-off vision for a third terminal appears in language that is very waffly. While there is no difference between the Taoiseach and the Tánaiste on the issue, this is a Fianna Fáil decision, that will be inadequate by 2010, on the basis of running over his smaller counterpart in Government.

**The Taoiseach:** When the Government makes a decision, there is a process by which it is announced. That process will be followed in this matter. I do not intend to provide a trailer of the

decisions that will be made — I will not get into that.

Pier D is to be finished by 2007 and the terminal by 2009. The capacity will be 30 million passengers. On current projections, by the end of this decade we will be on 20 million. The existing terminal's capacity is 20 million. At peak times there is a problem but most of the time there is not. On the question of the decision, it is a DAA decision. The statutory decision lies with the Dublin Airport Authority. We know what is its recommended site but the Government does not direct the DAA. The legislative base of the Dublin Airport Authority is that it makes that decision. It is not for the Government to make that decision.

**Mr. Rabbitte:** We know that Fianna Fáil blames the Progressive Democrats for the dithering that has gone on at Dublin Airport and we will now end up with a mishmash of a decision — one terminal for the DAA, one terminal for Fianna Fáil and one terminal for the PDs—

**Mr. McCormack:** Three bags full.

**Mr. Rabbitte:** —but if the PDs is to blame for that, what is happening on the national airline? Is the PDs to blame for that? Is it now the intention of Fianna Fáil to sell off control of the national airline? Will Fianna Fáil, the Republican Party, surrender control of a strategic national asset? The Taoiseach knows well what will happen. As soon as that decision is made, the critical slots at Heathrow and the critical routes that are the lifeblood of trade for this island economy will be put at risk. The Taoiseach knows as well as anybody else that we have no guarantees about these critical trade routes. He knows that if we surrender control, that is what will happen. He knows it was his indecision that led to the exit of Willie Walsh and his senior colleagues.

**Mr. Cullen:** Nonsense.

**Mr. Rabbitte:** He knows that the irony is that the same Willie Walsh and British Airways are likely to get control of Aer Lingus and are likely to convert it into a budget airline that will be a low cost feeder to Heathrow and serve overall BA strategic interests. If the Shannon stopover has been a problem, the Taoiseach can imagine the problem that will arise when businessmen travelling here from the United States and elsewhere have to stop off in Heathrow. This is a critical national decision driven only by ideology. If the Taoiseach sells off control of the national airline, he will see it being asset stripped and this country, as an island nation dependent on these critical trade routes with the rest of the world, will be exposed and vulnerable and will suffer as a result.

**The Taoiseach:** The first part of the Deputy's question relates to the terminal. We are talking about one new terminal, not one for this and one

for that. Obviously the Deputy is not following the story. We are talking about a second terminal under the control of the Dublin Airport Authority. We are talking about a terminal that will allow Dublin Airport grow and have capacity for 30 million passengers by 2009.

On the other issue, the Deputy has thrown in a bit of this, that and the other. He was a supporter of Willie Walsh last autumn when Willie Walsh wanted equity put into Aer Lingus and all of the other issues. The Deputy is now arguing the other case in terms of Willie Walsh but, unfortunately, he cannot have it both ways. He cannot totally change his mind between October and now.

**Mr. C. Lenihan:** He wanted Willie to buy it last year.

**The Taoiseach:** His own party policy, enunciated by him, is that strategic investment in the company is needed for future growth and job creation. The fact is that in the modern world in which we all live, if we want to attract business here — we are a modern country and probably the largest trading country in the OECD — we have to look to the future of Aer Lingus and the airways.

There are two key elements to ensuring a successful Aer Lingus in the future. First, it must have an appropriate cost structure. That is a key issue which it is addressing in its own strategic plan on which it has been working. It has had some problems but much success with that. Second, it must have access to funds to support growth and provide financial security.

The Cabinet sub-committee has examined this issue. I have said previously that it remains the desire of Aer Lingus to increase and grow its operations into the United States and its long haul operations to allow it increase employment and protect the future of the company. If that requires equity being put into the company, it would be insane under any policy not to provide for that. Only an ideological policy would stop it. Equity injection in Aer Lingus is essential for the national airline to continue to develop into the future — it is not an issue of ideology. To do otherwise would mean keeping a national airline that would have no success and no future. That would be wrong and I am sure Deputy Rabbitte knows that.

**Mr. Rabbitte:** This Taoiseach is the ultimate three card trick man — talk about twisting what I said. I was not all over the place on this issue. I concentrated on the net point, which is the strategic interest of our people in control of the national airline. I have no difficulty with private capital going into the company. I have great difficulty with surrendering control and that is what the Taoiseach is about to announce today. That is the issue. The Taoiseach came into this House and sought to justify it in terms of the future capital needs of the company but there is nothing

preventing investment in the company. When and if the time arises there is nothing preventing the Taoiseach doing that. We know from the decision of the European Court of Justice that a golden share is of no value in protecting strategic interests. This is about tourism, trade and the national interest. Ryanair has done a great job, where it has done its job, but the last thing we need is another Ryanair. We do not want to convert Aer Lingus into a Ryanair and effectively make it a subsidiary to serve the strategic interests of BA or another company. After the Telecom Éireann scandal, there is no prospect that the Government will raise money from small shareholders so it will sell it off either in a trade sale or to a large venture capitalist. The most likely prospect is BA, as the Taoiseach knows as well as I do. In those circumstances we will lose control and be left naked. The Taoiseach is prepared to launch this for approximately €300 million but he would spend €300 million more on a football stadium that he never built. There is no point in trying to present this as a huge obstacle to the State at this stage of its development.

**The Taoiseach:** I am glad Deputy Rabbitte has clarified that he has no difficulty with capital injection into Aer Lingus. If I took him up wrongly on that I apologise but now we know that Labour Party policy is to allow equity capital into Aer Lingus and I welcome that.

When the board of Aer Lingus receives advice, makes its decision and concludes how best to do this, it will be for the development of Aer Lingus. I do not see any loss to the State as it can hold whatever share it wants. Although many people would argue that is not a good idea, that discussion is for another day.

Perhaps Aer Lingus does not need to do this within the next few months but it will in the future. There are huge opportunities for developing this country's aviation industry such as getting more slots in the United States. The last list I saw from the Department of Arts, Sports and Tourism showed that 22 or 23 slots would like to come here but cannot because of our current aviation policy. If we want to build on the figure of 6.5 million in the tourism sector, and I believe we do because it is good for future employment, we need more investment in Aer Lingus.

The new chief executive of Aer Lingus brings expertise of long-haul operations in the Gulf area such as Bahrain and Dubai. Major opportunities exist for this country for flight connections to those countries and the United States. This is where future growth will be and it is inevitable that Aer Lingus needs a capital injection to benefit from this. Perhaps Deputy Rabbitte is correct that there is not much capacity for small firms and that institutional money is necessary, but advice will be taken on how it will be structured. The issue now is to allow Aer Lingus to develop in a way that allows it to expand and

[The Taoiseach.]  
bring in more tourists, as that is good for the country and good for the airline.

**Mr. J. Higgins:** Will the Taoiseach state clearly if it is his intention today to hand over a majority of Aer Lingus to private interests? If our national airline finishes up in the hands of the sharks who dominate international big business the Taoiseach, his party and his Government will be guilty of outright treachery and of stabbing in the back the thousands of Aer Lingus workers and those associated with the company past and present who have kept the national airline going in good times and in bad, who have paid in taxes much more than many other sectors of our society and multiples of any meagre State subventions that Governments have given it.

It would stab in the back the communities that depend on the national airline and support it. Privatisation would be an abject admission by the Government that it is incapable of supervising a national asset in the interests of the people, surrendering it to the casino economics that currently dominate international capitalism.

It is not necessary to privatise Aer Lingus for investment. The billions of euro that the Government has wasted in the overruns on the road programme alone would buy planes to fly the entire population around the world several times over and for free.

Has anyone else been struck by the silence of the lambs on the Fianna Fáil backbenches? In the past when cuts in Aer Lingus or privatisation was mooted we heard shrill cries, perhaps strangled cries would be more accurate, from the Government backbenches. This time, when real opposition is needed, when they need to stand up and be counted we have the silence of the lambs. The same lambs who often found their voices to allege that small Dáil parties and Independent Deputies have no power cannot even bleat. At least we have not lost the power of speech to oppose the sabotage of our national airline in the same way as they have.

**The Taoiseach:** Even the Deputy does not believe that raiméis but he has to say it.

**Mr. J. Higgins:** What raiméis?

**Mr. C. Lenihan:** What the Deputy has just spoken is the best definition of raiméis I have heard.

**Mr. Kenny:** That is socialist bleat.

**Mr. C. Lenihan:** Deputy Higgins should stick with the kebabs.

**The Taoiseach:** That is extreme left, even further left than I would ever dream of going. Deputy Higgins knows that none of that is fact. Aer Lingus wants to grow and maintain jobs. The staff and trade unions in Aer Lingus have no objection to equity being put into Aer Lingus.

How it is structured and formed are concerns for them but the concept that Aer Lingus can stay as it is and not expand when aircraft cost €150 million is not a sustainable position. We must move into a world that allows the company to examine new opportunities it has identified.

The company has worked hard over the past few years to restructure under the survival plan. In case Deputy Joe Higgins forgets, Aer Lingus like many other airlines in the world almost went under a few years ago and that position was not just caused by the attack on 11 September. Because of trade unions, staff and Departments working with the company, that was turned around. What it needs and wants to do now is to grow back into its previous position. This arrangement will be carefully managed and organised with advisers, and the percentage of equity, the management structure on the other side, and what safeguards are required are all issues for discussion.

For the airline to build on what it has succeeded in doing during two difficult periods, one in 1993 and the other in 2001, it needs equity. To argue otherwise is to totally misrepresent the interests of the workers about whom Deputy Joe Higgins purports to be concerned.

**Mr. J. Higgins:** The snide comment from behind the Taoiseach that I should stick with the kebabs, referring to my fight against the exploitation of Gama workers, ill behoves the Minister of State at the Department of Foreign Affairs, who has responsibility for overseas development.

**Mr. Durkan:** The comment should be withdrawn.

**Mr. J. Higgins:** Does the Taoiseach believe, as an island nation, that our people should be at the mercy of aviation multinationals? Does he believe that there is no strategic interest in having a publicly owned airline? Is it the reality that his Government has no loyalty to any concept of public ownership and being in hock ideologically and financially to big business is dancing to its tune?

What was the logic of the Taoiseach making a play less than a year ago denouncing a management buy-out by Mr. Walsh and his cronies when his proposed sell-out today may well finish up with the same gentleman, in his reincarnation as chief executive of British Airways, owning our national airline? Does he agree and can he see that rather than handing it into the hands of the privateers and speculators a different strategy could keep our national airline in public ownership? The alternative is to invest in the airline, bring workers to the heart of the management rather than treating them as the enemy as some sections of management have done and develop the airline as the national asset it is in the interests of our people.

**The Taoiseach:** Deputy Joe Higgins knows that we operate in a global deregulated world. A management buy-out that would have taken 100% of Aer Lingus away from the staff with no State involvement, and putting in a capital injection with Government remaining as a shareholder and part of the strategic plan are entirely different. Deputy Rabbitte has drawn that distinction, which is one that I accept also. In future, we must try to develop the long-haul operations of Aer Lingus and get more access to US airports and the Far East.

**Mr. J. Higgins:** Invest in it then.

**The Taoiseach:** The Government has invested in Aer Lingus, putting substantial resources into the company in the 1990s, only a decade ago. We have also worked with Aer Lingus on the survival and redevelopment plans. The Government will remain part of the company. Equity injection is not a wholesale sell-out, but aims to build the airline for the future. Ireland is an island nation and while it may be small, it is quite strong now. We want to remain strong in the future. We should note all the airlines that have gone down in the last ten years in Europe, not to mention in the United States which has a population of 800 million. We should also examine the reasons for their failure. If we want to be serious about maintaining Aer Lingus and having a say in the national airline in a deregulated global industry, then we must make strategic decisions now. It would be folly to do otherwise.

**Deputies:** Hear, hear.

## Ceisteanna — Questions.

### Tribunals of Inquiry.

1. **Mr. Kenny** asked the Taoiseach the costs which have accrued to his Department in respect of the Moriarty tribunal during the first quarter of 2005; and if he will make a statement on the matter. [12844/05]

2. **Mr. Rabbitte** asked the Taoiseach the total costs of the Moriarty tribunal in respect of the first quarter of 2005 for which his Department has responsibility; and if he will make a statement on the matter. [14216/05]

3. **Caoimhghín Ó Caoláin** asked the Taoiseach the costs to his Department of the Moriarty tribunal in the first quarter of 2005; and if he will make a statement on the matter. [15070/05]

4. **Mr. J. Higgins** asked the Taoiseach the costs which have accrued to his Department with regard to the Moriarty tribunal in 2005 to date; and if he will make a statement on the matter. [15222/05]

5. **Mr. Sargent** asked the Taoiseach the costs to date to his Department of the Moriarty tribunal in 2005; and if he will make a statement on the matter. [16062/05]

**The Taoiseach:** I propose to take Questions Nos. 1 to 5, inclusive, together.

The costs incurred by my Department during the first quarter of 2005 in respect of the Moriarty tribunal amounted to €670,094 and the costs to 30 April 2005 amounted to €976,139. The estimated costs for the tribunal for 2005 amount to €4 million. However, provision for an additional €6.5 million has been made to cover costs, such as report publication and some element of award of legal costs in the event that the tribunal completes its work in 2005. The overall estimate for 2005, therefore, is €10.583 million.

The total cost incurred by my Department since 1997 to 30 April 2005, is €19,619,388. This includes fees paid to counsel for the tribunal and administration costs incurred to date since its establishment. The total payment made to the legal team up to 30 April 2005 was €14,660,792.

**Mr. Kenny:** These are truly extraordinary figures that the Taoiseach has provided — €14 million in legal fees and costs of €20 million to date. The Moriarty tribunal was established in 1997 by this House with a remit to determine particular facts. It is now in its ninth year but has not produced a report of any kind, including an interim report. The Flood tribunal, now known as the Mahon tribunal, has produced four interim reports, the most recent of which gave an indication of the current state of the tribunal's workload and projected timescale.

The Moriarty tribunal's terms of reference include the fact that it can make an interim report. It last sat on 15 September 2004.

**An Ceann Comhairle:** A question please.

**Mr. Kenny:** When does the Taoiseach expect the Moriarty tribunal to conclude? Will the Taoiseach comment on the interlocutory injunction secured by Mr. Denis O'Brien in the Supreme Court last week?

**An Ceann Comhairle:** Deputy, that matter is not appropriate for Question Time.

**Mr. Kenny:** It is appropriate.

**An Ceann Comhairle:** It does not arise from these questions, which deal exclusively with costs.

**Mr. Kenny:** It does arise with regard to costs.

**An Ceann Comhairle:** It does not arise from these questions.

**Mr. Kenny:** The Moriarty tribunal now wants to investigate——

**An Ceann Comhairle:** We cannot discuss the workings of the tribunal at Question Time.

**Mr. Kenny:** The cost to the taxpayer of the Moriarty tribunal investigating the sale, purchase or otherwise by Mr. Denis O'Brien of Doncaster Rovers is the subject of an interlocutory injunction, which Mr. O'Brien obtained in the Supreme Court.

**An Ceann Comhairle:** Deputy, we cannot discuss those matters on the floor of the House.

**Mr. Kenny:** I am not going to discuss them.

**An Ceann Comhairle:** The Chair has ruled on that many times.

**Mr. Kenny:** This is about costs. We may well have to wait until the interlocutory injunction in that case is heard before the Moriarty tribunal will be able to continue its work in respect of that element of its remit — if that is deemed to be legal. My question relates to costs. Supposing that case takes 12 months, will lawyers at the Moriarty tribunal be paid exorbitant wages every day for doing nothing, while that case is being pursued? It is not for me to decide whether the Moriarty tribunal is acting within its terms of reference. That is a matter for the Supreme Court. However, lawyers at the Moriarty tribunal will continue to be paid, at a cost to the taxpayer, for doing absolutely nothing.

**An Ceann Comhairle:** We cannot decide these questions here. The Deputy has made his point.

**Mr. Kenny:** We need a conclusion to this tribunal. Does the Taoiseach have any idea as to when it might actually conclude?

**The Taoiseach:** As regards the Deputy's first question, I cannot be certain and I cannot control it totally. However, in the negotiations that were instigated by the previous Minister for Finance on all the tribunals, he set down a new schedule of fees that would take effect subject to negotiations that the Office of the Attorney General would have with the various chairpersons of all the tribunals. In the discussions with the Moriarty tribunal, the date that was agreed before the new arrangements would come into place was 11 January 2006. I accept what the Deputy said about issues that could perhaps delay or extend this date, but my clear understanding is that, one way or another, the new schedule of fees will come into place on 11 January 2006. I assume that chairmen of tribunals can seek extensions, but the previous Minister for Finance was clear that these dates were negotiated and in his view they were final. That should be the arrangement.

Under the new fees arrangement negotiated by the previous Minister, which would come into effect at that stage, the set fee to be paid to a senior counsel will be based on the current annual salary of a High Court counsel, plus 15% in

respect of pension contributions. Related payments will be made to other legal staff, including barristers and solicitors. On this basis, the specific annual remuneration packages will be on a senior counsel's rate, a junior counsel's rate and a solicitor's rate, which the previous Minister set out.

I hope the tribunal can complete its work and report by then. If it does not, however, my understanding is that the new rates will apply from 11 January 2006.

**Mr. Rabbitte:** I did not catch all of the Taoiseach's reply. Is he saying that this diminution of cost will commence from a particular date, irrespective of where we are by that date? It seems unlikely that between now and 11 January 2006, the date when the reduction in fees comes into effect, a great deal more progress will be made. Is it not possible for this House to give a direction to the Moriarty tribunal and others to cause them to focus on the core business?

On the face of it, it is extraordinary that one could read in the newspapers last week about a matter being decided by the Supreme Court whereby, apparently, it was proposed to inquire into the purchase of a football club, which was not even anticipated at the time the tribunal was established. Am I losing the plot here? This House established the tribunal to examine certain matters of public interest, but it is difficult to understand how a decision that was not even contemplated at the time, but which presumably was made subsequently, based on normal commercial criteria, now ends up being inquired into by that tribunal. Many taxpayers who are paying for this tribunal would have some difficulty with that conclusion. Does the Taoiseach agree that when history is written and his many fine qualities are set out it is likely that historians will conclude that the setting up of the tribunals was his best political stroke ever and the best judged and most brilliant political kick to touch in the history of politics—

**An Ceann Comhairle:** The matter does not arise from Questions Nos. 1 to 5.

**Mr. Rabbitte:** —because it means the matters into which the six or seven tribunals are inquiring cannot be discussed or debated in the House without, at any rate, doing great damage to the Ceann Comhairle as he would get very upset policing the rules of the House?

**An Ceann Comhairle:** For the benefit of the Deputy, the Chair has ruled on a number of occasions that issues currently before a tribunal are not a matter for the Dáil, which may not run a parallel tribunal.

**Mr. Rabbitte:** That is precisely my point.

**An Ceann Comhairle:** The fact that the House decided by resolution to establish the Moriarty tribunal does not give it the right to attempt to interfere in any way with its proceedings. The res-

olution of this House establishing the tribunal was pursuant to the statute, the Tribunals of Inquiry Acts, whereby the judicial proceedings and the conduct of the hearings held thereunder are clearly the sole responsibility of its judicial chairman.

**Mr. Rabbitte:** I am upset that even when I rise to support the Ceann Comhairle, he seems to expect that I am in contention with him. I support him entirely.

**An Ceann Comhairle:** The Deputy is not in contention with the Chair. I am merely refreshing his mind on the decision the House made.

**Mr. Rabbitte:** I accept the House cannot discuss issues which are before the tribunal. It was in respect of that precise matter that I complimented the Taoiseach on his foresight because if Deputies had been able to discuss the issues before the tribunals, it might be a different story.

**An Ceann Comhairle:** All Members, including the Chair, are bound by the legislation passed by the House, namely, the Tribunals of Inquiry Acts.

**Mr. Rabbitte:** I accept that. If a cut-off date is applied, should the tribunals not restrict themselves to their core business? The Taoiseach expressed his hope that this particular tribunal would conclude its business. How can one reasonably expect it to do so? I do not envisage that senior counsel and other lawyers will continue to work for the tribunals when the cut in pay takes effect. Does the Taoiseach believe they will do so?

**The Taoiseach:** Deputy Rabbitte makes a valid point about the tribunals. I assure him this was not my intention — as anybody who looked at the record would also conclude — when I participated with others in setting them up, although obviously I had responsibility as Taoiseach. As some of my staff have shown me a number of times, at that stage all of us indicated that two years seemed to be an awful long time for a tribunal to come to a conclusion. On one occasion in 1999 Deputies agreed that if the tribunal went to the summer of 2000, we could live with that. We are in the summer of 2005 and the total cost of the tribunals is, I believe, more than €200 million based on the figure of €197 million I saw some months ago. This was not my intention.

While I do not wish to be contentious, when one looks back at the costs for different years and compares the rates paid currently to the new rates negotiated by the Minister, the enormous difference in the figures will certainly create many difficulties for the individuals concerned. The new rate will be €213,000 as against the current rate, a multiple of that figure, negotiated for all the tribunals. The previous Minister for Finance was tough in that respect. He reached a position on the Ferns and Neary inquiries and the Barr, Moriarty, Morris and Mahon tribunals and

arrived at dates for each, most of which are this year, with some early next year. The exceptions are the Morris tribunal which has a date of September 2006 and the Mahon tribunal which has a date of March 2007. I understand that under the agreement the new rates will apply from the specified dates. If the tribunals make a case that this should be otherwise, the matter will have to be brought to the House.

On the terms of reference, Deputies Rabbitte, Kenny and other party leaders, including Deputy Sargent, and I endeavoured in the legislation passed last year to keep to the issues because the question which would otherwise arise would not be whether the tribunals would conclude during my time as Taoiseach but whether they would do so during my lifetime. I hope to be alive for another few years but the difficulty is that if we do not keep to the issues, the tribunals will go on forever. A further difficulty is the relevance of issues dating back to 1997. They are important but if one does not bring them to a conclusion, they will go on and on. I cannot honestly tell Deputy Rabbitte what will happen when the position changes.

**Mr. Kenny:** Doncaster Rovers may have overtaken Manchester United at that stage.

**The Taoiseach:** That is very likely given the way things are going. I can only give the Deputy an answer based on the current position. As I stated in my reply, I have optimistically provided €6.5 million this year to cover the costs of publication and the award of legal fees on the basis that we will get to the new position. Obviously, however, I cannot promise Deputies that we will do so.

**Caoimhghín Ó Caoláin:** The Taoiseach stated in February that the expected completion date for the Moriarty tribunal was January 2006. Is that still his expectation? Will he clarify the position which would apply if the tribunal were to continue beyond January 2006? Would the new fees payable to the legal profession come into effect as of that month or would the current exorbitant rates the legal profession is currently drawing down continue to be paid?

I have checked the responses given by the Taoiseach in February when he stated the cost to the Exchequer of legal fees for all sitting and completed tribunals at that date was €138.92 million. I note he cited a higher figure in his response to Deputy Rabbitte.

**The Taoiseach:** The figure refers to total costs; legal fees are not the only costs.

**Caoimhghín Ó Caoláin:** Will the Taoiseach clarify whether the figure he cited of in excess of €200 million referred not only to legal fees but also to other costs involved because it runs contrary to the information he gave in February? Does he appreciate that almost every citizen

[Caoimhghín Ó Caoláin.]  
views the fees paid to the legal profession as a massive rip-off? Will he clarify when, if ever, the new fee regime will kick in for the Moriarty tribunal and all other sitting tribunals?

**The Taoiseach:** On the previous occasion that I answered questions on this issue I had not asked my Department to update the costs. The figure of €142.38 million I cited in February was in respect of legal costs. A further €54.48 million related to other costs, giving a total cost of €196.86 million. The figure for legal costs includes some €60.7 million in respect of third party legal costs awarded to date. As regards tribunals of inquiry and public inquiries which are sitting at present, the total cost to the end of February was €159.22 million, of which €110.66 million is in respect of legal costs and €35.18 million relates to third party legal costs. To clarify what I said to Deputy Rabbitte, as the figure is now three months old, it is safe to say it will have increased to well over €200 million. The dates agreed by Government on which the new schedule of fees would be applied to most of the tribunals are: for the Ferns tribunal on child abuse, March 2005; for the Neary inquiry into events at Our Lady of Lourdes Hospital, March 2005; for the Barr tribunal into events at Abbeylara, June 2005; for the Moriarty tribunal, 11 January 2006; for the Morris tribunal into complaints about Donegal gardaí, 30 September 2006; and for the Mahon tribunal March 2007. The completion date for that was further away but when we brought in the legislation, it brought it back from 2012.

The Government set different dates for different tribunals of inquiry having regard to the individual circumstances of each of the tribunals of inquiry and after communication with each of the chairpersons. We determined not to set dates that were unrealistically early and that would involve extensive disruption of the tribunals and inquiries by reason of changes in the legal personnel involved. The delays and costs that such changes would have entailed could have added to rather than reduced the costs of tribunals of inquiry.

Deputy Rabbitte asked what happens when we come to these dates. The figures for senior counsel will be €213,000, for junior counsel €142,000 and for solicitors €176,000 but that is small compared to what they are currently getting.

**Mr. Rabbitte:** It is like a community employment scheme.

**Caoimhghín Ó Caoláin:** They would probably qualify for family income supplement.

**The Taoiseach:** That issue arises but I can just give the House the agreement that was reached.

**Mr. Sargent:** I am not sure I heard the Taoiseach give a definitive answer regarding whether he feels the 11 January 2006 completion date will be the end of that tribunal.

With 2005 in mind, the Taoiseach mentioned €10,583,000 on the assumption that there would be a report. Is he confident we will get a report before long, given there has not been an interim report to date? On the basis of the escalating costs, would he care to include the Moriarty tribunal and other tribunals in the category of overruns earmarked for other projects the Government is bankrolling?

Does the Taoiseach have figures for the staff numbers working on the Moriarty tribunal? In November 2004, the Taoiseach said there would be no new staff. What did he mean when he said in February that new staff had been appointed presumably to some tribunal? Can the Taoiseach clarify if that was the Moriarty tribunal and outline the current position?

I thank the Ceann Comhairle for allowing these questions because it is difficult to keep within the bounds of the House given that we are not supposed to discuss tribunals here.

**The Taoiseach:** The only date that I have for the Moriarty tribunal is 11 January 2006.

**Mr. Sargent:** Is the Taoiseach confident about that date?

**The Taoiseach:** I have literally no control over it, I have no idea.

I do not know if clerical staff are involved but the only record I have for the Moriarty tribunal states that it has two senior counsel, one junior counsel, four research counsel and a solicitor. Those are the up to date figures, including additional staff, agreed when the Attorney General and Minister for Finance were dealing with this issue and working towards those dates to assist the tribunals to bring their work to completion.

#### Official Engagements.

6. **Mr. Kenny** asked the Taoiseach the foreign visits he intends to undertake during the remainder of 2005; and if he will make a statement on the matter. [12845/05]

7. **Mr. Rabbitte** asked the Taoiseach the official trips he plans to make abroad up to the end of 2005; and if he will make a statement on the matter. [14215/05]

8. **Mr. Sargent** asked the Taoiseach if he will report on his official visit to Spain on 28 April 2005. [14825/05]

9. **Caoimhghín Ó Caoláin** asked the Taoiseach if he will report on his meeting with Prime Minister Mr. Zapatero of Spain on 28 April 2005; and if he will make a statement on the matter. [14826/05]

10. **Mr. Kenny** asked the Taoiseach if he will report on his recent visit to Madrid; and if he will make a statement on the matter. [14832/05]

11. **Mr. Kenny** asked the Taoiseach if he will report on his recent meeting in Madrid with the

Spanish Prime Minister, Mr Zapatero; and if he will make a statement on the matter. [14833/05]

12. **Mr. Rabbitte** asked the Taoiseach the matters discussed and conclusions reached at his meeting with the Spanish Prime Minister on 28 April 2005; and if he will make a statement on the matter. [14953/05]

13. **Caoimhghín Ó Caoláin** asked the Taoiseach the official visits abroad he plans to make up to the end of 2005; and if he will make a statement on the matter. [15069/05]

14. **Mr. J. Higgins** asked the Taoiseach if he has received an agenda for his upcoming meeting with the President of the European Council, Mr. Jean Claude Juncker; and if he will make a statement on the matter. [15205/05]

15. **Mr. J. Higgins** asked the Taoiseach the official visits abroad he plans to make during the current Dáil session; and if he will make a statement on the matter. [15224/05]

16. **Mr. J. Higgins** asked the Taoiseach the role he envisages the National Forum of Europe playing in regard to the proposed new EU constitution; and if he will make a statement on the matter. [15229/05]

17. **Mr. J. Higgins** asked the Taoiseach if he will report on his attendance at the Victory in Europe celebrations in Moscow. [15895/05]

18. **Mr. Kenny** asked the Taoiseach if he has received an agenda for the meeting of the European Council in June 2005; and if he will make a statement on the matter. [15898/05]

19. **Mr. Kenny** asked the Taoiseach the bilateral meetings he plans to hold on the margins of the EU summit of June 2005; and if he will make a statement on the matter. [15899/05]

20. **Caoimhghín Ó Caoláin** asked the Taoiseach if he will report on his recent visit to Russia; and if he will make a statement on the matter. [15905/05]

21. **Mr. Kenny** asked the Taoiseach if he will report on his recent meeting in Dublin with the Emperor of Japan; and if he will make a statement on the matter. [15967/05]

22. **Mr. Kenny** asked the Taoiseach if he will report on his attendance at the ceremony to mark the 60th anniversary of VE day in Moscow; and if he will make a statement on the matter. [15968/05]

23. **Mr. Rabbitte** asked the Taoiseach if he will make a statement on his recent visit to Moscow and any discussions he had with other political leaders while there. [15977/05]

24. **Mr. Rabbitte** asked the Taoiseach his priorities for the EU summit of June 2005; if he has plans for meetings with other EU leaders in advance of the summit; and if he will make a statement on the matter. [15979/05]

25. **Mr. Rabbitte** asked the Taoiseach if he will report on the proposed work of the Forum on Europe for the rest of 2005; if he envisages it playing any role in regard to informing members of the public on the proposed new EU constitution; and if he will make a statement on the matter. [15980/05]

26. **Mr. Sargent** asked the Taoiseach the foreign visits he intends to take during the remainder of 2005; and if he will make a statement on the matter. [16063/05]

27. **Mr. Sargent** asked the Taoiseach if he will report on his visit to Moscow to commemorate the 60th anniversary of VE day; and if he will make a statement on the matter. [16064/05]

28. **Mr. Sargent** asked the Taoiseach the agenda for the June EU summit; and if he will make a statement on the matter. [16065/05]

29. **Mr. Sargent** asked the Taoiseach if he will report on his meeting with the President of the European Council, Mr. Jean Claude Juncker; and if he will make a statement on the matter. [16066/05]

30. **Mr. Sargent** asked the Taoiseach the role of the National Forum of Europe in regard to the proposed EU constitution referendum; and if he will make a statement on the matter. [16067/05]

31. **Caoimhghín Ó Caoláin** asked the Taoiseach the role which the National Forum on Europe will play during the referendum on the proposed EU constitution; and if he will make a statement on the matter. [16174/05]

**The Taoiseach:** I propose to take Questions Nos. 6 to 31, inclusive, together.

I travelled to Madrid on 28 April last to have a bilateral meeting with Prime Minister Zapatero. The meeting provided the opportunity to discuss various issues on the EU agenda, including the European constitution, the financial perspectives and UN reform. While in Madrid, I also had the opportunity to lay a wreath at the memorial for the victims of the Madrid bombings in Retiro Park.

On 9 May, I visited Moscow to attend the ceremony to mark the anniversary of the end of the Second World War. The ceremony was most moving. The events comprised a military parade followed by a lunch for heads of state or government. I did not have any meetings or discussions with other leaders in the course of the visit.

I also attended the third Council of Europe summit in Warsaw yesterday. At the summit, I stressed the continuing importance of the Council of Europe and the particular importance of the European Court of Human Rights. In the margins of the summit, I had a short meeting with Prime Minister Belka of Poland, where we discussed the current EU agenda, and with Prime Minister Sanader of Croatia, where we discussed Croatia's application for membership of the European Union.

[The Taoiseach.]

With regard to foreign visits, I will undertake a number of engagements outside of Ireland over the remaining months of the year. This Friday, 20 May, I will travel to the Isle of Man to attend the British Irish Council. On 2 June, I will travel to both Luxembourg and Germany. In Luxembourg, it is intended that I will meet with Prime Minister Juncker as part of a series of bilateral meetings in the context of the negotiations on the European Union's financial perspectives for the period 2007-13. In Germany, I will have discussions with Chancellor Schröder on the European agenda and I will also deliver a lecture at Humboldt University.

I will visit the Island of Ireland Peace Park in Messines, Belgium, for an ecumenical service on 7 June. I will attend the European Council meetings in Brussels on 16-17 June, 27-28 October and on 15-16 December. I also intend to make a visit to Newfoundland and will attend the UN high level meeting to review the millennium goals in New York in September.

The June European Council will take place on 16-17 June. The Luxembourg Presidency recently issued a draft agenda for the European Council which includes the future financial perspectives, the Growth and Stability Pact, the proposed integrated guidelines for growth and jobs, the Hague programme on freedom, justice and security, enlargement and external relations. The Government's priority at the European Council is to have a successful outcome to the negotiations on the financial perspectives which meets the interests of Ireland. I have no plans at present to hold any bilateral meetings on the margins of the June European Council.

As an independent body, it is a matter for the National Forum on Europe to decide the role it intends to play in stimulating debate on the proposed European constitution. The National Forum on Europe has played a valuable role in facilitating open and independent debate on the work of the European convention and the subsequent Intergovernmental Conference that agreed the European constitution. The forum has already had a number of meetings, including regional meetings, on various aspects of the European constitution which are contributing to public debate on the issue.

However, I do not wish to get drawn into any debate on how the forum will conduct its business in the coming months. As I have said, the forum is an independent body and it is a matter for it to decide how best to continue facilitating debate on matters of importance on the European agenda.

I met his Imperial Majesty the Emperor of Japan at Farnleigh on 7 May. I was honoured to welcome him back to Ireland and referred to his visit here as Crown Prince in 1985. I also referred to my meeting with him in Tokyo last year during the EU-Japan Summit. The Emperor and I noted the excellent bilateral relations between Ireland and Japan and in particular the continued strengthening of bilateral trade and investment

over the past few years. Japan is currently Ireland's largest trading partner in Asia.

The Emperor and I discussed our developing cultural relations. We welcomed the growing numbers of tourists in both directions. I informed him that Ireland is proposing to further increase our educational services as well as our tourism trade as we recognise the importance to Ireland of attracting Japanese students and visitors. We agreed that Expo 2005 and the EU-Japan year of people to people exchanges are very useful in enhancing Japan Ireland links, particularly for young people. Ireland is participating in Expo 2005 and our pavilion is displaying the Celtic heritage of Ireland through art and music. I congratulated the Emperor on the very successful Special Olympics Winter Games, which took place in Nagano in March this year.

**Mr. Kenny:** I am exhausted listening to that list. Does the Taoiseach intend to meet President Bush either on the regulation of illegal Irish emigrants in the United States or on the resumption of discussions on the peace process in Northern Ireland? The President's special envoy is due to arrive today or tomorrow. Will there be an opportunity this year to meet President Bush in regard to those matters?

Does the Taoiseach believe the proposed lifting of the arms embargo against China will be a subject for discussion at the June meeting of the European Council? What is the Government's view on lifting the arms embargo?

I note the comment from the head of the Iranian parliamentary national security and foreign policy commission on Iran lifting its voluntary ban on uranium processing and enrichment. He said the continuation of negotiations with the EU will have no results except the loss of time. This is a serious development with Iran involving itself again in uranium processing and enrichment. It is a matter that the Taoiseach must bring to the attention of the European Council because of the delicate and sensitive nature of the region and the seriousness of what is involved.

**The Taoiseach:** I have no other meeting scheduled for this year with President Bush. I will meet Mitchell B. Reiss on Northern Ireland issues. There is ongoing contact with him, which we appreciate. He has been very active on issues over several months and particularly in recent weeks. Over the next few days, he will have a series of meetings in London, Belfast and Dublin.

Last month, following the St. Patrick's Day meeting with President Bush, I reported to the House that I had raised with him the issue of Irish illegal emigrants in the US. Since then the US ambassador has visited me and I have followed through on those discussions. The Minister for Foreign Affairs, Deputy Dermot Ahern, has worked with our contacts in Capitol Hill to find support for this issue. President Bush is supportive but it is not just a case for Ireland as there is a problem with the Mexicans. However, we have

to win support in the US Houses. There are two Bills being taken there and we are trying to feed this issue into the debates. We have been actively doing this since meeting President Bush in March.

I recently reported to Deputy Rabbitte on the changed position on the Chinese arms embargo. Recently, Mr. Javier Solana visited Capitol Hill in an attempt to put forward the EU and our position that there should be some changes on this matter. To the best of my knowledge and subject to updated reports, Capitol Hill has a closed mind on this issue, which President Bush has no intention of going against. Since Mr. Jack Straw has been re-appointed as British foreign secretary, I do not believe he will change his position either. This will greatly annoy and disappoint the Chinese authorities. I dealt with them directly on this issue during our EU Presidency term. It will have its own repercussions but it is not for me to go through these. I would rather another approach in dealing with this issue. I do not agree with the Americans' fears but I cannot influence them.

These new developments in the Iranian nuclear programme are a big change and it is a serious issue. Last year the Iranian authorities co-operated with the UN organisations on the matter. However, they now seem to have changed their position. It will probably be discussed at the General Affairs and External Relations Council meeting on 13 June before the European Council meeting. I am not aware of why the Iranians have changed their position. Late last year it was a positive one. However, the Iranians have now changed and this will require attention. We will wait to see what happens at the General Affairs and External Relations Council meeting on 13 June.

**Mr. Rabbitte:** A statement was issued on the Taoiseach's behalf stating that he intended to meet the Prime Minister Mr. Blair in Moscow during the recent VE Day commemorations. In the event, Mr. Blair did not go to Moscow. Has the Taoiseach any immediate plans to meet Mr. Blair? Has he had telephone or other communications with the Prime Minister Mr. Blair on the present circumstances in Northern Ireland?

The Taoiseach recently met the Spanish Prime Minister, Mr. Zapatero. The Spanish people have already made their decision on the EU constitution. What are the Taoiseach's plans for the National Forum on Europe coming up to the time the Irish people will be asked to decide on the EU constitution?

**The Taoiseach:** The Prime Minister Mr. Blair did not go to Moscow that weekend because that was when he appointed his Cabinet and other Ministers. I have spoken to him by telephone and he has reiterated his commitment to making progress on the North and to give time and effort to it. He has a series of meetings this week and next week with the Northern Ireland parties. That engagement has been re-established. Now on the

other side of the British general election, all parties are back into a series of meetings and actions. Nothing extraordinary has happened yet. I hope we will back into dialogue. The Government is anxious to make progress before the summer. The summer in Northern Ireland comes early as July and August are always dead months for negotiations.

We hope to bring legislation on the EU constitution to the House shortly. This will help in making the information process on the constitution and the Referendum Commission operational. I am anxious to do this with the co-operation of all party leaders. I have not made any decision on the date but we are working on it. The explanatory memorandum has already been circulated. The constitution is available on several websites and also on demand from the Department of Foreign Affairs and the European Commission offices. A White Paper is being prepared which it is hoped to have ready for next month. It will be circulated to every household. We have not finalised the date on this.

**Mr. Sargent:** When will the legislation on the referendum be put before the Dáil? Will the Taoiseach confirm that the proposed referendum wording will allow the Government with Oireachtas approval to join the EU's new permanent structured co-operation—

**An Ceann Comhairle:** Deputy, this is going well outside the questions.

**Mr. Sargent:** I will leave it for another day.

**An Ceann Comhairle:** There are 26 questions and I do not believe we can squeeze in that one.

**Mr. Sargent:** I may have been trying my luck there. However, the Ceann Comhairle is wide awake and on to me.

Will the Taoiseach clarify where he sees the European Court of Human Rights and the Charter of Fundamental Rights having a role and where there should not be a conflict or confusion arising between each? In Warsaw, the Council of Europe opened several conventions for signing. These included conventions on the prevention of terrorism, money laundering, search, seizure and confiscation of proceeds from crime, financing terrorism and the action against trafficking in human beings. Will the Government sign up to these conventions immediately or will there be a delay? Amnesty International has asked that all 46 members of the Council sign the convention on the action against trafficking in human beings without delay. Will Ireland be one of those signing without delay?

**Caoimhghín Ó Caoláin:** Prior to his meeting with Prime Minister Zapatero, the Taoiseach told us that he intended to discuss, among other issues, the proposals regarding the status of the Irish language in the European Union. This is the first opportunity the Taoiseach has had to report

[Caoimhghín Ó Caoláin.]

back to the House on the matter. Can he tell us the outcome of those talks and the current state of play regarding the status of Gaeilge san Aontas Eorpaigh?

The Taoiseach has pointed out that there were concerns in the Spanish Administration regarding other language interests. Will he join me in expressing support for different national languages in Spain such as Catalan and Euskara and indeed for all minority languages throughout the EU, so that there is some level of formal recognition for them? My primary concern relates to the Irish language and I would appreciate if the Taoiseach would advise us exactly where we now stand following his meeting with Prime Minister Zapatero.

**The Taoiseach:** Regarding Deputy Sargent's question on legislation for the referendum, I had hoped to bring it forward. I have listened to the points made by party leaders in discussions and speeches and I have been trying to ensure we will have legislation which will have the support of the House. That is what I wish for.

Regarding the Council of Europe, I do not know precisely how quickly we can ratify the various conventions. The Minister for Foreign Affairs attended the full sessions and working sessions on Sunday and remains in attendance today. We have agreement on certain issues and there is a process for ratification. I agree that such ratification should ensue as quickly as possible.

I believe the charter of fundamental rights helps the position. When first prepared, that document did not have EU legislative status but was there as a guide some four or five years ago. It subsequently became part of the European constitution treaty, so it gives an even stronger position, and protection, to the issues now in the Council of Europe guidelines. That was warmly welcomed yesterday by many speakers and seen as a positive move. It applies to the 25 EU countries but those outside the EU are not bound by the charter. The Council of Europe would like to see all these issues of human rights and the rule of law in the broader picture, with every country signed up to the agreements in the convention. While the EU signs up by means of the constitution, the broader Council of Europe is not covered.

**Mr. Sargent:** Does confusion arise with regard to the European Court of Human Rights?

**The Taoiseach:** I do not think so. That court answers to the Council of Europe, which will probably enshrine in its own constitution the commitments of the charter. It has probably done much of that already. The bigger issue of the court is a different question, with so many new cases coming to it, which is causing difficulties.

In reply to Deputy Ó Caoláin, I took part in the discussions referred to. I referred only to some matters in my reply but I asked in particular

for support on the Irish language issue. We now have a clearer understanding in that area. I am supportive of what the Spanish Government is trying to do, but a different emphasis is involved and I did not want that issue to delay our argument. We made that clear. I will support Prime Minister Zapatero in terms of the regional languages, but I did not want Ireland to become bogged down in that. We have now cleared that issue, which will help us to make progress. The next COREPER meeting is in June. There are some other issues to resolve with other countries but we are narrowing them down.

### **Request to move Adjournment of Dáil under Standing Order 31.**

**An Ceann Comhairle:** Before coming to the Order of Business I propose to deal with a number of notices under Standing Order No. 31.

**Dr. Cowley:** I seek the adjournment of the Dáil under Standing Order 31 to debate the following matter of national importance, namely, the failure of the Minister for Education and Science to provide a new site for the Westport, County Mayo gaelscoil, although the lease on the existing site of the school, Gaelscoil na Cruaiche, is expiring, and a new school needs to be built in the meantime due to the significant ongoing risk to the health and safety of the pupils, teachers and visitors which the present school constitutes.

**Mr. Deenihan:** I seek the adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely, the current financial situation at the Abbey Theatre, especially with regard to the recent disclosure that the theatre is in far greater debt than previously indicated; the pressing need for the Minister for Arts, Sport and Tourism to make a full statement to the Dáil on this matter and the absolute requirement that a clear indication is given now as to when a new location for the Abbey will be selected.

**Mr. Crawford:** I seek the adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely, the failure of the Government as the major shareholder in IFI to provide reasonable or just pension funds for their workers, especially in Northern Ireland, or for their insurance creditors such as hauliers, hotels etc., all of which were led to believe they would be looked after. The failure of the Government to treat people in a fair way raises many questions, especially in Belfast.

**Mr. J. Higgins:** I seek the adjournment of the Dáil under Standing Order 31 to discuss the statement by Gama Construction yesterday to the Labour Relations Commission that it is sacking all its Turkish workers who were on work stoppage despite the workers voting for SIPTU to negotiate a return to work; the campaign of harassment by Gama associates in Turkey of the

families of Turkish workers who are seeking payment of their unpaid overtime, with the aim of forcing all these workers to leave the State so that no evidence can be given in support of their claim; and the need for the Government to intervene immediately to secure justice for these workers.

**Caoimhghín Ó Caoláin:** I seek the adjournment of the Dáil under Standing Order 31 to raise a matter of urgent importance, namely, the refusal of the British Government to establish a new inquiry on the Dublin and Monaghan bombings of 17 May 1974, 31 years ago this week, and the need for the Irish Government, as recommended by the Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights, to take a case against the British Government to the European Court of Human Rights.

**Mr. Sargent:** I seek the adjournment of the Dáil under Standing Order 31 to discuss the serious implications for Government policy of the decision by Cambridge Diagnostics Ireland Ltd. to close in Galway with a loss of 120 jobs in favour of relocating to China and Britain; and the plans by Government to address the lack of indigenous employment creation to offset this seriously detrimental trend for the workers and communities affected.

**Mr. O'Dowd:** I seek the adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely, the report by *Drogheda Independent* this week that rats have been seen on the third floor of the Lourdes Hospital in Drogheda, a totally unacceptable and disgraceful situation requiring an immediate response from the Minister for Health and Children.

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

### Order of Business.

**The Taoiseach:** It is proposed to take No. 2, Investment Funds, Companies and Miscellaneous Provisions Bill 2005 [*Seanad*] — Second Stage; No. 1, Veterinary Practice Bill 2004 [*Seanad*] — Second Stage (resumed); No. 24, Driver Testing and Standards Authority Bill 2004 — Second Stage (resumed); and No. 22, Disability Bill 2004 — Order for Report, Report and Final Stages, to be taken at 6 p.m., and the order to resume thereafter. Private Members' business shall be No. 49, motion re management of public expenditure, resumed, to conclude at 8.30 p.m.

**Mr. Kenny:** When does the Minister of State at the Department of the Taoiseach, Deputy Kitt, expect to introduce the programme for Dáil reform? Are we likely to have a debate on the report on obesity, which the Taoiseach said should be dealt with directly? Will a programme

be developed by the Government this year to tackle obesity and its consequences?

**The Taoiseach:** The Minister of State is almost ready to bring forward proposals. Obviously there must be agreement in the House on these matters but he has shown me his work on the issue. On the other matter, there will be a programme to build on the recommendations of the report.

**Mr. Rabbitte:** Will it be necessary to introduce legislation in respect of the sale of the State's shareholding in Aer Lingus?

**The Taoiseach:** Legislation would be required to allow equity investment in Aer Lingus.

**Mr. Sargent:** I support the request for a debate on the report on obesity.

**An Ceann Comhairle:** That has already been dealt with.

**Mr. Sargent:** I just wish to voice my support. The Government's support for the Nutrition and Health Foundation is in conflict with its concern about obesity. My question is about the business improvement districts Bill as a response, even though it is far from adequate, to the loss of 120 jobs in Galway. Something serious must be done. Will that legislation be fast tracked and will more indigenous employment be created?

**The Taoiseach:** The Bill is listed for next year. There are 20 heads in the Bill and they have been approved. I will ask if it can be introduced in the autumn session.

**Mr. Allen:** When will the legislation on the EU referendum be published? Will all Stages be taken prior to the summer recess? Does the Taoiseach know when the referendum will be held? Will it be in October or November or, as was reported in a newspaper in the past two days, in 2006?

**An Ceann Comhairle:** There is no need to make a statement on it, Deputy.

**Mr. Allen:** May I finish? I was asking a question.

**An Ceann Comhairle:** No, Deputy, you were giving information that you read in a newspaper, which is not appropriate on the Order of Business.

**Mr. Allen:** I was asking if it was correct. Have the courtesy to let me finish.

**The Taoiseach:** It is hoped to have the legislation before the House shortly. It would be good to conclude proceedings on the legislation prior to the summer recess but we can discuss that.

**Mr. Allen:** What is the date for the referendum?

**The Taoiseach:** There is no date at present.

**Mr. Broughan:** I note from the Order Paper that the An Post annual report for 2004 has been laid before the Oireachtas. Will we get an opportunity to debate it and, perhaps, comment on the fact that the pensioners of An Post, approximately 10,000 citizens, have received no cost of living increases for the past two years?

**The Taoiseach:** It is just the annual report of An Post.

**Caoimhghín Ó Caoláin:** Given that we might be on the verge of a strike by nurses and midwives, when will the Nurses (Amendment) Bill, which is long promised legislation, finally be published?

**The Taoiseach:** Work on the Bill is ongoing but I do not have a date for its publication.

**Mr. Durkan:** In view of the rapidly escalating energy crisis and the likely negative impact on the industrial cost base, will the Taoiseach authorise the introduction of the Energy (Miscellaneous Provisions) Bill as a matter of urgency?

**The Taoiseach:** I will. It is expected that it will be published in this session.

**Mr. Durkan:** When?

**The Taoiseach:** I do not have a date but as soon as possible.

**Ms McManus:** There are many delays with legislation originating in the Department of Health and Children. Will the Irish Medicines Board (Miscellaneous Provisions) Bill be taken in this session? When will it be published?

**The Taoiseach:** My information is that it will be this session.

**Mr. Boyle:** When will the consolidation legislation relating to national monuments come before the House and will it be before or after the completion of archaeological works on the proposed route of the M3 motorway?

**The Taoiseach:** It will be 2006.

**Mr. McCormack:** When will the Bill to amend the child registration Act come before the Dáil?

**The Taoiseach:** Is it the register of persons who are considered—

**Mr. McCormack:** It is to allow parents to register in their married name children born before marriage.

**The Taoiseach:** There is no such legislation listed.

**Mr. McCormack:** It is clear from my inquiries that legislation is needed.

**The Taoiseach:** We can check it but it is not in the list of proposed legislation.

**Mr. Timmins:** I wish to raise two issues. Are there plans to introduce legislation to allow Irish troops to train overseas so they can participate in the EU battle groups? The other issue is one with which the Ceann Comhairle and the Taoiseach are probably weary but after two and a half years the unsecured creditors of IFI, many of them small family businesses, are owed €20 million—

**An Ceann Comhairle:** That has already been raised by way of Standing Order by Deputy Crawford.

**Mr. Timmins:** There was no response to it.

**An Ceann Comhairle:** It is out of order at this stage. The first question, Taoiseach, is on promised legislation.

**The Taoiseach:** There is no legislation promised.

**Mr. Timmins:** Are there plans to bring forward any legislation?

**The Taoiseach:** No.

**Mr. Costello:** One of the objectives in An Agreed Programme for Government was to codify criminal legislation. In view of the number of Bills emanating from the Department of Justice, Equality and Law Reform and the amount of criminal activity here, will action be taken on consolidation legislation? There has not yet been any indication that this codification will take place. Approximately one third of the legislation brought before the House originates in the Department of Justice, Equality and Law Reform. If this could be brought under control, it would be most useful.

**The Taoiseach:** I will bring the Deputy's point to the attention of the Minister for Justice, Equality and Law Reform. An effort is being made in a number of areas to codify legislation. The Deputy is correct that every year there are 15 to 20 Bills from the Department of Justice, Equality and Law Reform.

**Mr. Rabbitte:** Is there a prospect of amending legislation in respect of the Moriarty tribunal?

**The Taoiseach:** No.

**Ms Lynch:** When will the hepatitis C and HIV compensation tribunal amendment Bill be dealt with to allow people who have been diagnosed

with these conditions to get such things as mortgage protection and life assurance? It was scheduled for this year.

**The Taoiseach:** Work is still ongoing on the Bill although much of it has been completed. It is due to be published this year but presumably it will be in the autumn session.

**Investment Funds, Companies and  
Miscellaneous Provisions Bill 2005 [Seanad]:  
Second Stage.**

**Minister of State at the Department of Enterprise, Trade and Employment (Mr. M. Ahern):** I move: "That the Bill be now read a Second Time."

I am pleased to bring the Bill before the House. It was initiated in the Seanad on 29 March and completed all Stages on 26 April. A number of amendments were made on Committee Stage in the Seanad and I will refer to the principal amendments later.

Since the International Financial Services Centre was launched in 1987, the Government has made a strong commitment to making Ireland an attractive and competitive location for a wide range of international financial services activities and institutions. Dublin is host to half of the world's top 50 banks and is one of the main European locations for insurance — both life and general — mutual funds and corporate treasury.

The Government values the important role the financial services industry plays in the economy. It is a significant employer, with more than 51,000 working in the sector, of whom more than 17,000 are engaged in providing wholesale or international services. Ireland has been exceptionally successful in attracting international financial services companies and we want this trend to continue.

A recent IDA commissioned report by Deloitte Management Consultants reviewed future options for the international financial services sector in Ireland and concluded that there are still excellent opportunities to expand and develop the sector based on innovation, skills and expertise. In particular, the report identified opportunities around becoming the major European centre for specialist debt-financing products and securitisation; being a world class location for managing global-regional banking products; developing and enhancing Ireland's position as a major centre for asset servicing; building scale in asset management; and positioning Ireland as being the pan European location for insurance products.

The funds industry has played a crucial role in contributing to the growth of the IFSC. The industry expanded rapidly throughout the 1990s and more than 50 international funds administrators and more than 20 custodians are based in Ireland employing in excess of 5,000 people. These companies service 3668 Irish domiciled

funds and subfunds with net asset values of almost €463 billion together with another €200 billion under administration in non-domiciled funds.

With a view to providing the greatest flexibility to the funds industry while at the same time keeping appropriate controls in place, the Bill makes a number of amendments to existing legislation in this area. It provides for the introduction of a new investment fund vehicle — the non-under-takings for collective investment in transferable securities or UCITS, common contractual fund, CCF, and it also provides for the introduction of cross investment and segregated liability for investment funds. Apart from the amendments to the laws relating to investment funds, a number of other amendments to general company law are proposed, many of which will also impact on aspects of companies used as investment companies.

A great deal is happening at the EU level in the financial services area. The 42 action points identified in the financial services action plan have essentially been completed at EU level and, under this Bill, the Companies Acts will be amended in anticipation of the transposition of two EU Directives dealing with market abuse and prospectuses. The market abuse directive, which covers both insider dealing and market manipulation, will simplify administration and reduce the number of different rules and standards across the Union. The prospectus directive will make it easier to raise capital in Europe and increase transparency and market integrity.

Under Part 6 miscellaneous amendments are being made to the Companies Acts to remove anomalies and to make other necessary changes. A number of Acts dealing with consumer protection will be amended through Part 7, largely to increase the maximum fines that can be imposed on conviction. This Part also contains amendments to the Competition Acts and the Industrial and Provident Societies Acts, which were agreed in the Seanad.

I refer to the Bill's provisions and I will explain in greater detail what each is designed to achieve. However, this is not intended as an exhaustive account of the contents of each section. Part 1 contains preliminary technical matters including the commencement of the legislation, interpretation, the making of orders and regulations and how parts of the Bill will relate to the Companies Acts.

The purpose of Part 2 is to provide for the introduction of a new investment fund vehicle — the non-UCITS common contractual fund. A CCF is a contractual arrangement established under a deal that provides that investors participate as co-owners of the assets of the fund. The CCF is not a separate legal entity and is transparent for Irish legal and tax purposes. As a result, investors in a CCF are treated as if they own a proportionate share of the underlying investments of the fund rather than shares or

[Mr. M. Ahern.]

units in an entity, which itself owns the underlying investments.

The consolidated UCITS regulations provided the legislative framework for the establishment of the UCITS common contractual fund, the UCITS CCF. The availability of the UCITS CCF has allowed Ireland to market itself as a jurisdiction for consideration to multinational companies seeking an investment fund structure to pool the assets of a number of individual pension funds. Pension pooling allows companies operating pension funds in several countries to “pool” assets into a single pension pooling vehicle. The pension pooling vehicle then invests in assets, such as global equities, bonds and cash, on behalf of the investing pension funds. Pooling offers considerable economies of scale, particularly for smaller pension funds, and this, in turn, leads to cost savings and enhanced returns. However, UCITS structures, by their very nature, include inherent restrictions, for example, restrictions in investment policy, acceptable asset classes, borrowing restrictions, etc. Such restrictions limit the value of the UCITS CCF structure and highlight the need for a CCF beyond the UCITS structure to complete the product range.

Section 8 deals with authorisation by the Central Bank and Financial Services Authority of the non-UCITS CCFs. The powers of the Central Bank under the legislation will be delegated to IFSRA, the financial regulator. Section 9 addresses public information and reporting on the authorisation of CCFs. Section 10 gives the Central Bank the powers necessary to impose such conditions as it considers appropriate and prudent for the orderly and proper regulation of the business of CCFs while section 11 deals with refusal of such authorisation.

Section 12 provides for alterations in the deed of constitution of a CCF or change in the name of a CCF and section 13 deals with the replacement of a management company or custodian. Section 14 requires a management company to redeem units in the CCF at the request of the unit holder at the going rate and creates an offence where a management company fails to redeem units as requested by the unit holder.

Section 15 prohibits management companies and their subsidiaries from making certain profits for themselves under the CCF. Section 16 deals with the assets of a CCF. It provides that the assets of a fund will belong exclusively to the CCF and shall be held by the custodian. Where a CCF is established as an umbrella fund the assets of each subfund shall belong exclusively to that subfund effectively ring-fencing them from the other subfunds in the umbrella. This ensures each subfund will have segregated liability, which means the assets of one subfund cannot be used to discharge liabilities incurred by another subfund within the umbrella. This is an important provision from the point of view of investor protection, as subfunds may operate different investment strategies involving varying degrees of risk.

Section 17 deals with the liability of custodians of a CCF. Section 18 applies certain provisions of the UCITS regulations to non-UCITS CCFs subject to appropriate and necessary modifications including terminology. Section 19 makes officers of a body corporate guilty of an offence where they have facilitated a body corporate in committing an offence under this Part. Section 20 makes it an offence for a person to contravene a provision in this Part, even though the legislation may not have specifically created an offence of such contravention. For example, failure to comply with conditions imposed by the bank under section 10 will be an offence given the duty of compliance imposed by section 10(6). Section 21 deals with penalties.

Part 3 provides for amendments to Part XIII of the Companies Act 1990, which deals with investment companies. The purpose of this Part is to provide for the introduction of cross investment and segregated liability for investment funds.

Cross investment will facilitate investment by one sub-fund of an umbrella fund into another sub-fund of the same umbrella. This is currently permitted in investment funds that are structured as unit trusts but is not possible in investment companies because the legislation currently provides that shares purchased by an investment company must be cancelled. This means an investment company cannot currently purchase shares in itself and hold these for the benefit of the investors in a particular sub-fund. These provisions aim to remove this prohibition.

A sizeable proportion of UCITS and non-UCITS investment companies established in Ireland are umbrella funds. An umbrella fund is comprised of one or more sub-funds, each of which pursues different investment strategies and objectives. The reason for establishing a fund as an umbrella fund is to enable investors to switch freely between different investment strategies and to facilitate ease of administration of the fund by the promoter or investment manager, with consequent cost savings.

Ideally, an investor who invests in a particular sub-fund should be in the same position as if that sub-fund was itself a limited liability company. The investor should be subject only to investment risks and liabilities incurred in the pursuance of the investment strategy attributable to the sub-fund in which it has chosen to invest and should not be exposed to potential liability as a result of activities in other sub-funds.

An investment company is a single legal entity and sub-funds are simply represented by the issue of a new class of shares within that investment company. Sub-funds of an investment company do not, therefore, have the ability to segregate their liabilities from those of the investment company as a whole. Shareholders and creditors are currently subject to the risk that their rights in respect of the sub-funds with which they deal could be affected by activities in, and liabilities incurred by, other sub-funds. This is why segregated liability is being introduced.

Section 24 amends section 255 of the Companies Act 1990, to provide that an umbrella fund may acquire and hold funds in any of its sub-funds for the purpose of transferring the funds to another one of its sub-funds. Essentially this allows for cross investment in investment companies.

Section 25 amends the Companies Act 1990 through the insertion of five sections into Part XIII of that Act to provide for segregated liability for investment funds. It provides a mechanism by which any existing umbrella funds wishing to avail of the benefits of segregated liability must obtain approval by way of special resolution of its members. Where segregated liability applies, any liabilities of a sub-fund will be discharged solely from the assets of that sub-fund. Segregated liability will not apply to umbrella funds that had commenced trading before the commencement of this Act unless the members of the umbrella resolve that it should, by special resolution.

Section 26 of the Investment Funds, Companies and Miscellaneous Provisions Bill 2005 amends section 257 of the Companies Act 1990, which relates to powers of the financial regulator over investment companies. The purpose of this amendment is to extend the regulator's powers to management companies of investment funds.

Section 27 amends section 260 of the 1990 Act to remove certain provisions of the Companies (Amendment) Act 1983 that were applied to investment companies. This arises from the provisions for cross investment for investment companies.

The purpose of Part 4 is to enact provisions in primary law to ensure the smooth and effective transposition of the EU Market Abuse Directive, which covers insider dealing and market manipulation. The same framework will apply to both categories of market abuse. This will simplify administration and reduce the number of different rules and standards across the European Union. It covers all financial instruments admitted to trading on at least one regulated market in the European Union.

Section 28 provides for definitions used in this Part, while section 29 allows the Minister to make regulations under the Act for the purpose of implementing the Market Abuse Directive, three supplemental directives and, if necessary, to give full effect to the market abuse regulations.

It is recognised that it can be particularly difficult to sustain and prosecute an allegation of market abuse. Therefore, the new directive focuses on administrative sanctions rather than requiring member states to impose criminal sanctions. In Ireland, such administrative sanctions will be provided for in the transposing regulations. However, the criminal sanction regime that was provided for in Part V of the Companies Act 1990, will be retained. It was intended to make these regulations under the European Communities Act 1972, but section 3(3) of that Act states that regulations under section 3 shall not create an indictable offence. Consequently,

for legal certainty, an amendment was made in the Seanad giving the Minister the powers under this Act to make regulations transposing the directive.

Section 30 creates the penalty that can be imposed on those found guilty of an offence in this context. It provides for a maximum fine of €10 million and-or maximum of ten years in prison for conviction on indictment. Summary offences will be dealt with in the transposing regulations.

Section 31 provides for civil liability for breaches of Irish market abuse law. It provides that persons contravening those provisions will be liable to pay compensation to any party involved in the transaction, who was not in possession of the relevant information, for loss suffered as a result. This section also deals with breaches concerning market manipulation and provides that persons contravening those provisions will be liable to compensate parties dealing in shares as a result of the breach. Guilty persons must also account to the company issuing the shares for any profit made from the transaction.

Section 32 gives the competent authority the power to make supplementary rules to allow it to fulfil its role as competent authority. Section 33 amends the Central Bank Act 1942, to include the Market Abuse Directive, related directives and the Prospectus Directive in the list of directives the Central Bank is responsible for enforcing. This deals with the confidentiality of information obtained by the competent authority and effectively prohibits disclosure.

Section 34 allows the Minister to provide, by order, that one or more provisions of Irish market abuse law may apply to any market specified in the order. This is to anticipate the establishment of any new market.

The purpose of Part 5 is to amend the Companies Act 1963, dealing with offers of securities to the public. This is in anticipation of the transposition of the EU Prospectus Directive, which we propose to transpose by way of regulations. This directive will make it easier to raise capital in Europe and increase transparency and market integrity. By harmonising the necessary disclosure requirements, the new legal framework creates an effective single passport for both EU and non-EU issuers. Therefore, once a prospectus is authorised in one member state, it can be used in all others, cutting red tape and costs for issuers.

A prospectus is a disclosure document, containing key financial and non-financial information. A company makes this document available to potential investors when it is issuing securities — such as shares, bonds, or derivative securities — to raise capital or when it wants its securities admitted to trading on exchanges. The directive will reinforce protection for investors by guaranteeing that all prospectuses issued in the EU provide them with the clear and comprehensive information they need to make investment decisions.

[Mr. M. Ahern.]

Like the Market Abuse Directive, the Prospectus Directive is being transposed by regulations, but certain complementary changes are being made in Part 5 of the present Bill to amend and, where necessary, to update national prospectus law provisions that do not arise directly from the EU Directive and which must be made in primary law. In this regard, indictable criminal and civil sanctions are being retained and, where necessary, modified to reflect the new regime being introduced. Moreover, certain requirements are being repealed, such as the four day rule contained in section 56 of the Companies Act 1963.

In circumstances where an offer of securities to the public is outside the scope of requiring the preparation and publication of a prospectus under the EU directive, or where an offer is made in such a way as to avail of an exemption under article 3.2 of the directive, there will be no requirement in national law to prepare a prospectus, as has been the case up to now. However, where the total value of the securities offered amounts to less than €2.5 million, the offerer will be required to publish certain warnings in the offering document. These changes reflect the EU requirements and will remove unnecessary bureaucracy where the size of the offer of securities is very small.

Section 35 provides for definitions used in this Part. Section 36 deals with the construction of certain terms in the 1963 Act in cases where provisions have been amended or inserted by this Part. Section 37 provides for necessary repeals and revocations which are being made in anticipation of the transposition of the directive.

Section 38 deals with civil liability for misstatements in the prospectus and provides that certain persons will be liable to pay compensation to persons who acquired securities on faith of that prospectus for loss or damage sustained because of untrue statements or omissions in the prospectus. Section 39 provides for exceptions and exemptions applying to section 38.

Section 40 provides for a restriction of liability in cases where certain non-equity securities are involved. Section 41 provides for indemnification of certain persons in cases where a director has withdrawn his or her consent, has not consented to become a director or has not consented to the issue of a prospectus, and to an expert who has withdrawn consent or has not given consent to the issue of a prospectus. Section 42 provides that an expert must give consent to the inclusion of statements made by him or her in a prospectus.

Section 43 allows the Minister to make regulations under this Act for the purpose of implementing the prospectus directive. Like the market abuse transposing regulations I spoke about earlier, it had been intended to make these regulations solely under the European Communities Act 1972. However, section 3(3) of that Act states that regulations under section 3 shall not create an indictable offence. Consequently, for legal certainty, an amendment was agreed in the Seanad

giving power to the Minister under this Act to make regulations transposing the directive.

Section 44 provides for penalties on conviction on indictment for offences under Irish prospectus law. This would cover a situation where securities are offered to the public or listed without issuing a prospectus. Section 45 provides for criminal liability for untrue statements and material omissions in a prospectus.

Section 46 sets out requirements for offering documents prepared for local offers and specifies statements — essentially warnings — which must be included in those documents. Such documents must be registered with the CRO. Local offers are transactions not regulated by the directive where the total consideration for the offer is less than €2.5 million.

Section 47 provides that a document prepared in accordance with EU prospectus law or an offering document does not constitute an investment advertisement within the meaning of the Investment Intermediaries Act 1995 and section 48 gives the competent authority the power to make supplementary rules and issue guidelines. Sections 49 to 52, inclusive, amend the 1963 Act to encompass EU prospectus requirements.

Part 6 provides for various amendments to company law. Section 53 amends section 60 of the 1963 Act. A number of these amendments implement recommendations of the company law review group. Sections 54 and 55 provide for electronic filing agents as recommended by the company law review group. This allows companies to appoint electronic filing agents to file documents with the Companies Registration Office in electronic form. Sections 56 and 57 provide for the reservation of a company name with the CRO. A name may be reserved for 28 days and an applicant may seek an extension of this period for another 28 days only.

Section 58 amends section 128 of the 1963 Act to clarify a reference in that provision. Section 59 amends section 195 of the 1963 Act and provides that a director of a company may notify the CRO of a change in name or address and that one notification can be used to change those details in respect of all companies of which he or she is a director.

Section 60 amends section 302 of the 1963 Act by extending the period within which liquidators may comply with notices issued by the CRO to encourage more widespread use of this provision and to avoid time-consuming and expensive high court applications. Section 61 amends section 371 of the 1963 Act and is a similar provision to that of section 60 but relates to “company” and “officer” as opposed to liquidator.

Section 62 amends section 12B of the Companies (Amendment) Act 1982. It allows the CRO in the event of striking off a company for failure to make annual returns to advertise its intention to do so in the CRO gazette in cases where it has no registered office address for the company. This will apply where a company fails to make an annual return for 20 consecutive years and will

only relate to companies incorporated prior to 1982 as since then companies must provide a registered office from the date of their incorporation.

Section 63 is a new section inserted by the Seanad which amends section 22 of the Companies (Amendment) Act 1986 to make it possible for the offences dealt with in that section to be prosecuted on indictment. It is considered that such an option ought to be available in the more serious instances where, for example, a company fails to follow fundamental accounting principles, section 5 of the 1986 Act, or where, having opted against following such principles, the company fails to publicly draw attention to that decision, the reasons for it and the financial consequences thereof.

Section 64 amends section 19 of the 1990 Act. This extends the ODCE's powers in requiring production of documents to include where circumstances suggest that the affairs of a body are or have been conducted in a way that is unfairly prejudicial to some or all of its creditors.

Section 65 amends section 20 of the 1990 Act. Subsection (3) of section 20 of the Companies Act 1990 provides that any material information which is seized by officers of the Director of Corporate Enforcement under subsection (2) of the section may be retained for a period of six months, or such longer period as may be permitted by a judge of the District Court. The Office of the Director for Corporate Enforcement has had considerable operational difficulties with the operation of this provision. The position under all criminal justice legislation, other than for the ODCE and the Competition Authority, is that material seized on foot of a search warrant is retained until the conclusion of the proceedings. There is no valid reason that an exception to this type of provision should be made for the ODCE and the Competition Authority. This provision was agreed on Committee Stage in the Seanad.

Section 66 amends section 21 of the 1990 Act. This will allow the ODCE to share confidential information with the Irish Auditing and Accounting Supervisory Authority, IAASA, for the purposes relevant to IAASA's statutory functions. Section 67 amends section 166 of the 1990 Act. The purpose of this amendment is to give the court discretion regarding whether directors should file certain notices regarding directorships and disqualifications in civil and criminal proceedings.

Section 68 amends section 242 of the 1990 Act. Currently, that section makes it an offence to produce, lodge or deliver a document containing false information to the CRO. This amendment extends the offence to a person who completes or signs such a document. This again was recommended by the company law review group.

Section 69 makes several amendments to the Companies Acts to replace the requirement to publish certain notices in *Iris Oifigiúil* with a requirement to publish them in the CRO gazette. The CRO gazette is a national centrally-based

electronic gazette which is held and maintained by the CRO on its website. Section 70 is designed to address a number of incorrect references in Schedule 2 of the Companies (Auditing and Accounting) Act 2003.

Section 71 amends section 110A of the Company Law Enforcement Act 2001. Given the new functions that are being assigned to the Central Bank-IFSRA, under Parts 4 and 5 in particular, the bank sought equivalent provisions to those already afforded to the ODCE, CRO, officers of the Minister and inspectors, to facilitate the discharge of its functions under company law. The powers in question are set out in section 110A of the Company Law (Enforcement) Act 2001, inserted by section 52 of the Auditing and Accounting Act 2003, and relate in general to the certification of certain matters relating to documents and related issues. It is intended that IFSRA will be the competent authority for market abuse and prospectus, and this provision will give IFSRA equivalent powers. This provision was inserted on Committee Stage in the Seanad.

Part 7 deals with miscellaneous amendments to competition, consumer and industrial and provident societies legislation.

Section 72 amends section 45 of the Competition Act 2002. Section 45(6) of the 2002 Act provides that any books, documents or records which are seized or obtained under section 45(3) of the Act may be retained for a period of six months, or for a longer period as may be permitted by a judge of the District Court. The Competition Authority has been experiencing considerable difficulties with this provision, which is similar to section 65. As I mentioned when I was speaking on section 65 of the Bill, the position under all criminal justice legislation, other than that relating to the Office of the Director for Corporate Enforcement and the Competition Authority, is that material seized on foot of a search warrant is retained until the conclusion of the proceedings. This section of the Bill was inserted on Committee Stage in the Seanad.

Section 73 of the Bill provides for amendments to the UCITS regulations. The purpose of the amendments, which are contained in the Schedule to this Act, is to provide for cross-investment and segregated liability for UCITS investment companies.

Sections 74 to 80 amend various provisions of consumer legislation to increase the maximum penalties on conviction under the provisions. Section 79 also amends the Package Holidays and Travel Trade Act 1995 to increase the timeframe within which a prosecution may be taken from 12 months to two years.

Section 81, which was agreed in the Seanad, relates to the Industrial and Provident Societies Act, which is the legislative framework for co-operative societies. Under the Act, there are statutory limits on the maximum amount that a member of a society may have by way of interest in the shares of a society, as well as on the

[Mr. M. Ahern.]

amounts which may be distributed by way of testamentary nomination or on intestacy. The limits were last adjusted in 1985 and 1990. The cooperative movement has asked for them to be increased. The limits are increased in the case of shares to €150,000 or 1% of the total assets of a society, and in the case of nominations and intestacy to €15,000 and €10,000 respectively.

In the course of preparing the new financial limits, it became evident that the power of the Minister to alter the statutory limits by regulations had been inadvertently removed by the Credit Union Act 1997. The purpose of section 82, which was prepared in consultation with the Office of the Attorney General, is to validate the financial limits that previously applied. The limits will be replaced by the new limits provided in section 81, which will come into operation immediately on the enactment of this legislation.

The final report of the Consumer Strategy Group, which was established in March 2004 to advise and make recommendations on the development of a national consumer policy, is being published today by my colleague, the Minister for Enterprise, Trade and Employment, Deputy Martin. I understand the group's report contains over 30 recommendations. The Minister intends to establish a new national consumer agency in response to the report's core recommendation. The agency will incorporate the existing functions of the Office of the Director of Consumer Affairs. It will also have specific additional functions in areas such as consumer advocacy, research, information, enforcement, education and awareness.

I understand the Minister, Deputy Martin, intends to appoint the new agency's interim board shortly. The board will be in place until the consumer agency has been established on a statutory basis. The Minister also intends to establish a high-level interdepartmental committee to examine the recommendations of the Consumer Strategy Group and to report back with an implementation plan within three months.

A process of public consultation about the groceries order was initiated today by the Minister for Enterprise, Trade and Employment. The process will focus, in particular, on the Consumer Strategy Group's recommendation that the order be revoked in its entirety. I understand that the Minister expects to conclude that consultation process within two or three months. He will then submit proposals to the Government about the matter.

Ireland must continue to be innovative and to develop appropriate skills and expertise. A regulatory system that is flexible, responsive and focussed on business has been the cornerstone of this country's development. The report of Deloitte Management Consultants recommended that we should continue to make progress on that front. Ireland's regulatory environment is a key component of its competitiveness and international reputation. I commend the Investment

Funds, Companies and Miscellaneous Provisions Bill 2005 to the House.

**Mr. Hogan:** Fine Gael will support the Investment Funds, Companies and Miscellaneous Provisions Bill 2005, which I welcome. The Title of the Bill is slightly distorting, because a large amount of material is subject to amendment in the course of this legislation. I imagine that the "miscellaneous" sections of the Bill are larger and far more detailed than the sections of the Bill which amend other legislation or implement EU directives about investment funds.

From a standing start in 1989, Ireland has become a significant international location for the domiciling and administration of international investment funds. It is now recognised as one of the leading international fund jurisdictions. I pay tribute to the work of the former Taoiseach, Mr. Haughey, and some astute people in the private financial services sector who saw the opportunity that was presented in the 1980s and ensured that Ireland developed in the way I have mentioned.

Debate adjourned.

#### **Personal Apology by Minister of State.**

**Acting Chairman (Dr. Cowley):** The Minister of State, Deputy Conor Lenihan, wishes to make a statement, with the permission of the House.

**Minister of State at the Department of Foreign Affairs (Mr. C. Lenihan):** I thank Deputy Hogan for the courtesy he has extended to me. During Leaders' Questions this morning, I made remarks that I now regret having made. I regret the remarks made and I apologise sincerely if any offence was taken from the remarks. I want to make that absolutely clear — my apology to the House — as early as possible, given the interpretation that may be put on those remarks.

#### **Investment Funds, Companies and Miscellaneous Provisions Bill 2005 [Seanad]: Second Stage (Resumed).**

Question again proposed: "That the Bill be now read a Second Time."

**Mr. Hogan:** The international investment funds industry, which employs approximately 6,500 people, is quite valuable to this country. A further 1,750 people are directly employed in professional advisory firms and many more indirect jobs have been created in information technology firms and other service providers. I acknowledge that the financial services sector as a whole is making an enormous contribution to employment in this country. Some 50,000 people are involved in the financial services sector in some way, for example by providing services to customers or managing funds. An important company, State Street International, employs 210 people in managing funds and administering hedge funds in County Kilkenny. It is obvious that this Bill will

have a significant impact on the expansion and development of the firm, which also has a strong administration and funds management facility in the Irish Financial Services Centre.

It is forecast that employment levels in the financial services industry will grow significantly in the coming years. Ireland has developed a strong reputation as a niche market in the management and administration of specialised funds. Not only will many jobs will be created in the financial services area in 2005, but there will also be a substantial increase in the level of employment in professional advisory firms. I refer to legal and accountancy companies which are involved in the financial services sector.

Over 1,000 people are employed in financial services in places outside Dublin, including my constituency. I recently visited the operation I mentioned in County Kilkenny, which provides valuable high-skilled employment for over 200 people in this complicated sector. I hope the proportion of financial services employment located outside Dublin will increase as the industry develops. There is no need for all of the companies involved in this sector to be based in the IFSC. I hope to see regional variation in investment in this type of specialised business, which relies on technology rather than location for its success.

As the single largest creator of employment in this country's international financial services industry, the investment funds sector contributes significantly to our economy. All investment funds established in Ireland must be authorised by the Irish Financial Services Regulatory Authority. The investment managers of funds must be approved by the authority. The other people who service funds, such as the fund administrator and the custodian or trustee, must be based in Ireland and must be approved by IFSRA to act in that manner. They are subject to ongoing supervision by IFSRA. Fund regulation in Ireland is of a much higher standard than in other fund jurisdictions. We need to protect our reputation in this regard. While it is important to maintain the high standards which exist in our regulatory regime, we also need to develop the flexibility that is needed to allow the growth in this sector to continue.

This country's funds industry was developed on foot of the establishment of a legal and regulatory framework that facilitates the international investment funds industry. The innovation and responsiveness that served the funds industry well is still very much required. In an increasingly competitive marketplace, product development is more important than ever. Our reputation is a critical part of ensuring that we continue to expand in this important area of international financial services employment activity.

It is essential that we process this legislation as quickly as possible. We must deliver on our obligations to ensure that the regulatory regime has the flexibility to allow companies to deal with new fund opportunities. This is a new and complex area of business. We want companies that

wish to invest here and to allow Irish people to work in a high skill business with a good reputation to know that they will get the opportunity to do so in this jurisdiction. It is global business based in Ireland, a fact of which we should be proud.

While it is disappointing that it has taken longer than is usual for the Bill to come to the House, now that it is before the House it must be processed as quickly as possible. The industry told us some years ago that the Bill was necessary.

Part 2 will provide the legislative framework for an Irish authorised and regulated investment funds structure which will allow for the pooling of assets by institutional investors. Similar pooling structures are available in other jurisdictions and, as such, it is imperative that we continue to update our legislation so we can compete in this very competitive marketplace. Approximately two thirds of Irish funds are established as investment companies.

Investment funds constituted as companies have very distinct forms of company organisation and objectives as compared with those of ordinary companies. The company law review group report noted that owing to the unique nature of investment companies it is often inappropriate to treat them in the same way as the generality of companies. Recognising the unique nature of investment companies, Part 3 of the Bill includes two welcome and necessary provisions for the introduction of segregated liability and the facilitation of cross-investment. The introduction of Part 3 will allow the Irish fund product to be structured to include all the necessary investor protections and efficiencies to allow the industry to continue to compete in the international marketplace.

In the case of segregated liability, an investor who invests in a particular sub-fund should ideally be in the same position as if that sub-fund was itself a limited liability company. However, the investor should be subject only to investment risks and liabilities incurred in the pursuance of the investment strategy attributable to that sub-fund in which it has chosen to invest and should not be exposed to potential liability as a result of activities in other sub-funds. Failure to implement segregated liability sub-funds would severely impact on our nation's competitive position in the financial services sector. France and Luxembourg have two of the largest fund markets in the EU. They have already introduced amendments to their legislation to provide for segregated liability for sub-funds. The changes made there will be achieved in Ireland through the amendment of Part XIII of the Companies Act 1990, as the Minister of State has outlined.

With regard to cross-investment, the 1990 Act will also be amended to provide for cross-investment by investment companies, and the UCITS regulations will be amended to provide for cross-investment by investment companies established as UCITS. These amendments would facilitate

[Mr. Hogan.]

investment by one sub-fund of an umbrella fund into another sub-fund of the same umbrella fund. This is currently permitted in investment funds which are structured as unit trusts but is not possible in investment companies because the legislation provides that shares which are purchased by an investment company must be cancelled. This means that an investment company cannot purchase shares in itself and hold these for the benefit of the investors in a particular sub-fund. The proposed amendments as set out by the Minister of State are aimed at removing this prohibition.

The foundation on which the funds industry was built was the establishment of a legal and regulatory framework to facilitate the international investment funds industry. That innovation and responsiveness has served the industry well. We must continue to monitor legislative change and fund management change in other jurisdictions so Ireland is able to keep up to date with the competition elsewhere in Europe and throughout the world.

The Bill will provide the legislative framework for an Irish authorised and regulated investment funds structure which will allow the pooling of assets by institutional investors. Similar pooling structures are available in other jurisdictions and we must be up there with the best of them to ensure that we continue to have a high reputation but also a high level of engagement in investment in this important industry.

With regard to the miscellaneous provisions, the Minister of State has made a number of changes to consumer policy. I welcome the belated acceptance by the Government that we have encountered many difficulties in regard to the cost of living in recent years, during which many indirect taxes and charges were imposed. These taxes and charges are catching up with us as a country, making us less competitive in the small business sector, costing more of consumers' disposable income and feeding into job losses in the manufacturing sector. Unfortunately, companies are voting with their feet by relocating to other jurisdictions, particularly in eastern Europe and the far east.

We must be continually mindful of the cost base of the industrial sector. All Members acknowledge that if there is not a strong manufacturing base, there will not be the necessary spin-off employment in the services sector to sustain many communities. Ireland can only have so many manufacturing bases. If any major manufacturing base were to close, it would have major ramifications not just for that business but in indirect knock-on effects for the services sector.

Consumers have sought an opportunity to put in place an independent system through which they can seek the right of redress and make complaints about excessive overcharging in the economy. I was admonished in recent years for highlighting this matter by Ministers who seem out of touch, particularly the Ministers for Arts, Sport

and Tourism and Enterprise, Trade and Employment. I am glad there has been a conversion on the part of the Government which recognises the necessity of an overhaul of the office of the Director of Consumer Affairs.

One agency, not two, is needed to overhaul the definition of responsibilities that have not been updated since the Sale of Goods and Supply of Services Act 1980. Moreover, penalties must be increased in line with what we would expect to be an appropriate sanction almost 30 years after that Act was passed. This would mean that retailers or any stakeholders in the economy which excessively charge consumers are brought to book and that appropriate penalties exist. In this day and age, a fine of €127 for non-display of prices is out of line with what would frighten any retailer who is of a disposition to rip off consumers.

I welcome the Minister of State's announcement today that he will implement many of the recommendations of the consumer strategy group. It has taken a long time for the Government to realise this point, but it is welcome nevertheless. The Minister of State's review of the groceries order is also important. However, I am sure he will be mindful of other opportunities that arose, particularly during the term of office of his predecessor, the Tánaiste, Deputy Harney, who reviewed this order and came to certain conclusions at the end of 2001, after a long consultation.

While some commentators believe that the litmus test of consumer policy is the ministerial attitude to the groceries order, I do not subscribe to that view. Many other facets of life which have a major impact on household budgets must also be considered, including the impact of the legal, pharmacy, banking and other professions. Such issues have as great an impact as the implementation of the groceries order on the grocery sector. It will be interesting to examine the submissions that will be made and the outcome of the deliberation.

The regulatory environment has been a subject of much recent discussion. I take the view that we are over-regulated; we are taking a sledgehammer to crack a nut. I welcome the Minister of State's decision to review some of the regulations and refer them to the company law review group. I hope there will be an early investigation of these matters and an early report from the review group to the Oireachtas on how the Minister of State is progressing in reviewing these matters.

There were many complaints from individuals, in particular those with small businesses, about the way many of the impositions affect people, whether unwittingly or otherwise. The Minister of State was well warned about the directors' compliance statement in the context of the implementation of the Companies (Auditing and Accounting) Act 2003. I am glad representations made to the Minister of State are being fed to the top man in Government who has a particular interest in the matter in recent times. Once the

Taoiseach takes a view on the issue he will not ignore it. I am glad it is not being ignored with regard to the review being carried out.

Complaints received were referred to and the company law review group with regard to the insurance and banking sectors should perhaps take these into account. The manner of implementation of a proper regulatory environment by IFSRA does not come under the remit of this legislation. However, in the context of the review of our regulatory regime we must have proper regulatory systems in place. We have seen many examples around the world and do not want a similar situation in Ireland.

*(Interruptions).*

**Mr. Hogan:** I am not tying down the Minister of State and he knows where I am coming from because he has taken a particular view. I am pointing out to him that matters were brought to his attention before, but we now have the same agenda. The brokers and financial institutions must be regulated. However, I know from experience of the insurance sector that there is no need for all of the paperwork, some three or four pages of material, to be sent to each policyholder when he or she receives a renewal notice. In an age of information technology we should have removed paper from the system, but there is more than ever in the context of consumer regulation and legislation matters. The intermediary investment fund and banks Acts should be examined to see how the system might be more user friendly while achieving the same objectives.

I welcome the legislation. There is a very large miscellaneous section, but the most important aspect is the implementation of a strong investment funds regulatory and legislative framework that will allow the financial services industry to continue in a strong position and generate high-quality employment for the people of Ireland.

**Ms Burton:** The Labour Party welcomes the Investment Funds, Companies and Miscellaneous Provisions Bill, which has been promised by this Government for a long time. However, for reasons best known to itself, it seems to need ten years in which to do anything.

A number of questions arise. The IFSC is now a significant employer in Ireland and the financial services sector has the capacity to continue as such, particularly in respect of highly qualified Irish graduates and also of people who come to work in Ireland from around the world and have specialist skills. It was therefore appropriate that the Minister of State at the Department of Foreign Affairs, Deputy Conor Lenihan, saw fit to apologise to the House for the comments he made here this morning. Workers from around the world, regardless of their diet, make an important contribution to Irish economic life and many of them are very highly qualified and have been head-hunted by Irish institutions. The allusion made to Turkish people and their diet

was unfortunate and unworthy of the general standard of Members of the House. This is the national Parliament and not a derelict shopping centre where corner boys throw out abuse in the evening as people pass by. I am glad the Minister of State apologised.

The financial services sector employs more than 50,000 people and 17,000 work in the IFSC. It is important that the sector be seen to be regulated. The Minister has said we are in competition with countries around the globe for this type of business and we want to be involved in financial services in a positive manner. There are centres in terms of internationally traded financial services in different parts of the globe that are regarded as homes for hot money, laundering and tax evasion and avoidance on a very wide scale. Most Irish people would not want our financial services sector to be associated with that.

Inquiries made by the New York attorney general relating to Cologne Re, AIG and other companies, as well as inquiries made in Australia, led to the financial services sector. I have discussed the issue with IFSRA, which is a very young organisation and is very well funded and endowed. However, reputation is crucially important in the financial services sector in terms of confidence, not only on the part of banking organisations including the Central and European Bank, but on the part of consumers.

This is particularly true with regard to pension holders who must put their money into vehicles over which they inevitably have no real control or about which they have no intimate knowledge. People make contributions, which the pension fund in their job then passes on to investment fund managers. These contributions end up in the type of funds to which the Bill refers. There are two schools of thought, namely, regulation with a light hand and detailed line by line regulation. It would be good if regulation in Ireland could be as light as is consistent with being effective. That is the balance that IFSRA must strike and its director general has said that, where possible, he would like to be able to regulate with a light hand. However, financial services around the world have suffered scandal after scandal over the past 40 years. Some of them are very well known. Many people in the UK lost all of their pension entitlements as a result of the activities of rogue financiers such as Robert Maxwell. It is inevitable that one learns by mistake in business and therefore one provides regulation to try to eliminate the errors of the past. The series of scandals that hit the City of London and the UK between the early 1970s and the late 1980s highlighted the need for regulation. Since the US crash of 1929 and its dreadful consequences for the economy there has been a great deal of regulation. However, the Enron scandal still occurred in spite of this and workers who had invested in pension related products were largely left walking the streets once the company had collapsed.

I hope we will never have a similar disaster in Ireland. However, it is important to strike a

[Ms Burton.]

balance between the golden objective of regulating with a light hand versus very detailed regulation and we must bear in mind that the reason we need to regulate is based on the sad experience of bad financial scandals. Unfortunately, in such scandals the white-collar perpetrators often walk free. They often go to countries like Monaco, northern Cyprus or other jurisdictions where they are free to live out of reach of the regulators. It is important to remind ourselves of that background.

It might be interesting if the Minister told the Dáil the up-to-date position on the inquiries that have been made. Incidentally, Ireland was featured in *The Wall Street Journal* and *1 o'clock* in a number of American newspapers in regard to the inquiries by the New York Attorney General. In regard to Cologne Re, I became aware the other day that someone was suspended for working in or having an association with the financial services centre. It would be useful, in terms of upholding the integrity of the Financial Services Centre, if the Minister identified the way in which the regulations are appropriate because it was regulators from Australia and New York who tracked a problem that appeared to have implications for a company or companies in the Financial Services Centre.

The Minister may be aware of a speech made recently by Mr. David Went, the head of Irish Life, in his usually robust style to the Institute of Chartered Accountants in which he warned that too much regulation was not acceptable to bankers like him. This is the same man who had the cheek to say, when the Revenue Commissioners commenced their recent inquiry into single premium insurance policies, that they could take a hike as regards that particular company, which was once a State-owned company. It wrote to Irish investors about responsibilities they may have. I thought the company had a cheek and I will give the reason.

On single premium insurance policies, I understand the deadline for complying with the Revenue requirements is next week, 25 May, and because of the refusal of Irish Life as the biggest player in that market, Revenue has undertaken fairly widespread advertising to try to advise people. The real problem, however, is that these products were sold on a vast scale here from the 1980s onwards and the vast majority of them were fine, not just from a legal but from a taxation point of view. The vast majority of investors in those products have no problems. The Revenue Commissioners, in their preliminary overview, identified approximately 6% of the businesses as having tax issues. As an accountant, although, unlike the Minister, I no longer practise, it has always been my experience that the people who get most nervous about the Revenue Commissioners knocking on their door are those who have no problem but the people who are not

compliant could not care less if they signed 20 declarations which were at odds with each other.

That is the reason I believe the managing director of Irish Life has been remiss in not cooperating for the sake of all the compliant customers of Irish Life and their families, in the case of people who have died and whose family members may have inherited from them. There is no issue if it involved a lump sum arising from retirement and the person's local friendly Irish Life office at the time suggested parking that lump sum in a particular product. They were told they would do well out of it. Whether they did is another matter, but those people have no tax issues. In an ideal world regulation would be light but in the real world we have to deal with regulation.

The Labour Party welcomes the Bill. On the ongoing development of IFSRA, we are anxious that in respect of financial services products, be they international products, as in the case of what we are talking about here, or domestic products, IFSRA and the regulatory framework should pay attention to value for money for consumers and the associated charges and fees, particularly with investment fund products because with many products the first year's contributions can take a very large slice of the investment funds, but many investors, particularly smaller investors, are not aware of that. When the products change, and complicated rules apply about Chinese walls and separating products into different divisions, investment fund managers and banking institutions can make fortunes. We cannot protect consumers from every risk but we can ensure that they are made as aware as possible of the financial charges associated with products in which they invest. It is then up to them to make a decision on whether that is suitable for them.

In that context, I draw to the Minister's attention that there is much soft advertising, particularly emanating from the United Kingdom, on television in the afternoon aimed at people who are either early retirees or retired. It is soft focus advertising normally fronted by well-known showbusiness personalities and it appears to offer an answer to everything. Because much of that advertising emanates from the United Kingdom, however, I am unclear how much of it is regulated in this country. It may need some broader EU type regulation but there is no doubt that it is very attractive to people. They get seduced by these products which are often very expensive and in some cases it can be so costly as to be very damaging to the customers who end up buying the products.

Will the Minister indicate when the Government will sign up to the UN Convention Against Corruption, which is about strengthening mutual legal assistance mechanisms for the avoidance of corruption? It must be remembered that money laundering and tax evasion fall into this corruption network. I said earlier that we want the IFSC to prosper but we want it to be the home of good and ethical investment products. I do not under-

stand the reason this country has not signed the UN Convention Against Corruption and I would be grateful if the Minister explained that because it is essential. Post-11 September 2001, we are all aware that terrorist networks can use money-laundering devices and havens and we must be up there with the best in terms of trying to deter corruption.

The other area IFSRA still has to come back to is the question of fitness and probity in respect of people who work as directors of companies in financial services. Many of the directors of the companies in the IFSC are not Irish nationals. I am aware work is being done on a passport for people who work at very senior levels in financial services in terms of fitness and probity when they come to a country like Ireland so that they do not necessarily have to go through the whole process again. That is a good idea because I am conscious of the fact that people who are compliant are often anxious to ensure that all their obligations are fulfilled, but if somebody can show they were compliant in a country like Australia, Germany or the United States, where there is a great deal of regulation, that should make the job of our regulators in the IFSC much easier and save on a great deal of paperwork should they become directors in the IFSC.

I welcome the change of heart announced on provisions governing director's compliance pointed out by Deputy Hogan. The Minister of State is aware that many voluntary and NGO bodies in Ireland are in company format. The new type of regulation coming in was so onerous in many cases that voluntary directors of local community based companies found it quite intimidating. I welcome the fact that it will be re-examined and that the Minister is referring it for legal review. The director of a bank whether executive or non-executive, is in an entirely different situation to a director of a local voluntary organisation or community partnership.

I am glad the Minister has addressed the question of segregated liability and the facilitation of cross-investment. I hope the regulations on insider trading are successful but that is an extremely technical area and the serious crimes office in the UK has spent far more money than many of our tribunals and it has not got them far. It is good that it is in the Bill but only time will tell if it is successful. I wish the Minister well with the rest of the Bill. The Labour Party broadly welcomes it but I would like replies to my questions.

**Mr. F. McGrath:** I welcome the opportunity to speak on this legislation. I am sharing time with Deputies Boyle and Morgan.

**Acting Chairman:** Is that agreed? Agreed.

**Mr. F. McGrath:** Before I go into detail on the legislation, I would like to state that Ireland was once known as the land of saints and scholars but is better known today as the land of scandals and

tribunals. Politics, banking, the church, business, medicine, law and the Garda Síochána have all suffered from an erosion of public confidence in the wake of an astonishing proliferation of scandals. Moreover, Ireland has undergone rapid social, economic and political change over the past decade, which has had a profound impact on our values system. The decline in authority and influence experienced by the Catholic Church in recent years has forced many people to seek other sources for ethical and moral guidance.

At the beginning of the 21st century Ireland is a fairly prosperous country yet this creates dilemmas of its own. Difficult decisions about the distribution of resources, raises awkward questions for society. How is the tension between the rights of individuals and the overall good of society to be resolved? To whom do we look for guidance? The political elite, political parties, churches, the medical and legal profession and business leaders all have had their credibility seriously tainted by damaging scandals. I raise these issues in the debate because they are all part of a modern progressive economy and society. However, we politicians should be reminded that our focus should be on the good and well-being of our society.

The Bill makes a number of changes to the existing law on investment funds, in particular it provides for a new investment vehicle, the non-UCITS common contractual funds, CCF, and will also provide for cross-investments and segregated liability for investment funds. A number of other changes to general company law are also proposed to remove existing anomalies and pave the way for the smooth transposition of certain EU directives. In addition, some minor amendments to the consumer law are proposed mainly to increase the level of maximum fines that can be imposed on parties found guilty of breaches of specific consumer legislation.

The objective of the investment fund provisions is to give the greatest flexibility to the funds industry while at the same time keeping appropriate controls in place. I know the industry is anxious to have a portfolio fund vehicle available which is as broad as possible to further improve our attractiveness as an international location for the establishment of investment fund companies and the Minister of State referred to that in his speech. As with other legislation governing collective investment schemes, the Central Bank and Financial Services Authority of Ireland will exercise regulatory control over the funds industry for the new non-UCITS CCFs. Furthermore, measures to clarify the tax treatment of the new vehicle have been included in this year's Finance Bill. I welcome these progressive developments.

The Bill proposes amendments to the Companies (Amendment) Act 1990 to provide for segregated liability and cross-investments for investment funds. On the issue of segregated liability, an investor in a particular sub-fund should be insulated from the challenges presented by this

[Mr. F. McGrath.]

ever-changing global market place. I accept the funds industry operates in a highly competitive environment and the Government must continue to give all necessary support so the industry can prosper while at the same time offering clients the appropriate safeguards that one must have in this area.

The Companies (Amendment) Acts of 1990 and 1999 will also be amended to provide for cross-investment by investment companies and the UCITS regulations will be amended to provide for cross-investment by investment companies established by UCITS. These amendments will facilitate investment by one sub-fund into another of the same umbrella fund. This is permitted in investment funds structured as unit trusts but is not possible in investment companies as the legislation currently provides that shares purchased by an investment company must be cancelled. This means an investment company cannot purchase shares in itself and hold these for the benefit of investors in a particular sub-fund. The proposed amendments are aimed at removing this prohibition.

I welcome a number of other necessary provisions and amendments to the Companies Acts which are proposed. They arise from difficulties with the operation of existing provisions in the law, particularly on the Companies Registration Office and to facilitate operators using electronic technology. In addition, the proposed amendments address the need to clarify incomplete or incorrect cross-references in provisions contained in the Companies (Auditing and Accounting) Act 2003, which only came to light post-enactment when the relevant provisions were being considered for commencement.

The purpose of Part 4, which deals with market abuse, is to make enabling provisions that need to be enacted in primary law to ensure the smooth and effective transposition of the EU market abuse directive and three supplementary Commission directives. The market abuse directive covers insider dealing and market manipulation.

I strongly welcome section 29, which outlines penalties on conviction on indictment of certain market abuse offences. It provides for a maximum fine of €10 million and or a maximum ten year imprisonment on conviction on indictment. Summary offences will be dealt with in the transposing regulations.

Section 31, which is positive and constructive, gives IFSRA the power to make supplementary rules to allow it fulfil its role as competent authority. These rules must be consistent with Irish market abuse law. IFSRA may also issue guidelines on the steps to be taken to comply with Irish market abuse law.

Part 5 deals with public offers of securities and amends the Companies Act 1963 in anticipation of transposition of the EU directive dealing with prospectuses to be published when securities are listed or offered to the public.

As one can see from the details of the legislation there are positive and progressive elements in this Bill, and I welcome them. On the broader issue of business and economics, many business people, particularly in small businesses, have made a major contribution to the development of this economy and I commend them. However, some people use loopholes to exploit others and they must be challenged at all stages. It is up to us as legislators to ensure our citizens are protected on these issues. It is essential that people and companies dealing with economic and investment issues have guidelines and structures. I am not trying to stymie any growth in developments. I always welcome those who come up with creative ideas for various projects and I commend their role in the development of the economy. Consumer safeguards are required at all times, however. Any society that does not ensure its economic policies are just will get nowhere. We can create all the wealth we want but the current debate is about how resources should be distributed in society. The debate on creating wealth is all but over when one compares the current situation to the dark 1980s.

I recall working in a north inner city school for many years during which time there was poverty, mass unemployment and a widespread drugs problem. An entire section of society was excluded from economic benefits. Since those years, the economy has developed but we must now discuss how to distribute the wealth we have created. Many people still feel excluded from an equitable distribution of national wealth. The majority of citizens, including working class people, have been excluded from the fruits of the State's economic growth. It is important to raise such issues which are important for everyone.

Government politicians from the main establishment parties have taken their eye off the ball. They think the war on poverty is over, but it is not. They also think the fight for industrial development in disadvantaged areas is over, but it is not. This point relates not only to urban areas because, even though I represent an inner city constituency, many rural areas are still excluded from the benefits of our economic growth. We must be creative, positive and radical in developing the economy of such regions.

Earlier today the House dealt with matters concerning Dublin Airport and Aer Lingus, and I am strongly against the privatisation of the State airline. We must also be radically creative on other issues. What is wrong with developing Knock Airport as part of a social and economic agenda to assist the west, in addition to easing congestion in many urban areas? I have raised these issues as part of a broader debate, but overall I welcome the legislation and commend it to the House.

**Mr. Boyle:** Previous contributors to the debate spoke about the lengthy period during which the ideas behind this Bill have been in gestation. While the Government certainly promised to

introduce such legislation, and there were demands for it from the financial services sector, I am not sure that this Bill is what was sought. In its current format it has been produced in lightening quick time, compared to other legislation. This Bill was not on the Government's legislative programme in January this year, yet it was published in March, went to the Seanad in April and is now before this House. If all legislation was dealt with in such a satisfactory manner the Government would not have as many problems to face outside the House.

**Mr. M. Ahern:** I should have the Deputy's job so.

**Mr. Boyle:** I could indicate much legislation that has remained on the Government's legislative programme since I was elected to the House, yet there is still no sign of a Second Stage debate on it. Of course, that begs the question as to what are the Government's legislative priorities. Why is a particular Bill pushed forward ahead of others? I found it curious that the press release the Minister of State issued in March was a verbatim copy of that issued by the Dublin Funds Industry Association. Perhaps some psychic process was involved between the Government and the association.

**Mr. M. Ahern:** It copied ours.

**Mr. Boyle:** The times were different in the association's release, but I will take the Minister of State's word for it. That type of accordance in thinking means either that the Government is exactly on track—

**Mr. M. Ahern:** We were leading and it followed.

**Mr. Boyle:** —or perhaps that industry has a particularly favoured status. On the whole, the financial services industry has obviously been beneficial for this country, not just for its own sector. The industry has had spill-over effects, especially for the use of technology in selling and trading services, not only nationally but internationally also. It should be encouraged at every level. Unfortunately, however, we cannot extrapolate the success of this industry since 1989 into the future. A number of forthcoming difficulties may limit its scope for further advancement. Several EU countries look askance at the financial services sector's favourable tax treatment here, while other EU members states have chosen to adopt some of our policies in this respect. Some have chosen to go even further, which explains some of the provisions in this Bill with which I will deal in a moment.

In the current global international climate, investment funds are unlikely to have the yield they enjoyed in recent years. This is largely because of the lack of oil stocks around the world and is also due to the weakness of internationally-traded currencies in which most of these funds

are held. There is an onus on the Government to introduce such legislation in addition to putting in place a long-term policy that would recognise the risks that lie ahead. Such steps would protect the industry and allow us to see how it can progress in the new global climate. Unfortunately, the Green Party cannot see any such long-term thinking by the Government in this area.

I find the concept of segregated liability, which is at the centre of the Bill, a curious one. The Government points to the fact that it now exists in France and Luxembourg. The latter country's economy has traded widely in financial services. The Irish financial services sector obviously believes that the existence of this concept in legislation will give it a competitive advantage which it would lose if it were not enshrined in our law. The legislation also raises the potential for using the separate funds that are being created, in terms of individual liability that might accrue to the fund holder, to move funds from one area to another to escape liability. That is why I am curious as to what extent the additional features of the Bill, including improved governance, will prevent such an eventuality.

I welcome the fact that the transposition of EU directives on market abuse and prospectuses will form part of the Bill. That brings me to another curious matter which the Minister of State might explain in his concluding remarks. The Bill is higgledy-piggledy in nature and some of its elements clearly relate to the Department of Finance. The legislation seems to include elements that have been thrown in, but together they do not make much sense.

The Minister of State might also explain the status of the changes in the Companies Act which this Bill is proposing, given the Government's intention to produce a consolidated companies Bill in the not too distant future. In that case, why was there a need to introduce such provisions in this Bill?

The consumer elements of the Bill appear to have been brought out of left field. They include provisions on package holidays and the extraordinary provisions relating to the Groceries Order, on which, today, the Minister decided there should be some public consultation process. Other speakers have indicated that they would welcome such a consultative process and the Green Party is not opposed to such a process at any given time. However, any step to remove the Groceries Order would not be in the interests of consumers, regardless of the recommendations of groups such as the Consumers Association. If there are changes to the Groceries Order the likelihood is it will mean the closure of more corner shops and the opening of more out-of-town shopping centres. Environmentally, socially and economically that would all be to the disadvantage of consumers. Hopefully, as that consultation process progresses and eventually finishes, it will underline the need for clarity in those areas. A

[Mr. Boyle.]  
distinct Government policy is required to prevent a two-handed approach to consumer protection.

Debate adjourned.

### **Estimates for Public Services 2005: Messages from Select Committees.**

**Acting Chairman:** The Select Committee on Justice, Equality, Defence and Women's Rights has completed its consideration of the following Revised Estimates for the service of the year ending 31 December 2005 — Votes 19 to 23, inclusive.

The Select Committee on Enterprise and Small Business has completed its consideration of the following Revised Estimate for the service of the year ending 31 December 2005 — Vote 34.

### **Message from Seanad.**

**Acting Chairman:** Seanad Éireann has passed the Dormant Accounts (Amendment) Bill 2004, without amendment.

*Sitting suspended at 1.30 p.m. and resumed at 2.30 p.m.*

### **Ceisteanna — Questions (Resumed).**

#### **Priority Questions.**

#### **Proposed Legislation.**

74. **Mr. O'Dowd** asked the Minister for the Environment, Heritage and Local Government the reason for the delay in the publication of the strategic national infrastructure Bill; and if he will make a statement on the matter. [16643/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I thank Deputy O'Dowd for tabling the question. I know he shares with me an anxiety that the Bill be quickly introduced in the House and placed on the Statute Book. There is wide consensus that the regulatory system for major infrastructure projects should help to ensure projects are delivered in the right place at the earliest possible time in a cost effective manner. The system must also be capable of mitigating the impact of any major project on the environment and people and complying with relevant national and international legal requirements.

An Bord Pleanála is the key agency in ensuring the efficient delivery of planning approval relating to infrastructure. Over the past three years, the board has improved its performance in delivering decisions and currently determines more than 85% of all decisions within the statutory objective of 18 weeks set out in the Planning and Development Act 2000. However, certain difficulties with the current process have been

identified, which can operate to delay decisions being delivered in an efficient way. Given that many current procedures are deliberately abused to delay decisions, it is important to ensure that the board has sufficient powers available to it to deliver the best possible outcomes in terms of planning and the environment and that this general objective is not hindered by procedural rigidities, of which there are many.

Having examined the problems which have arisen in the area, the Government considers that legislation is desirable to address some issues arising in the approval process. Due to the complexity of the issues involved and the need to consult widely among my colleagues, the preparation of draft legislative proposals has taken some time. I am currently working on the proposals for a strategic infrastructure Bill and intend to bring a memorandum before Cabinet in the near future with a view to publishing the Bill as soon as possible.

Deputies will understand that I am not in a position to elaborate in detail on my proposals in advance of the Government making a decision on them. In general terms, however, it is intended to reduce the time required for obtaining development consent for necessary major public projects and to co-ordinate and streamline the different procedures currently involved, while respecting the requirements of environment and heritage protection and the need for adequate public consultation.

**Mr. O'Dowd:** I thank the Minister for his reply. For years, the Government has promised to introduce a strategic national infrastructure Bill each new list of proposed legislation published at the beginning of every session includes provision for such legislation. The Bill has been delayed because of the Government's inability to resolve its internal crisis on the question of what constitutes significant infrastructure. Different Ministers place different weight on different issues, particularly in the area of incineration. Will the Minister ensure that only major infrastructural projects are covered by the changes he proposes to make to An Bord Pleanála? He once stated that any matter which requires an environmental impact statement would go before special hearings of the board, a proposal which my party believes would clog up the system.

Having gone through due process, certain individuals indicated on television last week that they wish to commence legal proceedings with regard to the route of the M3 motorway near the Hill of Tara, as is their democratic right. Will the Bill provide for the establishment of a special division of the High Court to immediately deal with applications arising on foot of decisions taken on major infrastructural projects? Such a division will be critical if we are to avoid lengthy delays. We cannot allow a dispute over the M3 motorway to last one, two or three years. We have had due process and want the motorway now.

**Mr. Roche:** I wish to disabuse the Deputy of the notion that this is because of internal difficulties, specifically——

**Mr. O'Dowd:** The Minister for Enterprise, Trade and Employment is opposed to an incinerator in Cork, the Minister does not want one in his constituency and the Minister for Justice, Equality and Law Reform does not want one on the Poolbeg peninsula.

**An Leas-Cheann Comhairle:** The Deputy should allow the Minister to reply, please.

**Mr. Roche:** Will Deputy O'Dowd allow me to finish? He will be pleasantly surprised when he sees the Bill's provisions on that issue. As to the issue of allowing only projects requiring an environmental impact statement to go before special hearings of An Bord Pleanála, while I am conscious of what must be done in this regard, the Deputy will have to wait until the detail comes though to see it.

I agree with the Deputy and other Deputies who have made similar observations that this is probably the only country in the world in which major infrastructural projects are held up time and again in the courts. While it is the right of every citizen to take a case to court, and the Deputy has not suggested this right should be truncated in any way, the propensity here has been to bring major projects before the courts simply to achieve delay and cost overruns. Striking the right balance is a serious matter.

**Mr. O'Dowd:** It will delay the Bill.

**Mr. Roche:** The Deputy should allow me to finish. He has suggested the establishment of a special division of the High Court on a number of occasions. As I am less interested in form than results, I want the courts system and every other aspect of the process to deliver results. I regret I cannot provide further detail on the issue but the Deputy will see what has been done when the Bill is published.

**Mr. O'Dowd:** There is no point in having a Bill to address major infrastructural deficits if it does not include fast-tracking cases through the courts system. Does the Minister support such provision?

**Mr. Roche:** I agree it will be necessary to ensure major infrastructure projects are given better access to and through the courts.

**Mr. O'Dowd:** That is not good enough. If we are to fast-track the motorways which need to be built and the major infrastructural developments required in the economy, we must ensure they get through the planning and legal systems. The find at Carrickmines Castle held up the extension of the M50 for God knows how long and the M3 could take a long time to complete. We want the Minister to take action now.

**Mr. Roche:** The Deputy will get action from me in this regard. More than any other Deputy in the House, I am aware of the extraordinary delays which can occur in the courts.

### Waste Disposal.

75. **Mr. Gilmore** asked the Minister for the Environment, Heritage and Local Government if he intends to establish a national waiver scheme for low income households to coincide with the increased waste charges expected over the next three years with the implementation of the EU waste management directive; the progress made to date in regard to his discussions with the Department of Social and Family Affairs regarding difficulties faced by those on low incomes in paying service charges, especially in cases in which there is no waiver scheme; and if he will make a statement on the matter. [16538/05]

**Mr. Roche:** Household waste collection has developed over many years as a locally based service tailored to local needs and circumstances and is, I suspect, the most quintessential local service. The legal framework established by the Oireachtas is evidence that these services are provided locally. Existing approaches to the grant of waivers for household waste services reflect this variety of local conditions and arrangements. The Government does not propose to interfere or conflict with the principle of subsidiarity inherent in these arrangements. It has long been my belief that successive Governments have interfered too much with local government.

The issue of a waiver has been raised in the context of social partnership. As a result, my Department engaged with the Department of Social and Family Affairs to explore the issues involved. These discussions did not identify a role for the social welfare system in providing income support with regard to waste charges. I accept, however, that problems arise for households, particularly those with low incomes, from the need to find substantial lump sums for annual or standing charges and it will be important to address these in the implementation of the new pay-by-use systems. To this end, my Department has asked the relevant local authorities to seek to ensure private sector service providers make available to the households they serve a weekly payment option. This will make the use of a waste collection service for residual waste an affordable option for households which use available recycling facilities and generally act in an environmentally responsible manner.

**Mr. Gilmore:** If, as the Minister says, the waste collection service is a local service, will he amend the provisions of the Protection of the Environment Act 2003 which prescribe the manner in which charging is to be conducted and which, *inter alia*, removed the making of charges and waivers from the democratically elected members of local authorities?

[Mr. Gilmore.]

Will the Minister address the significant costs now faced, particularly by low income families, in respect of waste charges? The likelihood is that if the Protection of the Environment Act 2003 remains in place, those costs will continue to rise. Can he explain why a pensioner can avail of free schemes for electricity, telephones and televisions but there is no corresponding relief for waste services?

Does the Minister agree, whatever he may say about it being a local service, given that two thirds of waste collection services are now in private hands and the legislation governing the waste service is national legislation that prescribes matters nationally that should be determined locally, there should be a national waiver scheme to provide assistance and relief for low income families?

**Mr. Roche:** I compliment the Deputy on his ingenious reference to the legislation but disagree with the hypothesis he makes, although that is not to say it is not a valid hypothesis in his mind.

**Mr. Gilmore:** Waste collection is either a local service or it is not.

**Mr. Roche:** Rolling back the environmental legislation is not a good way to move forward. From the Waste Management Act 1996 to the Environmental Protection Act 2003, local authorities can set charges for waste collection services that they provide. This allows for implementation of the polluter pays principle to which we all subscribe and not just in the case of domestic waste.

**Mr. Gilmore:** We differ as to who the polluter is.

**Mr. Roche:** That is an issue for debate. Those local authorities that provide waste collection services can provide waivers. A number of other local authorities have looked to see how they can involve some form of arrangement that mitigates the problems and they have been successful in three cases. I agree that we provide many benefit in kind services and supports, particularly for pensioners, but I do not agree that there is a case for an additional one in an area that is quintessentially local.

**Mr. Gilmore:** Is the Minister satisfied with the situation whereby the consumer price index indicates that the average charges for local authority services have increased by 104% since 2002? Does he recognise that the cost of this service is increasing all the time? Given the provisions of the legislation introduced by his Government, county managers are required by law to impose the full cost of the charges. If he will not amend the legislation, can he offer some comfort for pensioners and those on low incomes and with large families who face these charges that are a

major burden? They should be provided with some relief against paying them.

**Mr. Roche:** I am not happy with the level of inflation in local government charges. There is a responsibility on local authorities to ensure all charges they pass on are kept at the lowest possible level. At a time when local authorities receive more support from central Government than ever, I am not happy with those levels.

On the impact of the standards we are trying to apply nationally, we are paying high rates for waste management because of the legacy of not putting in place a proper infrastructure to handle waste. We are addressing that now. Other than making those two observations, I cannot go any further.

### Property Management.

76. **Mr. Morgan** asked the Minister for the Environment, Heritage and Local Government his views on whether inadequate legislation in respect of the management of apartment complexes in the private sector, including in the community and voluntary sector, is a serious matter which must be addressed as a matter of urgency in light of the growing number of such developments particularly in the Dublin region. [16537/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** Apartment complex management companies are generally constituted as companies under the Companies Acts and are required to comply with the provisions of company law, which is a matter for the Minister for Enterprise, Trade and Employment. The operation of such companies under their relevant memorandum and articles of association, including the employment of any property manager or management entity, is a matter for their members, who are the owners of the properties in the developments to which they relate.

Arising from a commitment in An Agreed Programme for Government, a Law Reform Commission working group is examining the law on the management of apartment complexes and other multi-unit developments. The group's report is being drafted. The Law Reform Commission has already suggested to the company law review group, under the aegis of the Department of Enterprise, Trade and Employment, certain modifications in the application of general company law requirements to management companies for multi-unit developments. These or any further proposals for legislative changes in this area arising from the Law Reform Commission Review will be a matter for consideration by the Government.

**Mr. Morgan:** Does the Minister of State agree that regulation of the management of apartment complexes is as necessary as regulation of the private rented sector? If apartment living is to

become a viable option for the future, people must be assured that the management companies of such complexes will be accountable and will not be permitted to introduce extortionate management fees, as is the case currently. At a minimum, I ask the Minister of State and the Department to commit to an assessment of the problems related to management companies in complexes so that, irrespective of our views on the significant problems that exist, we can prepare legislation to address them.

**Mr. N. Ahern:** We should differentiate between management companies, which are companies set up by different owners in apartments, and the management agency that is brought in by a management company to do basic work around the complex. Sometimes there are problems when a development is under construction and there is a delay in finalising work. The developer may bring in a management agency to look after basic work but once the development is completed, it is the responsibility and duty of the individual owners to get involved. We all meet people in apartment complexes who are owner occupiers who complain about the management agencies but it is up to them to go to the annual general meeting of the management company and exert authority about the level of service they require. If a management agency brought in to do basic work does not perform, they should be simply sacked. The Law Reform Commission is examining issues about the constitution and operation of such companies and its report will be available in the next couple of months. While it is not under my direct control, the work it has done on this issue is advanced. Its report will give an opportunity to examine this area.

**Mr. Morgan:** Some of what the Minister of State said is correct. I look forward to the report of the working group from the Law Reform Commission. Will the Government implement whatever recommendations the working group makes? Will the Minister of State commence an assessment of these problems?

**Mr. N. Ahern:** We must see what the working group recommends as much of it may concern other Departments. While the Department of the Environment, Heritage and Local Government will be involved, the Department of Justice, Equality and Law Reform will be involved from a conveyancing viewpoint. The Department of Enterprise, Trade and Employment will be involved from a management company view. We will see what needs to be done when the Law Reform Commission produces its report.

I accept legal procedures were always in place. However, the situation is fast-changing and approximately 20% of new dwelling units in the State are apartments, while in Dublin the figure is 40%. Many problems in this area have to do with transparency. People should know before they move into an apartment of these arrange-

ments. However, I accept some people may be just concerned at getting the keys to a place to live and not think forward. If information is given to people in advance, they will know of their responsibilities and can then work with them.

#### **Local Authority Housing.**

77. **Mr. McCormack** asked the Minister for the Environment, Heritage and Local Government the action plan he has to increase the output of local authority social and affordable housing; and if he will make a statement on the matter.  
[16644/05]

**Mr. N. Ahern:** The Government has responded actively to increased levels of housing need by significantly expanding social and affordable housing output. In 2005, the Government allocated record levels of funding to local authorities for their social and affordable housing programmes. Total capital spending on social and affordable housing output in 2005, including non-Exchequer finance, will amount to some €2 billion and will assist in meeting the housing needs of over 13,000 households. In addition it is anticipated that a number of households in private rented accommodation will transfer to the newly introduced rental accommodation scheme.

In recent years the Government has placed a particular emphasis on the delivery of targeted schemes of affordable housing and expects output of approximately 12,000 units from these schemes in the next three years. The Department of the Environment, Heritage and Local Government has initiated the development by local authorities of new five-year actions plans for social and affordable housing. The preparation of these plans will sharpen the identification of priority needs, helping to ensure a more co-ordinated response across all housing services, including those to be provided by the voluntary and co-operative housing sector. The plans will also help to ensure local authority housing provision will continue to increase on a sustained basis. My Department is giving strong encouragement to local authorities to press ahead with the implementation of these action plans which are being underpinned by substantial levels of Government funding.

**Mr. McCormack:** I do not accept that the Government has responded adequately to this matter. The Minister of State referred to five-year action plans which are all plans but little action. Will the Minister of State accept that over the last eight years the Government has not only refused to deal with the soaring price of private housing, but it has also failed to put roofs over the heads of the most vulnerable people on low incomes? Will he inform the House of his intentions regarding the Housing Finance Authority which advances funds to local authorities to meet housing targets? The authority's annual report shows that the funding it made available to local authorities fell last year for the second year in a row.

[Mr. McCormack.]

Only €494 million was allocated in 2004 compared to €505 million in 2003 and €761 million in 2002. The 2004 allocation would not build half the houses the 2002 allocation built. This drop came at a time when over 100,000 individuals were waiting for council houses, 1,200 alone in Galway city. Why are the local authorities not building more houses?

**Mr. N. Ahern:** The Deputy's last comment answered his earlier question. In order to have action, there must be plans. Houses cannot be built from thin air and local authorities need certainty in what they are doing over the next several years.

**Mr. McCormack:** The Government has been in office for eight years.

**Mr. N. Ahern:** The Government has asked local authorities to draw up action plans to bring certainty to the area. The action plans are based on local needs. There is certainty in the funding which is now being provided. With five year capital envelopes, we can tell them how much their funding will be. Last week, €922 million was allocated for social housing in 2005. The local authorities have been told to push ahead because they now know how much funding will be available for this year and the years after. In the past some local authorities were good and some bad. However, even the bad ones would use the excuse of uncertainty regarding funding. This year €2 billion has been allocated.

The Deputy quoted from the Housing Financing Authority's report. While I am not sure in which context, it mainly refers to affordable housing. Until recently, all affordable houses were financed through the local authority system and Housing Finance Authority loans. Now, thankfully, other financial institutions are entering the market. I welcome this as we may not need to borrow so much from the Housing Finance Authority in the future. The €2 billion allocation is an extraordinary figure and we expect construction to begin on 6,000 houses, meeting the needs of 13,000 people on housing waiting lists.

**Mr. McCormack:** The figures were quoted from the Housing Financial Authority's annual report. If local authorities have agreed to the action plans, why are no more houses being built? The buck stops with the Minister of State. Does he agree the number of private house completions has now peaked? In the coming years there will be possible repercussions for employment and economic activity in this sector. Does the Minister of State see a role for the social housing programme in stemming such a slow-down? Is there a role for private sector construction firms in providing public housing that cannot be met by the public sector? When will the Government's commitment on social and afford-

able housing in the national development plan be met?

**Mr. N. Ahern:** We are ahead of our commitment in the national development plan. Expenditure stands 7% ahead of the commitment, with an allocation of €2 billion for this year. The number of units estimated to be built has not been fully reached, but on money invested, we are 7% ahead.

**Mr. McCormack:** Local authorities are borrowing less.

**Mr. F. McGrath:** The Government has not delivered.

**Mr. O'Dowd:** The Minister of State is not doing his job.

**Mr. N. Ahern:** The Department simply provides the resources to the local authority. The local authority then constructs the units. When a local authority puts this out to tender, all private developers may apply. I accept that some developers have tendered solely for public jobs. Most local authorities, including Galway City Council, would welcome if those developers traditionally in the private market submitted tenders for public housing. A great deal of money is being spent, not just on new building but on central heating, for example. The local authority in the Deputy's area received a significant amount of money today for a central heating installation. We are providing good money, and the action plans drawn up by the local authorities will be implemented with Government money.

**Mr. McCormack:** The number of houses being built has fallen.

**Mr. N. Ahern:** That is not so.

#### Register of Electors.

78. **Mr. Gregory** asked the Minister for the Environment, Heritage and Local Government if he will consider the introduction of a system of official identification linked, for example, to personal public service numbers which all voters would be required to produce when voting; and if he will make a statement on the matter.  
[16539/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. B. O'Keeffe):** Significant measures are already in place with regard to voter identification and the prevention of personation. The returning officer or the presiding officer may, of his or her own volition, or if required by a personation agent, request any person applying for a ballot paper to produce a specified identification document. The range of documents includes a passport, a driving licence, an employee identity card and a student identity card. If a person fails

to produce a required document or if the returning officer or the presiding officer is not satisfied that the person is the person to whom the document relates, the person is not permitted to vote.

Returning officers or presiding officers may also, or if requested by a personation agent, put certain questions or administer an oath or affirmation to persons applying for a ballot paper. Electoral law also sets out a range of offences and penalties regarding personation, including a new offence provided for under the Electoral (Amendment) Act 2004 for the unlawful possession or use of a polling information card.

Prevention of personation relies on the deterrent effect of sanctions applicable for committing an offence and on the vigilance of polling staff and personation agents in the polling station. My Department provides on an ongoing basis comprehensive guidance documentation to returning officers and presiding officers which contains detailed advice on countering personation, including a request that at least 25% of voters be asked to produce an identity document.

I am concerned to ensure that the arrangements in place regarding these issues are as flexible as possible while maintaining the security and integrity of the electoral process. I will continue to keep under review current practice, including the scope for further improvements.

**Mr. Gregory:** I greatly regret that this issue is not being taken seriously. Does the Minister of State accept that to get even a resident's parking permit, one must turn up with photographic ID, insurance certificates and utility bills addressed to one's home because the relevant officials want to be sure the person presenting himself or herself is the person he or she claims to be? People have been elected to this House by a margin of only four votes, yet in electing Deputies there is no obligatory identification requirement unless one is challenged. As the Minister of State said, a minimum of 25% of those voting are challenged, so that up to 75% are not challenged.

Does the Minister of State accept that there are organisations involved in elections in this country which can apparently clean out a bank and get away with it? There are individuals involved in elections in this country who have been involved in large-scale planning corruption. Within the present system, significant organised personation would therefore be child's play to these people.

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

**Mr. Gregory:** That is the bottom line. I have been asking the same question since I was elected to this House 23 years ago. I have had to report and deal with organised personation in my constituency, not by any of the parties to which I have obliquely referred, but by a more respectable party. I will not go into detail, but the matter received a good deal of coverage at the time.

**Mr. F. McGrath:** It happened in Dublin North-Central too. The Minister of State knows well those involved.

**Mr. Gregory:** This issue deserves to be taken seriously but that is not happening.

**Mr. P. Breen:** It happened with Pat O'Connor.

**Mr. Gregory:** We should not joke about the matter. This is a serious issue. We elect Governments in this manner. Many individuals are elected by a margin of a handful of votes. This is a significant issue for the future of our democratic process. I have always questioned the reluctance of Fianna Fáil in particular to respond to this issue.

**An Leas-Cheann Comhairle:** The Deputy is making a statement. He should confine himself to a question.

**Mr. F. McGrath:** The Minister of State should visit Dublin North-Central. He can see the situation there at first hand any time. He knows that.

**Mr. Gregory:** I hope the two questions I asked are dealt with. Why is there a reluctance to grasp this issue? If it is so important and Governments can be elected in this way, why are we still given the same prepared script every year? Why not recognise the importance of this issue and put in place the basic requirements which even a person seeking a residential parking permit must fulfil when claiming to be an individual from a particular address?

**Mr. B. O'Keeffe:** We all take this matter seriously. Deputy Gregory should consider the changes brought into effect since 2002. Section 111 of the Electoral Act 1992 has been updated. There has been a change in the electoral amendment regulations of 2004. We do not regard passports, driving licences or employee identity cards as items which can be overlooked by anyone.

Deputy Gregory raised a fundamental issue when he said the system can be subverted. However, it must be asked if there are difficulties pertaining to the PPS system which he suggests be introduced. Northern Ireland operates a PPS identity system similar to ours. One must register and hold a PPS card. Northern Ireland scrapped its electoral register and produced a new register based on the PPS system, but for very good reasons did not introduce it for voting systems.

We must look at the practicalities of our PPS system. I am not saying that we will not look at other avenues to ensure personation does not take place, but if one introduces the PPS system for voting, one must be able to link in to the Department of Social and Family Affairs.

That leads to the next question. What about the Data Protection Act? This is governed by legislation, and to change that, new legislation would have to be introduced into the Dáil. One would then have to talk to the Data Protection

[Mr. B. O’Keeffe.]

Commissioner to see if one was infringing the rights of individuals. One would also have to seek the advice of the Attorney General on all these matters. I am agreeable to examine some of the issues. I cannot foresee a situation whereby one arrives in a polling station and asks someone for PPS identification. The people asking for that would have to have direct access to the Department of Social and Family Affairs, which is not practical.

At one time, only 5% of voters were asked for identification. We have now increased that figure to 25%. A few weeks ago, during the elections for *Údarás na Gaeltachta*, Deputy McCormack said that a particular agent was demanding identification from almost every second person. The Deputy complained about the queues and delays, and at the end of the day, the bureaucracy gone mad.

**Mr. McCormack:** I did not.

**Mr. B. O’Keeffe:** I commend Deputy Gregory on what he is trying to achieve, but there are substantial practical difficulties in getting around this issue.

**Mr. McCormack:** The parish priest said that everyone knew him but that no-one knew the presiding officer.

**Mr. Gregory:** Will the Minister respond to the question that was asked rather than his interpretation of it? Will he consider the introduction of a system of official identification? The example I gave was PPS numbers but it does not have to be those. However, it should be a system that will ensure that every voter who turns up to vote is the person he or she claims to be. Will the Minister consider a new system?

**Mr. B. O’Keeffe:** Everybody is concerned about probity in the system. I indicated in my reply that we are examining ways of ensuring it. We are certainly examining the registration. I am not sure what can be done at voting level. That is not to give a commitment that we will change the system because it is only a new system. It was in place for the *Údarás* elections. However, there will be ongoing review.

**Mr. Gregory:** If the Minister tries to open a bank account, he will find out what the position is.

**An Leas-Cheann Comhairle:** That concludes priority questions.

### Other Questions.

#### Nuclear Waste.

79. **Mr. Perry** asked the Minister for the Envir-

onment, Heritage and Local Government his policy on the proposed long-term underground storage of nuclear waste in the UK; and if he will make a statement on the matter. [16453/05]

**Mr. Roche:** The policy of all governments of all political persuasions here, since the late 1970s, has been opposed to the British nuclear industry and all its aspects, the manner in which it operates and, in particular, slipshod operations. A review of the long-term options for radioactive waste management in the UK is currently being undertaken by the Committee on Radioactive Waste Management, an independent body established in November 2003 by the Secretary of State for Environment, Food and Rural Affairs, along with the Environment Ministers for Scotland, Wales and Northern Ireland. The committee’s main task is to recommend, by July 2006, how to manage the significant stocks of radioactive waste held in the United Kingdom.

Ireland has significant and valid concerns about this issue. We have accepted a number of invitations to participate in various consultative fora put in place during the first phase of the committee’s work. Officials from my Department attended its fourth public meeting in January 2004 and participated in an interactive workshop held in December last. In February 2005, departmental officials, together with a senior scientific officer from the Radiological Protection Institute of Ireland or RPII, met the chairman of the Committee on Radioactive Waste Management. My Department has also contributed on a number of occasions to written consultation procedures put in place by the committee as part of its extensive stakeholder engagement process.

My policy is to monitor closely the work of this committee and to use the consultation process to articulate the views of the Irish Government on any proposals for the management and disposal of radioactive waste in the UK. My officials have consistently impressed upon the committee that, given our proximity to the UK, our ongoing concerns and our interest in the management of radioactive waste in the UK, Ireland considers it has a significant interest in the issues under deliberation. My officials have also emphasised that Ireland is a unique stakeholder with distinct responsibilities in terms of protecting its population from the risks of ionising radiation and for planning protective and remedial measures in respect of such risks.

*Additional information not given on the floor of the House.*

A primary consideration in addressing waste management issues of any origin or type must involve the question of waste reduction. This is particularly relevant for the nuclear industry given the nature and toxicity of the wastes arising. The role of reprocessing within the industry requires particular consideration in this regard. However, I understand that the remit of the committee does not extend to this issue and, on this basis, the issues raised and currently being

addressed by the committee must be considered less than complete.

The committee drew up a shortlist last February which comprises four options. These are interim surface storage, deep underground disposal, phased deep underground disposal and near surface disposal. The committee also drew up plans for detailed assessment of these options and has since invited comments on all these proposals, including how the various options might be implemented. Following this phase of the process, the committee will move into the main assessment stage during the autumn.

Comments have been invited on the shortlisted options and my Department will respond to this invitation in due course. On behalf of the Government, my Department will continue to engage proactively with the committee to articulate clearly the views and concerns of Ireland about the development of long-term radioactive waste management options in the UK to ensure that such options do not compromise the health or environment of Irish people.

**Mr. O'Dowd:** At a meeting last week, the representative of the Radiological Protection Institute of Ireland said that it was decision time on the long-term storage of radioactive waste not just in the UK but also in Ireland. That gave rise to concern because, as the Minister said, successive governments have already made that decision. We are absolutely and implacably opposed to the long-term underground storage of radioactive waste. Will the Minister confirm that? He said it is his policy to make representations but is it his policy absolutely to oppose it?

**Mr. Roche:** The Deputy need have no concern about this. There is no change in my or the Government's view. We are opposed to it. We are engaged in this process because it is the process that was established by the UK. We are making a strong case there. A primary consideration in addressing waste issues, of any origin or type, is waste reduction. This is particularly relevant given all that has been said and what we hear about that industry at present and given the nature and toxicity of the waste it produces. The role of reprocessing in the industry requires particular consideration. The remit of the UK committee does not extend to this and, on that basis, the issues raised and currently being addressed by the committee must be considered less than complete. I share the Deputy's concern about the remit of the committee.

There is no change in policy. I am as implacably opposed, in this regard, to this industry as any of my predecessors.

**Mr. O'Dowd:** I welcome that. Will the Minister clarify his position with the RPII, lest an untoward misunderstanding arise? I do not know why that comment was made at the committee meeting but it worries me. The Minister has clari-

fied the position but I urge him to make it clear to the RPII.

**Mr. Stagg:** I welcome the Minister's statement that his position has not changed from that of previous governments because it was not entirely clear until now. Is the Minister aware of the newspaper reports today concerning the massive spillage of nuclear waste at THORP, which will directly impact on the storage of waste? A total of 20 tonnes of plutonium were spilt. The Minister, in response to that crisis, said there was no danger to the environment or to the Irish people. I disagree with him. If that type of accident can occur in a relatively new plant, other accidents could occur.

Today's reports suggest that the THORP plant will never reopen as a result of the near impossibility of clearing up the 20 tonnes of spillage. Will the Minister comment on that? Given that he was aware of this in April, will he explain what he was told then and will he now urgently seek clarification from the British authorities about what happened? The RPII was given some information but not all of it, as it told the committee last week. Will the Minister find out what happened and tell the Irish people? Obviously, the British authorities are telling lies again, and I use the word "lies" advisedly, to their own people and authorities and to the Irish Government.

**Mr. O'Dowd:** On a point of order, I have no difficulty with the Deputy's question but it is exactly the same as my Question No. 88. Can I respond after the Minister replies? Otherwise, there is no point putting it down.

**An Leas-Cheann Comhairle:** We may or may not reach Question No. 88.

**Mr. Roche:** Deputy O'Dowd can be certain that I will clarify the position. If the Deputy wishes to send me the clipping, because I am not familiar with it, I will ensure he gets a written response to it.

**Mr. O'Dowd:** So the Minister's press statement is wrong.

**Mr. Roche:** My press statement is a different matter.

**Mr. O'Dowd:** It is wrong.

**Mr. Roche:** No, it is not and that point was adverted to in Deputy Stagg's question. Deputy Stagg is correct that there has been a significant problem in THORP. We issued two press statements. The initial one made clear what information we had received and put it on the record for all Members and for the public. However, following investigation and analysis of the problem, there was a second set of data which we have received. It is interesting to observe that at least one other EU member state has been in touch with the British and has complained that we get

[Mr. Roche.]  
higher levels of information than anybody else. That is true, to be fair to the British.

The point raised by Deputy Stagg is valid. This incident has been reassessed and has now gone to level three. When an incident occurs it must be reported and assessed. The assessment resulted in it being ratcheted up to level three. I am not sure if the Deputy is correct that it might close the plant down, although that might be a solution.

**Mr. Stagg:** I am not saying that. I am referring to today's British newspapers.

**Mr. Roche:** I have learned how to take British newspapers.

**Mr. O'Dowd:** Can I ask the Minister about a critical issue mentioned in my question?

**An Leas-Cheann Comhairle:** The Deputy must be very brief.

**Mr. O'Dowd:** A representative of BNFL was quoted in *The Irish Times* as saying the danger was zero out of seven while the RPII, which did not have all the information, responded that it was one out of seven. However, the Minister correctly stated it was a serious incident. The key issue is that it took 25 days for that information to be made public. The Minister's statement quoted the board of BNFL on this, not the RPII, which is the authoritative body in this regard. The information did not get out and that is not acceptable. BNFL has told a pack of untruths at all times on this issue.

**Mr. Roche:** This is an important issue. The regrading of the leak from level 1 to level 3 is the end of the assessment process.

**Mr. Gilmore:** When did that happen? That is not good enough.

**Mr. O'Dowd:** It took 25 days for the information to be made public.

**Mr. Roche:** That is what has been happening for the past 20 days.

**Mr. O'Dowd:** If an accident happened, we would not know about it, we would all be dead.

**Mr. Roche:** We knew on day one.

**Mr. Gilmore:** Somebody is hiding information, either the Minister or BNFL.

**Mr. O'Dowd:** The Minister is being manipulated by BNFL.

**Mr. Roche:** The idea that BNFL is manipulating me is ludicrous beyond belief.

**Mr. O'Dowd:** The company is manipulating the media and the information stream. The Minister

is being conned into believing there is no problem.

**Mr. Stagg:** The Minister is cosyng up to the Brits again.

### Waste Disposal.

80. **Mr. Quinn** asked the Minister for the Environment, Heritage and Local Government the steps which have been taken to put in place controls to prevent foul odours from the Ringsend waste water treatment plant since the Commission's statement of April 2005 of its intention to take the Government to the European Court over breaches in EU environmental law; and if he will make a statement on the matter. [16349/05]

**Mr. Roche:** Odour incidents at Dublin City Council's Ringsend waste water treatment plant, which is operated on the city council's behalf under a public private partnership contract, have originated from the on-site sludge treatment facility. A programme of works has been implemented by the city council, which has greatly improved the overall situation since summer 2004. Regrettably, the odour problem re-emerged for short periods earlier this year due to maintenance procedures and equipment failure in the sludge process that have since been addressed. There was also a fire in the plant.

The council is continuing to work closely with the consortium that operates the plant to achieve a resolution of any outstanding odour issues. In that context, the council has appointed international engineering consultants, who recently commenced a comprehensive review of all aspects of the plant, including the design and ongoing operation and management performance.

The recent announcement by the European Commission of the initiation of proceedings in the European Court of Justice on odours from waste water treatment plants arose originally from a complaint about the Greystones sewerage scheme, which has, thankfully, been resolved, and not the Ringsend plant. The EU action does not relate to Ringsend *per se*, but to the Commission's concern that there should be legally binding general odour control rules for all such plants in Ireland. Draft regulations to amend the binding rules on sanitary authorities relating to the design, construction, operation and management of urban waste water treatment plants to address odours such as that in Ringsend are in process. They have been sent to the Commission for its views. On the basis of our initial contacts, I am confident they will be accepted and the issue will be resolved.

**Mr. Gilmore:** Will the Minister explain why a plant, which is only three years old, is emitting such foul odours? When it was opened, we were informed it was the most modern sewage treatment plant. What has gone wrong? Was it not built properly? Were safeguards not included?

Who will bear the cost of the consultants engaged to examine the problem and the remedial works that will result? Will the costs be borne by the public purse or the private operator in this PPP arrangement?

**Mr. Roche:** I accept the general point made by the Deputy. It is not good enough that people in Ringsend or Greystones should have to tolerate foul odours from the plant and it is fundamentally odd that a new plant should operate in this way. I have expressed this view on behalf of my constituents. I have visited Ringsend and experienced the odour at first hand and sympathy is due to the local community. However, there were mitigating circumstances in this case given that there was a number of breakdowns. The site comprises two plants, the sludge plant, which was commissioned earlier and where the initial difficulty occurred, and the new plant. It is not good enough that there should have been a problem. However, there was also a fire in the sludge treatment plant. With regard to who will bear the cost ultimately, I am not sure where the fault lies. However, I am anxious that the taxpayer will not pick up the costs for faulty design or other errors of that nature.

**Mr. Gilmore:** The Minister has not answered my question but I thank him, nevertheless, for replying to a question I did not ask. What is the explanation for the odour, given that is a new plant? Has the Minister or his officials asked what is wrong? If somebody constructed a new building and it malfunctioned to this extent, he or she would want to find out why. The sludge treatment facility is not working, there has been a fire in it and the plant is emitting foul odours. Was the plant badly built? Who got it wrong? The people are entitled to an explanation, particularly those who must endure the stink.

**Mr. Roche:** It is regrettable that there has been a problem.

**Mr. Gilmore:** The people do not want tea and sympathy.

**Mr. Cuffe:** What is the reason for the problem?

**Mr. Gilmore:** The Minister is off on another soliloquy.

**Mr. Roche:** I am not off on another soliloquy — the Deputy is being unfair — I am trying to answer his question in as comprehensive and open a way as possible and I will continue that practice unless I am advised otherwise. There has been a problem in the plant. There was a fire, which nobody had planned on, and that was a problem. There are issues relating to processing and questions arise about the plant's design. These issues are being resolved.

**Mr. Gilmore:** Did the Minister ask the question?

**Mr. Roche:** Yes, if the Deputy was willing to listen——

**Mr. Gilmore:** I listen all the time.

**Mr. Roche:** International engineering consultants have been appointed and they have commenced a comprehensive review of all aspects of the plant. I am as anxious as anybody that we should understand what happened, including in regard to the design and the ongoing operation and management performance. When the assessment is concluded, we will know where the fault lies. There is no point jumping the gun until we have the report. The council is addressing and resolving the outstanding issues with my encouragement and that of my Department.

**Mr. Gilmore:** I will come back to this issue.

**Mr. F. McGrath:** Is the Minister aware the people of Clontarf, Fairview and Marino have had to put up with the foul odours from the Ringsend plant and that when I raised this issue months ago, the authorities denied there was an odour on the north side of the city? Is he aware of complaints from residents on the north side of the city? The bottom line is there was a major problem in the design, construction and effectiveness of the plant. The Minister must do something about this. He should clean up his act.

**Mr. Roche:** I am grateful for the Deputy's comments.

**Mr. F. McGrath:** Any time.

**Mr. Roche:** International experts are assessing where the problems were and where the breakdowns occurred. I am absolutely certain the odour was not confined to Ringsend because odours have a peculiar way of travelling. On the other hand, the waste water treatment plant has resulted in considerable benefits for residents on Dublin Bay, including residents in Clontarf and recreational users of the fine facilities there. It is regrettable that this has happened but it is not the first plant in which such a breakdown has happened. It happened previously in Greystones and I was one of the complainants at the time. I assure the Deputy I will continue to keep a close eye on this issue.

#### **Local Government Act.**

81. **Ms C. Murphy** asked the Minister for the Environment, Heritage and Local Government when it is intended to enact the sections of the Local Government Act 2001 which would allow towns to apply for town council status. [16257/05]

**Mr. Roche:** I compliment Deputy Murphy on her first oral question, which addresses an issue in which I am greatly interested.

Part 17 of the Local Government Act 2001 provides that qualified electors of a town having a

[Mr. Roche.] 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, a proposal to establish a town council is a matter for the local community in the first instance. It is one of the finer democratic provisions that we have on our Statute Book. Thereafter a decision on such a proposal is a reserved function of the relevant county council, following a public consultation process.

Following these local steps, the proposal must then be submitted to the local government commission for preparation of a report and recommendations to the Minister. I am considering the steps necessary to commence the relevant provisions of the 2001 Act, including regarding the establishment of the local government commission and will be pursuing consultations with local government interests, including the various local government bodies, in this regard.

I thank Deputy Murphy for raising this question because it is an area in which I have a particular interest, having helped to create one local authority in Greystones.

**Ms C. Murphy:** The Minister and I have something in common in this area. I am a member of the last created town council, in Leixlip, which was established in 1988. The town council in Greystones preceded the one in Leixlip by four years. Only four town councils have been created in the history of the State.

I ask the Minister to indicate when he believes communities could begin the process of seeking town council status. We are becoming a more urban society. I am an advocate of town councils because they can give focus to towns and benefit communities greatly. Towns such as Maynooth and Celbridge are very keen to initiate the process of seeking town council status but they would like to know when that process can begin. There was no indication of a target date in the Minister's reply, though he did express support for progressing the issue further.

Perhaps the Minister could explain what has delayed the process to date. There was a large number of comprehensive reviews of local government in the middle of the 1990s, which led to the recent local government Act. However, it is extraordinary that the last town council was established in 1988, approximately 17 years ago.

What role does the Minister see for county managers in the town council process and has he consulted them on the matter? My experience of seeking town council status for Leixlip would indicate that battles may have to be fought with county councils before agreement can be reached.

**An Leas-Cheann Comhairle:** The Deputy's time has expired.

**Ms C. Murphy:** How many towns does the Minister perceive would be interested in or would be eligible for, seeking town council status?

**Mr. Roche:** Regarding the last point, I am not sure of the exact numbers, but I agree with the general tenor of Deputy Murphy's comments. Town councils, and indeed the older town commissions, are a positive force in local democracy and I am interested in facilitating them wherever I can.

There is an issue around the differentiation between town councils that were once town commissions and town councils that were previously urban councils. By using the powers that exist creatively, services can be shared between town and county councils. There are some examples of very good practice in town councils in that regard. Deputy Murphy is correct in her assertion that in some cases there has been a less proactive role taken by county councils and by county management.

I remember the birth traumas of Leixlip Town Council. I assisted the local group at the time and was delighted to do so. I have been speaking to some local authority representative associations and am anxious to progress the matter further.

I reiterate the point that within our small local authorities, particularly those that have made the transition across from town council status, I wish to see more activity taking place regarding service provision in planning, housing and so on, whereby offices are shared across town and county councils. There are one or two cases where this is happening, on an informal basis, to good effect.

**Mr. Cuffe:** The fundamental issue here is the allocation of powers to local government. Does the Minister have further plans to significantly devolve powers to local government? It would appear that the trend has been in the opposite direction, whether that be through the Waste Management Acts, legislation on housing etc. The trend has been to consolidate power in central Government.

**An Leas-Cheann Comhairle:** The Deputy is widening considerably the scope of the question.

**Mr. Cuffe:** Does the Minister have plans to further devolve power to local government?

**Mr. Roche:** If Deputy Murphy wishes to discuss the matter of town councils further, I would be delighted to do so outside the House.

To answer Deputy Cuffe's question, if one looks at comments I have made since becoming Minister for the Environment, Heritage and Local Government, one will see that I am anxious to stop the trend to which he referred, namely the movement of power away from local government and towards central Government. The issue, in the context of the criticisms made by Deputy Gilmore earlier, has been the movement of power

away from councillors to the management of local authorities. I am not in favour of that trend developing any further and, in the Waste Services Bill that we are processing in the House, I have reversed that process.

### Waste Disposal.

82. **Ms B. Moynihan-Cronin** asked the Minister for the Environment, Heritage and Local Government the reason for the long delay in introducing regulations on end-of-life vehicles; the communications he has had with the EU Commission regarding the proposed regulations; and if he will make a statement on the matter. [16340/05]

**Mr. B. O’Keeffe:** Necessary enabling provisions to facilitate implementation of Directive 2000/53/EC on end-of-life vehicles were incorporated in the Protection of the Environment Act 2003. Part 5 (a) of the Waste Management Act 1996, as inserted by section 44 of the Protection of the Environment Act 2003, explicitly provides for the following: producer responsibility for the free deposit of ELVs at authorised treatment facilities by their last owners; the appropriate treatment and recovery of ELVs deposited at authorised treatment facilities in line with the directive’s requirements, the mandatory deposit of ELVs by their registered owners at authorised treatment facilities for appropriate treatment and recovery, and the issuing of certificates of destruction in respect of ELVs deposited at authorised treatment facilities for scrapping.

The delay in fully transposing and implementing the directive principally reflects difficulties in reaching agreement with the relevant sectors on the detailed mechanisms for the operation of the free ELV take-back arrangements required by the directive, including how such arrangements will be funded.

My Department has had correspondence and discussions with the European Commission on various aspects of the transposition and implementation of the directive in Ireland. Legal proceedings were initiated against Ireland in the European Court of Justice by the European Commission in October 2003 on the grounds that as the regulations on the detailed arrangements for the implementation of the directive in Ireland had not been made, the directive was only partially transposed. On 28 October 2004, the European Court of Justice issued a reasoned opinion in this case and found that Ireland had failed to fulfil its obligations to fully transpose and implement Directive 2000/53/EC on end-of-life vehicles.

On foot of the European Court of Justice ruling, I have held a number of meetings with the relevant sectors with a view to developing an effective and pragmatic approach to implement the directive. I intend to announce my proposals shortly and to draw up regulations later this year to transpose fully the directive’s provisions and facilitate its early implementation.

**Mr. Gilmore:** The European Court of Justice made a judgment on 28 October last that Ireland has failed to fulfil its obligations on this directive. The Minister of State has stated that the delay in implementing the directive is a result of a failure to reach agreement with various interests in the industry.

Is it true that agreement was reached between the Department of the Environment, Heritage and Local Government, the SIMI, the Motor Vehicle Recycling Association and the Metal Recyclers Association in December 2001? Is it also true that the Department, at the instruction of the then Minister, then made a separate agreement with the SIMI, behind the back of the other two organisations? It is the difficulty of reconciling those agreements which has caused the delay in the implementation of the end-of-life vehicles regulations and directive that has landed us in the European Court. This has resulted in burnt-out cars and old vehicles being dumped inappropriately in many parts of the country.

**Mr. B. O’Keeffe:** It is important to state that meetings were held over the years with the previous Minister and that the current Minister, Deputy Roche, has been particularly active in bringing this to a conclusion. He met the SIMI in November 2004 and met the metal recyclers association and the motor vehicle recyclers a week after the SIMI meeting. He met the SIMI again last week. The meetings are ongoing and the Minister is intent on reaching an agreement.

The Minister is using a sensible approach. It is far better for us to reach agreement with those involved in the business to ensure we have comprehensive coverage and their accord. The negotiations have been protracted and difficult. The Minister has indicated that if no decision is reached within a short period — I understand the SIMI has until 27 May to respond to the outcome of the most recent meeting — he will make the decision and put the regulations in place before the end of the year.

I want to discuss the number of vehicles. We have a fair level —

**Mr. Gilmore:** Will I have time to raise a supplementary question?

**An Leas-Cheann Comhairle:** We are at the end of the time. The Minister is aware that he is limited to one minute.

**Mr. Gilmore:** He has gone well over the minute. I would like to put a supplementary question.

**Mr. B. O’Keeffe:** It would be wrong to say that we do not have a high level of recovery of end-of-life vehicles. Currently the recovery level is 70% to 75%. We have targets to meet by 2006 and by 2015.

**Mr. Gilmore:** Was an agreement reached at the end of 2001 between the three organisations rep-

[Mr. Gilmore.]

resenting the different interests relating to this directive and will the Minister of State publish the text of that agreement? Second, was a separate agreement reached between his Department and the SIMI to the exclusion of the other two organisations in 2002 and will he publish the text of that agreement?

**Mr. Cuffe:** Is the Minister of State embarrassed by the stream of judgments from the European Court of Justice against Ireland with regard to the waste directive, the environmental impact assessment directive and the end-of-life vehicles directive? What costs must the State pay for non-compliance with European directives? Must we pay costs associated with this judgment?

**Mr. B. O’Keeffe:** No costs arise at this point. The Minister has clearly indicated that the regulations will be in place to ensure no costs will apply. With regard to 2001, I understand there was no finality to an agreement between the three parties.

**Mr. Gilmore:** I have it here.

**Mr. B. O’Keeffe:** I understand there was no finality to that.

**Mr. Gilmore:** I have the text of an agreement here.

**Mr. B. O’Keeffe:** I can check my records as I do not have the information to hand, but my understanding is that there was no finality in terms of any agreement in 2001. With regard to the SIMI, there were tentative arrangements at some stage which, obviously, were not agreed to by the other groups involved, but negotiations have continued. The dismantlers group took an action to the European Court. We have the interim report and will act on it. The Minister will have the regulations in place in time before the end of the year.

*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 Michael Moynihan — the proposals of the Department of Justice, Equality and Law Reform to continue financial support for the child care facility Tír na nÓg in Ballydesmond, County Cork; (2) Deputy Costello — the need for the Minister of State at the Office of Public Works to outline his plans to prevent flooding along the Tolka river and the Royal Canal; (3) Deputy Pat Breen — to ask to what extent the recent guidelines issued to local authorities for sustainable rural housing extend to other bodies; (4) Deputy Seán Ryan — the need to provide a

metro line to Dublin Airport with an extension to Swords and a new station at Spencer Dock; (5) Deputy Connolly — the need to discuss the extension of the rural transport initiative to serve north Monaghan; (6) Deputy Neville — the report entitled *Perceptions of Ageism in Health and Social Services in Ireland*; (7) Deputy Ó Caoláin — the need for the Government to take a case against the British Government to the European Court of Human Rights; and (8) Deputy Cowley — to ask if the Minister will ensure funding to remedy the situation in some gaelscoileanna where conditions are a significant threat to health and safety.

The matters raised by Deputies Costello, Connolly, Michael Moynihan and Pat Breen have been selected for discussion.

#### **Investment Funds, Companies and Miscellaneous Provisions Bill 2005 [Seanad]: Second Stage (Resumed).**

Question again proposed: “That the Bill be now read a Second Time.”

**Mr. Boyle:** I wish to share time with Deputy Crowe.

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Mr. Boyle:** I already aired the more substantive themes relating to company law changes and the changes in proposed consumer legislation in this Bill. I want to finish by raising a concern of the Green Party about the Government seeming to want to ride two horses at the same time with regard to the further progress of the financial service industry here. On one hand with our tax favourable status we seem to want to compete with the Channel Islands, the Isle of Man, Luxembourg, Liechtenstein and, God help us, irony of ironies, the Cayman Islands. At the same time we are sending a message, which this Bill seeks to reinforce, in terms of having higher standards of corporate enforcement.

We seem to be sending mixed messages to the movement of global capital that this is a country that will treat their tax status favourably, but we will enforce the highest possible standards in terms of corporate compliance. I am not sure we can do both, but if the Government is confident it can, I wish it well. I am not sure this legislation will establish the confidence that needs to exist, not only internationally but internally in terms of our indigenous financial service companies.

The increases in penalties for white collar crime and fraud in this Bill are welcome. We have seen a trend in recent legislation to improve the levels of prosecutions that might result from the new legislation in terms of company law. Unfortunately, this has not been matched with prosecutions within the courts system. We still have a notorious double standard with regard to people

caught for white collar crime and whether they are prosecuted and penalised for it.

This contrasts markedly with the Government's most recent public relations announcements on Operation Anvil and dealing with criminal law in the greater Dublin area. While there is widespread agreement in society that the level of crime needs to be tackled and dealt with promptly, there seems to be a great reluctance to do this among regulatory agencies and authorities which should identify and prosecute those who commit white collar crime. Until there is equivalence in terms of the type of crime being committed and until there are as many people in our prisons or suffering high fines and severe loss of status as a result of defrauding the State as ordinary criminals, our economically unequal society will continue to exist in our criminal and civil codes.

**Mr. Crowe:** Many sections of the Investment Funds, Companies and Miscellaneous Provisions Bill are being introduced to prepare the ground for the transposition of EU directives. It is interesting to note that the State is far quicker to implement EU directives relating to matters of this nature than it is to implement EU directives relating to environmental issues, for example. It often drags its feet on such matters. This State was one of the first EU member states to implement a directive relating to undertakings for collective investment in transferable securities, known as the UCITS product directive. It was also one of the first member states to transpose the UCITS management company directive.

The Bill gives the Irish Financial Services Regulatory Authority the power to regulate the borrowing requirements of non-UCITS common contractual funds. It also regulates the assets which can be dealt with and the manner in which they can be dealt with.

I welcome Part 7 which amends certain aspects of consumer legislation to increase the maximum fines which can be imposed on conviction. I also welcome Part 4 which enacts provisions which need to be enacted in primary law to ensure the effective transposition of the EU market abuses directive, which relates to insider dealing and market manipulation. The public good must be protected in the market economy. The free market must be reigned in and market abuses such as insider dealing and market manipulation must be stamped out.

The debate on this Bill offers a timely opportunity to comment on the Government's enterprise, tax and pensions policy. For too long, consecutive Governments have considered the development of indigenous enterprise to be less important than the promotion of foreign direct investment. The Minister for Enterprise, Trade and Employment recently announced that approximately 100 jobs will be created in a multi-national financial services company. Perhaps the Minister thinks such jobs are more glamorous than the jobs created on a daily basis by entrep-

reneurs in small and medium-sized enterprises. Much more needs to be done to promote the development of such enterprises. We should recognise that most employment stems from them.

This country's over-reliance on foreign direct investment makes it more vulnerable than other European economies to a global economic downturn. When one considers the unstable nature of global markets and global capital, it is clear that such an over-reliance is dangerous. The quality and quantity of resources which are made available to inward investors should be made available to indigenous enterprises. We should guard against the destabilising effect of short-term capital inflows, for example, by ensuring that we have a strong indigenous enterprise sector and strong regulatory institutions in the banking and financial sectors.

This State's economic and taxation policy should be underpinned by the objective of making the economy serve society, rather than *vice versa*. We need to ensure that the revenue generated by our economic stability is used to provide the highest quality of essential services and to vindicate everyone's socio-economic rights.

The development of the International Financial Services Centre was achieved after the Government imposed the lowest business tax rates in Europe. Such low rates have undermined this country's capacity to tax some of the most profitable companies in the world, including those involved in the financial sector. I do not know why a large chunk of the economic activity that takes place in the State is overlooked when the tax burden is being assessed. The low-tax model adopted by the Government is not adequate to provide European norms of public service and infrastructure.

This country has a low level of public sector provision. The low level of provision offered is heavily over-subsidised by high VAT, which hits the poorest sectors of society most heavily. The increase in the gap between rich and poor in the wake of the Celtic tiger years is evident when one contrasts the economic circumstances of those working in the IFSC and those living in the north inner city communities which surround it.

The State's tax base is too narrow to fund the social objectives I have mentioned. Personal taxes are not particularly out of line with the desired level, but that cannot be said of business taxes, wealth taxes, property taxes and tax shelters for the rich. That taxation policy has been focused on reducing the overall tax burden has benefitted those with resources rather than maximising benefits for all.

According to CORI's justice commission, the State has generated sufficient resources to take every man, woman and child out of poverty, but its resources have not been focused on producing such an outcome. That is clear when one examines the Government's expenditure on social protection and its taxation policy, for example. The economic growth we have experienced over the

[Mr. Crowe.]

last decade has not been primarily targeted, much to the State's shame, at reducing the gap between rich and poor or at bringing Ireland's level of social protection in line with EU levels.

UCITS and non-UCITS common contractual funds are vehicles for the management of pension funds. The debate on the Bill before the House represents a timely opportunity to make a number of comments on the pensions situation in this State. The Government hoped that the introduction of personal retirement savings accounts would be the main instrument to be used when trying to ensure that 70% of those in employment have pensions cover.

The PRSA scheme has not been particularly effective for a number of reasons. It was proposed as a means of making it easy for workers on modest incomes in jobs where occupational incomes do not exist to save for their retirements. It was intended that it would be compulsory for employers to facilitate employees who are establishing PRSAs, for example by making deductions from wages if they were asked to do so. Workers on modest incomes do not have enough money to invest in their pensions. They must service huge mortgages because of inflated house prices. Even if they understand the importance of investing in pensions, they might not have the money to do so. It should be borne in mind that being offered a tax offset is much more of an incentive for people on higher incomes than it is for those on lower incomes.

The wiping of billions of euro from the value of pension funds following the collapse of the global market did not help to increase the level of enthusiasm for taking out pension plans. The popular interest in such plans was also damaged by revelations about the large-scale abuse of construction industry pension schemes. SIPTU claims that up to 50% of building workers are not covered by the pension scheme for construction federation operatives because many cowboy employers have failed to make compulsory contributions. SIPTU has called on the Minister for Social and Family Affairs, Deputy Brennan, to introduce a centralised collective system for pension contributions by builders.

Experience in Britain and the United States shows that PRSA-type pensions work only if employers also contribute to them. The Irish Congress of Trade Unions has proposed that employers should be required to pay a minimum of 10% of salaries to defined contribution schemes. It has also suggested the introduction of an employee 6% tax. Such suggestions deserve to be examined and considered.

**Mr. Nolan:** I welcome the opportunity to speak on the Investment Funds, Companies and Miscellaneous Provisions Bill. I commend the Minister of State on introducing the legislation.

We are reminded from time to time of the success of the International Financial Services Centre, an initiative that was launched in 1987.

The Government of that time received a great deal of criticism because it was felt that the centre would be a white elephant. It was claimed that we would all regret the folly of constructing such a monstrosity on the banks of the River Liffey where it would be in full view of foreign visitors. Within a few years of the construction of the IFSC, it was clear to all concerned, including some Departments which might not have been too enthusiastic in their support for the project, that it would be successful. Most importantly, it was clear to those involved in the financial, banking and insurance sectors that the Government which was in power in 1987 had made a progressive and enlightened decision.

A great deal of legislation has been necessary since 1987 to cater for the unique nature of the IFSC development and to accommodate the changing needs of the financial services sector. The authorities in this country — I refer in particular to Dublin — have been applauded for the initiative that was taken in 1987. The IFSC template used in this jurisdiction at that time has been copied by a number of countries and cities where similar centres have been constructed. The Department of Finance is regularly asked by ministries in other countries to explain the reasons for the success of the IFSC initiative.

The Bill before the House is part of a raft of up-to-date legislation that is needed on an ongoing basis if we are to compete successfully with other countries. Ireland faces serious competition from other players in the financial services sector. Apart from the changes to the laws relating to investment funds, a number of other changes to general company law are proposed in the Bill, many of which will directly or indirectly impact on at least some aspects of the operations of companies used as investment companies.

Some of the detail is rather technical but I understand from the Minister's opening statement that the Bill has been introduced to keep Ireland competitive and at the fore-

*4 o'clock*

front of international finance. It is fair to state that Irish banking and Irish banks are competitive and profitable, as is suggested by recent reports on the two main Irish banks. It is important that the banks remain profitable. The last thing we want is a situation similar to what arose in Japan last year, when a number of high profile banks collapsed or had to be bailed out by the Japanese Government. It does nothing for the confidence of the general public or the commercial sector, local or international, in a country's banking system to see intervention by departments and governments to help out large financial institutions, banks in particular. While some sectors criticise the vast profits made by our indigenous banks, their profitability demonstrates a healthy state of affairs and shows that the economy, as run by the Government, is healthy and continues to grow. Growth rates of 5% per annum are not to be sneezed at and many fellow EU member states would be more than pleased to claim such growth rates.

The current position is in marked contrast to that of 15 years ago, when there was poor growth and a poor outlook, as well as unemployment rates of up to 18%. There has been a sea change in many aspects of Irish life since then — long may that continue. However, the area of regulation is of concern to some organisations. There is a school of thought that we have become over-regulated and the Government should consider this area. A raft of legislation seems to come from the European Union, which puts a great deal of pressure on companies to comply with regulations.

I question the wisdom of some of the regulations being introduced to Ireland. At some stage, we might be forced to turn away foreign direct investment due to the level of regulation with which companies and others must comply. While we have not reached that stage yet, public representatives and Oireachtas Members are fully aware of all the legislation with which they must comply. The Minister for Enterprise, Trade and Employment must bear this in mind. I am sure he is listening to similar concerns about the level of regulation being expressed by companies that wish to set up in Ireland, particularly foreign companies.

I am concerned by the slowdown in the number of companies looking at Ireland as a good base to set up operations. My home town of Carlow has an industrial and technology park that has lain vacant and unused for the past two years. IDA Ireland has invested more than €11.5 million in this facility but to date there is little interest among overseas companies in locating there.

Due to the success of the economy, we have moved from having a low wage, low skilled workforce to having a high skilled, well educated workforce, which demonstrates the progress we have made. The focus for jobs must be in the high skill area.

Last year the Department of Enterprise, Trade and Employment stated that Ireland had experienced net immigration of workers of approximately 55,000 to 60,000 workers, and that this would continue into 2005 and beyond, which is positive. For the economy to continue to prosper and grow, we need a high level of foreign labour. In some sectors of industry, employers find it increasingly difficult to attract suitable employees. This is reflected in higher prices, in companies having to cut down on overheads and make savings, and, in some cases, in the restriction of the expansion of indigenous industries. The service sector, where there has been huge change, probably has most experience of this. Anybody who visits a restaurant or bar will know of the change in the nationality of many of the staff providing services, be they counter staff or waiting staff. It is something we will have to get used to because it will be part and parcel of Irish life and society in years to come.

The success is based on a number of factors. However, a point we often lose sight of, and which is relevant in the context of a Bill that deals

with investment funds and international financial companies, is that such companies would not have set up in Ireland but for its first-rate telecommunications systems. Many Members will remember the situation in the late 1980s when one of the most important issues on politicians' desks related to the difficulty for individuals in acquiring a telephone line. Young entrepreneurs of today would laugh if some of the issues common at that time were highlighted.

Major investment took place in the late 1980s under the then Minister for Post and Telegraphs, Mr. Albert Reynolds. There was criticism even at that stage of the level of investment in telecommunications infrastructure. Thankfully, the investment went ahead and, following from that, we succeeded in attracting a number of well known international companies, which set up backroom telemarketing operations here. At a time when a large number of young people were on the unemployment register, such developments were welcome and took up much of the slack when little other employment was available.

The Bill should ensure that the employment content of the international financial services centre will continue to be of significance. The sector is a significant employer, with a total of more than 51,000 employees, of whom more than 17,000 are engaged in the provision of wholesale or international services. Ireland has been very successful in this area. We must continue to update our legislation, the way we deal with international companies and the way we interface with the European Union if we are to stay competitive in a very competitive market.

A recent IDA report, commissioned by the Department, identified a number of opportunities regarding Ireland becoming the major European centre for specialised debt and financing products. Ireland was also identified as a world-class location for marketing global and regional banking products. There is a general acceptance in the financial sector that Ireland is a good place to come and work. While it is increasingly more difficult to commute in and out of Dublin and throughout the city, it still attracts our European neighbours. The people I have met in the financial services sector enjoy their work in Ireland and the evidence of this is that so many have remained, settled down and become part and parcel of our society.

In a recent statement, the Minister for Enterprise, Trade and Employment referred to the success of social partnership and industrial stability. We often forget how stable are our workforce and industrial practices. Last year was a record year in that strike statistics were the lowest in terms of days lost since 1923. That is an incredible feat when one remembers the events of the past 20 years when we seemed to go from one crisis and strike to the next. In addition, 2004 had the lowest number of disputes — nine — since 1923, which is also a noteworthy record.

A number of factors have influenced the trend of relative stability in industrial relations, includ-

[Mr. Nolan.]  
ing the implementation of the provisions of the national partnership agreement, Sustaining Progress. There has been some criticism of the programme, but in time it will be regarded as another successful strategy on the part of this Government. The Sustaining Progress agreement provides an enhanced role for the Department's dispute resolution agencies, the Labour Relations Commission and Labour Court, when dealing with disputes regarding compliance with the terms of the pay agreement and rights to bargain. Both agencies have a good track record with more than 80% of cases settled at conciliation stage by the Labour Relations Commission and the vast majority of Labour Court recommendations are accepted by the parties.

This Government set up the Personal Injuries Assessment Board and while it is still in its infancy it has had a sobering effect on insurance claims and litigation. The PIAB was established as a direct response to consumer needs with regard to insurance costs. The cost of insurance escalated over the past three years and something had to be done. I commend the former Minister, Deputy Harney, for the initiative and on her single-minded determination to establish the board. Since July 2004 all motor, public, employer liability and personal injury claims must be referred to the PIAB before legal proceedings may be issued. The legal profession is anything but happy about this development. However, if it succeeds in reducing the cost of insurance to the general public, industry and the commercial sector it is a worthwhile project and will be regarded as such in time.

The establishment of the PIAB was one of the key initiatives in reforming the process of the delivery of compensation in personal injury claims. Using the Book of Quantum as an aid, the amount of compensation received by claimants will continue at a level equal to that awarded before the establishment of the board while delivery costs and time frames will be greatly reduced. This will benefit the consumer, claimant and public in general. The PIAB has made its first awards within the nine-month period required by legislation. This is a major improvement for accident victims who previously waited years for compensation. We have all heard of claims that went on for three, four or five years. Some of the claimants were dead before the case eventually came to court.

While compensation levels have remained constant, the cost of delivering the awards and the time lapse involved have been significantly reduced, by years in some cases. The awards were made within nine months of the claims being made to the board. Excessive litigation has been removed as the processing costs for claims are, on average, €1,250 in the PIAB process. Claimants may choose to be legally represented at their own cost, which is important to note. The injured party receives fair and prompt compensation. The fact that 80% of awards have been accepted illus-

trates a high level of satisfaction with the process. The more we put into this the more the public will see the benefit of using the system.

I commend the Minister for bringing this legislation before the House and I hope its passage is speedy.

**Mr. P. Breen:** I welcome the opportunity to speak on this very complex Bill, which proposes to make a number of changes to the existing law with regard to investment funds and general company law. It will pave the way for a smooth transition of certain EU directives. In addition, there are some amendments to consumer law and it will increase the level of maximum fines that can be imposed on parties found guilty of breaches of specific consumer legislation. The Bill aims to consolidate and build on the success of the Irish Financial Services Centre while tightening the regulatory regime relating to market abuses and increasing the fines for certain consumer protection legislation.

The industry has been calling for this legislation for some time and the Government's way of dealing with the matter is lamentable. More than 17,000 people work in the IFSC and there is little room for complacency when it comes to improving the environment, although Government parties appear guilty in this regard. Not only are they complacent about having one golden goose, they are also laid-back with regard to the future of these companies. However, Fine Gael welcomes the legislation, which sets out a high standard of regulation in that the consequences for abuse could be catastrophic.

Investment funds contribute to the economy but their activity is centred on the IFSC. The investment funds sector employs just 1,000 people outside of Dublin and this low figure will be augmented by yesterday's announcement that PFPC International will create 490 fund administration jobs in Wexford and Navan. Jobs are welcome in these areas, but I hope in future some of these jobs might be created in my region of the mid-west. We have lost many jobs in the area in recent times, particularly in manufacturing industry. Deputy Nolan said earlier that much of the manufacturing industry appears to be going to countries such as Morocco, India and so on where labour is much cheaper. Ireland must change in terms of the types of jobs we attract. We will also have to have a more educated workforce. I am aware the jobs announced yesterday were specifically for graduates. That is an indication of the importance of the role universities play in educating young people for today's economy.

I referred earlier to PFPC. That company has recognised the position in which Dublin now finds itself. We all know Dublin is overcrowded, congested and expensive. It is difficult to recruit and retain well qualified workers in Dublin. I recognise the attractions of Wexford and Navan. The mid-west has major attractions also, particularly in terms of infrastructure. I assure the Government there are equally attractive locations

in our area west of the Shannon. I highlight in particular the importance of Shannon Airport and the role it plays in job creation along the western seaboard. It is said that 40,000 jobs depend on the airport. Shannon is an engine for growth in the western seaboard region.

It is important that the airport continues to have a full daily transatlantic service to serve the industries located in the industrial estate. More than half the companies in the industrial estate in the Shannon Free Zone are American and the importance of a direct transatlantic service to the United States, where many of those companies have their headquarters, cannot be underestimated. Such a service is important because if a breakdown occurs in a company, spare parts can be brought in as quickly as possible to the industries in Shannon thereby allowing work to continue. The Minister of State, Deputy Ahern, is a Munster man, being from Cork, and I ask him to ensure that transatlantic service continues on a daily basis, regardless of what happens in terms of the open skies policy and whatever deal is brokered in the future because the service is imperative to the region.

I note that the Minister for Enterprise, Trade and Employment, Deputy Martin, has urged other financial services companies to do as PFPC has done in Navan and Wexford, namely, examine the reasons behind that company's decision to choose a regional location. I assure him there are many more areas outside Dublin and the east coast where these jobs would be more than welcome. I read a report in *The Irish Times* some time ago on job creation which indicated that more jobs were being created on the east coast than on the west coast. That would be unfortunate if it were to happen. I am aware the Minister is doing his best in that regard and, as Minister with responsibility for trade, that the Minister of State is doing the same. Investment follows infrastructure, not the other way around, and the Irish Financial Services Centre project, in fairness to its founder, is proof of that.

The Government parties' fascination with large, over-priced road projects appears to be preventing it from seeing the bigger picture. It is not just about a second terminal at Dublin Airport, which is necessary, but also about Shannon and Cork Airports. It is not just about motorways but also the information superhighway. It is not about keeping in with the horsey set at Punchestown. It is also about investing in regional rail services and developing new spurs that are important for industry.

The Minister of State's colleague, the Minister for Transport, Deputy Cullen, was in Mayo last week to announce the Government's support for the western rail corridor. It is unfortunate he did not announce a timetable for that, which is necessary. I am aware the Government is committed in terms of a ten-year programme. The Taoiseach made it clear in the Dáil that he is committed to reopening the western rail corridor. If that line were reopened, it would be very important for

industry in the western region. Railways are the way forward for the future. The damage being done to roads throughout the western region by trucks carrying cargo for companies is unbelievable. There is continual road restoration work on motorways because of the damage articulated heavy goods vehicles cause. I hope the Government will see the light — I know it is committed in this regard — and publish a timetable to open the western rail corridor, particularly linking the cities of Galway, Limerick and Cork. Opening the Ennis to Athenry line would create that link which would be important for industry in the western region.

The spur line I mentioned earlier would be important also. To be fair, there is a very good road network in Clare, particularly the N18 and the new motorways into Shannon Airport. As the Minister of State is aware, a bypass is being built around Ennis. It is an ongoing project which is due to be finished in the next two years, but there is a great deal of traffic in the town which makes it an unattractive place for industry. One cannot fly a company director into Shannon, assuming one can get a flight into Shannon, and bring him into Ennis on a Friday evening because of the traffic gridlock in the town. Ennis is not an attractive place at present but I hope when the bypass is completed in the next two years it will become an attractive area for industry to base itself in.

Last month, the Ennis information age park was opened. I went to see it the other day and it is a fantastic structure. It has many bays and is very attractive for foreign investment, particularly in the telesales and financial services sector, the subject of the Bill being debated. When the infrastructure is in place, I hope that IDA Ireland, Shannon Development and Enterprise Ireland will try to encourage companies to move into this area, which is very important.

Broadband is vital for industry and for financial services, especially in rural areas. The lack of broadband is not helping industries to set up in rural areas. When trying to access the Internet, there is no comparison between the ISDN line in my constituency office and the broadband available to us here in Leinster House, although I understand they will be changing that later in the year. Technology is moving ahead quickly and we must move with it.

The failure to bring broadband to rural areas is highlighted by the contrast in the success of broadband in Northern Ireland which, through a public private partnership scheme, has enabled the introduction of broadband access to every household and which will offer access to 100% of the population by the end of the year. Having broadband in one's home is an excellent service. There are more broadband users in the North than in the Republic. I hope the northern venture will be a success and that we have the imagination to examine what Northern Ireland has done in regard to broadband. We must be competitive in that regard if we are to attract international

[Mr. P. Breen.]

industry. The Republic's record on broadband access is not good. Notwithstanding the success of the IFSC and the general financial services sector, it cannot continue to limp along with an antiquated communications infrastructure.

Shannon town was built in the 1960s as part of the development of the regional economy, but despite having the distinction of being the only State created town it still awaits 19th century infrastructure. It does not have a rail link, which would be important not only for the town itself and the industrial estate but also the airport, particularly with the new services announced recently by Ryanair. The rail link is years down the road. A study has been done and I know the Minister for Transport supports the rail spur into Shannon, and the route has been sterilised by Clare County Council so provision has been made for it. The success of the Ennis Limerick railway line has surpassed the expectations of Iarnród Éireann as industry and workers use it. We also still await integrated broadband access.

Despite these infrastructural gaps, Shannon has made some headway in attracting financial services companies. Some 16 companies are directly involved in the financial services in the Shannon Free Zone and they employ approximately 800 people, which represents 10% of overall employment in the zone. These companies work in asset financing, treasury management and trading in intellectual property rights. Disappointingly there is no financial assistance provided for this sector. The main benefit of locating in Shannon is the availability of the low corporate tax rate. Although the IFSC is the fourth largest re-insurance centre in the world, companies in insurance and re-insurance underwriting have found their way to Shannon and eagerly await the bridging of the infrastructural deficit.

Unfortunately Ennis, the vibrant capital town of Clare, has become more of a dormitory town than an industrial town because of the fact that major industry has not located there over the past 14 years. Last week a successful company, Organic Lenses, took on 100 more people. We are hopeful that the Ennis Information Age Park will attract financial services companies.

In 1997 or 1998, Ennis was designated by Eircom as the information age town. Since then Eircom was privatised and there has been no job creation in the area. A lack of foresight is all too apparent in the late appearance of the Bill. The Government must genuinely look beyond Dublin for job opportunities which cannot be allowed to pass. Everybody recognises Ireland has developed into a significant international centre for the administration of international investment funds and as a major international funds jurisdiction. Unfortunately, this development is largely in Dublin and I will continue to highlight that throughout my contribution in this debate. The financial services industry should be spread to the west coast but to do this we need infrastructure and communications.

The funds industry directly employs approximately 6,500 people and approximately 1,750 people in direct support services along with indirect employment in the IT industry and elsewhere. With employment levels in fund companies projected to grow by 15% this year the arrival of this Bill into the House is well overdue. The funds industry informed the Department of the pressing need for this legislation many years ago. When it is enacted it will provide the framework for the pooling of assets by institutional investors, a system which would also help those in other jurisdictions. Investment companies, two thirds of which comprise international fund companies, will benefit from the long overdue provision for segregated liability where investors in sub-funds will be subject to the appropriate risks and liabilities, and the facilitating of cross-investment between sub-funds under the same umbrella.

The Bill will provide the framework for a regulated investment fund structure allowing for the pooling of assets by institutional investors and will bring legislation in line with best international practice. It builds on the foundations on which the funds industry was built, a legal and regulatory framework which when it is adopted will change the need for industry in this country. I welcome the opportunity to speak on the Bill.

**Mr. M. Brady:** I commend the Minister of State at the Department of Enterprise, Trade and Employment, Deputy Michael Ahern, on the introduction of the Bill. It represents a significant development in the international investments funds business in Ireland. There are multiple reasons that leading global financial institutions have been attracted to Ireland but the most notable are the attractiveness of the fiscal and regulatory environment and the availability of highly skilled and educated workers. It is a duty of Government to maintain such attractiveness as the reward is substantial. Ireland has a thriving financial services sector, which employs 51,000 people and contributes at least €700 million to the Exchequer annually. I commend IDA Ireland and the Government on seeking to boost Ireland's attractiveness as a leading location for financial services. I also recognise the major role played by former Taoiseach, Mr. Charles J. Haughey.

Maintaining a competitive edge requires continued review and reform because the global market continues to evolve and dwelling on past success is not an option. Based on my experience in business before I entered the Dáil, one must innovate almost on a daily basis. The Government must continue to be innovative to ensure continued progress and the legislation has been introduced with this in mind. Speaking in the Seanad the Minister of State, Deputy Ahern, outlined the importance of the funds industry and its growth over the past 15 years. He also detailed the legislative change that has occurred pertaining to funds vehicles.

As the Minister of State, Deputy Ahern, stated, the Bill seeks to provide the greatest flexibility to the funds industry while maintaining appropriate controls. The legislation will therefore make a number of important changes to existing law and it proposes a number of other changes to general company law, including some important and welcome provisions.

The Bill provides the general legal framework for the dedicated asset pooling structure, the common contractual fund, CCF, and for a new investment vehicle. It introduces segregated liability at sub-fund level for investment companies and it provides for the cross-investment between sub-funds and investment companies. I particularly note the new contractual fund, a highly tax-efficient scheme for the pooling of pension fund assets. Tax experts have predicted that the new pension fund will be attractive for a wide range of investors and hedge funds. The pooling of pension funds promotes cost savings through economies of scale, particularly for smaller pension funds which benefit from a reduction in administration costs as well as custodial and management fees.

Nowadays, one cannot pick up a newspaper without reading about the importance of creating a pension fund. This initiative will help individuals to start such funds. The Bill is further evidence of the continuing evolution of Ireland's legal and regulatory environment as it responds to and anticipates the needs and trends of the global funds industry. This legislation will reinforce Ireland's position at the forefront as a jurisdiction of choice for domiciling investment funds.

The Bill is also proof of the continuing benefit of the unique partnership arrangement in Ireland whereby the Government and the financial services regulator work together with industry without compromising their individual mandates to ensure that Ireland remains the location of choice for the international funds industry.

Given that the legal environment provides the tools with which the investment funds industry builds its products, this Bill will enhance the attractiveness both of the products and product range available from the jurisdiction. In addition, it will further enhance Ireland's attractiveness as a domicile for investment funds.

The objective of the investment funds provision is to give the greatest flexibility to the funds industry, while at the same time keeping appropriate controls in place. The previous speaker, Deputy Pat Breen, referred to this point but the Minister of State has ensured that such controls are in place, which is welcome. The industry is anxious to have a portfolio of fund vehicles available which is as broad as possible to improve further Ireland's attractiveness as an international location for the establishment of investment fund companies.

The Minister of State, Deputy Michael Ahern, has indicated that the Government will continue its support of the funds industry by responding appropriately to the new challenges which are

presented by this ever-changing global marketplace. The funds industry is operating in a highly competitive environment and I urge the Government to continue to give all the necessary support so that the industry can prosper while at the same time offering its clients appropriate safeguards which are of the utmost importance.

The Bill seeks to ensure the continuation of conditions that have encouraged the industry's growth to date. These include openness, flexibility, competitiveness, co-operation and an internationally focused legal and regulatory framework. The legal framework represents the bricks and mortar with which the industry creates its products and services. However, with the pace of change, the evolution of product structures and the drive for efficiency, only an appropriate legal framework will satisfy today's demands. To anticipate and reflect tomorrow's considerations, the Government has decided to establish a dedicated section within the Department of Enterprise, Trade and Employment with responsibility for developing the investment funds legal framework.

The impact of this development has been immediate with the publication of this Bill. I am pleased that the Minister of State is proposing to increase penalties for persons convicted of corporate offences, including insider trading and making false statements on a prospectus. This is intended to provide greater protection to consumers and investors. This is of the utmost importance to the public which is, on the one hand, encouraged to invest but, on the other, is fearful of corporate mismanagement and corruption.

The Bill's key provisions include increased penalties for the misuse of price sensitive information. The Bill provides for penalties on conviction for serious market abuse offences of fines to a maximum of €10 million and-or ten years in prison. A person who breaches the insider trading laws will be liable to compensate parties involved in the transaction who did not have access to the information and suffered loss as a result. In addition, he or she will be required to account to the company for any profit made from the transaction.

Certain persons involved in the issue and promotion of the prospectus and the offer of the securities, including directors of the issuer, promoter of the issuer and those who guaranteed the issue of the securities or authorised the issue of the prospectus, will be liable to compensate investors who suffer loss as a result of any untrue statement in a prospectus.

The Bill also provides for an increase in the maximum penalties imposed under various Acts for breaches of consumer protection laws. Legislation such as this, combined with the expertise developed and experience gained over the last decade, will continue to attract inventive and visionary people. The legislation will also ensure a place for Ireland in the infrastructure of an increasingly competitive global funds industry.

[Mr. M. Brady.]

The Government showed the legislative and regulatory foresight necessary to ensure that Dublin has become a premier financial player. This Bill shows a clear commitment to build on those sound foundations, thus ensuring that we will remain a key investment fund jurisdiction. If we succeed in this respect, the opportunities will be manifold.

Deputy Pat Breen said earlier that telecommunications is an important element in attracting foreign investors, and I agree with him. The former Taoiseach, Mr. Albert Reynolds, began work on modernising the telecommunications sector while holding the communications portfolio. He made great inroads into that business. Before being elected to this House, I worked with Telecom Éireann which was later renamed Eircom. I recall that when I worked in that sector, my colleagues and I spent most of our time explaining to people who had been waiting for telephone lines for seven or eight years why they could not get them. Thankfully, that situation has changed and I compliment Eircom on its work in that regard. The availability of modern telecommunications, including a modern telephone network, was a key factor in attracting foreign investment. Such modern facilities constitute a priority for investors who wish to transact their business on a global scale. I pay tribute to the former Taoiseach, Mr. Reynolds, for having brought that about.

I thank the Minister of State for having introduced this innovative Bill which I commend to the House.

**Mr. Connolly:** I welcome the opportunity to speak on this Bill which represents a major development in the international investment funds business in this country. Ireland's exceptional success over the past 18 years in attracting international financial services companies has received worldwide acclaim.

The list of international companies with operations here is a veritable who's who of the international financial services sector. They include Citigroup, JP Morgan Chase, ABN AMRO, MBNA, Merrill Lynch, HSBC, Bank of New York, ING Group, Unicredito and AIG, to name but a few. These companies were attracted to Ireland for a variety of reasons, including our attractive fiscal and regulatory environment as well as the availability of a highly skilled and educated workforce. One of the country's biggest assets is its willing workforce that, for the most part, has been educated to third level. Foreign investors spotted that fact which, in turn, boosted our financial services sector. We had the necessary product which was ready for the market.

There were also the distinct advantages of political stability, a telecommunications infrastructure that was considered robust at the time, 18 to 20 years ago, and an effective marketing strategy. The telecommunications infrastructure may now

be considered somewhat out of date, but we are moving in the right direction to modernise it.

Few would dispute that the global financial services industry is undergoing a process of major change. Advances in technology and the impact of globalisation have resulted in radical changes in business models and European Union initiatives, such as the financial services action plan, have been partly instrumental in the European market becoming more integrated.

In the past seven years Ireland's attractiveness as a location for international financial services has also undergone major change in a favourable corporate fiscal environment. Returning emigrants from the United States and United Kingdom and immigration from countries which recently joined the European Union have helped to supplement the availability of skilled labour. Although people fear that Ireland will be flooded with immigrants, we need to continue to attract skilled labour from the new member states.

The Bill provides for the continuing development of the investment funds business. The administration of funds domiciled in other jurisdictions and asset management and custody services are instrumental in the growth of the funds sector. The domiciling of investment funds here will be facilitated by the legislation which reinforces Ireland's pre-eminent position in this area.

The International Financial Services Centre has been the focus of significant growth and progress for almost 20 years and employs upwards of 17,000 people. Approximately one third of the workforce in the centre is employed in the funds industry which has a throughput of several billion euro per annum. Since the early 1990s, extraordinary growth has been achieved in the funds industry, undoubtedly as a consequence of Dublin's international reputation for funds administration, management and servicing. Annual growth in funds has been exceptional, with an increase of 20% recorded for 2004 over 2003 and a phenomenal increase in non-domiciled funds in 2004 of more than 40%.

While few envisaged that the growth of the IFSC would scale such dizzy heights when it was built in 1987, it was recognised at the time that there was a niche in the market and this has been filled beyond the expectations of most people. When the market opportunity was identified in those far-off days our legislators did a good job by quickly drafting the enabling legislation. The rest is history. No one could have envisaged the degree to which we have been inundated with business. Financial services continue to evolve at a rapid pace and our legislation must be constantly adapted to keep abreast of developments, hence the necessity to effectively regulate all new products and activities in the market and reform existing ones.

The overriding consideration must be to keep our investment environment competitive to attract more companies to establish operations here. In contrast to many other areas which are

regarded as havens for hot money, Ireland has developed an enviable reputation for integrity in the financial services field, which has enhanced our competitive position. In sharp contrast to the position here, some other locations are constantly open for business and welcome hot money with no questions asked. We have learned recently of cases in which other countries were used to set up money laundering and similar operations. Thankfully, we do not have a reputation in this area which is reason to be proud.

It is important that IFSRA, with its vital policing role, is given resources to carry out its function in the most effective manner possible. Many consumers rely on brokers and financial institutions for advice about investing money. In many cases, consumers' savings are invested on their behalf in funds to generate an income on retirement. It is vital that such investments are properly regulated on behalf of consumers, particularly as large reputable insurance companies have mis-sold products on which tax was paid in the past. With a Revenue deadline of 23 May imminent, it is essential that we avoid a recurrence of this type of mis-selling. People invested their pin money, profits from cattle sales or grant payments in an insurance policy, the value of which grew. The insurance companies may have collapsed or been acquired by another company in the meantime, which has left people unable to provide evidence of the source of the initial sum. Some elderly people aged in their 70s or 80s cannot sleep at night due to anxiety about explaining their position to the taxman, even though they know they were clean and not in the tax net at the time of their investment. Such tragic cases must be avoided in future. I propose that the ceiling of €20,000 be raised to €100,000.

**Mr. M. Ahern:** The individuals in question will have nothing to explain if they were not in the tax net.

**Mr. Connolly:** The difficulty is they have no way of proving they were not in the tax net. A small group of vulnerable people is affected by Revenue's plans in regard to insurance investments. Some of them cannot eat or sleep because of what is happening. As we have not yet reached the deadline, I propose that action be taken to address the issue because it will send people to an early grave.

A recent case of failure to refund insurance premia when loans were repaid early was brought to public attention by IFSRA's consumer section. This was another example of the authority's important role in highlighting abuses. The company law provisions in the Bill appear to be realistic and eminently reasonable. It is self-evident that changing circumstances require regular consolidation of company law. The rate of development nowadays is such that consolidation of company law will need to be revisited more frequently than has been the case hitherto. The accepted timeframe for consolidation of taxation

law is ten years. It would be reasonable to take steps to make company law more accessible and understandable to foreign investors.

The sections dealing with market abuse and the penalties involved go a long way towards beefing up our laws on money laundering and insider dealing. Insider trading laws were initially introduced after the stock market crash of 1929. Examples of circumstances in which insider dealing occurs include projections of future losses or acquisitions; mergers or tender offers; news of significant sale of assets; changes in dividend policies; and impending bankruptcy or financial liquidity problems. In short, the practice can occur when material information becomes available which could reasonably affect the price of the stock. Given that the 1929 laws have not prevented insider trading, further legislation is necessary but new ways of circumventing this type of legislation will require us to continue to review penalties to discourage the practice.

The line between legal and illegal trading remains murky and this will probably continue to be the case because it suits certain quarters. For example, a person who overhears two company executives discussing a deal on an aircraft or discovers a company memorandum left behind on a seat, neither of which is an unlikely scenario, may use this information to trade to his or her heart's content because he or she would be exonerated in any subsequent investigation.

Maximum penalties of €10 million and-or ten years' imprisonment for transgressions in this area, while new to Ireland, are somewhat conservatively pitched when compared to penalties for similar offences in the United States. In this context, one recalls the junk bond scandal in the mid-1980s when Ivan Boesky and Michael Milken were fined \$100 million and \$47 million, respectively, in addition to receiving long stretches in prison. In more recent times, the case of Martha Stewart, America's trend setter in domestic matters, captivated the US public when she was jailed for five months and fined a paltry \$30,000. Her crime was to offload \$225,000 of shares in a biotech company, ImClone Systems, in December 2001, just one day before federal regulators turned down a review of a cancer drug developed by the firm. The judge took into account her loss of freedom, reputation and prestige in arriving at the penalties imposed.

Insider dealing is regarded as a white-collar crime and this Bill sets out certain penalties to deal with it. More adequate treatment for such offences would be that anyone found trading on inside information must pay the Government an amount equal to the profit made in addition to other penalties. Anyone found guilty of lying, misleading or providing false information to a market abuse investigation should be subject to heavy penalties. EU directives in this matter bind us, however, and our legislation must comply.

The Bill provides the legislative framework for an Irish-authorised and regulated investment

*5 o'clock*

[Mr. Connolly.]  
fund structure that will allow for the pooling of assets by institutional investors. Pension schemes are operated by multinational companies in different jurisdictions for the benefit of employees in those jurisdictions. Economies of scale result in cost savings being made when these local pension funds are pooled, including a reduction in management fees, administration costs and custodial fees. Also, the pooling of assets permits smaller, individual funds to diversify their risk by using a larger number of investment managers than if they were operating on a stand alone basis.

It was emphasised that this Bill is designed for the financial services sector in Dublin. It is important, however, to remember that smaller business parks exist in rural areas, such as the Lough Egish business park in County Monaghan. If an international investor looked at the situation in that business park, he would see it does not have broadband and there is no way he would give it a second's consideration. Heroic efforts are being made to expand broadband across the State, with almost every town being dug up to lay broadband cable and this will prove to be a fantastic service. In Lough Egish, however, 12 companies are operating successfully and expansion is possible but it will not happen without broadband. If consideration was given to bouncing the signal from point A to B, we could overcome such difficulties.

In smaller towns, a small number of jobs would mean a great deal if they had adequate encouragement and support. It would give real meaning to decentralisation. Early this year we heard a great deal about decentralising but there are major difficulties with the project, although the intentions are good. The concept however, is to be welcomed. We could start by developing small centres. MBNA has offices in Carrick-on-Shannon and there is no reason we could not encourage such a business into an area like Cavan and Monaghan.

That is what decentralisation will become: international companies locating in small towns. An educated work force will be willing to move to them and that would then make them more attractive for Departments from Dublin. These issues must be addressed.

The IDA and Enterprise Ireland should not forget rural areas. We should ask about the number of jobs those agencies have attracted and how we will rebuild rural areas. We talked about hub towns and gateways but no real meaning was given to them. It was a nice strategy that got a week or two in the news but it has not delivered. Those ideas are good but they must be backed up.

**Dr. Cowley:** I welcome the opportunity to speak on this Bill. We would all wish for the best for our own areas and we all know how many jobs the Irish Financial Services Centre has brought to Dublin. That is the problem — the west has not

been offered the employment opportunities that exist in other areas.

I have often spoken about the need for a tax incentive scheme for the west, particularly Knock Airport. The Government is talking about the number of people using Dublin Airport increasing to 38 million from the present figure of 17 million, and discussing a third terminal. There is a terminal on the west coast at Knock Airport that is strategically located and could take many of those people away. It is projected that 500,000 will use it this year, compared to 17 million using Dublin Airport. It does not make sense to build more terminals at Dublin Airport, it would be better to develop the terminal at Knock Airport and think about building a second terminal there.

The situation in Knock should be recognised by Government, with investment there underpinned by a tax incentive scheme. There should be a financial services centre at Knock Airport to achieve balanced regional development.

I do not condone tax dodging, everyone should pay his or her fair share. There is, however, currently an anomaly where people in their 70s and 80s are being unfairly included in a trawl by the Revenue Commissioners where their aggregate investment in insurance company schemes exceeds €20,000. This Bill deals with provisions for investment funds but it is connected with people who invested in good faith. In many cases the initial investment was very small, around €2,000, but the fund grew over the years due to re-investment in other insurance companies by the investment manager. He took this money and moved it around on people's behalf. The small investment grew rapidly in the late 1970s and 1980s, with gains of 30% per annum. The accumulation of money from that re-investment by investment managers has driven many thousands of older people into the tax net who would not be liable based on the original amount invested. In many cases the original amount cannot be traced due to many of the original insurance companies going out of business, such as Norwich Union, Royal Life and Abbey Life.

While everyone must pay his or her share of tax, it is grossly unfair that the Revenue Commissioners are going back 25 years to go after small people who invested small amounts of money. No tax may be owed but, as is often said, old people who have no tax worries are the ones who worry most. Older people tend to worry about money and making ends meet. Now this terrible load has been put on them. It will be argued that if they have no tax to pay, they have nothing to worry about.

Many of these older people who took out insurance policies must make a declaration to the Revenue Commissioners by 23 May. A quarter of a century ago, people would put aside a few bob for a rainy day. Those individuals are now expected to account for all the original investment. How many Members can remember transactions from 25 years ago? This is unfair treatment of older people in their 70s and 80s,

particularly when the Government will use the statute of limitations. It will impose a limit of six years for its liability to limit payments to older people while still engaging in a tax trawl of 25 years to investigate older people for minimal investments.

In the mid-1970s when these investment type products were launched, the largest supplier and market leader was the State-owned Irish Life Assurance. Before 2001, the glossy brochures stated under the heading "tax" that all returns from the product were taxed at 24%. Irish Life claimed it paid the tax for the client. When the product was cashed in, there was no other tax for the client to pay. After 2001, the brochures stated that due to changes to exit tax provisions by the former Minister for Finance, Mr. McCreevy, the tax due was calculated at a standard rate of tax applicable at the time of encashment plus 3%. Hibernian Life and Pensions Limited stated in its brochure that it would deduct this tax and pay it to the Revenue Commissioners on the client's behalf. Many elderly people, particularly in the west, find themselves in this situation. The Government did well out of these products as it received the tax on the gains over the years. However, now it is pursuing the initial investment. This money was used in these investments to build property on the east coast. The Government has already got its pound of flesh out of older people.

I am not in favour of letting anyone who avoids tax off the hook. I do not condone the actions of those who invested large sums of money to avoid tax. However, the thousands of small investors, thinking of the rainy day, have been treated unfairly. They are being treated in the same way as the large tax dodger with the same penalties, possible prosecution and naming and shaming. These are the small farmers who supported Fianna Fáil in the past but will no longer do so.

**Mr. M. Ahern:** The Deputy is simply twisting the facts.

**Dr. Cowley:** Many of them were on the farmers' dole and, therefore, not liable for tax. Some got a few bob from a headage payment and put it aside for a rainy day or for the education of a son or a daughter. They have paid their taxes over the years, as claimed in the brochures. Before 2001 it was taken out of returns on the investment. After 2001, it was taken out as an exit tax. The Revenue Commissioners do not understand or even care that there is an inherent unfairness in this process. People do not have the money to pay and are worried sick and desperate that it will wipe out their life savings. For those deceased, their estates will be liable.

I accept that in some cases there is tax owing, but at the time so many people were not in the tax net. Whose fault is that? It is hardly the fault of the older people. Some 25 years later the Government is seeking this money from people, scared out of their lives, who are in their 70s and

80s. While some have telephoned the Revenue Commissioners' helpline, the majority are afraid to do so. In six days time, these people must make a declaration to the Revenue that they have not paid tax on their insurance investments or else face increased penalties, naming and shaming and possible prosecution. Many are not sure if they paid the tax when opening the investment and many companies involved have gone out of business. I ask the Government to intervene in this matter. Why should the trawl go back 25 years when the Government has limited its liability to six years? Why should the lower limit for the threshold be £20,000 or €14,000?

The Bill is also concerned with penalties. The Department of Enterprise, Trade and Employment has incorporated new provisions to raise the level of penalties in the core consumer legislation enforced by the Office of the Director of Consumer Affairs in sections 68 to 74, inclusive. Legislation includes the Sale of Goods and Supply of Services Act 1980, the Consumer Information Act 1978, the Package Holidays and Travel Trade Act 1995, the National Standards Authority of Ireland Act 1996, the Restrictive Practices Act 1972, the Prices Act 1958 and the Consumer Credit Act 1995. Penalties ranging from €127 to €1,905 are to be increased to €3,000, with the amounts for continuing offences and convictions also increased proportionately for breaches of consumer protection legislation.

The Director of Consumer Affairs raised the issue of the low level of penalties in consumer legislation in two consecutive annual reports. It was felt that dealing with this issue was a matter of urgency that could not await the outcome of the current review of consumer legislation. The section concerning the Package Holidays and Travel Trade Act 1995 was recommended by the Director of Consumer Affairs and the Department of Transport. It will be welcomed by holidaymakers as it increases the timescale within which a prosecution may be taken from 12 months to two years. This takes into account that since the original legislation was enacted, holiday brochures are published earlier and consumers, likewise, book their holidays earlier.

Many in the west believe the Government has given up the ghost in securing manufacturing industry there. IDA Ireland is charged with securing manufacturing jobs but it has been an abysmal failure in the BMW region. In County Mayo, IDA Ireland factories have been sold off to retailers such as the one in Ballina which is now a magnificent car showroom and the Volex factory in Castlebar which is another car showroom. What about those still involved in manufacturing? These companies are being induced to locate in China. However, they have given commitments to the area and provided employment. Many of them would love if the Government had confidence in them to continue their investments in the west. Manufacturing, fishing and agriculture are all in decline, leaving only services. However, jobs are needed to support the services.

**Mr. M. Ahern:** Everything will be depressed in the west with all this negativity.

**Dr. Cowley:** In rural villages in the west, small businesses find it impossible to make ends meet as their overheads are so great. However, their overheads are on a par with businesses in O'Connell Street in Dublin, with the same insurance, heating and staffing costs, and regulations to enforce. They must ensure the fire officer, who can be very hard to please, is kept happy. These factors and costs put a major onus on these small businesses, particularly those in the tourism industry, which has a short season. In the west, the tourism season is even shorter. A special concession should be given, or perhaps a special VAT rate, to provide people with some semblance of equality, particularly in the west in small villages like Achill where people find it hard to survive. It does not make sense, because balanced regional development cannot work if people are leaving the area, and half our graduates must do so because they cannot find work in the west. They must go to the greater Dublin area, which puts more pressure on that congested area. If Dublin were a boat, it would now be submerged under the ocean — the east coast would be submerged.

To develop Knock Airport, for example, makes great sense. Some €30 million is needed this year for a category 2 landing system at Knock. This would reduce the number of diversions, which is small, and would also put the airport on a level playing pitch with Dublin, Cork and other airports which have such facilities, and give Knock flights rapid turnaround times. The airport needs the space and investment. Jet aircraft, which are getting larger all the time, can land at Knock Airport, which has a runway second to none, but the turnaround time is limited because the apron is inadequate for those aircraft. Government investment is needed in the airport. That would be more logical than pouring more money into Dublin, which is already congested.

Industrialists are now finding out the truth of the matter. US-owned financial services group PFPC International moved from Dublin originally because it found it very difficult to hire and retain people in the Dublin market. It said its decision to invest outside Dublin was motivated by the availability of workers rather than cost considerations. The biggest factor was that it wanted to continue to grow.

Government must wake up. The CEO bells are ringing. Dublin is so congested that it can no longer move. Traffic is reduced to ass and cart pace and people find it impossible to get in and out of the city. The same is true of Dublin Airport, where queues of people wait. One has to allow another hour or two when flying from there. It does not make sense, when Knock International Airport lies almost fallow in a very strategic location in the BMW area and serves 13 counties. Why not put an international financial centre there? That could do the same for the

BMW area as it did for Dublin. There is a great need for proper investment in the west and this would be one way of providing it.

A sum of €365 million for the western rail corridor is a pittance compared to what has been spent and will need to be spent to sort out the congestion of Dublin and the chaos people face trying to get in and out of the city. The Government is now thinking of establishing a third Dublin airport terminal in a city where the numbers going through the airport will reach 38 million annually by 2025. That is an astounding figure when one considers that 500,000 people will pass through Knock Airport this year and more than 17 million will go through Dublin Airport. It does not make sense to leave half the country virtually fallow and underdeveloped while continuing to plough money into the attempted relief of the congestion problems in Dublin.

More companies will move out of Dublin. Should the IDA and the Government be providing money to coax industry to Dublin, a totally congested city? Why not remove those grants, or double them for companies coming west? That would be a positive move. The current decentralisation is not helping. There are wonderful companies in the west, such as Allergen in Westport which manufactures ocular lens solutions. These companies have proven themselves. They have put up with the existing infrastructural deficit and proved that in the west they are second to none as manufacturers. Why does the IDA not encourage people to go west when one considers that in the north and west Mayo area, 1,000 jobs were lost in the past few years? That is a great number of jobs. The situation does not make sense.

I congratulate past Governments on the success of the Irish Financial Services Centre, which boasts annual premiums of €13 billion, making it the fourth biggest reinsurance centre in the world. Surely that money could be spread around and not just kept in Dublin. I support the Bill but I hope that Government will take on board what I have suggested.

**Mr. Perry:** I am delighted to speak on this important Bill. Deputy Cowley has made a great case for a west of Ireland Taoiseach.

**Mr. M. Ahern:** That was in Private Members' time.

**Mr. Perry:** I have no doubt that when the vote is taken for Taoiseach, he will endorse the Mayo man for that job. One can see the huge imbalance between east and west. I fully agree that there is a lack of development on the west coast compared to the east coast, and a lack of investment in Knock Airport, with its potential as an international airport. Given the potential of low-fare airlines, I will be calling on Ryanair to include in its hub Knock Airport, where there is an extensive runway and substantial capacity. As Deputy Cowley asked, why build a second terminal in

Dublin when passengers could be brought to the west, to Shannon Airport but preferably to Knock Airport?

**Mr. M. Ahern:** They could come to Cork Airport too.

**Mr. Perry:** The capacity is there on the west coast. Deputy Cowley's point is valid. Dublin's capacity does not compare with that of the west, so why not have low airfare flights to the west, allowing people to travel from the west if they wish to go to Dublin or to go south. That would allow a real choice and a spread of wealth. When Deputy Kenny is appointed as next Taoiseach, I am certain that the level of imbalance will be corrected.

The level of debate about the Dublin Airport terminals is astonishing. Even Michael O'Leary—

**Mr. M. Ahern:** A convert to Fianna Fáil policy.

**Mr. Perry:** I am disappointed that Michael O'Leary would not look at the development of his airline business on the west coast. This is a very small country and people would travel from Knock all over the country. This would enhance the development of the western region.

Regarding the West on Track movement, I hope the report due from Pat McCann will ensure that we will not get a piecemeal approach. I hope we will get investment in the railway line all the way from Sligo to Limerick. It seems there is a possibility that the job might only be done in stages. It would be quite extraordinary if the railway line did not come via Knock Airport when the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív, is opening his Department at Knock Airport. I would be astonished if the line were to merely stop at Claremorris and not come via Knock, Charlestown, Tobercurry, Collooney and Sligo. That is what is needed. The potential railway cost of €365 million is not a great deal when one considers that the cost of Luas was underestimated by €300 million and cost almost €1 billion. There is an opportunity to open up the entire western coast. We are talking of investment funds, but regarding investment in the west we no longer need lip service. We need action and investment. Coming up to the next general election, over the next 12 or 18 months, people do not want a plethora of promises and commitments that the fund will be provided. We have heard such promises before. On this occasion the electorate will not be fooled. People want signed contracts, a guarantee that the work will commence and that the western track from Sligo to Limerick will be firmly committed to, along with a development timescale.

Deputy Cowley made an important point about Knock Airport.

It is a fantastic facility which is under-utilised. It has huge capacity and is run by an excellent general manager, Liam Scollan, and a good

board. I am astonished that some of the main carriers would not take a vote of confidence in the west and land aeroplanes in Knock, Shannon and Cork. All development need not take place in Dublin.

Ireland has become an attractive and competitive location for financial institutions and services. I support this Bill. I believe it will benefit the sector and, ultimately, the economy. Companies find Ireland appealing because of our highly skilled and educated workforce, our political stability and the attractive fiscal and regulatory environment we offer. To remain attractive, however, Ireland must remain competitive on the international scene. We simply have no other choice.

Our regulatory environment is a key component of our competitiveness and international reputation. Our low tax rate is also an important factor. Our highly educated workforce and low tax rates have been most beneficial for the growth of the economy. However, it is imperative that we strike the correct balance between innovation, supervision and protection. If we move too far on the side of draconian requirements, the funds industry will move elsewhere. If the regulatory regime is too light or lax, we run the risk of facilitating rip-off investors. Our reputation is at stake with every Bill we introduce so we must keep our international competitiveness to the fore when introducing new legislation.

The financial services industry is a key employer. More than 51,000 people work in the sector, of whom more than 17,000 provide wholesale or international services. The Irish Financial Services Centre has proved pivotal in our development and the development of our workforce. Since it was launched in 1987, it has become the centre of the State's financial services sector. It has been extraordinarily successful. The IFSC initially concentrated on developing sectors such as banking, corporate treasury and insurance. These sectors have expanded and are now the cornerstones of the centre.

Ireland has boomed in the 18 years the IFSC has been in operation and with that boom has come the expansion of the centre. Dublin currently plays host to half of the world's top 50 banks and is one of Europe's main locations for insurance, mutual funds and corporate treasury. This is something of which our nation can be immensely proud and we must strive to stay at this level. Institutions such as JP Morgan Chase, Merrill Lynch, ABN Amoro, NatWest and Citibank are now located in our capital. Not only do these companies provide employment, they also train our young people. This creates a highly skilled workforce in areas such as fund management, investment management, securities trading, assurance, asset financing and leasing, and broking.

A recent report by Deloitte management consultants, which was commissioned by IDA Ireland, reviewed future options for the international financial services sector in Ireland. This

[Mr. Perry.]

report concluded that there are still excellent opportunities to develop the sector based on innovation, skills and expertise. What particularly stood out was that the report identified areas in which Ireland could become a major European centre. These include specialist debt financing products and securitisation, managing global and regional banking products, developing and enhancing Ireland's position as a major centre for asset servicing, building scale in asset management and the positioning of Ireland as the pan-European location for insurance products.

The report was promising and we have much to look forward to in this sector. In fairness, I compliment the Government on the financial climate in which this economy has grown. It is important that we retain this level of growth and that changes in legislation are balanced and do not jeopardise it. The fact that Ireland has the most successful economy in Europe does not mean we do not still have major obligations to fulfil, particularly with regard to the development of critical infrastructure. Investment in the west must be considered.

We must play our cards right and ensure the necessary legislative controls are in place. It is important to introduce legislation but it is also important to police it. Week after week legislation is introduced in this House but the level of control in its implementation is another issue. It is similar to a business — one can introduce regulations but there must be management to supervise their implementation and make cross checks. In the marine sector, for example, there is a raft of legislation but the issue is implementing and policing it and providing the necessary funds to do that. Will the Minister indicate whether enactment of this legislation will impose a financial requirement on the State when implementing it?

A flexible, responsive and business focused regulatory system has been the cornerstone of Ireland's development and the Deloitte report recommended that we continue on that path. Our regulatory environment is a key component of both our competitiveness and our international reputation.

The funds industry has played a crucial role in contributing to our growth. The past decade has seen the industry experience rapid growth and today there are over 50 international funds administrators and more than 20 custodians in Ireland. This amounts to 7,600 people directly employed in the industry, with at least another 1,500 people indirectly employed with legal firms, accountancy firms and listing brokers. These companies are currently servicing 3,771 Irish domiciled funds and sub-funds with net asset values of €445 billion. Another €220 billion is under administration in non-domiciled funds. Dublin's reputation as a major international centre for funds administration and servicing lies at the centre of the sector's growth.

In 1987, when the IFSC was launched, the number of legislative vehicles that were available

to the industry was rather limited. There has been much legislative development in that time but the legislative provisions proposed in this Bill are required as a matter of urgency to maintain Ireland's position as a centre of excellence and allow the IFSC to maintain its leading position. This legislation will provide the framework for an Irish authorised and regulated investment fund structure, which will allow for the pooling of assets by institutional investors. It will introduce a new type of investment fund vehicle. It also provides for the introduction of cross investment and segregated liability for investment funds. These are important measures.

With regard to segregated liability, we must strive to achieve an ideal, that an investor who puts money into a particular sub-fund should be in the same position as if that sub-fund were itself a limited liability company. We need to focus on the needs of the investor, and security is naturally top of the list. Investor confidence is critical. The investor should be subject only to investment risks and liabilities incurred in the pursuance of the investment strategy connected with the sub-fund in which he has invested. He should not be exposed to potential liability as a result of activities in other sub-funds. Failure to implement segregated liability sub-funds would severely impact on Ireland's competitive position.

In this instance, we must look abroad and follow successful examples. France and Luxembourg have two of the largest fund markets in the EU and they have already introduced amendments to their legislation to provide for segregated liability for sub-funds. Our EU partners are important figures to look to for direction. EU directives, of course, also heavily steer us. It is to be welcomed that in this Bill the companies legislation is being amended in anticipation of the transposition of two EU directives, the directive on market abuse and the directive dealing with prospectuses.

We saw what happened with the collapse of Enron in America and the big corporate cover-up that took place in Wall Street whereby people signed off on false accounts and made money on the accreditation of top accountancy firms. Good corporate governance is most important. The EU prospectus legislation will make it easier to raise capital in Europe and increase transparency and market integrity. This is imperative for a secure industry.

Market abuse and insider dealing are also dealt with in the Bill. Both have always been elements in the sector. It was critically important that the activities that took place in America, which were signed up to by banks and accountancy firms, were exposed.

A number of necessary provisions and amendments to the Companies Acts are also proposed. They arise from difficulties with the practical operation of existing provisions. These provisions will help to facilitate operators using electronic technology, which is important. We are continually advancing ourselves on a personal and business level through technology and it is crucial that

the State recognises this in law. The proposed amendments will also help to address difficulties with the Companies Act, which only became apparent post-enactment.

In today's rip-off Ireland, it is imperative that we should continue to fight for our rights as consumers. People are being crippled by the heavy costs of goods and services, many of which are necessities. It is, therefore, welcome that this Bill will make necessary amendments to consumer law. It is proposed to increase the fines that can be imposed on conviction for breach of eight consumer protection Acts. It has been acknowledged for some time that the fines under certain consumer Acts were inadequate and the Director of Consumer Affairs has raised that point on several occasions. I, therefore, support this Bill for a variety of reasons and I hope it will be enacted because it will lead to a stronger economy and a stronger Ireland.

Ireland has been presented with a major investment opportunity through the enlargement of the EU. Many foreign workers are coming to Ireland so that full employment can be maintained and up to €48 billion is being collected in indirect taxation. The National Treasury Management Agency, under the careful management of Dr. Somers, is enhancing our reputation on the world stage, as it makes astute investments on behalf of the national pension reserve fund. The agency has a good track record. However, it is a pity the funds are not invested to address infrastructural deficits in the State, which could provide a return. Money is invested in foreign banks but it could be invested locally and a comparable return generated.

Public private partnerships provide a unique opportunity. If the NTMA invested in PPPs, it would provide a major vote of confidence. While Ireland has a wealthy economy, we all represent constituencies that experience significant deficits in services, for example, a lack of public transport in the BMW region. The growth in the economy is driven by demand for essential services and investment must be made in child care, hospital services and educational disadvantage. Exchequer receipts are unprecedented with €27 billion more being generated this year in indirect taxes than in 1997. There was never a greater opportunity for the economy to expand and it is important that financial institutions setting up in Ireland should invest.

Ethics in business are also paramount with appropriate corporate governance manifesting itself in total compliance with the laws of the State. Ireland is among the top five countries in which to invest safely. I congratulate the Minister of State on bringing forward the legislation. When the Bill is enacted, it will enhance Ireland's reputation. The establishment of the IFSC in 1987 was a brainchild of one individual and similar initiatives can be taken to create opportunities outside Dublin. Two thirds of the population live in the greater Dublin region.

There is an opportunity to develop Knock International Airport and the State should be obliged to assist in this regard rather than concentrating on Dublin Airport. The west presents a major opportunity for investment. Deputy Carty will advocate that the Government should invest €300 million in the western rail corridor, as proposed by the West On Track group. The line will connect Sligo, Limerick and Rosslare, and will not stop in Claremorris, as was suggested recently. The line should be extended from Charlestown through Tobercurry and Collooney into Sligo. Deputy Carty will endorse my position.

**Mr. Carty:** I will ensure the line goes as far as Charlestown and the Deputy can take it the rest of the way.

**Mr. Perry:** If the Deputy can deliver the rail corridor, he will top the poll in the Mayo constituency in the next election and, together with the election of a west of Ireland Taoiseach, we will all be happy.

**Minister of State at the Department of Enterprise, Trade and Employment (Mr. M. Ahern):** I thank Members for the useful debate we have had on this technical but complicated Bill and I appreciate their valuable contributions. Many interesting questions have been raised and I will address as many as I can.

Ireland is recognised as the domicile of choice for investment funds as well as being a centre of excellence for fund administration. We have been exceptionally successful in attracting international financial services companies and we want this trend to continue. Financial services is one of the most innovative and rapidly evolving sectors with new products constantly being reduced. It is also a global service and new financial centres are emerging across all time zones in the new globalised economy. Ireland must be up there with the best of them and, if possible, it should be ahead of the game.

However, it must be ensured the correct balance is struck between innovation, supervision and protection because if we get it wrong and introduce draconian provisions, the funds industry will move elsewhere. If the regulatory regime is too light or lax, we run the risk of facilitating the rip-off of investors. In addition, Ireland's reputation as a well regulated jurisdiction will suffer irreparable damage. A flexible, responsive and business-focused regulatory system has been the cornerstone of Ireland's development. Our regulatory environment is a key component both of our competitiveness and our international reputation and we are satisfied the balance in the legislation is correct.

I refer to the queries raised by Members. Deputy Hogan supports the Bill and he referred to the need to enact it as soon as possible. He queried whether the legislation is tardy but similar legislation has not been introduced in many

[Mr. M. Ahern.]

other jurisdictions such as Jersey. It has been introduced in Guernsey and it is on the way in Luxembourg. Ireland is not behind. Only one umbrella fund has been set up and, therefore, we are up to speed with what needs to be done to ensure inward investment is not lost. Deputy Boyle also referred to inward investment and I assure him we are paying close attention to the matter.

Deputy Hogan made reference to the section on compliance statements and expressed his delight that it had been referred to the CLRG. Deputy Burton also referred to compliance statements and seemed to believe that they related to small private companies or companies dealing with community groups. I assure her the compliance statement requirements relate only to public listed companies and large companies.

Deputy Hogan referred to the consumer strategy group, which was established in March 2004 to advise and make recommendations for the development of a national consumer policy strategy. The group was established against a background of concerns regarding the lack of a discernible national strategy, the increasing international focus on enforcement of consumer laws and perceptions on the part of certain groups of consumers, various media and economic commentators, that Irish consumers were not getting a fair deal. The group presented its final report to the Minister for Enterprise, Trade and Employment on 2 March 2005, which contains a significant number of recommendations involving a variety of different Departments and agencies whose activities impact on the interests of consumers. On 3 May 2005 the Government decided that the recommendations contained in the report should be examined by a high level inter-departmental committee, which will report back to the Government with a detailed implementation plan within three months. The Minister launched the group's report today.

In response to Deputy Hogan's comments on the groceries orders, I wish to point out that the restrictive practices groceries order of 1987 was made under section 8 of the 1972 Act on foot of a report of the then Restrictive Practices Commission. The order was put in place to curb anti-competitive practices such as low money and also to ban below cost selling, or net invoice price selling. The order covers all grocery goods as well as intoxicating liquor and other household goods ordinarily sold in grocery shops. It does not cover fresh fruit, vegetables or fresh and frozen meat and fish. Enforcement of the order is the responsibility of the Director of Consumer Affairs.

The groceries order is currently the subject of debate due to the recommendation of the consumer strategy group that it be revoked entirely. This recommendation is included in the report of that group, which was presented to the Minister and launched today. This is in contrast to the recommendation of the Joint Committee on

Enterprise and Small Business, contained in its recent report on the impact of the grocery multiples, that the order be retained in its current form. The Minister has announced that he will consult with all interested parties on the groceries order before making any decision regarding its future and will appear before the joint committee to discuss the issue again. In this context, the section of the Bill providing for the increase in the maximum fines that may be levied on conviction of violations of the order was drafted to update the provisions for breaches of the existing legislation, which remains on the Statute Book and is enforced by the Office of the Director of Consumer Affairs.

I wish to inform Deputy Burton that the inquiries to which she made reference relate specifically to insurance matters, which now fall within the remit of the Minister for Finance. Deputy Burton also raised the need for appropriate regulations. The Irish Financial Services Regulatory Authority is the regulatory agency for all Irish investment funds, irrespective of their legal structure. All investment funds established in Ireland must be authorised by IFSRA and the investment manager of the fund must be approved as such by the authority. In addition, the other service providers to the fund, most notably the fund administrator and custodian trustee, must be based in Ireland, approved by IFSRA to act as such and are subject to the ongoing supervision of the authority. IFSRA regulates both the initial authorisation and the ongoing supervision of investment funds. The regulatory framework for investment funds is detailed in a series of Central Bank notices and related guidance notes. IFSRA notices and guidance notes do not distinguish between the different legal forms of investment funds.

In response to the concern raised by Deputy Burton about the need to protect consumers in the context of cross investment and segregated liability, IFSRA will ensure that there is no double charging and that full transparency is observed.

Deputy Boyle and a number of other Deputies made reference to future developments in company law, particularly regarding the consolidation Bill that is due for consideration shortly. A significant amount of work has already been undertaken by the Department, with the support and assistance of members of the company law review group, to implement the recommendations of that group on changes to company law. These recommendations, when implemented, will radically update and reform company law. In brief, it is proposed to divide the current provisions into three broad categories, namely, pure company law, market related company law and provisions related to investment companies currently contained in company law.

I thank Deputies who made many interesting points during the debate. Some points raised were not strictly relevant to the matter at hand, but they were interesting nonetheless. During the debate, a reference was made to foreign direct

investment into Ireland that implied that it was falling. However, in the foreign direct investment area, IDA Ireland continues to win significant new green field and expansion projects, particularly in the areas of high technology, pharmaceuticals and medical devices. A total of 70 such projects was negotiated by IDA Ireland during 2004. Prospects for global foreign direct investment in 2005 and beyond are considered positive and despite a general decline in the volume of FDI available internationally, Ireland has managed to increase its share of both global and EU investment. Currently IDA Ireland has a healthy pipeline of more than 30 potential projects.

I thank those who took part in the debate and I look forward to the speedy progress of this Bill.

Question put and agreed to.

**Investment Funds, Companies and  
Miscellaneous Provisions 2005 [Seanad]:  
Referral to Select Committee.**

**Minister of State at the Department of  
Enterprise, Trade and Employment (Mr. M.  
Ahern):** 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.

**Veterinary Practice Bill 2004 [Seanad]: Second  
Stage (Resumed).**

Question again proposed: "That the Bill be now read a Second Time."

**Mr. Carty:** I welcome the opportunity to speak on this very important Bill because it affects the agricultural sector, which is vital to our economy and our exports.

The veterinary profession has played a major role in the development of the agri-food sector. The professionalism and commitment of its members in the area of animal diseases has enabled our livestock sector to progress and improve and by so doing, provide a safe raw material for our developing food industry. Developments in veterinary medicine and treatment techniques have ensured that considerable progress has been made in combating a range of animal diseases which would have threatened the stable food supply we now take for granted.

Veterinary practice was traditionally based on animal medicine and disease control and prevention. However, in more recent years food safety, trade and animal welfare have become extremely important issues.

The veterinary profession now carries out inspections and certification functions at various stages in the food chain to verify both the standard of animals entering the chain and the

standards of the processing operations. This is vital to the security of the food chain and the high standard of Irish food products on the international market.

It is important, given the onerous responsibility placed on veterinary practitioners, that regulation of the profession meets the highest standards. Regulation should also facilitate the further development of the profession and its individual members. Some of the legislation goes back almost 70 years. While it was appropriate at the time, it no longer keeps pace with changing practices and technology. This new Bill updates the regulations and takes account of the various changes in veterinary medicine that have taken place in recent years, as well as planning for the needs of future development.

I welcome in particular that the Bill makes it an offence for a person other than a veterinary practitioner to practise veterinary medicine. Stringent penalties, which can range up to €130,000 and-or five years imprisonment, are provided in the case of a first offence.

Debate adjourned.

**Disability Bill 2004: Order for Report Stage.**

**Minister of State at the Department of Justice,  
Equality and Law Reform (Mr. Fahey):** I move:  
"That Report Stage be taken now."

Question put and agreed to.

**Disability Bill 2004: Report Stage.**

**Acting Chairman (Mr. McCormack):** Amendments Nos. 2 and 3 are alternatives to amendment No. 1. Amendments Nos. 1 to 3, inclusive, will be discussed together by agreement. Is that agreed? Agreed.

**Aengus Ó Snodaigh:** I move amendment No. 1:

In page 5, lines 5 to 25, to delete all words from and including "ENABLE" in line 5 down to and including "INCLUSION" in line 25 and substitute the following:

"AFFIRM, PROTECT AND VINDICATE THE EQUAL RIGHTS OF PEOPLE WITH DISABILITIES, TO ALLOW FOR POSITIVE ACTION MEASURES TO ENABLE PEOPLE WITH DISABILITIES TO REACH THEIR FULL POTENTIAL, TO LIVE WITH MAXIMUM INDEPENDENCE, AUTONOMY, PRIVACY AND DIGNITY, AND TO PARTICIPATE IN AND CONTRIBUTE TO IRISH SOCIETY ON AN EQUAL BASIS, TO GUARANTEE A MINIMUM STANDARD FOR THE PROVISION OF DISABILITY-SPECIFIC SERVICES, TO GUARANTEE THE PROGRESSIVE REALISATION OF THE RIGHT OF EQUAL ACCESS TO ALL PUBLIC BUILDINGS AND SERVICES."

[Aengus Ó Snodaigh.]

Bhí mé ag labhairt ar an leasú seo ag tús na díospóireachta. Tá leasú uaim féin agus ceithre cinn ó Theachtaí eile, a bhí ag iarraidh leasú a dhéanamh ar an teideal fada ar an Bhille seo. Tá muid ag iarraidh cur ina luí ar an Rialtas gur ceist cearta í agus gur gá don Rialtas, sa chéad dul síos, meas a thaispeáint sa chuid seo den Bhille ar na cearta atá ann. Tá muid ag lorg cearta bunúsacha. Ní hé go bhfuil muid ag lorg acmhainní, maoiniú nó athruithe bunúsacha. Tá muid ag lorg cearta, agus, sa deireadh thiar thall, bhí an deis ag an Rialtas — agus tá fós — glacadh leis go bhfuil praiseach déanta aige suas go dtí seo de cheist an Bhille um Míchumais atá os ár gcomhair, gur dhein sé praiseach den Bhille deireannach, agus, fós féin, nach bhfuil muid tar éis an pointe a shroichint nuair is féidir liomsa — nó, glacaim leis, Teachtaí eile an Fhreasúra — glacadh leis seo mar Bhille um Míchumais, toisc nach bhfuil an Rialtas ag déanamh na rudaí bunúsacha a iarradh air a dhéanamh, is é sin, cearta a thabhairt dúinn.

The Sinn Féin position in a nutshell is that we support rights-based disability legislation. This Bill is not rights-based. It does not give any right to the disabled in our community. Even with the few amendments tabled and accepted on Committee Stage, this Bill is not good enough for the Government's disability legislative consultation group. It is not good enough for the dozens of disability representative groups that made submissions to the Joint Committee on Justice, Equality, Defence and Women's Rights and it is not good enough for me or my party. This legislation should never have made it this far. I urge the Government to reconsider and withdraw it. If it is unwilling to withdraw it, I urge it to adopt the amendment I have tabled to ensure that at least we come out at the end of this process with rights-based legislation.

When we talk about the need for rights-based legislation for people with disabilities, we are not talking about legislation only for the estimated 8.3% of the population, the approximately 325,000 people with disabilities, according to the Central Statistics Office, whom we want this Bill to look after. We are ensuring that not only they, but also all society and their future are looked after through this legislation. It must also look after their families, carers and service providers.

When we talk about rights-based disability legislation, we are talking about legislation that will benefit all society. Any of us could have a disabled child, grandchild, niece or nephew. Any of us could become disabled as a result of an accident, a late onset condition or, what we all face, old age. The same could happen to our parents or a loved one. Therefore, when we talk about rights-based disability legislation we are not talking about special rights for just the 325,000 or some of them. We are talking about equal rights for everybody so that we may never find ourselves in a situation where a physical, mental, intellectual, emotional or sensory condition

causes us or our loved ones to be excluded from society and all the everyday abilities that non-disabled people take for granted.

We are talking about rights for all and my amendment seeks to change the Long Title of the Bill to reflect that. I want to include in the Title the affirmation, protection and vindication of equal rights for people with disabilities, to allow for positive action measures to enable people with disabilities to reach their full potential, to live with maximum independence, autonomy, privacy and dignity, and to participate in and contribute to Irish society on an equal basis, to guarantee a minimum standard for the provision of disability-specific services, to guarantee the progressive realisation of the right of equal access to all public buildings and services.

This is just the start of what we want and does not include all the amendments we hope will be adopted. I hope the Minister of State will accept this amendment. The Minister for Justice, Equality and Law Reform's argument that disability rights somehow undermine the rights of others simply cannot withstand logical scrutiny. It is little wonder that the Government's attempts to defend its approach on Second and Committee Stages were weak and made little sense. The Government has been trying to defend the indefensible.

Almost a decade has passed since the Commission on the Status of People with Disabilities, which was chaired by Mr. Justice Fergus Flood, recommended the introduction of a disabilities Bill. He hoped that such a Bill would outline the rights of people with disabilities and specify a means of redress for those whose are denied their rights. Such matters are not included in the Bill before the House, but amendment No. 1 is the first in a series of amendments designed to correct such omissions. The ninth recommendation in the commission's report, which established the benchmark against which Deputies should judge this legislation, stated that any disabilities legislation "should outlaw all discrimination against people with disabilities and should require public and private bodies, employers and educators to make reasonable accommodation to meet their specific needs".

The Human Rights Commission and Amnesty International have reminded Deputies that we need to meet Ireland's international obligations as we frame this legislation. The Minister of State and the Department of Justice, Equality and Law Reform have failed to meet such obligations in this legislation, which does not give any status to the rights which flow from Ireland's international obligations. The Human Rights Commission has reminded us that the relevant human rights standards are outlined in the International Covenant on Economic, Social and Cultural Rights, the European Convention on Human Rights and Fundamental Freedoms and the Revised European Social Charter.

The Human Rights Commission has listed the main requirements of international human rights

law which are relevant to the Disability Bill. Opposition Members have tried to meet those requirements in amendments like amendment No. 1. The commission has argued that the provision of disability specific services “must be effectively centred on an individualised assessment of needs”. It has clearly stated that “mechanisms for the allocation of funding and the provision of services must effectively guarantee the progressive realisation of the economic and social rights” of people with disabilities. According to the commission, “the human rights of persons with disabilities must be the paramount consideration in the rationalisation of resources and services”.

The Human Rights Commission has said that mechanisms for the allocation of funding and the provision of services should “guarantee that basic standards of services never fall below a floor” that is “consistent with the imperative of human dignity” and human rights. The commission has said that disabilities legislation “must provide effective remedies in terms of enforcement”, based on “fair and independent” procedures. It added that the State’s obligations “extend to ensuring that the proposed systems provide equal participation in society for persons with disabilities”.

When I was preparing to table my Report Stage amendments, I read the Human Rights Commission’s criticisms of the Bill. The commission stated that “the proposed system of funding under the Bill affords service providers a wide discretion to deviate from the provision of resources identified as being required by persons with disabilities”. After I had completed my list of amendments, I noted that the commission stated:

The most important issue in addressing those needs is the putting in place of adequate funding and the provision of services which guarantee—

(i) the ‘progressive realisation’ of the economic and social rights of persons with disability; and

(ii) that standards of services never fall below a floor of core minimum standards consistent with the imperative of human dignity.

The commission is urging Members of the Oireachtas “to ensure there is a presumption in favour of providing the necessary resources except in exceptional circumstances”. The commission has argued that the current Disability Bill does not guarantee the progressive realisation of rights or core minimum provision. The Bill does not explicitly state that nothing in it will diminish the existing rights of people with disabilities, under the European Convention on Human Rights Act 2003 or other equality legislation.

The Human Rights Commission “recommends that the definition of disability contained in the Bill should be amended to reflect international

standards” and should be inclusive rather than exclusive. It is concerned that the assessment process is not sufficiently independent, that there is no reference in the Bill to services “as of right” and that there is no presumption in favour of the progressive realisation of rights. It is concerned that the proposed appeals procedure creates a number of obstacles to “effective and reasonable access to remedies”. In particular, the commission feels that “the general exclusion of court proceedings” violates international standards of justiciability. I have tried to remedy some of these problems in amendment No. 1.

The Human Rights Commission has also argued, based on international law, that there is an “imperative for a rights-based approach”. It has made clear that “there are basic levels of services which must be guaranteed by the State”. It believes that there is a right under international law to the “progressive realisation of rights and the right to certain basic levels of services”, including an unqualified right to an independent assessment of needs. The commission has warned that if such rights are not upheld Ireland could end up in the same boat as France, where little progress has been made by people with disabilities despite the enactment of disability legislation as long ago as 1973.

**Acting Chairman:** I accept that the Deputy’s amendment is very broad, but he is not entitled to make a Second Stage speech at this point.

**Aengus Ó Snodaigh:** I know that. I am trying to outline the context in which the rights I would like to see contained in this Bill should be delivered. My amendment seeks to amend the Long Title of the Bill. I quoted from the Human Rights Commission, which seeks the inclusion in the Bill of minimum standards and guarantees. I mentioned that little progress was made in France because the legislation in that country was not based on rights. If the Acting Chairman allows me to finish this point, I will not have to repeat it when we are discussing other amendments which are related to the amendments currently before the House. I could make some of these arguments during the debate on amendment No. 5, for example, but I would prefer to make my points now rather than dragging out the matter at a later stage. Amendment No. 1 is the most important amendment I have tabled. I ask the Acting Chairman to bear with me for another couple of minutes.

Like the Human Rights Commission, the Irish section of Amnesty International has concluded that the Government has not fully met its international human rights obligations in this Bill. In its submission to the joint committee, Amnesty International reminded Deputies that the UN Committee on Economic, Social and Cultural Rights was very critical of Ireland’s treatment of people with disabilities. In its 2002 report, the UN committee noted the “favourable economic conditions” in this State. It observed that no insur-

[Aengus Ó Snodaigh.]  
 mountable factors are preventing the State from effectively implementing the International Covenant on Economic, Social and Cultural Rights, which has been binding on the State since 1989. The UN committee instructed the Government to introduce rights-based disability legislation that does not preclude judicial redress.

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

**Aengus Ó Snodaigh:** This Bill precludes judicial redress and is not rights-based. Such matters are covered in my amendment No. 1, as well as in amendment No. 2 in the names of Deputies Lynch and Finian McGrath. They can elaborate further on that amendment.

It should be noted that the Equality Authority considers that the Disability Bill does not add value to the existing equality legislation. I am addressing such concerns in the amendment before the House. When Ireland signed certain international agreements and the Commission on the Status of People with Disabilities issued 400 recommendations in 1996, the Government entered into new obligations relevant to human rights and the equal rights of people with disabilities. I refer, for example, to the Good Friday Agreement, which is important but has been ignored. That Agreement guarantees the adoption in this State of at least equivalent measures to those available in the Six Counties. The Government has not done that, which is another concern I will address at a later stage.

**Acting Chairman:** The Deputy will be aware that many Deputies wish to speak on the amendments. You have been speaking for 20 minutes.

**Aengus Ó Snodaigh:** As far as I know, I have the right to speak as long as I address the amendments.

**Acting Chairman:** The Deputy could have consideration for other Members.

**Aengus Ó Snodaigh:** I hope the Government will have the consideration not to guillotine the Bill, which it intends to do, as I read on the draft Schedule for next week. If it does not do so, it will allow all the time we need to make all relevant points. We tried to impress this point on the Government on Second Stage and Committee Stage but, so far, it has not listened. I will have to repeat the point *ad nauseam* until it listens.

I want to tidy up one or two points. I referred to commitments to which the Government signed up, including EU equality directives and the European Convention on Human Rights, which tie in to the reason rights-based legislation is needed. The former Minister of State with responsibility in this area, Deputy Mary Wallace, established the disability legislation consultation group in 2002, at the time of the previous Bill. That was thought to be a brilliant development. It was thought that the Government had, at long

last, listened and then withdrawn the Bill, and that it would come back with rights-based legislation because that was the basis on which the previous Bill was withdrawn. The Government did not do so and that is why we are trying to ensure that the Bill is rights-based.

A number of groups — the Forum for People with Disabilities, the National Association for People with Intellectual Disability and the National Parents and Siblings Alliance — have recently withdrawn from the Government's consultation group precisely because the tenor of my amendment has not been delivered. In keeping with the proposed amendments and lobbying of the groups, I hope the House will adopt some of the amendments I have put forward.

The Bill and its Long Title are fundamentally flawed because a reference to rights or a right to equal participation is not included. I will return to other issues during discussion of other amendments. It is a pity that on Committee Stage and during this Report Stage debate we will not be able to debate many of the amendments which would make these rights——

**Acting Chairman:** If the Deputy continues for much longer on amendment No. 1, we certainly will not be able to debate many of the amendments.

**Aengus Ó Snodaigh:** We will not debate them this evening because I hope I will get my right to reply.

**Acting Chairman:** You will get every right but the Chair can insist on not allowing repetition in a debate.

**Aengus Ó Snodaigh:** I repeated what I said on Second Stage and Committee Stage. I intend to conclude by commending amendment No. 1 to the House. I am committed to ensuring that at some stage we will have rights-based disability legislation. I will continue *ad nauseam*, if need be, affirming the point that the Bill is not what was intended by all the groups which played a role in the consultation process. It is not what those groups hoped for following the debacle of the first Bill. Agus é sin ráite, molaim leasú Uimh. 1 aríst, agus tá súil agam, fiú ag an phointe seo, go n-éisteoidh an tAire linn agus go nglacfaidh sé leis.

**Mr. F. McGrath:** Amendment No. 2 states:

In page 5, lines 5 to 12, to delete all words from and including "THE" in line 5 down to and including "NEEDS," in line 12 and substitute the following:

"CERTAIN RIGHTS FOR PEOPLE WITH DISABILITIES, INCLUDING THE RIGHT TO THE ASSESSMENT OF NEEDS OCCASIONED TO THEM BY THEIR DISABILITIES, AND TO A STATEMENT OF SERVICES COMMENSURATE WITH THOSE NEEDS,

TO ENABLE MINISTERS OF THE GOVERNMENT TO MAKE PROVISION FOR THOSE SERVICES.”

I urge the House to support the amendment, which deals in strong language with the broad issue of rights for people with disabilities.

The Bill is flawed. The Government does not intend to deliver rights-based legislation for people with disabilities. That is the core issue underpinning the three amendments, as well as touching on the broader debate. My amendment would give teeth to the Bill because it is strong. It is essential that we remember the time of the Special Olympics in 2003, when the Taoiseach gave a commitment that we would have legislation better than anywhere else in the world. Now is the opportunity for the Government and the State to introduce that legislation. The Government needs to take on board a progressive realisation of rights. It must also take on board the issue of rights for people with disabilities, with the focus on services.

Many people are concerned that the Bill may be unconstitutional and in breach of the European Convention on Human Rights. For example, the right of access to the courts is covered by Article 34.1 of the Constitution and the right of access to the courts within a reasonable timeframe is covered by Article 6 of the European Convention on Human Rights. A further issue, the right to an appropriate education, is covered by Article 42.4 of the Constitution, as interpreted in the O'Donoghue judgment of 27 May 1993. The courts have been the only arm of the State to vindicate the rights of people with disabilities, who have been shamefully and deliberately neglected by a State which has manifestly failed them.

A Department of Education and Science memorandum in 1998 stated that the inadequacies of special education services were being exposed in the High Court on an almost daily basis. It is now well established that the courts are no longer prepared to tolerate the present situation. Rather, they are increasingly directing the State to put the necessary support services in place. In virtually every case, the State has been found to have failed in its obligation under Article 42 of the Constitution to provide for free primary education for all children. It is also well established that the courts will intervene to vindicate the constitutional rights of the citizens. This debate is linked to amendment No. 2.

When discussing the Bill in the context of the certain rights referred to in the amendment, it can be clearly seen that the State is opposed to rights-based legislation. This blatant opposition by the State was made abundantly clear on 13 January 1999 in the progress report on the implementation of the recommendations of the Commission on the Status of People with Disabilities, entitled *Towards Equal Citizenship*. The report stated, in a manner relevant to the amendment, that the Department of Finance:

cannot accept these recommendations which imply the underpinning by law of access to and provision of services for people with disabilities as a right. This right, if given a statutory basis, would be prohibitively expensive for the Exchequer and could lead to requests from other persons seeking access to health and other services without regard to the eventual cost of providing these services.

Is it any wonder that the State proposes the Bill? After all, the State will be the only beneficiary should the Bill be enacted. That is the core issue with regard to amendment No. 2.

In the High Court in October 2000 Mr. Justice Robert Barr, when referring to the State's pleading of scarce resources as an excuse to deny disabled person's their rights, stated:

It seems that the reason for that unhappy state of affairs is a lack of understanding by finance providers of the status and implications of the constitutional obligations of the State and in consequence an inability on their part to prioritise in constitutional justice claims made on the resources of the State by those having such rights which the State has an obligation to vindicate in full and as a matter of urgency.

I understand where the Minister is coming from. Anybody who believes in rights for people with disabilities can see the fingerprints of the Department of Finance all over the Bill. Many other Departments are unhappy with this situation.

I strongly support the groups which have expressed their clear opposition, some of which have walked out of the consultative group. I remind the Minister of State that delegates from NAMHI, an organisation which represents 28,000 intellectually disabled people, recently voted at one of their conferences on a motion which stated that this Bill is so fundamentally flawed that merely asking for it to be amended is futile and that it should be replaced with rights-based legislation. The motion was proposed by Pat O'Hanlon, mother of Ryan O'Hanlon, and Marie O'Donoghue, mother of Paul O'Donoghue, and unanimously passed at the NAMHI conference in Sligo. This organisation promotes the rights of people with disabilities. My second daughter has a disability and the people who work in NAMHI are parents and service providers and know what they are talking about.

I urge the Minister to carefully consider my amendment.

**Ms Lynch:** We are at a different stage with regard to the Bill. We did not hold out any great hope that there would be any huge changes. Those of us who sat through Second and Committee Stages realised the Minister was not for turning and asked many questions but nothing happened.

My amendment relates to the Title of the Bill and asks for the deletion of lines 5 to 12 on page 5 and the insertion of the provision of certain rights for people with disability, including the

[Ms Lynch.]  
right to the assessment of needs occasioned to them by their disability and to a statement of services commensurate with those needs, to enable Ministers of the Government to make provision for those services. If one was not aware of the background to this Bill, and had just dropped in from outer space or another country, one might think that on the face of it the amendment is very balanced and fair and not hard-hitting. However, if one knew the background to the Bill one would also realise that the amendment goes to the very essence and heart of the Bill.

This amendment refers to the person and how one deals with a person who has a disability. This Government would like to regard people in terms of their disability. However, that is not what this legislation should be about in any way. It should be about the person and how we can provide services to ensure he or she can live as normal a life as possible. People should have a right to be able to come in to the House and listen to us, not that we always make much sense. We should not have superior rights to others and this is what my amendment is about. It is concerned with treating people as equal citizens and dealing with the difficulties which we have placed in their way.

The list of amendments is possibly longer than the Bill itself, and I would like to get through as many of them as possible. There are certain elements of the amendments which the Minister should examine. He promised to come back to the committee with regard to the issue of the Ombudsman and the DLCG. What happened with regard to that undertaking? Was it agreeable? Has it fallen apart? I was speaking to somebody involved in one of the groups that has walked away from the consultation process. He was not angry or annoyed, just completely disillusioned. He finds it very difficult to cope and feels that the Government is like the Grand Old Duke of York in that it marched the group up the hill only to turn around and march it down again. He said that the Government kept the group within a consultation process for two years, always holding out the promise and expectation that it was listening. However, it did not listen. Its mouth was shut but its ears were not open. As a result we have legislation that bears no relationship to the needs of people with disabilities.

It is certain that this Bill will end up in the courts, some elements quicker than others. We cannot afford to do it but we cannot afford not to — I am of a generation that heard that argument in respect of equal pay for women. The same economy now demands that women go out to work but states that it cannot afford child care or to give equal rights to people who happen to have a disability. I do not accept that argument. Of all of the things we can afford, we can afford justice.

**Dr. Cowley:** I am grateful for the opportunity to speak on these amendments which state strongly what needs to be in the Bill and what is

lacking, namely, the equal right of people with disabilities to be guaranteed services. The amendments tabled by Deputies Ó Snodaigh, McGrath, Lynch, Stanton and Murphy go to the core of what is lacking in the Bill. This Bill could more easily be called the resources dependent disability Bill. There is every sort of weave and dodge to try to ensure that the Government does not have to make the necessary commitment to ensure people with disability have some chance of a normal existence.

The rejection of these amendments flies in the face of what the Taoiseach and Tánaiste have said in their speeches regarding disability. The Taoiseach stated that he wanted a disability Bill that was the best in the world and the Tánaiste talks about supporting and reinforcing equal participation in society by people with disabilities. I ask the Minister of State, Deputy Fahey, to accept the amendments because they represent what the Bill is about.

People with disabilities strongly state that the Bill was thrown out in 2002 for the very reasons that these amendments attempt to address. There should be a right to services and an obligation on the Government to ensure that if somebody has a disability they have the right to access the services they need. The Government is giving the wrong message in rejecting these amendments. Everybody thought it would be third time lucky, but people are very concerned about the outcome. There is a feeling that the entire Bill should be thrown out once again. There would have been no shame in doing so considering the Government is going back on its promises. It went to the trouble of setting up the DLCG as a consultation forum in which to identify all of the issues that should be included in the Bill. I cannot understand why the Government went to the trouble and expense of setting up such a forum and then did a complete *volte face* and denied everything that was clearly outlined by the forum. People were consulted and they had high hopes. The Government has a case to answer for letting down the people who thought it would help them and who elected it to do the job. People will remember if these amendments are not accepted because they have been clear in their views.

There is a complaints system in place but it must be simplified and made more accessible. On the appeals system, there is a right to an assessment but once the assessment is complete there is no right to services. That is leading people up the garden path, so to speak. We are telling them the services they should have yet there is no obligation on the Government to provide them. The Government has every reason, be it political or financial, to decide a person would not get those services. That is not the type of society we want or the one everybody felt would be created with the introduction of a proper Disability Bill.

The Bill must clearly ring-fence disability specific resources. These amendments would go some way towards doing that but that will not happen. We have had much talk about mainstreaming dis-

ability services and disability proofing legislation and Departments but a recent survey showed that only 60% of Government buildings had proper accessibility for disabled people. Without a clear statutory duty on all Departments and public bodies to include people with disabilities in their plans and services, with appropriate monitoring and accountability, this Bill accounts for nothing. These amendments would have been the way forward. Public services should include all those provided in the public system by statutory or non-statutory instruments. The Bill does not take account of the wider needs of people with disabilities.

People with disabilities need housing, health services and all the other services, which they are not guaranteed in the Bill. If they have a problem with the assessment of needs, there is no proper appeal system in place for them.

Clarity is needed on the impact of the Disability Bill and on section 14 of the Equal Status Act. There is a need for Government to re-examine this issue. The Government has done a gross disservice to disabled people and to itself. Some might cynically say the Bill is a way of stopping further cases being taken such as the Sinnott case, which was the only means whereby disabled people could get the services they needed. It is a terrible indictment of Government that disabled people have to go to such an extent. The only appeal available now will be on a point of law, which is not acceptable. I strongly support these amendments.

**Acting Chairman:** I call Deputy Stanton and apologise for not calling him before Deputy Cowley.

**Mr. Stanton:** I wish to speak to amendment No. 3. It has been said that this Bill is fatally flawed. I do not say this lightly but it probably is flawed. There is a flaw at the heart of the Bill and my advice is that it may not withstand a challenge.

Line 3 of the Long Title appears to blame people with disabilities for their disabilities. The phrase “occasioned to persons with disabilities by their disabilities” is superfluous. It does not serve any purpose and is insulting. It is like Old Testament language because it is blaming the sinner for the sin. There is no need for it and the Minister should delete it from the Long Title. We know people with disabilities have needs. We do not have to indicate in the Long Title that they have needs because they have disabilities. We know that and people with disabilities know it. I do not understand the reason for that phrase in the Long Title.

In line 4 of the Long Title the Government is inserting a reminder to everybody that this is not a rights based Bill but a service Bill that deals with health and education needs only in a very limited way. It reminds us that the Bill is “to enable Ministers of the Government to make provision, consistent with the resources available to them and their obligations in relation to their

allocation, for services . . .”. That is an immediate reminder that the Bill will be resource constrained. Problems arise with that later in the Bill which I have identified and to which I will alert the Minister of State.

I suggest deleting the insulting phrase which blames people with disabilities for their own disabilities because it serves no useful purpose. Nor is there a need for a reminder that the Bill is resource based. To keep the Long Title simple and straightforward it should read: “An Act to enable provision to be made for the assessment of the health and education needs of persons with disabilities and to enable Ministers of the Government to make provision for services to meet those needs . . .” and so on. That section of the Long Title should be deleted.

The other two amendments mention rights. Perhaps the Minister of State will tell us, having thought about it over the past few days, whether the Bill gives rights of any sort to people with disabilities. The right to an assessment is mentioned but that is resource constrained. There is no actual right in the Bill to anything. There are certainly no rights to services of any sort. It is totally dependent on resources. People will have assessments of their needs carried out and the liaison officer will then have to determine the services that can be made available. The Minister might tell us how the liaison officers will do that because there is no reference to it in the Bill. The way a liaison officer will carry out that function is not clear in the Bill. The Bill is silent in that regard. Will the liaison officer have to carry out an audit of the accounts of the Health Service Executive to determine if there is the necessary funding to make a service available? How will the liaison officer do that? The Bill states that a liaison officer will have to do that. That comes back to the issue of resources. We are reminded in the Long Title that the Minister has to make provision consistent with the resources available but it does not explain how the liaison officer will do that. The Bill states that the Minister will devolve his or her authority to the liaison officer but it is unclear how the liaison officer will act. That is an impossible task to give a liaison officer.

My amendment would simplify the language in the Bill, remove the insulting phrase I referred to and the reminder about resources, which are not necessary in the Long Title. If the Minister has to insert it later in the Bill, fair enough but it is not necessary to include it in the Long Title. I will conclude as I am conscious that there are many amendments to discuss and I am interested to hear the Minister of State’s reply.

**Mr. Cuffe:** The Bill is exceptionally and fundamentally flawed.

**Acting Chairman:** We are on amendment No. 1.

**Mr. Cuffe:** To that end, amendment No. 1 is an attempt to try to introduce a better definition in

[Mr. Cuffe.]

the Bill. I am concerned, however, about the very limited movement that has been made by the Government to deliver on rights. I am concerned that organisations are walking away from the Bill, so to speak. I am concerned that the Minister for Finance threw money at disability organisations in the budget last December in an attempt to win the consent of those organisations but it is not working. I am disturbed that the attempt to indulge in pork-barrel politics last December has led to divisions within the ranks of those organisations working in the area of disability.

The rights that disability groups sought should not be watered down to a right merely to an independent assessment. People with disabilities must be entitled to the same civil and human rights as others. It is not rocket science. The Americans With Disabilities Act was signed by President George Bush senior in 1990. That law mandated that local, state and federal Government buildings and programmes be accessible to employees and people using the services, that businesses with more than 15 persons make reasonable accommodations for disabled workers and that public accommodation such as restaurants and shops make reasonable modifications to provide access for disabled members of the public.

It seems curious that George Bush senior, hardly a paragon in the defence of human rights, made more provisions 15 years ago in the United States than the Irish Government is prepared to make today. This Bill should be about accessibility, mobility and ability, and should provide for obligations and participation. Most of all it should provide rights and I am concerned the Minister of State has not gone the extra mile to deliver that.

I hope in the debate which starts with these fundamental amendments on how we define the Bill he goes that extra mile. While I am keen to participate fully in the discussion on the amendments it is only possible to do so if we see some sign of a commitment from the Minister of State to engage, take on and proceed with some of the amendments. I hope he tries to provide some olive branch to those who sincerely wish to see those rights delivered on and vindicated within the Bill.

I proceed to this Stage of the Bill with a heavy heart because I have not seen much sign of a thawing from the Government side. We all have met representatives of organisations concerned about this Bill. The more one meets them the more one realises this is not about delivering a charitable act of compassion for a group in society. It is about allowing those groups of people and individuals to participate freely in society and have rights delivered. Surely that can be done in the Ireland of 2005.

**Mr. Naughten:** I welcome the opportunity to speak on amendment No. 3 moved by my colleague, Deputy Stanton. Sadly the Bill and the definition in the introduction of the Bill are fatally flawed. That is disappointing because we had

all hoped this draft of the Disability Bill would succeed where the previous Bill fell down — it left us with a situation whereby people had to go through the courts to vindicate their rights — but that has not happened.

The other speakers are correct in stating that the only right in the legislation is a right to an assessment. It is pointless to have an assessment if the resources are not there to deliver upon it. Implementing the recommendations of an assessment is solely dependent on the resources that will be made available and even though the right to an assessment is set out in the legislation, the assessment is also resource dependent. That causes significant frustration among people who had hoped their rights would be vindicated through this Bill.

To copperfasten that difficulty, there is another aspect of the Bill which makes the current position worse. Up to now a person could go to the courts to vindicate his or her rights but under this legislation that right will be taken away. A person cannot take the Government to court over the lack of implementation of an assessment and because of that the Title of the Bill is flawed.

I am glad that Deputy Stanton raised the issue of the Title of the Bill. He is correct that it turns the table and states to a disabled person that it is his or her fault for being disabled in the first instance. The Minister of State needs to examine that as I know that is not his intention. I ask him to seriously consider Deputy Stanton's amendment on that basis. None of us wants to insult anyone with a disability. People with disabilities do not seek charity.

**Ms Lynch:** They have had enough of that.

**Mr. Naughten:** Exactly, they have had plenty of charity. They want to be treated as individuals and citizens of this State, in the same way as everyone else. The majority of them want to live independent lives in so far as they can. They want to have the same rights as each of us, such as the right to an adequate education, which many of them have not had in the past.

I will make one point on a particular section of people with disabilities, those in State institutions and psychiatric hospitals. They have not had the right to an education. Many of them were dumped in those places and, while I do not want to stray off the point, I hope that can be addressed.

The issue of delivery is critically important but that does not seem to come across in the Bill nor in its Title. I ask the Minister to give serious consideration to the amendment tabled by Deputies Stanton and Murphy. It is a balanced and reasoned amendment and more aptly defines the Title of the Bill.

**Minister of State at the Department of Justice, Equality and Law Reform (Mr. Fahey):** Amendments 1, 2 and 3 propose to insert a new Long Title into the Bill and deal with equal rights of

people with disabilities. Employment equality and equal status legislation already exists in the State. The present legislation is a positive action measure and I consider, therefore, that the present Long Title reflects that fact accurately.

The two main issues are that the Bill is predicated on resources and a justiciable right in the courts. If the Opposition Members who spoke were in government, every decision they took would be dependent on resources. No legislation has been put through in the history of this House that did not have a clause making it dependent on resources. It is not realistic for the Opposition to call for legislation to be passed which is not dependent on resources. In no country in the world——

**Mr. Cuffe:** Equality legislation was passed.

**Mr. Fahey:** I did not interrupt Deputy Cuffe.

**Mr. Cuffe:** I am making the point that equality legislation was not dependent on resources.

**Mr. Fahey:** In no country in the world——

**Mr. Cuffe:** Let us make history.

**Mr. Fahey:** Justiciable rights are not found in legislation in countries such as Australia, New Zealand, the United States, Canada, Britain and Sweden, which are the most advanced countries in the world in terms of legislation on disabilities and other human rights.

**Ms Lynch:** They are not barred from doing so.

**Mr. Fahey:** If those Members of the Opposition speaking were in government it still would not be possible to provide for justiciable rights which are not dependent on resources. I must reject those amendments put down this evening. I wish to retain the current Long Title of the Bill which adequately describes the intent and purpose of the Bill. The Bill places obligations on the State to provide the many rights contained therein, which will demand a massive expenditure of resources.

**Mr. F. McGrath:** There is no provision for them.

**Mr. Fahey:** They have now been provided in the multi-annual package being provided by the Department of Finance.

Debate adjourned.

### Private Members' Business.

#### Public Expenditure: Motion (Resumed).

The following motion was moved by Deputy Burton on Tuesday, 17 May 2005:

That Dáil Éireann,

deploring the shocking waste of taxpayers money highlighted in the recent Prime Time Investigates programme and a number of recent reports of the Comptroller and Auditor General including, among others:

- the huge over-run in the cost of the roads programme in the early years of the National Development Programme, which means that the eventual cost will be more than €16 billion rather than the €7 billion originally estimated;
- the specific findings of the Interim Report of the Hearings of the Public Accounts Committee, published on May 12th, that identified a number of road projects, originally estimated to cost €562 million that ended up costing €984 million;
- the decision to buy a site for a new prison at a cost of almost €30 million which may not prove suitable for the purposes intended, when cheaper, more suitable alternative sites were available;
- the acquisition over a number of years of buildings to house asylum seekers which were never used and which remain empty;
- a whole range of other projects initiated by this Government involving either a total waste of money or massive overruns, including Abbotstown, the Punchestown Equestrian Centre, e-voting, the failure to properly cost the extension of medical cards to the over 70s, and the indemnity deal agreed with the religious orders outside normal Cabinet procedures;

conscious that this wasteful use of money has meant that there are less funds available for vital infrastructure, such as public transport and for a wide range of essential public services such as health, education, welfare, carers, home-help, the disability sector and many others;

condemns the mismanagement and lack of public accountability exercised by this Government and its failure to ensure that taxpayers got value for their money;

calls on the Government to implement in full the recommendations of the NESC Study 'Achieving Quality Outcomes: The Management of Public Expenditure'; and

calls on the Houses of the Oireachtas Commission, following consultation with the Working Group of Committee Chairmen and the Committee of Public Accounts, to bring forward concrete proposals for the establishment of an Office of Management and Budget, to be attached to Dáil Éireann

and to assist this House in the assessment of proposals for major public expenditure and in the oversight and scrutiny of the management and delivery of those projects.

Debate resumed on amendment No. 1:

To delete all words after “Dáil Éireann” and substitute the following:

“commends the Government on:

- making available unprecedented levels of investment to urgently tackle infrastructural priorities, including investment of €36.3 billion planned for the period 2005-09;
- the steps which they have taken to promote more efficient and effective management of public capital programmes and projects and to optimise value for money from public capital investment;
- the major advances already made in bridging the infrastructural and social deficits resulting from underspending in earlier periods; and

in this regard acknowledges:

- the trebling of public capital investment since 1997;
- the steps taken by Departments and agencies such as the NRA to improve their management of capital programmes and projects;
- the introduction in 2004 of rolling multi-annual capital envelopes for better management and control of public capital programmes and projects;
- the publication this year of new guidelines for the appraisal and management of capital expenditure proposals in the public sector; and
- the Minister for Finance’s plans to introduce targeted reforms to the procurement of public construction contracts and reform and modernisation of the system for employing construction-related consultants.”

—(Minister for Finance).

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I wish to share time with the Ministers of State, Deputy Parlon and Deputy Browne, and Deputy McGuinness and Deputy Peter Power.

**Acting Chairman:** Is that agreed? Agreed.

**Mr. Roche:** I wish to support strongly the Government’s amendment to this motion and will do so principally from the perspective of capital investment in local infrastructure and services. There have been significant and tangible outputs from the high levels of capital investment chan-

nelled through my Department. Good value has been obtained through new and innovative methods deployed to promote more efficient and effective management of our programmes. These include the promotion of design, build and operate — the preferred procurement method for water and wastewater treatment projects; PPPs and other joint ventures in the housing area; and producer responsibility initiatives involving business and industry in delivering higher levels of recycling.

A modernisation programme has also been underway in the local government sector for a number of years to enhance the effectiveness in the delivery of key infrastructure. Delivery of a quality customer service by local authorities has been a central objective of this process. To this end, a set of 42 service indicators, which span all the main service areas, were published in January 2004. This service indicators initiative will identify good practice, as well as areas which require improvement. I expect to see the first set of results in the summer.

This Government has made a considerable investment in social and affordable housing over the years. Since 1997, the social and affordable housing needs of 86,000 households have been met through the provision of local authority housing, vacancies arising in existing houses, and output under the other social and affordable housing measures. This year the Government will spend over €2 billion on housing measures which is double the expenditure in 2000.

To ensure we use these resources to best effect, local authorities, at my Department’s request, have developed five-year action plans for their social and affordable housing programmes. The multi-annual capital framework developed by this Government allowed us to develop this more sophisticated tool for the planning and implementation of the social and affordable housing programme. This is a worthwhile step forward because there have been problems in the past when resources were turned on and off. This approach allows for better planning and management of projects and will certainly ensure that the considerable investment being made will deliver the optimum level of quality housing in a manner conducive to breaking cycles of disadvantage and dependency.

A clear indication that value for money is being achieved can be seen when we compare the cost of private housing. In 2004, the average unit cost of local authority and voluntary housing at national level was €146,000 and €155,000 respectively. This compared to €249,000 for a private house. The difference is much greater in the Dublin area.

As a result of the aforementioned investment, it is anticipated that the needs of in excess of 13,000 households will be met in 2005. In addition, a more coherent approach to housing support will see long-term recipients of supplementary welfare rent allowances moving into the new local authority rental accommodation

scheme from this year. These households will continue to be accommodated mainly within the private rented sector.

This year should also see the commencement of some 5,500 housing starts by local authorities. Over 1,800 units of accommodation are forecast for completion by the voluntary and co-operative housing sector. The investment in remedial and regeneration works for run-down estates is also having real effect in improving the living conditions of many local authority tenants. The benefits of this programme are particularly visible in Ballymun where many families have already settled into their new houses.

I was pleased to introduce a much needed central heating programme last year for local authority housing. This programme assisted some 2,900 households in its first year and is bringing real quality-of-life improvements for families and elderly people in particular.

Inroads into Traveller accommodation are also being made. During the period of the first Traveller accommodation programme from 2000 to 2004, a total of €130 million was expended on the provision of new and refurbished Traveller accommodation. In the same period, the number of families on unauthorised sites was halved from 1,207 families at the start of the programme to 610.

Significant progress has also been made in addressing the need for emergency accommodation for the homeless. Our focus is now on developing longer term options. We expect to deliver about 12,000 affordable housing units between 2005 and 2007.

Electronic voting has been referred to in the course of the debate. I am convinced of the benefits it will achieve in modernising our electoral processes, including more democratic outcomes through the minimisation of invalid votes, more accurate counting of votes, the provision of a higher level of service to the public, and greater flexibility and speed in the voting and counting processes. I acknowledge there have been difficulties with e-voting but when the system was first introduced it had many hosannas from all sides of the House. We must ensure that when we come through the testing process we can re-establish some confidence in it.

In tandem with the ongoing work of the independent commission on electronic voting, my Department is developing a programme of further assessment, testing and validation of the chosen system, which is intended to address the issues raised by the commission.

**Ms Burton:** What about the €53 million?

**Mr. Stanton:** More money down the drain.

**Acting Chairman:** The Minister, without interruption.

**Mr. Roche:** The objective of this programme is to demonstrate, both to the commission, the general public—

**Ms Burton:** Where are the machines and what will the Minister do with them?

**Mr. Roche:** —and to the most obdurate Member of the House, that the electronic system is suitable to be used in Irish elections.

We have made a large-scale commitment to our water services infrastructure in recent years. For example, compliance with the 2005 targets in the EU urban wastewater directive, which stood at 25% at the start of the NDP period, had risen to 90% at the end of December 2004. In addition, we have seen the completion of many large wastewater treatment plants including Ringsend, Cork, Limerick, Galway, Wexford, Drogheda and Dundalk.

As of December 2004, the increase in wastewater treatment capacity provided since 2000 was equivalent to the needs of a population of 3 million. By any objective standards that is remarkable progress. Rapid progress has also been made to eliminate substandard water supplied by group water schemes. Extraordinary work is being done in that regard.

Major infrastructural deficits in waste management have been addressed by the environment fund, financed by the plastic bag and landfill levies. Since 2002, over €50 million worth of grant allocations have been made from the environment fund to finance waste and recycling infrastructure.

Significant progress has also been made in increasing recycling provision since 1998, including bring banks, recycling centres and separate bin collections for recyclable material. The recycling rates we are achieving are impressive. The overall recycling rate has been accelerating rapidly, from 9% in 1998 to 28% in 2003.

Packaging waste recycling was 42% in 2003, up from less than 15% in 1998. EPA figures show that the percentage of municipal waste being landfilled fell from 92% in 1998 to 78% in 2003. While we should celebrate these successes we do, of course, have a long way to go.

A national waste prevention programme was launched in April last year with funding of €2 million. More progress has been made than we could have imagine a few years ago, and it will be sustained in the coming years.

I also wish to refer to non-national roads, which are so important in creating local and national interconnections. We have seen a dramatic improvement in our non-national road network under this Government. Since 1996, around €1.4 billion has been allocated to county councils for improvement works under the ten-year restoration programme. From 1997 to the end of 2004 it is estimated that more than 34,000 km, or 73% of the then deficient network, will have been restored to an acceptable condition. Some 49 strategic non-national road schemes in 15 local auth-

[Mr. Roche.]  
 orities have been approved for funding. These critically important schemes will facilitate the provision of more than 44,000 housing units and benefit more than 900 hectares of industrial land when completed.

The EU co-financed specific improvement grants scheme for widening and realignment works on non-national roads is also important for employment and economic activity. In 2004 approximately 240 km of such roads were improved. The allocation in 2005 is €89.5 million for 226 schemes.

The capacity of public administration here has been recognised by international commentators, including the Organisation for Economic Co-operation and Development, as one of our strengths. It is a key positive factor for Irish competitiveness. The Opposition is doing a disservice to trivialise the extraordinary achievements of recent years in developing our infrastructure. Much has been done and more will be done under this Government. Most of our major capital projects are delivered through private sector consultants and contractors and an increasing number of services involve public private partnerships.

It is right that we should demand high performance and a commitment to continuous improvement from all public bodies. This is a guiding objective for me in my leadership of the local government sector. In this regard the Government and I will continue to demand accelerated delivery of infrastructure, efficient use of resources and value for money for the taxpayer.

**Minister of State at the Department of Finance (Mr. Parlon):** I am glad of the opportunity to respond to certain topics covered recently in the media concerning the OPW and in particular the issue of the acquisition of buildings and lands to house asylum seekers for the Department of Justice, Equality and Law Reform's Reception and Integration Agency.

The RIA asked the OPW to assist in sourcing suitable accommodation facilities for the large numbers of people coming to this country seeking asylum. This presented a significant challenge in meeting the chronic shortage of accommodation for these people. We looked at several solutions including the purchase of lands that were deemed suitable for temporary accommodation, and also buildings or hotels that provided an immediate response. All of the properties purchased for use as accommodation for asylum seekers were acquired at the behest of the Department of Justice, Equality and Law Reform, the RIA and with their and Department of Finance approval.

It is all very well for programmes like "Prime Time" to investigate Government dealings but it is unfortunate that this programme did not present a broader, balanced view of the subject. Highlighting specific buildings and lands without mentioning the background and many of the reasons behind the purchases of various sites and

their current status somewhat sensationalised a very important issue.

**Mr. Stanton:** The Deputy should get Deputy Noel O'Flynn to call them in.

**Mr. Parlon:** The Private Members' motion lists sites that "were never used and that remain empty". This makes for easy remarks and jibes and portrays an idea of so-called waste. However, it did not mention that these properties were the subject of long, drawn-out legal action in opposition to their intended use. That the buildings could not be used while such cases dragged on is the salient point that was omitted from the programme and from the Private Members' motion. Nor did the programme refer to the fact that the State has won all aspects of the only case resolved to date, that is Broc House. The two properties mentioned in the programme are in the care of the OPW and if considered surplus to requirements they will be sold or put to other State use.

A specific piece of film showed lands at Leggethsrath, County Kilkenny, which were to be used to house asylum seekers in system-built accommodation. The programme referred to the cost of the land, buildings and storage, but not to the fact that buildings would have been constructed but for local objections and legal action initiated. It did not mention that the lease on this land has been terminated and that many of these system-built buildings have been put to other State use and there are no storage costs involved, as the remainder are on State lands. It did not refer to the numbers of asylum seeker applications, which at the time of these purchases, 2000, was more than 11,000 and with every indication of moving upward. Thanks to Government action we have seen these numbers reduce to just over 4,000 in 2004.

I am not a television producer but I am a believer in fair comment. A more balanced approach would have been to highlight other properties such as Park Lodge Hotel, Killarney, Atlas House, Tralee or sites that were developed and had mobile homes installed, such as those at Ballymullen Barracks, Tralee, Kildare town and Athlone. All of these are currently occupied by asylum seekers. A system-built accommodation centre has been completed at Knockalisheen just outside Limerick city, which is also currently occupied. The former Cork Airport Hotel has been developed as a system-built accommodation centre and is also currently occupied.

I could go on explaining each and every site purchase, which is something the "Prime Time" programme did not allow, but I reassure the house that I abhor waste just as much as any other Member here and I will continue to ensure that while I have responsibility for the OPW it will deliver value for money in all tasks undertaken. My record to date in transforming State assets speaks for itself. Only last year the OPW sold €100 million worth of property in Dublin and I expect a similar amount will be sold this year,

which is over and above requirements. Such amounts are very significant returns to the exchequer and we have yet to see what decentralisation brings.

**Minister of State at the Department of Agriculture and Food (Mr. Browne):** There is a developing mythology that the Government's public capital programme involves projects that are of little public benefit and that, in the words of the Opposition motion, are "a total waste of money". This is neither a balanced nor an accurate view.

The Punchestown agricultural and equestrian exhibition and event centre is occasionally mentioned in this context. This centre is a valuable asset to the agricultural and equestrian industry in Ireland. It provides a top-class facility for the sector to display the quality of Irish agricultural and equine product in an appropriate setting of international standard. It hosted the prestigious European eventing and distance riding championship in 2003 which attracted large numbers of overseas visitors to Ireland and received wide international press and television coverage in Europe and beyond.

With regard to funding, the estimates for this project came before Deputies on eight different occasions, four in the House and four in the select committee. In so far as opposition Deputies had anything to say about Punchestown, they were generally supportive. The PAC report of March 2004 on the Punchestown centre acknowledged that the Department's controls and administrative procedures in the completion of the project were thorough. There were no cost overruns. Paragraph 4.18 of the report is quite clear on this matter. The PAC had concerns about the evaluation of the project and asked that a post project review be carried out. I understand such a review is now nearing completion and will be sent to the PAC shortly.

I turn to the movement of laboratory facilities from Abbotstown to Backweston. Is anyone seriously suggesting that the development of state of the art laboratories to underpin food safety controls for an industry that supplies consumers in one hundred and sixty countries world wide is a waste of money? Apart from food safety concerns, the dominant challenge facing the food industry is the production of quality, innovative and nutritious food products for the international consumer at highly competitive prices. It is essential that our laboratory service is equipped to play its role in the provision of testing and research services that are vital for the development of a modern agri-food industry.

Without these facilities, Ireland's food industry would be outstripped and outpaced by others who possess the necessary capability to meet these demands. It is essential that major capital projects and public expenditure generally be well managed and properly controlled. On that we are all agreed.

The Minister of State at the Department of Finance has already mentioned the new guidelines for the appraisal and management of public capital projects, which will make a significant contribution to this overall aim. Apart from that, this Government has placed considerable emphasis in recent years on a programme of change management in the public service, and on the development of best practice models of financial control and management comparable with the best the private sector has to offer.

I see the tangible benefits of these policies in my Department, which in many respects has led the way regarding the implementation of this change agenda. The Department's corporate framework includes a modern, powerful accounts and financial management system, a formal risk management system which was the first of its kind in the civil service, a well resourced internal audit unit, an audit committee under private sector chairmanship, and an accreditation review group, chaired by the Secretary General and with senior Department of Finance representation, to scrutinise departmental adherence to EU financial control standards. In addition, as part of the ongoing development of financial systems, the Department has provided significant financial training to all staff, and this will be an ongoing process in the future.

Apart from these structures, the Department is subjected to a level of external audit unmatched in any private sector organisation. Audit bodies include the EU Commission, the European Court of Auditors, the Comptroller and Auditor General, the EU's anti-fraud office and independent external auditors who certify its FEOGA guarantee account.

The developments I have described and other aspects of the Government's initiatives on the modernisation of the public service are being achieved while ensuring customer service standards are not adversely affected, effective administration and corporate governance are maintained and the industrial relations and human resource issues are addressed appropriately. These are all part of a programme of change which is, as we speak, resulting in the provision of higher standards of management, financial control, transparency and accountability and, ultimately, service to the public. For all these reasons, I support the Government amendment and commend it to the House.

**Mr. McGuinness:** We have reached this point in the value for money debate because our economic success has surpassed our ability to deal with its consequences. Our public servants, both in the public service and Civil Service, are more used to spending pennies than billions. Moreover, many Members allowed themselves to be persuaded that the euphemism "beyond political control" meant something other than "politicians could not be trusted". We now find ourselves in a position in which, to paraphrase Oscar Wilde, the unaccountable and possibly unprofessional

[Mr. McGuinness.]  
are being pursued by the unempowered and possibly uninformed. We cannot allow this to continue.

The sight of the public service coming off second best against well resourced professionals in the private sector will no longer be tolerated by the public. We cannot achieve value for money unless our public service is efficient, professional and accountable and power, responsibility and sanctions rest in the hands of those the public elected to govern. Our public service has a well deserved reputation for honesty and impartiality and is full of good people. It is, however, far behind the times and needs to transform itself into a modern service which can make a substantial contribution to meeting the challenges Ireland faces in the global marketplace. A confident, vibrant and efficient public service would be an enormous asset but to achieve this end, it must embrace change.

Autocratic and obsolete management styles and systems and restrictive practices which limit individual growth and possibilities and value caution and longevity above enthusiasm, creativity and ability must be swept to one side. There are too many square, well meaning but unqualified pegs in round professional holes in our public service and it will be impossible to obtain value while this continues to be the case.

The National Roads Authority had no accountant or cost accountant for years, an unbelievable lapse which cost the country tens of millions of euro. In the public service some human resource managers responsible for the working lives of thousands and internal auditors responsible for tens of millions of euro in public money have no professional qualifications or perhaps even ability in the relevant areas. It is in the interests of the public service and country that this does not continue.

Ireland cannot run a Rolls Royce economy indefinitely on flat bureaucratic tyres. Too much money is being lost and public trust in politicians and public servants is at an all time low. More power must be given to the Committee of Public Accounts and Comptroller and Auditor General to investigate and sanction. The Office of the Comptroller and Auditor General must be expanded and become involved in areas such as procurement, contract negotiations and the maintenance of professional standards across all Departments as well as local authorities which are groaning under the weight of inefficiencies. It is unacceptable that local authorities are not audited by the Comptroller and Auditor General and I urge the Minister to change the position sooner rather than later.

The Committee of Public Accounts and the Comptroller and Auditor General should be principally engaged in securing the future, investigating the past and ensuring Departments have — or hire — professionals when they are needed, systems which are effective, efficient and transparent and, in general, that our public service is

as much the envy of our European partners as is our economy and develops into a source of challenge, satisfaction and pride to all those who work in it.

Deputies can argue about blame *ad nauseam* but it is a futile exercise. Successive Governments of all hues under-invested in our public service, both in terms of finance and imagination, for many years. Civil Service reform is the elephant in the Chamber which is being studiously ignored tonight while Deputies score useless political points off one another.

**Mr. P. Power:** In the limited available to me I will focus on just one aspect of the Labour Party motion which alleges major cost overruns in the roads element of the national development plan. It is no coincidence that the motion was tabled one week after the broadcast of a “Prime Time Investigates” programme on public expenditure. It is unfortunate that the motion is predicated on the programme as it can be easily demonstrated that its research and analysis was seriously flawed and deficient. At best, the broadcast showed a fundamental misunderstanding of the manner in which the roads programme is delivered. At worst, it constituted a distortion of the facts which misled the viewer. I suggest it was probably a combination of both possibilities which was, nevertheless, unfortunate given RTE’s special position as a public service broadcaster.

The “Prime Time Investigates” programme failed in its obligation to present the facts in an objective and impartial manner. It featured selective cherry-picking of projects in a manner which misled the viewer in an attempt to sensationalise an important policy issue. It is, therefore, unfortunate that the Labour Party motion refers to the programme as the basis of the motion.

The Oireachtas Joint Committee on Transport has examined the issue before us on a number of occasions and my comments are made with the benefit of the committee’s deliberations. To draw a direct correlation between the under-estimation of the cost of infrastructural projects and overruns is a fundamental misrepresentation. In this debate the juxtapositioning of the three words, “underestimate”, “overrun” and “waste”, is at best confusing and at worst disingenuous.

I compliment the Minister for Finance, Deputy Cowen, on acknowledging last night that instances of overruns have occurred over the years and certain issues could have been managed better. There were clear deficiencies in the manner in which the cost estimates of these projects were arrived at but the key question is what was the Government’s response. Deputies must also remember that the Government did not cause the problem. To present the difference between an underestimate in the first instance and an eventual outturn as an overrun is disingenuous. Everybody in the business knows only one figure counts, namely, the tender figure upon which the Government makes a decision to proceed with a project. This figure is the only basis on which it

is legitimate for the Opposition to criticise the Government.

Many of the difficulties associated with pricing and outturn figures for contracts can be directly attributed to the old form CIS price variation contract, in particular, the variable price clause No. 17. I have experience of negotiating these contracts and it is clear that these old style contracts, which were in place in the late 1990s, suited the traditional method of public procurement when there was much less activity in the public infrastructure development field and greater competition in the market. However, when the amount, scale and value of the contracts exceeded the capacity of the construction industry to deliver on these projects, they turned out to be a disaster and contributed significantly to the outturn problem Deputies have been discussing. Simply put, the old style contracts virtually gave the contractor a blank cheque. Regrettably, the "Prime Time Investigates" programme completely ignored this fact when it was apparent to everybody in the industry, including contractors, their advisers and quantity surveyors, that this was the case. If the programme had been researched properly, this fact would have become apparent. It should have formed part of the programme because it would have provided the balance it sadly lacked.

The key issue is what was the Government's response when the under-estimation became apparent. The Labour Party motion repeatedly accuses the Government of delay in addressing the issue but the reality is that steps were taken to begin to address it in 2000, three years into the Government's term of office. The irony is that a number of the under-estimates were made between 1994 and 1997.

**Ms Burton:** That does not wash.

**Mr. P. Power:** I will not blame the Labour Party for that because I accept the significant difficulties associated with preparing such estimates.

**Ms Burton:** The Deputy should join the queue of those pinning the blame on the Labour Party.

**Mr. P. Power:** In any event, such estimates have little relevance in the Government's decision to proceed. Many accusations were made about the over-design of roads projects, especially the provision of over-capacity. I cannot accept this argument. I do not know of any road built in the last 40 years that has too much capacity; the country is littered with examples to the contrary. Only this morning, the Taoiseach made this point about the M50 and Dublin Airport.

Can the Opposition name a single road that is carrying fewer cars than it was designed for? It can criticise our judgment on the issue but it should not dress it up in emotive terms like those in the motion and describe it as cost overrun. It

is an insult to our intelligence and does a disservice to this important issue.

**Mr. Gregory:** Ba mhaith liom tacaíocht a thabhairt don tairiscint thábhachtach seo i dtaobh an bhealach scanallaigh atá airgead an phobail curtha amú ag an Rialtas. I support this motion highlighting the scandalous waste of public funds and hard earned taxpayers' money by this incompetent and irresponsible Government.

In the time available I will refer to two of the most blatant examples of waste in recent times. The former Minister for the Environment, Heritage and Local Government, Deputy Cullen, squandered €60 million on electronic voting machines, with ongoing costs. Recently, the Minister for Justice, Equality and Law Reform, Deputy McDowell, purchased a farm for €30 million when a few weeks later, a farm of similar size a short distance away was sold for a fifth of that price. These are prime examples. In any other Parliament or in a private business, that sort of incompetence and wastefulness would have resulted in the enforced resignation of the Ministers involved but not here. Why not? Because the whole Government is at it and it is a part of a culture of waste and irresponsible squandering. The end result is that those who suffer are those most in need in society. They must pay the price.

Two examples have come to my attention in recent days. A person in my constituency is on disability allowance of €148.50 per week and her father died, having worked for a bank all of his life. She was awarded an orphan's pension by the bank of a mere €7.74 per week. What did the Department of Social and Family Affairs do? It assessed that amount against her disability allowance and reduced it by €5 to €143.50 per week. This family, having lost the father and main earner, was further penalised by this Government's policies in a most insensitive and despicable manner.

I was contacted today by the family resource centre in Hill Street in the most disadvantaged area of Dublin's inner city. This centre works with 125 families with children under five years of age but it is faced with closure, taking this service from the community, because this Government refuses to decide on its future funding. These examples show how the most vulnerable in our society are treated by a penny pinching Government while the same Government squanders shamelessly from the public purse.

**Mr. Connolly:** Irrespective of the Government in power, we would be having this debate about overruns in public contracts. There is very little that can be done about it other than talking. There is a culture that leads people to believe these things are coming off a broad back. We must put a system in place that establishes where such contracted expenditure went wrong and that polices public servants. It would raise a flag if a project went off course and costs went askew.

[Mr. Connolly.]

Abuses occur when companies lob in a quotation in the clear knowledge that it matters little when it overruns. The culture exists that it will get paid anyway and no one will back off when the contract has started. Cost overruns happen in individual projects and it is urgent that they should be monitored and individuals made accountable, be it the Minister or the public servant who awarded the contract.

A further scandal I have raised many times at health board meetings that can be stopped is the waste of public money on rent and leases. This is pouring money down the drain. Legislation should be changed to allow Health Service Executive areas to buy property instead of leasing it. It is the same amount of money. It would mean they would be a good borrower and after 20 years, they would have an asset. The only person winning from this is the landlord. He knows his income comes in every year and we have nothing at the end. If any of my family was spending the same to rent a property as it would cost to buy it, I would tell him or her to stop and think again. We need new legislation to address this. The taxpayer funds this and it creates bad habits and sloppy management. Year after year I have seen €500,000 year long contracts being signed where the first thing that is done is €1 million is spent on the building that is still being rented.

Psychiatric institutions are well placed in town centres. These should not be sold but used as green field sites for the building of new health offices. We should think long and hard before we do anything else with those buildings.

**Dr. Cowley:** The Council for the West is meeting politicians across the road. It is talking about the gross underspend on the west. This is the burning issue and those across the road have been talking for some time about the terrible deprivation in the west. All this money that has been overspent has been wasted. If the Government got off its backside and gave the money to projects that deserve it instead of its mean approach, where it will spend money on daft projects and mismanagement, the country would be much better.

The bill for the illegal nursing home charges will come to €1 billion. What would that have done? The western rail corridor requires €365 million. The Minister for Transport came to Mayo this week and, as Yeats said, spoke “polite, meaningless words”. It was all aspiration and no substance on the western rail corridor but he could spend €50 million on an electronic voting system that did not work and thousands more on a PR consultant who did not seem to work either.

There was talk of upgrading Cork Airport for a cost of more than €160 million. How will this money be spent or will the end figure be double that? We heard all about the second terminal for Dublin Airport today. What about the position at Knock Airport? At one end of the country, 500,000 are using an airport that would serve 13

counties while on the east coast, which is already falling into the Irish Sea under the weight of congestion, it is projected that there will be 38 million passengers passing through the airport by 2025. It does not make sense.

**Mr. F. McGrath:** I welcome the opportunity to speak on this Private Members’ motion on the shocking waste of taxpayers’ money highlighted in recent programmes and reports.

As a taxpayer and public representative, I find it a disgraceful abuse of trust by the politicians and senior management teams who are responsible. It is another example of gross inefficiency and economic vandalism of our public finances. There is no point beating around the bush on this issue. Our citizens are hopping mad and deserve real accountability.

Let us look at the hard facts. The Government spent over €30 million on a farm valued at just over €4 million in north County Dublin. The Battle of the Boyne site, which could have been bought for €2.7 million, was bought instead by a private business and then sold on to the OPW 18 months later for €7.8 million. Renovation of the court house in Cork, estimated to cost €6.5 million, ended up costing the taxpayer the somewhat larger figure of €26.5 million. Some 30 road projects were estimated to cost €932 million but set us back €2.97 billion. Roads projects were 86% over budget, a waste of taxpayers’ money. These amounts of finance could have ended the patients on trolleys scandal for ever, bought all the new schools needed or made a major dent in housing waiting lists. Many wonder whether the Government is doing such a great job with taxpayers’ money — the answer is no.

On Dublin’s north side, massive cost overruns have been incurred on the Dublin Port tunnel project. There are difficulties for the residents of Marino, Fairview, Drumcondra and Santry where there are over 200 damaged homes above the route of the tunnel. Now the project will be twice its projected cost. I call on the Government to implement the recommendations of the NESF study and to wake up to the real world about spending taxpayers’ money. I urge all Deputies to support this motion as it is about taxpayers’ money, our citizens and quality pricing.

**Mr. Boyle:** The difficulty in keeping account of the Government’s squandermania is that as soon as a figure is put on paper, it is immediately out of date. The motion refers to the €7 billion figure for the roads programme in the national development plan. The original cost was placed at €5.8 billion. The figure of €16 billion, referred to in the annual report of the Comptroller and Auditor General, has since been updated by a report released last week by the Committee of Public Accounts, outlining the figure at €18 billion. Even that figure does not take into account projects under construction, with cost overruns, and projects yet to begin with their costs adjusted.

Deputy Finian McGrath referred to the cost overrun on the Dublin Port tunnel project. However, even before an inch of tarmac has been laid on the M50 upgrade, its cost has been readjusted from €300 million to €800 million. The likelihood is that the €16 billion, adjusted to €18 billion, will end up at €20 billion and rising. The clock in Times Square that shows the world's population increasing by three every second should be placed outside Leinster House to show the amount in overspending the Government is clocking up every minute. It is not an exaggeration to say that all the overruns put together by the Government would probably amount to a whole year's expenditure by any other government — one year in eight wasted by poor management.

Most overruns have occurred in the roads programme leading to serious questions not only of the State agencies involved but also of political control. The NRA should be renamed the no refunds allowed. Is the Government taking this debate seriously? One of the first Ministers to speak on the motion yesterday evening, the Minister for Transport, Deputy Cullen, is responsible for the most inflated aspects of the Government's capital programme. When Minister for the Environment, Heritage and Local Government, he had personal responsibility for overseeing the electronic voting fiasco at a cost of €50 million, rising at €1 million every year. He was the Minister who could not fight his way out of a paper bag to ensure the Government fulfilled its commitments under the Kyoto Agreement and avoided future costs. He is the last person who should be in the Cabinet, let alone the one to be making an argument on the proper control of public expenditure.

There is considerable merit in the Labour Party's motion. Several states have an office of budget control in their governmental systems. There is a logic to Ireland pursuing such a system. As a member of the Committee of Public Accounts, I would argue that its terms of reference must be examined. Given these ongoing overspends, it is time it became more proactive. Its terms of reference, by their very nature, make the committee reactive rather than proactive. The committee must be given the power to examine projects under construction to see where overruns occur and to make suggestions as to how they can be stopped. The committee should also decide who takes political responsibility.

Where is the political accountability for Punchestown, the residential redress board deal and the overcharging of residents in nursing homes? There is none because our system of government lacks the mechanism in which people can be put on trial for decisions taken on public expenditure. Due to the governmental culture we have, everyone else, not the politicians, is to blame. The Government has practised this mantra more than others. There will be similar debates to this one until there is a culture of culpability and willingness to accept that public money is not there to be used as a tap to be turned on and off for the

political manoeuvrings of the Government parties.

**Caoimhghín Ó Caoláin:** Sinn Féin supports this motion. As my party's spokesperson on finance, I have repeatedly raised in this Chamber and at the Committee on Finance and the Public Service the massive profiteering by developers who exploit publicly-funded projects. On Taoiseach's questions today, we heard again of the astronomical cost to the State of sitting tribunals. The Taoiseach advised that €200 million to date has been spent, and we note that the metre is still running. The Taoiseach also outlined the details of deals done between the Government and the various tribunals to cut down on the legal costs, a matter repeatedly raised by me and other Members in this House. While the Government eventually took action, how much of that €200 million could have been saved if the Government had heeded the calls of Opposition Members for a considerable time, outlining our concerns and seeking modification of payments made to the legal profession in these tribunals?

Astronomical as the costs of the tribunals are, they pale beside the monumental cost overruns identified in this motion. What has been happening under the so-called Celtic tiger far exceeds the abuses being investigated by the planning and payments to politicians tribunals. The scandal is compounded by the fact that most of these overruns are apparently legal and have been facilitated by the policies and practices of the Fianna Fáil-Progressive Democrats Government.

The Government's responses in its amendment and its contributions to this debate have been disingenuous. It is painting the supporters of the motion in the wrong by claiming we oppose development and new and improved infrastructure. No Member is arguing that our infrastructure, including transport infrastructure, should not be developed. On the contrary, we want it done in a timely, efficient, equitable and properly planned manner. The issue in this debate is the cost and the mismanagement of projects.

The last paragraph of the Minister's amendment refers to his plans to introduce targeted reforms to the procurement of public construction contracts and reform and modernisation of the system for employing construction-related consultants. However, similar to the reform of tribunal lawyers fees, it comes late in the day, after the profiteers have made their money. The most shocking figure in the "Prime Time" programme was the estimation for the average cost overrun for the National Roads Authority project at 86%. An international expert in this field stated the global average overrun in comparable developments would be in the order of 20%.

In Ireland, the developers and consultants have been making profits not dreamed of anywhere else in Europe, at the taxpayers' expense, and as has been said by other Members, we are all taxpayers. They have been facilitated by Government neglect and the creation of the State's larg-

[Caoimhghín Ó Caoláin.]

est quango, the National Roads Authority. The NRA is funded by monies voted by this Dáil, yet no Minister is accountable to the Dáil for the decisions of that body. It is about to drive a motorway through the historic Tara-Skryne valley, a heartland of our national heritage, and no Minister will come into this House and give account or justification for that decision.

The same Pontius Pilate exercise is being acted out daily regarding our health services. I refer specifically to the Health Service Executive and its use as a smokescreen by the current Minister for Health and Children. Every searching question seeking relevant and important information put to the Minister by Opposition Deputies is being kicked to touch to the Health Service Executive in the respective region or to its central office in Naas, County Kildare. Then we wait. We are supposed to get a four-day turnover with regard to responses on these important matters, but the HSE can now decide that we can wait at their pleasure. We can have no further recourse to questions in regard to the answers it gives.

This is a disgrace. We do not have a Minister for Health and Children: we have the HSE. Either the HSE appointee currently *in situ* or the future chief executive, to be confirmed, should probably come into the Chamber to answer these important questions.

If there were proper scrutiny and accountability in the Oireachtas, many of the scandals referred to in this motion presented by the Labour Deputies would not have happened. Massive sums of public money would have been saved and could have been spent, not on pet projects like Punchestown, on bungled efforts such as e-voting, or on sweetheart deals concluded with the religious orders, but on areas where there is real need, in the sector for people with disabilities, and special needs education for children. I fully support this motion.

**Mr. Gilmore:** I wish to share time with Deputies McManus and Bruton.

I will relate the case of a constituent, whom I do not wish to identify. He is a man in his mid-60s who has been battling cancer for the past year. He has worked all his life in paid employment, as an employee, and running his own business for the past two decades in a self-employed capacity. He has always paid his way and never claimed anything from the State.

Arising from his illness, this man applied some time ago for a disability allowance and eventually got a letter from the Department of Social and Family Affairs awarding him a weekly disability allowance of €1.30. As it happened, this communication arrived on the same day of the "Prime Time" programme about overspending in the various public programmes. When the man's wife contacted me the following morning, she wanted to know why our State, with all the wealth available to it, can be so penny-pinching when it comes to someone with a real need, and who has

worked all his life, and yet at the same time be so profligate when it comes to spending on major infrastructural projects. Why is it that everything this man got by way of a private pension, and every little bit of savings the couple had, is trawled over in assessing eligibility for a disability allowance, whereas billions can be overspent on everything from roads to electronic voting?

I listened to Deputy McGuinness, who made a very significant contribution to the public debate on overspending. I admire the work he has done in his capacity as a member of the Committee of Public Accounts. He would probably tell the family of the man in question that this situation arises because — I hope I am quoting him accurately — our public service is better at saving pence than at spending millions.

I listened to Deputy McGuinness on radio recently making a somewhat similar comment, on which he elaborated this evening. He said the answer to the overspending on public projects is to change the Civil Service. I do not doubt that changes and reforms need to be made in the Civil Service, or that there may be some square pegs in round holes. However, it is not acceptable that a Deputy on the Government side, in a party which has been in office for almost 20 years, and continuously in office over the past eight years, can come in and dump on the public service for what at the end of the day are the failures of Government.

What do people on the Government side of the House think Ministers are for? Do they think a Minister's role in regard to a public project is confined to announcing it — sometimes several times — to turning the sod, to topping it out, to being photographed when the cord is being pulled and the plaque being unveiled? Do they think Ministers have no role at all regarding the management and control of public expenditure as it progresses? If there is no accountant in the National Roads Authority, as Deputy McGuinness said, does that authority now report to the Minister for Transport and did it report before that to the Minister for the Environment, Heritage and Local Government? Are these the requirements that a Minister who is actually doing his or her job should be addressing?

The bottom line is that money is overspent in this country primarily because the Ministers are not doing their jobs. One can have some sympathy with the position of the Minister for Arts, Sports and Tourism, but if he can say that for €1 million overspent in the Abbey Theatre, there ought to be changes in the board, what kind of changes do we need in Government to supply answerability for the kind of overspending for which this Government has been responsible?

**Ms McManus:** The record of this Government with regard to health care is one of betrayal. Time after time, solemn promises made to the people have been jettisoned by the former Minister for Health and Children, Deputy Martin, and then by his successor in that role, Deputy Harney. Mean-

while, patients continue, as always, to wait for treatment, for a bed or for a medical card.

The public is by now aware of the duplicity of the Government. What is less known is the culpability of those Ministers when it comes to the squandering of resources that could have alleviated suffering but were re-directed elsewhere. In 2001 the Taoiseach, with the support of the Tánaiste and her party, introduced, for purely electoral reasons, the over-70s medical card scheme. It was to cost €19 million annually but actually cost €51 million annually. That is bad value for the taxpayer, bad politics and bad health policy. We now have a situation where doctors are paid almost four times more to care for their rich elderly patients as they are paid for caring for their poor elderly patients.

Ever since that Faustian pact was struck with the doctors, the number of medical cards for those who need them most has been dropping. The decline has continued right through the term of office of the Minister for Health and Children, Deputy Harney, with yet another 5,000 people losing their medical cards since September 2004. Her promise to provide 30,000 new medical cards is a bad joke, one being played out against low-income families who simply cannot afford to see a doctor.

When I raised this issue with the Minister the other day, she said that as people get richer, it may well be that fewer qualify for medical cards. There is something quite ludicrous about that statement when one considers the income limits for medical cards. A single person living alone who earns more than €153.19 weekly does not qualify for a medical card. A married couple with four children does not qualify if the couple's weekly income exceeds €357.20. This is not about people getting richer but about those struggling to survive, and a Government which has cheated them.

The nursing home charges scandal is another example of waste but it seems the Government cannot even acknowledge that fact. In the House, the Taoiseach defended the former Minister for Health and Children, Deputy Martin, by saying that, had the Minister acted earlier, it would have only saved €50 million. The implication was that this amount was only peanuts. However, the Taoiseach is so disconnected from ordinary people that he is unaware of how much difference €50 million would make, for example, to the home help service, which is experiencing cut-backs, or to schemes for people with disabilities. Apart from that, if the Minister, Deputy Martin, had acted when he should have, as much as €500 million might have been saved.

The Government is so used to wasting money it has lost touch with reality. The Tánaiste and Minister for Health and Children, who lectured the rest of us on standards in public office when she was in opposition, has protected her Cabinet colleague to an unworthy, even despicable, degree. While a civil servant fell on his sword, the incompetence

and hubris of the Minister, Deputy Martin were rewarded with a Cabinet position. The Government is not wasting resources alone. A serious undermining of standards of political accountability built up over generations exposes a terrible cynicism residing at the heart of the Government.

**Mr. Bruton:** I congratulate the Labour Party on tabling the motion, which is timely and appropriate. The common factor in all the cases of chronic overruns and poor costings is that no Minister has ever taken responsibility. The former Minister for Finance, Mr. McCreevy, did not take responsibility for steamrolling through procedures to pursue the Punchestown project. The former Minister for Health and Children, Deputy Martin, did not read his brief on nursing home charges, nor did he heed warnings as he entered meetings. He has taken no responsibility for the potential bill of €2 billion, if the early estimates are realised, or the sum of €1 billion, according to the most recent estimates. According to him, it is not the Minister's job to read his brief or heed warnings. That is too complicated for a busy Minister who must fly around the place doing God knows what.

Similarly, baubles were offered at election time to curry votes, whether in regard to the medical card system or the pre-1953 pensions. They were produced as great strokes by Ministers but the costings were absolutely chronically wrong. However, no Minister has ever put his or her hand up to say "Sorry, I got that wrong, I have to take the hit".

However, there is a deeper issue than simply the cost overruns brought to our attention by the Comptroller and Auditor General. The problem is the Government does not focus on value for money. Over the past five years, the Government has increased spending by 66%, or €21 billion, but there has been little to show for it because the attention of Ministers has been diverted to political campaigning rather than delivering quality services.

In the 24 months prior to the last general election, the Government let all hell break out in spending, which increased by 48%. There was no shortage of money to throw at any project. Good habits built up over generations, particularly under the influence of spending EU funding wisely, were thrown out the window in a short few years to curry favour with the electorate, and procedures which had served us well for many years were steamrolled. During that period, priorities were blurred, analyses were perfunctory, management systems were swamped by Government spending proposals and no proper targets were set or measured, yet much of this emanated from the top.

One would expect high standards from the former Minister for Finance, but there is no mistaking he took political opportunities with the Punchestown project and the special savings incentive scheme and did not conduct the analysis

[Mr. Bruton.]  
that is expected. The Taoiseach did the same with his pet projects. He paid no heed to proper cost analysis while rosy projections were offered and commitments of public money were made, which went down the drain. How can it be expected that people down the line will take responsibility for spending money wisely when that approach is taken at the top?

We have witnessed the consequences of this approach. For example, Deputy McManus elaborated on the health service. Ministers boast that spending in this area has trebled, but the funding has not made it to the front line because the Ministers responsible have not attended to the needs of ordinary people and the money has been sucked into various bureaucratic scams. Four health boards were created in Dublin, where previously there was one, but it was then proposed to merge them under one national scheme. That was a major bureaucratic waste. An additional 3,500 staff were recruited into the hospital system but only 400 were nurses. Administrative grades in the health system expanded at four times the rate of grades employing front-line staff. People were not put in the positions where they were needed and the result is the chronic problems in accident and emergency departments.

This has been repeated in other areas, for example, crime. The smallest amount was invested in recruiting extra gardaí who are at the front line of the fight against crime. We wonder why there has been an explosion of violence on our streets and murders are committed on a regular basis. Decisions were made to downgrade the importance of the Garda. The tiniest increase in staff was sanctioned for the force. The State recruited 60,000 additional staff but the Garda only received sanction for fewer than 1,000, even though members were at the front line trying to deal with major problems. That is how money was misspent.

There is no willingness on the part of the Government to set itself performance indicators regarding issues that matter to people. It should outline how long it will take to deliver health care, what impact it will make on detection rates and what it will do about drug seizures, and it should meet those targets. Instead, the Government announces multi-million euro projects and says it will be judged by such projects and the sheer enormity of its vision. What makes a difference is the hard graft of making sure projects work and are delivered on time. The Luas will go down as a great example of how not to do this. It was originally costed at €300 million as part of an integrated public transport system but, following four years of Government dithering, it cost four times the original estimate and it has not achieved the integration and impact on the city's needs that it ought to have, given the sum invested.

Those are the consequence of not paying attention to value for money or conducting proper analyses before decisions are taken, and nobody is willing to stand up and take the hit when things

go wrong. Someone must take the hit but it is always clear with the Government that Ministers will not take the hit.

It is 11 years since the strategic management initiative was launched. At its core was a commitment to evaluate public spending so that Governments would be much more careful about decisions on spending. It is an absolute scandal that the expenditure review initiative, a system that involves examining programme by programme what is delivered for each allocation, has been totally jettisoned by the Government. The initiative was to be operated on a three-year rolling basis so that every spending programme would be analysed to assess its impact. The initiative was abandoned and less than one in four of the spending evaluations occurred. Even where the spending evaluation took place, none of the lessons learned was applied in the programmes subsequently developed.

We come into the House year after year to debate Estimates, but no performance indicator is lined up against the major multi-million spending programmes we are asked to vote through. There is something rotten in the way public spending is approached and it is time the Government took responsibility for changing it, set performance indicators and started to kick ass to make sure things happen and reform is delivered. "Reform" is the one word the Government shuns on every occasion. Benchmarking offered an opportunity to kick-start reform of the public service but it was not taken. Opportunity after opportunity has been offered to face up to the changes that will deliver better quality, but whenever a line of resistance is met, the Government backs off.

We cannot go on like this. These have been the golden years of public spending. Exchequer resources have increased by between 8% and 10% per annum but they have not been used to set down a proper basis for a strong, quality public service. We will live to regret the way we have used the enormous wealth of these years. It is only at the Comptroller and Auditor General's level that we begin to see the wider shape of what has happened throughout the public service.

It is time for the Minister for Finance, who promised reform in the way budgeting is carried out, to step up to the plate and make real changes. Let Ministers, for the first time, be judged by the performance of spending in their areas. They should not step back, hide behind or blame public servants when things go wrong and simply cut ribbons and take praise when it is available.

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Gallagher):** This debate has been characterised by a negative focus on some problems that have arisen concerning the return on public expenditure. Opposition Deputies have deliberately chosen to ignore the huge advances in public services across the board, implemented by the Government and its predecessor. They have

also overlooked the vital initiatives taken by the Minister for Finance and his predecessor to improve the management of capital programmes and projects. While we acknowledge that there have been problems with the capital programme and project management, the Minister for Finance, the Minister of Transport and other Ministers have pointed out that remedial steps have been taken to address these matters.

The Government was accused of stoking building cost inflation through its actions and by making unprecedented levels of resources available under the national development plan for capital investment. These resources were provided against the background, accepted by all, including those on the opposite side of the House, of the need for major acceleration in capital expenditure to address urgently our infrastructural deficit.

Given the historically low level of investment and the state of the country's infrastructure, the Government was right to provide for massively accelerated capital investment in the NDP. We have continued to give priority to public capital investment by maintaining such investment under the five-year multi-annual capital envelopes at or close to 5% of gross national product, which is approximately twice the EU average. Were it not for this investment, we would not have experienced such high levels of economic and employment growth. Neither would we be in a position to promote sustainable economic and social development and to maintain national competitiveness.

There were problems with capacity and construction cost inflation but these have been addressed. Since 2001, construction cost inflation has moderated from an annual average of 12% to less than 5%. As stated by the Minister for Transport, cost benefit analyses confirm that road improvement projects provide a high rate of return and represent good value for money, given the significant economic and social benefits that derive from improving our national road network. The majority of road projects constructed in the last two years are coming in on budget and many are ahead of schedule.

I reject accusations levelled at the Government of a lack of political leadership and of incompetence in the management of public expenditure. The opposite is the case. The investment decisions taken by this Government show political leadership and a clear vision for the future of this country. Its decisions, for example, to upgrade the scale of certain road projects to motorway or dual carriageway status, were driven by its desire to invest for the long term and address future needs. This is in contrast to the tendency of past Governments to under-invest on the basis of a short-term view of current political needs.

I remind the House of the significant measures taken by the Government to improve appraisal and management of public capital programmes and projects and generally to secure better value

for money from the high levels of public expenditure through the five-year rolling multi-annual capital envelopes, guidelines for the appraisal and management of capital expenditure and rules relating to public procurement and public sector contracts.

I have been in politics long enough to remember the situation between 1982 to 1987, when there was a doubling of the national debt.

**Mr. S. Ryan:** Come on.

**Mr. Gallagher:** That is a fact. We could not fill a pot hole and we had an extra £13 billion at that time, which is in sharp contrast to what is happening now.

**Mr. S. Ryan:** Who was running the councils at that time?

**Mr. Rabbitte:** I congratulate Deputy Burton for proposing this important motion and I thank colleagues on all sides of the House who have contributed to this important and overdue debate. I note that the Minister of State concluded his contribution with an exhortation to the House to recall 1982. The dispiriting aspect of this debate is that when the Government cannot blame a previous Government, which is now a long time in the mists of history, it blames the civil servants. That has been the pattern. It is possible to detect in recent public utterances a strategy on the part of the Government whereby backbenchers and others are sent out to blame civil and public servants for the chronic mismanagement exposed by different offices of the State.

Ministers are getting it in the neck. They know that the mismanagement has happened and that the scale of it is indefensible. They are circling the wagons and blaming the civil servants. Being too long in office is by definition a bad thing as it encourages unhealthy relationships between the political and administrative masters. For that reason, being spurned, blamed, identified and scapegoated in public is particularly hurtful to civil servants who have been excessive in their zeal for and allegiance to the present Government.

Deputy Burton has afforded the House a valuable opportunity to express its concern formally about the pattern of waste, incompetent management and indecision by a tired and indecisive Government in the implementation of the national development plan and other capital expenditure projects. This tired, tetchy and incompetent Government, which is too long in office, has, as is usual on these occasions, whipped its embarrassed, awkward, silent and shuffling backbenchers into opposing and voting against what they know to be true, namely, the proposition that this Government is politically responsible and should be accountable for a shocking waste of taxpayers' money.

Deputy Peter Power blamed "Prime Time" for this debate and for misunderstanding the scale of

[Mr. Rabbitte.]  
the overruns and mismanagement of the roads programme. I want to deal with Deputy Peter Power's comment. After a "Morning Ireland" programme I was on this week I received a letter from an expert quantity surveyor involved in the business. He wrote to me along the following lines and said:

In your interview I gained the impression that you are of the belief that, whilst "mistakes" were made in the past by persons charged with the efficient supervision of public works projects, that that is now by and large a thing of the past. I respectfully disagree. . . . A significant area of abuse on public works in my opinion, particularly as regards road works, has been the use of the variation order procedure; Clause 51 in the ICI standard form of agreement. This is where a contractor is instructed to perform additional works. Its inclusion was always intended to be used sparingly where a new circumstance arises as could not reasonably have been contemplated when the engineer undertook his design prior to award. Instead, some engineers use the construction period to complete the design and/or to correct design errors which are then issued as variations.

By way of example, [he says] I attach a histogram of drawings which were revised and reissued as variations on the Ballincollig bypass. You will see that 85% of the total complement of drainage drawings had to be reissued to the contractor and that this did not begin until the seventh month of the contract calendar. The reason was that, inter alia, there were serious errors in the tender ground level information (between what is called the pre-construction "existing ground model" and the required post-construction levels) to the point that the drainage as originally designed was compromised.

He went on to make a number of other points. He made an interesting one about the filleting of the Freedom of Information Act which he used to compile information that one cannot otherwise get here. One cannot get it by way of parliamentary question. The Minister will not answer, but says it is a matter for the National Roads Authority, or whatever. He said:

In 2001, I attempted to undertake a study under the [then] Freedom of Information Acts to see if a pattern existed as regards liquidated and ascertained damages, (LADs) on public works. [As the Minister of State knows, there are many LADs in the business of public works.] My hypothesis is that despite the mandatory existence of LADs on all public works construction contracts, these provisions are never enforced. . . . Is it not remarkable how a significant number of these projects were allegedly completed 4, 5 and 6 or more months ahead of schedule? Or could it be that the times allowed for performance, and any exten-

sions of time thereto were also "misjudged" so that many could bask in the kudos? . . .

In summary, I would reduce this letter to two observances:

1. I have never heard of a significant PI insurance claim to recover the cost of design errors in the public sector, whether disguised as variations or not, notwithstanding the Statute of Limitations. The same does not hold true in the private sector.
2. I have never heard of LADs being enforced against a main contractor for delay.

Could it be that, in both instances, an unspoken "code" exists? Moreover, people (and I include myself) forget that no public officials suffer public responsibility for such incidents, such as SIAC's deserving settlement with Limerick County Council.

Many of the Minister of State's colleagues have come in and tried to say that all has changed, that they have learned their lessons, that they were new at the job and were not able to estimate at the time, that they have now employed experts and this will not happen again. That letter from a practising professional in the business would seem to challenge that.

The Government side has heard the list set out by the proposer of the motion, Deputy Burton, and added to by colleagues on all sides of the House, including the Government side, about the extent of waste and overrun. It seems we will end up building half as much roadway as was intended by the original cost and that, by definition, some roads cannot be built, some hospital beds cannot be provided and home help hours will be cut. The Minister for Social And Family Affairs shaved €58 million off the social welfare budget. This is all happening.

I am not confusing capital and current expenditure here. Most of our capital programme is funded, unprecedentedly in Europe, from the current side. So many projects could be productively carried out in society if it was not for this gross mismanagement by the people charged with responsibility.

The Minister for Finance made a weak and watery defence of it all last night when he quoted and misrepresented the Comptroller and Auditor General. He quoted, in particular, that construction and land inflation contributed 40% of the increase or the overrun. Of course it did. Who structured the contracts in that fashion? Who entered into the deal with the IFA in respect of land purchases? Who set it up so that one could only build 8 km of road to the county boundary and so that this assisted the local contractors and friends of Fianna Fáil, rather than throwing open a piece of road and putting it out to tender throughout the European Union? Who did that? It was the Government. Ministers made that decision.

If I had time, I would like to go through some of the other misrepresentations that the Minister

for Finance came out with last night in his attempt to defend the impossible. He talked about fundamental changes in the way public sector contracts are carried out. He promised these would take effect from the end of this year. He said from the end of this year, despite the fact this started in 1999. Where were all the Ministers who were in charge of it since 1999?

The Government boasts again tonight about how marvellous it is at the investment programme that for so many years was overlooked. It was overlooked for so long because the country did not have the resources for it. It has the resources now. The Government makes it seem in its amendment to the motion as if it is having a whip around the Front Bench and the Ministers are contributing their pensions in order to give us bridges and bypasses.

This money and wealth was created in the economy by the people but nobody in the Cabinet has supervised the spending. The Government set up a national development plan and for the first three years nobody was in charge. Nobody was responsible for politically driving it. There is still no one Minister responsible for driving the national development plan. I suppose that fits in with the easy excuse of "blame the civil servants" and making them responsible for what has happened.

I have a great speech here and I am sorry I do not have time to put it on the record. I was amazed to hear Deputy Peter Power blaming "Prime Time" for what has happened. The report of the Committee of Public Accounts makes it clear it did not have the "Prime Time" report when it made its findings. It abstracted a number of the roads projects and set out the spending clearly. Take, for example, a part of the country about which I know a little, from Knock to Claremorris — Knock seems to be the main hope we have of getting this Government to change; it would require a miracle to get it to exercise competent management. The Knock-Claremorris improvement was estimated to cost €19.5 million, but has ended up costing €36.044 million. The Youghal bypass was estimated to cost €10.668 million, but it has ended up costing €43.5 million. The entire projects done under this abstraction, only four, were estimated to cost €63 million, but cost €128 million.

I must point out to Deputy Peter Power that these are not figures misunderstood by "Prime Time". They are figures accurately put together by the Committee of Public Accounts and I find it difficult to accept the Deputy coming in here and trying to defend them. The important point that Deputy Burton made was that there is a pattern of waste and mismanagement. It is fair enough for Deputy Peter Power to say it is poss-

ible to defend mistakes made in respect of a single project, but we are not talking about a single project. Deputy McManus spoke about the mismanagement of the scheme of medical cards for those over the age of 70. It was calculated that the scheme would cost over €19 million, but it cost €57 million. The then Secretary General of the Department of Health and Children, Mr. Michael Kelly, who was also involved in the nursing homes issue, was given just 36 hours to consider the matter because the then Minister for Finance, Charlie McCreedy, did not want what he considered to be a stroke to be leaked.

We have referred to the NRA's mishandling of roads projects. The former Minister for Education and Science, Deputy Woods, entered into an indemnity deal with religious orders on the last day of the previous Dáil without auditing the contribution they should make. He agreed to cap the contributions of religious orders at £100 million, thereby leaving taxpayers exposed to costs of up to €854 million, according to the Comptroller and Auditor General.

**An Ceann Comhairle:** The Deputy's time has concluded.

**Mr. Rabbitte:** Deputies spoke about the cost to the State of the electronic voting project, the mistakes made in respect of nursing homes, the renovation of the courthouse in Cork, the purchase of a site for the Minister, Deputy McDowell's prison and the projects at Puncestown and Abbotstown. The Taoiseach told the House this morning that the tribunals have cost €200 million, which is shocking. Successive Attorneys General under this Administration fixed the fees, in co-operation with their colleagues at the Law Library.

**An Ceann Comhairle:** I ask the Deputy to conclude.

**Mr. Rabbitte:** I will. Some Ministers are interested in serving the interests of taxpayers, but other Ministers are more interested in cutting ribbons than in cutting waste. Many Ministers in the Cabinet prefer to avail of photo opportunities and cut ribbons, instead of reading documents and taking responsibility. They are unable to read complex briefs so they blame the Civil Service, and if they cannot blame the Civil Service, they blame the rainbow Government.

**An Ceann Comhairle:** I am obliged to put the question.

**Mr. Rabbitte:** I am sure the Ceann Comhairle agrees that it is scandalous.

Amendment put.

## The Dáil divided: Tá, 68; Níl, 55.

## Tá

Ahern, Michael.  
 Ahern, Noel.  
 Andrews, Barry.  
 Ardagh, Seán.  
 Blaney, Niall.  
 Brady, Johnny.  
 Brady, Martin.  
 Brennan, Seamus.  
 Browne, John.  
 Callanan, Joe.  
 Callely, Ivor.  
 Carey, Pat.  
 Carty, John.  
 Cassidy, Donie.  
 Collins, Michael.  
 Cooper-Flynn, Beverley.  
 Coughlan, Mary.  
 Cregan, John.  
 Curran, John.  
 Davern, Noel.  
 de Valera, Síle.  
 Devins, Jimmy.  
 Ellis, John.  
 Fahey, Frank.  
 Finneran, Michael.  
 Fitzpatrick, Dermot.  
 Fleming, Seán.  
 Gallagher, Pat The Cope.  
 Glennon, Jim.  
 Grealish, Noel.  
 Haughey, Seán.  
 Hoctor, Máire.  
 Jacob, Joe.  
 Keaveney, Cecilia.

Kelleher, Billy.  
 Kelly, Peter.  
 Killeen, Tony.  
 Kirk, Seamus.  
 Kitt, Tom.  
 Lenihan, Brian.  
 Lenihan, Conor.  
 Martin, Micheál.  
 McEllistrim, Thomas.  
 McGuinness, John.  
 Moloney, John.  
 Moynihan, Michael.  
 Mulcahy, Michael.  
 Nolan, M.J.  
 Ó Cuív, Éamon.  
 Ó Fearghaíl, Seán.  
 O'Dea, Willie.  
 O'Donnell, Liz.  
 O'Donovan, Denis.  
 O'Flynn, Noel.  
 O'Keeffe, Batt.  
 O'Keeffe, Ned.  
 O'Malley, Fiona.  
 O'Malley, Tim.  
 Parlon, Tom.  
 Power, Peter.  
 Roche, Dick.  
 Sexton, Mae.  
 Smith, Brendan.  
 Smith, Michael.  
 Wallace, Dan.  
 Wallace, Mary.  
 Walsh, Joe.  
 Woods, Michael.

## Níl

Boyle, Dan.  
 Breen, James.  
 Breen, Pat.  
 Broughan, Thomas P.  
 Bruton, Richard.  
 Burton, Joan.  
 Connaughton, Paul.  
 Connolly, Paudge.  
 Costello, Joe.  
 Coveney, Simon.  
 Cowley, Jerry.  
 Crowe, Seán.  
 Cuffe, Ciarán.  
 Deenihan, Jimmy.  
 Durkan, Bernard J.  
 English, Damien.  
 Enright, Olwyn.  
 Ferris, Martin.  
 Gilmore, Eamon.  
 Harkin, Marian.  
 Hayes, Tom.  
 Healy, Seamus.  
 Higgins, Michael D.  
 Hogan, Phil.  
 Lynch, Kathleen.  
 McCormack, Pdraic.  
 McGinley, Dinny.  
 McGrath, Finian.

McGrath, Paul.  
 McHugh, Paddy.  
 McManus, Liz.  
 Mitchell, Olivia.  
 Moynihan-Cronin, Breeda.  
 Murphy, Gerard.  
 Naughten, Denis.  
 Neville, Dan.  
 Ó Caoláin, Caoimhghín.  
 Ó Snodaigh, Aengus.  
 O'Dowd, Fergus.  
 O'Shea, Brian.  
 O'Sullivan, Jan.  
 Pattison, Seamus.  
 Penrose, Willie.  
 Perry, John.  
 Rabbitte, Pat.  
 Ring, Michael.  
 Ryan, Seán.  
 Sargent, Trevor.  
 Sherlock, Joe.  
 Shortall, Róisín.  
 Stagg, Emmet.  
 Stanton, David.  
 Twomey, Liam.  
 Upton, Mary.  
 Wall, Jack.

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

Amendment declared carried.

Motion, as amended, put and declared carried.

## Adjournment Debate.

### Flood Relief.

**Mr. Costello:** I wish to refer to two separate floods in Dublin, one on 1 February 2002 and the other some two years later. On both occasions, the East Wall, the North Strand, Ballybough, Botanic Avenue and the area around St. Luke's in Drumcondra were badly flooded. The flooding was of such a degree that boats were needed in the East Wall area.

**Mr. Callely:** As well as on the Richmond Road.

**Mr. Costello:** As boats were also needed in the neighbouring constituency of Deputy Callely, I am sure he will support my motion. Thousands of people were affected by the flooding. We all saw the remarkable photograph of the Taoiseach in his wellies outside St. Luke's, directing the activities to help the good citizens of the north side of Dublin in their hour of need.

**Mr. Parlon:** Where was the Deputy?

**Mr. Costello:** I was in Ballybough at the time. I did not realise the Taoiseach was in Drumcondra.

**Mr. Parlon:** The Deputy missed a good photo opportunity.

**Mr. Costello:** Unfortunately, I did not have my wellies with me. However, I think we all agree the Taoiseach was a picture.

**Mr. Callely:** The Deputy was on dry land.

**Mr. Costello:** No, I was not. I did my bit. I was filling sand bags at the local depot in Ballybough, helping local residents when the local authority left them a little short of sand bags. In fact, I was out virtually the whole night working to alleviate the flooding.

The flooding was severe. Homes were invaded by water and many people were imprisoned in their homes as the water flooded in. The flooding was very sudden, particularly in the area of Ossory Road where the water came from the Royal Canal, and it caught many residents unawares.

Various surveys have suggested that, statistically, this type of flooding should not happen more than once every 50 or 100 years. However, we have already had two similar occasions of flooding in the space of two years. There is no guarantee that it will not happen again within another couple of years. Therefore, it is particularly important that preventative measures are put in place.

Dublin City Council and the Office of Public Works are working together in this regard. I understand there was a sharing of costs between them with, I presume, the lion's share of the cost

being taken by the OPW. Perhaps the Minister would enlighten us on the cost of the work that must be done.

Can the Minister clarify the flood prevention measures that have already taken place? What level of dredging has occurred? What can be done about the flood plains that previously took away the surplus water which has now begun to flood through tight channels into Dublin causing flooding?

The East Wall road is very low, about two feet high, and this is a source of grievance for those living the area. People feel that flooding similar to that of the 1950s might occur if there is a high tide and the Tolka floods. There is also a danger of flooding to the Royal Canal from the sea and high tide as has happened before. What measures are being taken to alleviate the possibility of flooding occurring again?

Householders are experiencing real problems in obtaining insurance, in particular from Hibernian and Cornmarket brokers. If somebody sells their home, the newcomers will be unable to get insurance. The insurance is not being carried on because of the fear of future flooding and premia are being raised. It is one thing not to have flooding but quite another to have the fear of flooding impact in an adverse financial manner when people seek insurance at a decent rate. It is important that measures be put in place and that the Minister does something to ensure that insurance companies do not increase rates on the one hand and refuse to insure on the other.

### Minister of State at the Department of Finance

**(Mr. Parlon):** I thank the Deputy for raising this matter. The last major flood in Dublin occurred in November 2002 when there was substantial flooding from the Glasnevin and Drumcondra area of the city to the Clonee area in County Meath as a result of the Tolka river breaking its banks. Analysis has shown that this flood exceeded the scale of any previous flood on record in the catchment area. There was widespread flooding on Dublin's north side from Glasnevin to Ballybough. Since that flooding, the Office of Public Works, in co-operation with Dublin City Council and Fingal and Meath county councils, has implemented flood alleviation measures as recommended in the River Tolka flooding study that was under way at the time of the 2002 flood.

Most of these works have been constructed by the OPW's direct labour force as part of a scheme which, when completed, will provide protection against a flood event with a design return period of 100 years or, to put it another way, a 1% probability of occurring in any year. The OPW and Dublin City Council have pursued a policy of completing work in areas at highest risk of flooding. The works undertaken to date cover an area from Glasnevin Bridge to Luke Kelly Bridge in Ballybough and include provision of new walls and embankments on Botanic Avenue, provision of embankments at Griffith Avenue, replacement

[Mr. Parlon.]  
of Woodville Road footbridge, provision of walls downstream of Woodville Road footbridge to Drumcondra Bridge, provision of walls and embankments at Tolka Park Cottages, raising of the wall from Drumcondra Bridge to Tolka Park, protection works at the corner of Tolka Park, provision of walls and embankments from Tolka Park to Distillery Weir, widening of the bank on Clonliffe College grounds, the removal of Distillery Weir, the repair of scour damage at 112 to 114 Tolka Road, provision of new walls downstream of Distillery Road Bridge on the northern bank, and general channel maintenance.

These works are now mostly completed. There are further works which include the replacement of Distillery Road Bridge and the widening of some parts of the river around the bridge. Arrangements for the execution of these works have been the subject of negotiations between the city council and property owners and developers undertaking a development in that area. These negotiations are being finalised and works are expected to proceed in the immediate future. It is also intended to install a number of pumping stations to deal with any risk from storm water behind the defences during flood events.

With regard to the Royal Canal, flooding in the East Wall area has occurred as a result of tidal influences. The lower reaches of the canal are tidal and at times of exceptionally high tides in the River Liffey, the canal banks have been overtopped. Dublin City Council is constructing a cofferdam at the confluence of the Royal Canal and the River Liffey and this should help to alleviate the problem.

Flooding in this area is one of the many issues addressed in the report of the Dublin coastal flooding protection project which was commissioned by Dublin City Council and Fingal Country Council in association with the OPW and the Department of Communications, Marine and Natural Resources. It set out to examine the causes and impacts of flooding from Portmarnock to Booterstown and to identify appropriate measures to deal with the flood risk in the area. The report has been received by the OPW in recent weeks. It is a very detailed document and is being examined. It recommends a number of actions, including early flood warning systems and the development of a number of flood defence schemes. The construction costs of the proposals are estimated between €64 million and €95 million.

As the report is large and complex, it will take time to examine. Once this is done, the OPW will meet city council officials and other relevant bodies to discuss the proposals with a view to developing a priority list of measures which could be undertaken in coming years. Any funding which may be required from the OPW will be considered at that stage in the context of the OPW's annual budget for flood relief projects, the large number of flood alleviation projects and non-structural measures being advanced by the

OPW and the urgency attached to the various measures recommended in the report.

Regulation of the insurance industry does not fall within my remit and I am not in a position to respond to that element of the Deputy's matter on the Adjournment. However, my officials have had discussions with the Insurance Industry Federation on other matters and it was indicated that insurance companies would take account of the existence of improved flood defences where relief schemes have been undertaken. The OPW is considering the most appropriate way to make this information available to the insurance industry and other interested parties.

### **Rural Transport Initiative.**

**Mr. Connolly:** I welcome the opportunity to speak on this matter regarding the extension of the rural transport initiative to north Monaghan. This successful national pilot programme is aimed at those who are excluded and do not have available, accessible or affordable local transport. The rural transport initiative should be extended to north Monaghan. I do not need to extol the virtues of this excellent scheme which has proved a phenomenal success. It was piloted but has been adopted as an ongoing programme and funded by the national development plan. It has opened up the lives of many people. There was a time when a son or daughter would be around the house and would be able to take their parents into town, but that time is gone. We must replace it with some form of rural transport initiative.

I understood that there was a transport programme in north Monaghan but then I met a woman who lives four miles outside of town. She explained to me that it costs €8 to take a taxi into town and another €8 to come back out. She was reasonably well off but very concerned about her neighbours in Knockatallon who might have to spend €15 each way for a taxi into town. If one is on a pensioners' income, one will not go into town very often if that is what it costs. The real tragedy is that there was a successful initiative operated by CIE for six or seven years. There were two schemes in the north Monaghan area. The first covered Bellanode, Scotstown, Knockatallon and Tedavnet and the second covered Knocknagrave, Crush, Carrickroe, Clara, Ballyoisin, Mullan, Emyvale and Glaslough. Those schemes were well supported but the head honchos in Dublin decided that the routes were not making enough profit. Are these routes put on to make a profit or to provide a service? It should be a mixture of both. A good mix of people supported these two initiatives, so much so that in regard to the Carricroe-Clara-Emyvale scheme, a private bus operator thought he could keep it going. I spoke to that private operator recently and he informed me that he cannot continue in operation, much as he would like to do so because he has family and other contacts in the area. I asked him about the people with free bus passes and he said he cannot charge them

even though he is entitled to do so. People who use the bus as an extra service support him.

There is room to extend the rural transport initiative to this area of Monaghan. It meets all the criteria. We have lovely brochures on rural transport initiatives but the transport is not available, accessible or affordable to people locally. Why does the Department bother giving people free bus passes? It is an insult to give them a free bus pass if the transport service is not available. Providing these passes in such circumstances is meaningless. Society is marginalised enough in rural Border areas. We are talking about people who are living ten to 15 miles from town and this service gives them a major lift in that they can go to town every so often.

There are a number of successful examples in the constituency. We have the Balti Bus in the Latton-Ballybay-Bawn areas, which is operated from the Latton Resource Centre. In the Kilnaleck community co-operative, we have another successful example of a rural transport initiative and we also have Rural Lift in Blacklion. The Cavan-Monaghan constituency lends itself very well to that type of initiative. In my area of north Monaghan the rural transport initiative should be put back in place. We should be proactive about this issue. We should do a survey on it. The scheme was operated in the past and it was used. People used the transport system and if they used it in the past I have no doubt they will use it in the future. That is what rural transport is about. It is about opening up people's lives and allowing them travel into town. It is a type of socialisation programme for people. I ask that serious consideration be given to re-adapting this programme for the north Monaghan area because it is very much needed.

**Minister of State at the Department of Transport (Mr. Callely):** I thank Deputy Connolly for raising the matter. He brought back memories to me when he talked about Monaghan, Cavan, the Kilnaleck region and that whole area. It is an area I travelled over many years and I know the highways and byways and the terrain very well.

**Mr. Connolly:** I never mentioned the victory against Meath.

**Mr. Callely:** My Department is funding the provision of public transport in rural areas through the rural transport initiative. This is a scheme my good friend and colleague, the then Minister for Transport, Deputy Seamus Brennan, initiated in 2002 to provide funding on a pilot basis for community organisations and partnerships to address the transport needs of their rural area through the provision of local transport services. The then Minister, Deputy Brennan, was aware of such needs arising from feedback through the national Fianna Fáil organisation when many members raised the issues to which Deputy Connolly referred.

The RTI is now operational in virtually all counties and 34 community transport groups are currently being funded under the initiative. Under the initiative, some 65,000 RTI transport services were provided in 2004 and more than 500,000 passenger trips were recorded on those services. I understand that one of the RTI project groups, the Bawn and Latton rural transport initiative, which operates under the title Balti Bus, provides public transport services in rural parts of County Monaghan to which Deputy Connolly referred.

Area Development Management Limited administers the RTI on behalf of the Department. ADM and the individual RTI groups are solely responsible for all the operational aspects of the RTI, including the destinations to be served, and my Department has no role in these issues.

My Department provided €3 million for the RTI in each of the years 2002, 2003 and 2004. The initiative has been further extended until 2006 and the allocation for this year has been increased to €4.5 million. I am pleased to confirm to Deputy Connolly funding of the order of €5 million for the RTI in 2006 and to put the initiative on a permanent financial footing from 2007. This will result in an overall funding commitment of more than €18 million for the RTI to the end of 2006, which is good news and compares very favourably with the total of €4.4 million originally provided for the RTI in the national development plan.

The increased level of funding for the RTI will facilitate the completion of the pilot phase of the initiative. It will also provide scope for the 34 community transport groups being funded under the scheme to undertake an expansion of services as envisaged in the 2004 evaluation of the RTI. I have asked ADM to work closely with the pilot project groups to maximise the impact of the increased funding and to ensure continued value for money.

It should be borne in mind that the RTI projects also benefit each year from funding provided by the Department of Social and Family Affairs arising from the application of the free travel scheme to the initiative. In addition, some RTI projects are also generating additional funds from the provision of transport services to health boards and from other sources. That is an issue on which I will be happy to assist Deputy Connolly because he raised the question of recipients of free travel. There is scope within the areas I mentioned that may be helpful to Deputy Connolly and if he wants to explore them or raise any problems he should get back to me.

In deciding on the extension of the RTI to the end of 2006, I am conscious that many of the individual projects only became fully operational in 2003 and that continuing the RTI to the end of 2006 will ensure that the lifespan of the initiative will dovetail with the end date of the National Development Plan 2000-2006.

The extension will facilitate a more comprehensive appraisal of the effectiveness of the pilot initiative in addressing the transport needs of rural areas. It will enable the 34 RTI projects to

[Mr. Callely.]

further explore different models of transport provision and to strategically develop new methods of planning, co-ordinating, integrating, procuring and providing transport in areas where it was traditionally considered difficult to do so, as Deputy Connolly outlined in his contribution.

In providing additional time for the RTI projects to fully mature, I am facilitating the emergence of models of best practice in the provision of rural transport services both in terms of operational and organisational management.

Deputies will be aware that my colleague, the Minister for Transport, Deputy Cullen, officials of my Department and I are currently finalising a multi-annual investment framework for transport. This framework will identify the investment needs and outline the measures required to further develop all elements of our national transport infrastructure. The rollout of a more permanently based RTI will be carried out in the context of this ten year strategy.

I assure the House that in developing proposals for a more permanent RTI, we will pay particular attention to the views of all those involved in the pilot phase of the RTI, especially passengers, operators and managers, to establish how we can develop the scheme beyond the completion phase of 2007 onwards.

#### Child Care Services.

**Mr. M. Moynihan:** I am delighted to be able to raise this issue. Tír na nÓg in Ballydesmond is a voluntary group that applied for community based capital funding to put in place this community based project in Ballydesmond, a small village on the Cork-Kerry border servicing the community on both sides of the border. It applied for staffing funding, which was made available. I congratulate the people behind the directors and the board of Tír na nÓg in Ballydesmond for the excellent work they do. Their voluntary work and commitment has ensured this facility has been built and is up and running. I spoke to them on a number of occasions about the paperwork they must complete to comply with health board and Area Development Management Limited regulations. They do excellent work on behalf of the Tír na nÓg project in Ballydesmond. Capital funding was allocated a few years ago, the building is in place and it is up and running.

An initial staffing grant was given over a three-year period to ensure the viability of the project it does not meet budgetary demands to maintain services. The Department, the county child care committee and ADM need to examine seriously the staffing grants made available to these community-based child care projects.

This is not just about Tír na nÓg in Ballydesmond but all other community-based child care projects that have been funded for building and staffing. The initial idea was that they would be viable after three years but the Department must examine this and increase and maintain funding. I know funding has been put in place until 2007 but many of these projects are

concerned about their future. Projects that have been up and running for some time are losing valuable trained staff because they are concerned about their future in community-based child care projects. The groups want to ensure they keep their expertly trained staff.

I want the Minister of State to outline to the House on behalf of the Department of Justice, Equality and Law Reform what is the view of the Department on continued financial support for the staffing of Tír na nÓg in Ballydesmond in County Cork to ensure this project is viable in the future. Many agencies such as the child care county committees and ADM are dealing with child care projects and there are many layers of bureaucracy. We need the Department of Justice, Equality and Law Reform to ensure the financial support for staffing in Tír na nÓg is continued.

**Minister of State at the Department of Foreign Affairs (Mr. C. Lenihan):** I thank Deputy Moynihan for raising this issue. As he knows my colleague, the Minister for Justice, Equality and Law Reform, Deputy McDowell, has responsibility for this area but could not join us this evening and has asked me to update the Deputy on the issue of child care.

The programme for Government and the progress of the equal opportunities child care programme are confirmation of the Government's commitment to developing child care services to support the child care needs of the parents of Ireland with a particular emphasis on those who may be in employment or education or training to prepare for employment. The equal opportunities child care programme has an equal opportunities and a social inclusion perspective and aims to increase the supply of centre-based child care places by 55% or 31,000 additional places by the end of the programme. Current forecasts of impact suggest that it will ultimately create at least 36,000 places, more than 24,600 of which have been achieved.

The first meeting of the expert working group on child care established under Partnership 2000 was held within a month of the Government changeover in 1997 and all the evidence shows that child care has been high on our agenda since that time. The Government has consistently moved promptly, purposefully and proactively to facilitate the development of a top quality child care service throughout the country to support parents, the economy and social inclusion through labour market participation.

Since this Government came into office for the second time, it has further increased the funding provision for the development of child care by more than €60 million. This includes part of the additional capital provision of €90 million made available by the Minister for Finance in the 2005 budget over the period 2005 to 2009 to develop child care infrastructure and brings the allocation for the present programme to €449 million.

On the project in question, in December 2002, the Minister for Justice, Equality and Law Reform approved €1 million in capital grant

assistance to this community-based not-for-profit group at Ballydesmond, County Cork, to construct and equip a new purpose-built full-day child care facility for children ranging in ages from three months to 15 years. This excellent service offers child care with 57 full time and 20 part time places.

This service in Ballydesmond is one of many child care services throughout Cork city and county which have benefited from grant assistance under the equal opportunities child care programme. To date, the Minister has approved funding of more than €33 million for child care services in Cork city and county which supports the creation of 3,500 new child care places across the county of Cork.

Since the 2005 budget was announced in December 2004, the Minister for Justice, Equality and Law Reform, Deputy McDowell, has announced a record allocation of €67 million in capital funding for community-based not-for-profit groups, in two tranches, one in December 2004 and another on 4 March 2005. The availability of the additional capital funding enables the Minister to make further capital grant assistance available to groups which address significant child care service gaps and where the project proposal represents good value for money.

The Deputy may be aware that the Minister also approved €235,000 over three years to this group as a contribution towards the staffing costs of the project. This phase of funding for the Ballydesmond group will support it until the end of June 2006 and the Minister has already advised the House that following a detailed review of the staffing grants under the equal opportunities child care programme, he has recently extended the terms of staffing grants to qualifying groups to the end of December 2007.

The extension of staffing funding is conditional upon the services continuing to meet the objectives of the equal opportunities child care programme and the service targets set down within their contracts. Staffing grant assistance provided under the equal opportunities child care programme is intended to enable those services which benefit from such support to implement a differential fee structure which would make child care available at reduced cost for the less advantaged members of the client community. Many child care services, particularly in very disadvantaged areas, are likely to offer services to a client group that is unable to meet the economic fee structure and these services will therefore require ongoing staffing grant support to ensure that they can continue to support the child care needs of their disadvantaged client group. This is particularly important in assisting families to break the cycle of disadvantage.

More than 775 community-based not-for-profit projects, such as the one in Ballydesmond, receive ongoing staffing grant assistance and more than €30 million of EU and Exchequer funding goes towards this measure each year. It is only fair to emphasise that the equal opportunities child care programme has been central to the recent development of child care in Ireland

which will continue to flourish under the careful stewardship of this Government.

### Planning Issues.

**Mr. P. Breen:** I thank the Ceann Comhairle in his absence for giving me an opportunity to raise this important issue that has arisen as a result of the recent guidelines issued by the Minister for the Environment, Heritage and Local Government, Deputy Roche. Rather than loosening planning, the planning guidelines have tightened planning regulations. I refer in particular to landowners' sons and daughters who want to build on their own farm in rural areas but find they cannot do so because bodies such as the National Roads Authority can object to a planning application.

I know of two applications in my constituency where planning permission was granted by Clare County Council to two local farmers' sons who wanted to build houses with direct access to national secondary roads. I realise safety is an important issue for anyone building a house, particularly if it has direct access to a national secondary route, but both these people whom I know well had gone to great expense in planning applications and safety audits. They satisfied the local authority that there was no danger to traffic emerging onto the national secondary route because they had the adequate site distance to overcome any problems.

Both applicants were granted their planning applications after a lengthy period of consultation with the local authority. I am disappointed to note that the National Roads Authority has appealed the planning applications that were granted by Clare County Council. These young people were born and grew up in their own parish and wish to continue living there. They do not want to relocate to the nearest town because they work and live on a farm. It is part of their job to be on-site in the event of problems arising on the farm.

The National Roads Authority objected to An Bord Pleanála, even after the council planners had satisfied themselves as to the safety aspects of the planning application. This places additional stress and an unfair burden on the applicants. They have gone through the planning process and received permission, yet they find they are back to square one after a year or two. They will now have to go through the long process again of seeking planning permission from An Bord Pleanála, although they do not know what the outcome will be. The Minister for the Environment, Heritage and Local Government, Deputy Roche, should sort out this mess.

The new guidelines were introduced to reverse rural decline by facilitating members of the rural community who wish to build homes in their localities. We find, however, that while council planners are implementing the guidelines, the National Roads Authority is operating a different strategy. The NRA should be mandated to work closely with local authorities on road strategy, not in opposition to them.

The Minister should examine that situation seriously having regard to the guidelines he introduced recently. He said he recognises the strong

[Mr. P. Breen.]

and continuing tradition of people living in rural areas. He also said that the guidelines should promote and support vibrant rural communities, but exactly the opposite is happening. People connected to the land find that they must fight their cases every inch of the way, even after they appear to have won.

According to the guidelines, housing should take into account the efficient ongoing development and safe operation of key transport arteries such as roads, particularly national primary and secondary routes, and the rail network. The NRA, however, appears to be at loggerheads with Clare County Council on the issue. The NRA wrote to the council last March stating that it was disappointed with Clare County Council's approach to the county development plan. The situation is serious considering that the new guidelines were meant to facilitate a more liberal regime. There is an urgent need for the Minister to clarify the position now. The Minister of State may say in his reply that he has no control over the NRA and the Minister for Transport would say the same thing, but what is the point of the new guidelines if an independent statutory body can overrule them? I ask the Minister to examine this situation with a view to allowing people to remain in their local areas.

**Mr. C. Lenihan:** I thank Deputy Pat Breen for raising this matter and I apologise for the absence of the Minister of State, Deputy Batt O'Keeffe, who is unavoidably absent. He was most anxious to respond to this Adjournment matter on which he could probably provide more enlightenment than I can. However, I thank the Deputy for giving me this opportunity to clarify that the recently published guidelines for planning authorities on sustainable rural housing are, as provided for under the Planning and Development Act 2000, specifically for planning authorities.

Local planning authorities and An Bord Pleanála are required to have regard to such guidelines in the performance of their functions under the Act in making or varying development plans and in the day-to-day consideration of planning applications. Statutory planning guidelines do not extend to public bodies other than planning authorities. The guidelines are intended to facilitate people who are part of the rural community in getting planning permission, provided their proposals meet the normal standards in matters such as the proper disposal of waste water and road safety.

On the question of road safety, the guidelines deal with the issue of development along national primary, national secondary and key regional roads. In this regard, the guidelines call for key objectives to be included in development plans, which focus on the efficient ongoing development and safe operation of such roads.

The guidelines recognise that many development plans contain objectives regarding future

road proposals and, in certain circumstances, the need to protect the routes of future roads from development and recommend that this practice should continue.

In addition, as regards the assessment of proposals on existing roads, the guidelines refer to policy on development involving access to national roads. They also refer to policy on development along such roads as set out in the documents entitled Development Control Advice and Guidelines and Policy and Planning Framework for Roads, which were issued in 1982 and 1985 respectively by the Department of the Environment, Heritage and Local Government.

That policy is given practical expression in the Department's 1982 document which stipulates that "as a general policy, the location of new means of access to the national primary roads, or residential, commercial, industrial or other development dependent on such means of access, should not be permitted except in areas where a speed limit of 30-40 mph applies". That would now be 50-65 km/h. The 1982 document points out that the same considerations also apply to national secondary roads.

The guidelines on sustainable rural housing state, therefore, that the objectives and policies of the development plan should make it clear that direct access from future development should not be permitted to national roads outside the speed limit zones for towns and villages.

Development control policy should also seek to channel traffic from new development on to existing local roads and in this way use established access points to gain entry on to national roads. The guidelines add that the development plan should make such policies clear as regards designated national routes in the planning authority's functional area.

The primary concern of the policy I have outlined is one of road safety. We are all only too well aware, for example, of the danger posed to drivers and passengers, and other road users, by cars or other vehicles stopping to make a right turn into a house entrance on a main road where the speed limit is 100 km/h.

I reiterate that the guidelines apply only to planning authorities and there is specific reference therein to development along the national primary, national secondary and regional road network, primarily for safety reasons. If other bodies choose to lodge an objection to a planning application for particular reasons, it is open to them to do so under the planning regime in place. When making a decision on a planning application, a planning authority is restricted to considering the proper planning and sustainable development of its area, having regard, *inter alia*, to the provisions of its development plan.

I hope that reply has provided some enlightenment for the Deputy.

The Dáil adjourned at 9.30 p.m. until 10.30 a.m. on Thursday, 19 May 2005.

## 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 31, inclusive, answered orally.*

*Questions Nos. 32 to 73, inclusive, resubmitted.*

*Questions Nos. 74 to 82, inclusive, answered orally.*

### Quigley Report.

83. **Mr. Costello** asked the Minister for the Environment, Heritage and Local Government the progress made with regard to implementation of the recommendation made in the recent report by Mr. Dermot Quigley that his Department review and consolidate its internal advice on all aspects of procurement; and if he will make a statement on the matter. [16329/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Substantial progress has been made by my Department in implementing the recommendation regarding procurement contained in the Quigley report. Procurement guidelines and practices in the Department have been reviewed and a set of consolidated guidelines has been circulated to all staff. Revised procedures have been put in place to strengthen monitoring and control of procurement and a briefing session has been held for staff engaged in procurement with further briefings planned for the coming weeks. Reference material on procurement has been published on the Department's intranet and is readily available to all staff. Additional resources have also been allocated to the Department's internal audit unit and to its organisation unit which co-ordinates advice and monitoring in relation to the Department's procurement activities.

I am confident that these arrangements will enable my Department to achieve the improvement and consolidation of its procurement arrangements recommended by the Quigley report.

### Radon Gas Levels.

84. **Mr. McEntee** asked the Minister for the Environment, Heritage and Local Government if he will introduce free testing for radon gas in areas of high radon (details supplied). [16460/05]

177. **Mr. Gogarty** asked the Minister for the Environment, Heritage and Local Government if he will make available funding to the Radiological Protection Institute for the provision of free radiation monitoring in homes in high risk areas. [16509/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 84 and 177 together.

The Government, for many years, and largely through the Radiological Protection Institute of Ireland, RPII, has committed significant resources to assessing the extent of the radon problem throughout the country and to increasing public awareness of radon.

The RPII has consistently advised on the health risks of exposure to radon gas and has actively encouraged those householders residing in high radon areas to use radon measuring kits which can be obtained for approximately €40 to establish radon levels in their homes. It is not envisaged that this modestly costed service should be subsidised from public funds. Where measurements are found to exceed the national reference level, it is recommended that householders carry out any necessary remediation measures.

In addition, through press releases and radio and television interviews, and through its published reports on radon, the institute has been promoting public awareness of radon and highlighting the risks associated with exposure to it. It has been encouraging householders, particularly those in high radon areas, to have their homes tested for radon and to undertake radon remediation works where necessary.

For example, during the years 1992 to 1999, the institute carried out a nationwide survey of radon in domestic dwellings. The survey involved the measurement by the institute of radon for a 12 month period in a random selection of homes throughout the country. In all, over 11,000 houses were measured. The institute's website, [www.rpii.ie](http://www.rpii.ie), contains a comprehensive map of the high radon areas in Ireland identified as a result of the nationwide survey as well as the report of the survey. High radon areas are areas where the institute estimates that more than 10% of the houses surveyed in a particular area have radon concentrations levels above the national reference level.

Actions taken by my Department also contribute to the information available on radon. In February 2002, my Department published a booklet entitled Radon in Existing Buildings — Corrective Options advising designers, builders and home owners on remediation options for reducing radon in existing houses to, or below, the national reference level.

Recently, the RPII has undertaken several initiatives to further heighten public awareness of the radon issue. In November 2004, it hosted the third National Radon Forum in Dublin to raise awareness of radon as a health risk. That same month, it published a booklet entitled Understanding Radon — A Householder's Guide. That guide is directed at householders who have been informed that they have radon concentration levels above the national reference level in their homes. The aim of the guide is to assist such householders in interpreting their radon measure-

[Mr. Roche.]

ment results and in deciding how to deal with the problem. The institute also plans to distribute an information poster on radon for display in libraries, medical centres, etc., advising people to have their homes checked for radon. It has also just begun a new radon awareness campaign which will involve a series of nationwide public information seminars on the dangers of radon and which will be targeted at selected high radon areas. The fourth National Radon Forum will also be held in Tralee in October.

Both the RPII and my Department will continue to use all appropriate opportunities to raise public awareness on this issue. I urge householders who may be affected by this issue to make the small investment required, take the necessary steps to check their homes for radon concentrations, and carry out whatever work may be needed thereafter.

#### Electronic Voting.

85. **Ms McManus** asked the Minister for the Environment, Heritage and Local Government the amount of public money spent to date on the storage of electronic voting equipment; if he is satisfied that appropriate guidelines are in place governing the allocation of contracts for the storage of such equipment; and if he will make a statement on the matter. [16338/05]

110. **Ms McManus** asked the Minister for the Environment, Heritage and Local Government the progress of his consideration of the First Report of the Commission on Electronic Voting which was published on 15 December 2004; the plans he has for the use of the electronic voting system; and if he will make a statement on the matter. [16337/05]

145. **Mr. Connaughton** asked the Minister for the Environment, Heritage and Local Government if he intends to use the electronic voting machines at the next general election; and if he will make a statement on the matter. [16429/05]

158. **Mr. Boyle** asked the Minister for the Environment, Heritage and Local Government the progress and expenditure to date with regard to the electronic voting project; and the work which is currently under way on this issue. [16508/05]

298. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the storage costs to date in respect of the electronic voting equipment; the likely costs of such storage in a full year in respect of all constituencies throughout the country; and if he will make a statement on the matter. [16711/05]

299. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the likely costs in a single year in respect of storage of electronic voting equipment for all the Dublin constituencies; and if he will make a statement on the matter. [16712/05]

300. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the further costs likely to accrue in respect of further development, investigation or enhancement of the electronic voting process; and if he will make a statement on the matter. [16713/05]

301. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government if any further public relations, consultancy or other costs are likely to arise in respect of electronic voting; and if he will make a statement on the matter. [16714/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 85, 110, 145, 158 and 298 to 301, inclusive, together.

My Department is developing, in parallel with the continuing work of the Commission on Electronic Voting, a programme of further assessment, testing and validation which is intended to address the concerns raised in the commission's interim and first reports with regard to the secrecy and accuracy of the electronic voting and counting system. I am giving full consideration to the views of the commission as set out in its reports. I will ensure that its analysis will inform and guide the programme, and that all of the commission's recommendations for action will be appropriately addressed in the work ahead. The timing of the further use of the system is dependent on the progress made with this programme of work and the dates on which future polls may be held.

The total cost to date of the electronic voting and counting project is €51.65 million. Regarding storage costs, information provided by returning officers to my Department indicates that the total annual storage cost of the electronic voting and ancillary equipment is some €658,000; the annual storage cost relating to the Dublin constituencies is some €128,000. Actual claims by returning officers are being processed by the Department of Finance for payment from the central fund. I am satisfied that the guidelines provided to returning officers in regard to the storage of electronic voting equipment were appropriate in the context of their statutory responsibility for running elections and referenda and their long-standing jurisdiction in such matters in their respective constituencies.

Apart from annual storage costs, it is not possible at this stage to quantify additional costs that may arise in relation to the electronic voting and counting system. In any event, such costs are likely to be small relative to the capital investment already made.

#### Departmental Records.

86. **Mr. Eamon Ryan** asked the Minister for the Environment, Heritage and Local Government if, when he is asked for information relating to matters (details supplied) which under a European directive such as Directive 2003/4/EU he is obliged to provide, he will, in conformity with

that directive and the obligation therein contained to provide information from public entities, provide all e-mails including those deleted but retained on his Department's back-up e-mail system; and his views on providing deleted e-mails which remain in the archive of his Department's computers in such circumstances. [16524/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The management of all records, electronic and paper, in my Department is governed by the requirements of the freedom of information legislation, the National Archive Acts and various EU directives. Corporate policy and practice is aimed at achieving compliance with the national legislation and EU directives in this area. Directive 2003/4 does not make specific reference to deleted e-mails or other deleted data.

In regard to electronic records, my Department's ICT strategy recognises the importance of having state of the art electronic storage and retrieval facilities in place. Consequently, the Department's ICT infrastructure has been upgraded to provide high capacity resilient data storage, archive and data back-up facilities. Back-up data is retained for, and is in general only useful in, a disaster recovery scenario as the material on the tape must be restored on to a computer system before it can be searched in a meaningful way.

My Department receives thousands of e-mails each day and to archive and hold indefinitely all e-mails received would require vast amounts of electronic storage. Industry sources estimate that as little as 20% of e-mails received by most businesses are business related and it would be my Department's experience that many e-mails have no business value. The practice in my Department is to retain e-mails which are considered to be part of our records. In some instances, such records are preserved electronically by archiving in electronic files and in other instances, where the paper file is the main record storage medium, the practice is to print electronically created documents and place them on the file. In either case the material is accessible when required. Other e-mails are deleted and no longer form part of the Department's record, although some may survive for a period as part of our storage and retrieval system.

A search for records in regard to the matter raised in the question would therefore encompass all relevant paper files and all relevant electronic files including e-mail archives but would not include deleted e-mails.

#### **Radioactive Waste Disposal.**

87. **Mr. Neville** asked the Minister for the Environment, Heritage and Local Government the way in which radioactive waste is disposed of here; and if he will make a statement on the matter. [16442/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Ireland's radioactive waste is generally low level and low volume, and derives in the main from hospital and certain industrial applications. It falls into two categories, unsealed sources, which are usually in liquid form, and sealed sources, which are enclosed in containers. Unsealed sources have a very short radioactive half-life. This type of waste is from hospitals and is normally discharged through public drainage systems and does not result in any residual contamination. Other unsealed radioactive solid waste is retained in designated storage under the terms of the licence granted by the Radiological Protection Institute of Ireland, RPII. Sealed radioactive sources are used in hospitals for radiotherapy, for example, and for various purposes in industry and education. Sealed sources are normally sent back to the manufacturer as part of the contract governing their purchase and importation in the first place, while waste that cannot be returned is also currently stored in hospitals and on industrial premises under licence from the RPII. The RPII inspects such premises regularly.

The RPII annual reports provide details of its licensing and enforcement functions, and the institute has for some time been addressing the establishment of a national repository for radioactive waste. This would be consistent with best international practice and our obligations under the International Atomic Energy Agency Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management. While this option is to be preferred to storage on the premises of some 60 licensees, it does not entail that radioactive waste is being stored unsafely. Nor has the RPII identified any capacity problem in hospitals or industrial premises as regards storage.

A full specification for a national storage facility, having regard to the range of appropriate considerations involved, is under development in consultation between my Department and the RPII. No decisions have been taken in this regard as yet, and any proposal will be subject to extensive evaluation and normal planning procedures. It is my intention to move forward on this issue in an orderly manner in the interests of optimum safety at national level and the fullest adherence to existing and emerging international obligations.

#### **Nuclear Plants.**

88. **Mr. Crawford** asked the Minister for the Environment, Heritage and Local Government his views on the recent accident at Sellafield; the nature of the assurances made to his Department by the British Government; the number of such incidents that his Department has been informed of since 1997; and if he will make a statement on the matter. [16371/05]

125. **Mr. Stagg** asked the Minister for the Environment, Heritage and Local Government

[Mr. Stagg.]

the information which was supplied to his Department regarding the reported leak at the THORP reprocessing plant on 19 April 2005; if he is satisfied that the information supplied adequately reflected the seriousness of the leak; the steps he took to verify the information supplied to his Department; and if he will make a statement on the matter. [16358/05]

135. **Mr. Morgan** asked the Minister for the Environment, Heritage and Local Government if he will make a statement regarding the representations he has made to the British Government concerning the radioactive leak which occurred at the THORP plant at Sellafield on 18 April 2005. [16515/05]

153. **Mr. Stagg** asked the Minister for the Environment, Heritage and Local Government if he is satisfied that the arrangements between Ireland and the UK on nuclear matters, announced by him in December 2004, are working adequately; and if he will make a statement on the matter. [16359/05]

165. **Mr. Perry** asked the Minister for the Environment, Heritage and Local Government if he will make a statement on the recent spillage of highly radioactive material at Sellafield. [16454/05]

169. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the fact that through the ruptured pipe at the THORP plant in Cumbria, England on 22 April 2005, England had leaked 20 tonnes of uranium and plutonium into a stainless steel room from which there is currently no way of removing it; if so, the reason he did not make known this information; if not, when his attention was drawn to it; and when he planned to divulge it. [16505/05]

174. **Mr. Neville** asked the Minister for the Environment, Heritage and Local Government the action he has taken as a result of the recent leak of highly radioactive material at Sellafield; and if he will make a statement on the matter. [16441/05]

187. **Aengus Ó Snodaigh** asked the Minister for the Environment, Heritage and Local Government if he has made an official complaint to the British Government regarding the three day delay in notifying authorities here of the radioactive leak which occurred at the THORP plant at Sellafield on 18 April 2005; and if he will make a statement on the matter. [16523/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 88, 125, 135, 153, 165, 169, 174 and 187 together.

The Thermal Oxide Reprocessing Plant, THORP, at Sellafield reprocesses spent nuclear fuels from power stations in the UK and overseas. THORP is operated by British Nuclear Group Sellafield Limited, BNGSL.

At the end of each fuel reprocessing campaign the fuel stock is measured in each area of the plant for fissile material — plutonium and uranium — accountancy purposes. A discrepancy revealed a malfunction within the process in the THORP head end where the spent fuel is sheared and dissolved, and shearing was suspended on 18 April.

Camera inspections were subsequently carried out by the British Nuclear Group on 20 April to inspect the vessels and pipework in the feed clarification cell. This inspection identified a failure in the pipework system along with signs of liquor spillage on the side of the tank and some corrosion of the structural steelwork adjacent to the tank. A quantity of liquor was observed on the floor of the cell. As a precautionary measure, the front end of the plant's reprocessing operations was closed down on 21 April.

Subsequent inspections have identified that 83 cubic metres — 15,000 gallons — of liquor have been spilt. This liquid, which contains uranium, plutonium and fission products, is on the floor of a sealed cell with walls several feet thick. Consequently, there has been no abnormal activity in the air and no risk to employees, the local community or the environment. In particular, the incident has no immediate implications for Ireland.

Notification of the incident by the UK authorities to Ireland was made on 21 April and my Department was informed on 22 April. I immediately issued a press statement on the matter for the information of the public. Notification arrangements were in accordance with the established procedures for the exchange of information in relation to such incidents which were agreed between Ireland and the UK at a signing ceremony in Dublin in December 2004.

I am satisfied these notification arrangements worked well on this occasion. Given the need to examine, assess and evaluate the incident by the UK authorities to establish the circumstances involved, the Radiological Protection Institute of Ireland has confirmed that in its view the notification by the UK authorities was prompt and effective. Additional information is being made available to the institute by the UK authorities as the situation develops.

I understand that following detailed evaluation the incident has now been assigned as a class 3 incident under the international nuclear event scale, INES. There have been no other incidents classified at class 3 at Sellafield since 1997.

I also understand that some form of robotics will be needed to repair the damage to the leaking pipe and to retrieve the liquid from the floor of the cell. The British Nuclear Group is in the process of developing a safety case which it will present to the Nuclear Installations Inspectorate for approval. No repair work may be carried out until such approval is conveyed. Once the repair work is completed, the group will again require approval to restart the facility.

I am satisfied that the notification and exchange of information arrangements worked

effectively and efficiently in this instance and that the Irish public was advised promptly of the incident. However, the incident provides further justification for Irish concerns regarding the threat posed by Sellafield. I remain firmly resolved to continue to pursue every diplomatic and legal route available to me to press for the safe closure of the plant.

#### **Social and Affordable Housing Programme.**

89. **Mr. Crowe** asked the Minister for the Environment, Heritage and Local Government the number of social and affordable housing units delivered specifically through Part V of the Planning and Development Acts 2000-2002; and if he is satisfied with the performance of the scheme. [16520/05]

167. **Mr. Howlin** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the fact that half of the country's local authorities have failed to acquire any social or affordable houses under the terms of Part V of the Planning Act 2000; the steps he intends to take to ensure that all local authorities make full use of this facility; and if he will make a statement on the matter. [16333/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I propose to take Questions Nos. 89 and 167 together.

Information on the number of housing units provided under Part V of the Planning and Development Acts 2000-2004 in each local authority area is published in my Department's housing statistics bulletins, copies of which are available in the Oireachtas Library and also on the Department's website at [www.enviro.nie](http://www.enviro.nie).

Part V of the Planning and Development Acts 2000-2004 is fully operational and all relevant residential planning applications are now subject to a Part V agreement. Apart from the provision of housing units to the local authority on or off-site, an agreement under Part V may provide for a range of other options. Notwithstanding the availability of these options, my Department's stated preference, which has been communicated to local authorities, is for the provision of housing units whether on-site or off-site.

Final figures for 2004 show that local authorities had acquired 800 social and affordable housing units by the end of 2004; 1,910 were in course of acquisition; and a further 2,885 were earmarked for acquisition on foot of Part V agreements with developers. In addition, 12 land transfers to local authorities have been completed involving 11.33 hectares; a further 156 sites have been transferred to local authorities; and some €11 million has been received in payments in lieu and under the withering levy. It is clear from the returns that there has been activity in all the city and county councils under at least one of the options available for complying with Part V.

It is envisaged that some 6,000 social and affordable units will be delivered under Part V

between 2005 and 2007. Additionally, payments in lieu, which are ring-fenced for housing capital purposes only, together with land and sites accruing from the take-up of the alternative options will further supplement the overall provision of social and affordable housing. On this basis, I am satisfied that the provisions of Part V are being suitably progressed and are an effective response to housing needs, particularly for first-time buyers.

#### **Waste Disposal.**

90. **Ms Lynch** asked the Minister for the Environment, Heritage and Local Government the progress made to date in regard to his discussions with the Department of Social and Family Affairs regarding difficulties faced by those on low incomes in paying service charges, especially in cases in which there is no waiver scheme; and if he will make a statement on the matter. [16335/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I refer to the reply to priority Question No. 75 of today's date.

#### **Nuclear Safety.**

91. **Mr. English** asked the Minister for the Environment, Heritage and Local Government the policies he is pursuing at the International Atomic Energy Agency to highlight the dangers of Sellafield; and if he will make a statement on the matter. [16451/05]

113. **Mr. Ring** asked the Minister for the Environment, Heritage and Local Government the policies he is pursuing at the International Atomic Energy Agency; and if he will make a statement on the matter. [16450/05]

121. **Mr. Eamon Ryan** asked the Minister for the Environment, Heritage and Local Government the action which the Government has taken since assuming office to address the dangers from nuclear facilities overseas. [16513/05]

148. **Mr. English** asked the Minister for the Environment, Heritage and Local Government the action he is taking at the International Atomic Energy Agency to highlight the threat of nuclear terrorism; and if he will make a statement on the matter. [16452/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 91, 113, 121 and 148 together.

The International Atomic Energy Agency, IAEA, based in Vienna, is the principal organisation dealing with nuclear matters at the international level. The IAEA works to promote the safe, secure and peaceful uses of nuclear science and technology. Three main pillars, or areas of work, underpin the IAEA mission: safety and security; science and technology; and safeguards and verification.

[Mr. Roche.]

The work of the IAEA sets the framework for co-operative efforts to build and strengthen an international safety and security regime. This framework includes advisory international standards, codes and guides; binding international conventions; international peer reviews to evaluate national operations, capabilities and infrastructures; and an international system of emergency preparedness and response. While this framework plays a vital role in setting appropriate standards of safety and security in the nuclear area, it is the contracting states that have the ultimate responsibility for ensuring the safety and security of nuclear installations and materials at national level. On this basis, the United Kingdom has primary responsibility for ensuring the operation of the Sellafield nuclear plant is safe and secure. Nevertheless, Ireland's concerns in regard to Sellafield are articulated clearly and consistently at all suitable opportunities in the IAEA and in bilateral contacts in regard to the work and mandate of the agency. I have reported to the House regularly on progress in regard to the international legal actions and diplomatic initiatives undertaken by the Government in regard to Sellafield.

The IAEA plays a vital role in setting safety standards and providing for the implementation and co-ordination of these in member states. Ireland actively engages with the IAEA on a range of issues with the primary objective of ensuring that the safety and security standards adopted by the IAEA reflect only the highest international standards. This, in turn, will assist in ensuring that nuclear installations in the United Kingdom and globally can be as safe and secure as possible.

One of the principal areas of engagement by Ireland at the IAEA in recent years has been on the issue of marine transports of radioactive waste. Coastal states, including Ireland, argue that, given the risk posed and public concerns in regard to such shipments, it is necessary for coastal states to be fully informed regarding such shipments to enable them to assess the risk and take appropriate measures in regard to emergency preparedness and response should they consider it necessary. The shipping states argue that these shipments utilise international waters, conform to the highest standards of safety set by the IAEA, are secure, and that notification and communication obligations would compromise the fundamental "right of innocent passage" for all high seas shipments enshrined in international law. Ireland has participated actively and constructively on this matter and has co-sponsored a resolution with like-minded states at the IAEA's general conference on this issue.

In relation to nuclear terrorism, the focus by the IAEA is on helping states prevent, detect and respond to terrorist or other malicious acts — such as illegal possession, use, transfer and trafficking — and to protect nuclear installations and transport against sabotage. This aspect of the

IAEA's work was brought to the fore post 11 September and in March 2002 the board of governors approved, in principle, an action plan designed to upgrade worldwide protection against acts of terrorism involving nuclear and other radioactive materials.

In approving the plan, the board of governors recognised that the first line of defence against nuclear terrorism is the strong physical protection of nuclear facilities and materials and that the international physical protection regime needs to be strengthened. The board of governors called upon contracting states to contribute to the fund as a matter of urgency. I can confirm that Ireland welcomed this development, responded favourably to the request for funding and has contributed approximately €86,000 in respect of 2003 and 2004 with a further contribution of about €48,000 allocated for 2005.

An important recent, and positive, development in regard to nuclear terrorism was the adoption of the International Convention for the Suppression of Acts of Nuclear Terrorism. After several years of negotiations, this convention was finally adopted, by consensus, by the General Assembly of the United Nations on Wednesday, 13 April 2005. Ireland participated fully in the negotiations of the new convention through the Department of Foreign Affairs and welcomes its adoption.

Ireland sees the IAEA as a vital element in dealing with nuclear matters at international level. We engage fully and constructively in its deliberations, especially in matters of particular relevance to Ireland, and will continue to participate in this manner and at every opportunity.

#### **Waste Management.**

92. **Mr. Deasy** asked the Minister for the Environment, Heritage and Local Government the representations he received regarding changes to guidelines on the acceptance of waste; the nature of such representations; and if he will make a statement on the matter. [16389/05]

100. **Ms Shortall** asked the Minister for the Environment, Heritage and Local Government the waste firms which have been in contact with him in relation to the relaxation of planning guidelines for waste facilities such as landfills and incinerators; and if he will make a statement on the matter. [16354/05]

168. **Ms Enright** asked the Minister for the Environment, Heritage and Local Government the reason he has eased planning restrictions on major waste facilities such as landfills and incinerators; and if he will make a statement on the matter. [16433/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 92, 100 and 168 together.

The most recent waste management policy statement, Taking Stock and Moving Forward, April 2004, recognised that the prohibition on all

inter-regional movements of waste could be unduly restrictive in terms of securing the development of waste infrastructure and the objectives of waste management plans. It is the case that most waste facilities currently in place are not subject to conditions which limit the geographic area from which they can take waste. In fact the absence of such restrictions has traditionally allowed local authorities to manage capacity constraints by providing for inter-regional movement of waste. Accordingly, the policy statement provided for an examination of the issues arising in terms of the interrelationship between regional boundaries and waste facilities.

Concerns about the implications of such planning conditions were expressed to my Department by stakeholders from both the public and private sectors. Most notably, the Environmental Protection Agency in its 2001 Waste Database Report recommended that the inter-regional movement and treatment of waste should be provided for in appropriate circumstances.

Following legal advice, I recently issued guidance under section 60 of the Waste Management Act to clarify that the application of the proximity principle in the context of waste management does not entail interpreting administrative waste boundaries in such a manner as to inhibit the development of infrastructure which will support the attainment of national waste policy objectives.

#### **Environmental Policy.**

93. **Mr. Allen** asked the Minister for the Environment, Heritage and Local Government the status of the proposed task force to deal with the non-implementation of EU regulations by his Department; and if he will make a statement on the matter. [16390/05]

99. **Mr. Rabbitte** asked the Minister for the Environment, Heritage and Local Government when the proposed task force to address outstanding complaints against Ireland over the failure to fulfil environmental obligations will be operational; the terms of reference of the task force; the persons who will be members of the task force; and if he will make a statement on the matter. [16345/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 93 and 99 together.

The task force set up in my Department to establish strategies to address the range of environmental complaints against Ireland in a more comprehensive way is already operational. The task force comprises heads of division in the areas of environment, water and natural heritage and heritage and planning. This task force is carrying out a systematic analysis of each individual case that is the subject of infringement proceedings by the EU Commission with a view to accelerating Ireland's response to the proceedings and to bringing cases to the earliest possible conclusion. Following this analysis, which is being

undertaken as a priority in my Department, and building on my contacts recently with the Commissioner and his officials, a high level team will have discussions in Brussels with Commission officials on the complete range of cases to hand and the issues arising.

In addition, with specific reference to the judgment of 26 April by the European Court of Justice in regard to waste disposal in Ireland, I have set up a high level group comprising representatives of my Department, other Departments, the EPA and local authorities. That group will carefully study the judgment with a view urgently to ensuring the adequacy of our control regime.

#### **Nuclear Safety.**

94. **Mr. Naughten** asked the Minister for the Environment, Heritage and Local Government his views on the opinion of the European Commissioner for Energy (details supplied) that the European Union should be given control of the safety of nuclear installations; and if he will make a statement on the matter. [16444/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I assume that the question refers to a recent letter from the European Commissioner for Energy to all EU Energy Ministers regarding proposed changes to the European Commission's nuclear safeguards inspection system for controlling the use of nuclear materials. The new approach outlined by the Commissioner would appear to involve reduced frequency of inspections by the Commission and a greater reliance on qualitative rather than quantitative analysis.

The European Commission's existing nuclear safeguards inspection regime, carried out under the EURATOM Treaty, has been a vital tool for preventing the diversion of nuclear materials away from their original intended use. I would be concerned, from the point of view of Ireland's interests, about any changes in this regime which could involve a reduced frequency of inspections.

Because of this, I have written to the Energy Commissioner, expressing serious concern about the Commission's new safeguards approach, on which I believe much detailed consultation with member states is necessary. I have asked the Commissioner to suspend any introduction of the new regime until such time as the member states have been consulted more fully about the effectiveness of any changes.

The EU Presidency has also written to the Commissioner conveying the reservations of a number of the member states about the introduction of any such new regime in the absence of any substantive consultation by the Commissioner with the member states. I understand that some other member states have also written individually to the Energy Commissioner on the same lines.

### Local Authority Housing.

95. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government his plans to address the issue of the long waiting list for local authority houses; if he has issued directions to the local authorities with a view to tackling this housing crisis; and if he will make a statement on the matter. [16472/05]

111. **Mr. Kehoe** asked the Minister for the Environment, Heritage and Local Government the action he will take to increase the local authority social housing output; and if he will make a statement on the matter. [16461/05]

139. **Dr. Twomey** asked the Minister for the Environment, Heritage and Local Government when the housing need statistics will be published; the likely level of housing need it will depict; and if he will make a statement on the matter. [16435/05]

161. **Mr. P. Breen** asked the Minister for the Environment, Heritage and Local Government the measures which have been put in place to ensure that the record increase of 19.3% in local authority housing plans will result in a commensurate increase in output; and if he will make a statement on the matter. [16382/05]

297. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the number of families on the local authority housing list; when it is expected that their needs will be met in full; and if he will make a statement on the matter. [16710/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I propose to take Questions Nos. 95, 111, 139, 161 and 297 together.

The results of the statutory assessment of local authority housing need, which was undertaken by local authorities in March 2002, indicated that a total of 48,413 households were in need of housing. The latest triennial statutory assessment of need took place in March 2005 and I anticipate publishing the results in September this year. The deadline for the return of information by local authorities to my Department was fixed for early May and many returns are still outstanding; it is not yet feasible to anticipate the level of housing need which will arise from this year's assessment.

The Government has responded actively to this increased level of social housing need and by expanding social and affordable housing output. New multi-annual action plans have been prepared by local authorities for the provision of social and affordable housing over the period 2004 to 2008. These are designed to assist local authorities in identifying priority needs over the coming years and providing a coherent and co-ordinated response across all housing services, including delivery of housing by the voluntary and co-operative housing sector.

I have secured financial envelopes for the next five years to underpin the multi-annual approach

in the action plans. Capital allocation of €841 million has been provided for the construction of local authority housing in 2005, an increase of €100 million on last year's allocation. This will support the commencement of the construction of 6,000 new units by local authorities and the achievement of some 5,500 completions. In addition, house completions by the voluntary and co-operative sector is expected to be some 1,800 units. Overall, in 2005, it is anticipated that total social housing provision, including new local authority housing, vacancies arising in existing houses and output under other social housing measures, will meet the needs of in excess of 13,000 households. In addition, it is anticipated that a number of households currently in private rented accommodation will transfer to the new rental accommodation scheme now being introduced. These households will continue to be mainly accommodated within the private rented sector.

### Social and Affordable Housing Programmes.

96. **Mr. Bruton** asked the Minister for the Environment, Heritage and Local Government his plans to centralise all tenant purchase, shared ownership and affordable housing schemes as recommended by the Committee of Public Accounts; and if he will make a statement on the matter. [16421/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I am not aware of any formal proposal from the Committee of Public Accounts on the lines indicated in the question. However, the National Economic and Social Council in its report *Housing in Ireland: Performance and Policy* has recommended the amalgamation of the shared ownership and affordable housing schemes into a single first home scheme.

My Department is addressing the issues raised in the NESC report and the merits of new measures that may be desirable in the short and more medium terms. These matters will be considered by Government shortly.

### Housing Policy.

97. **Ms Burton** asked the Minister for the Environment, Heritage and Local Government the progress made by the Government in its consideration of the recent NESC report on housing; and if he will make a statement on the matter. [16328/05]

103. **Caoimhghín Ó Caoláin** asked the Minister for the Environment, Heritage and Local Government if he will make a statement outlining his response to the recommendation in the recent NESC report on housing for the construction of the 73,000 units of social housing in net terms between 2005 and 2012. [16519/05]

129. **Mr. Ferris** asked the Minister for the Environment, Heritage and Local Government if he has completed his consideration of the NESC

report published in December 2004, and the other recent reports which have a bearing on the housing sector; if he intends to bring forward proposals resulting from his consideration of these reports; if he has not completed his consideration of these reports, the reason for the delay in completing such consideration; and if he will make a statement on the matter. [16516/05]

189. **Dr. Upton** asked the Minister for the Environment, Heritage and Local Government the action that has been taken or that he plans to take following the report of the All-Party Oireachtas Committee on the Constitution on the cost of building land; the measures that have been implemented arising from this report; and if he will make a statement on the matter. [16331/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I propose to take Questions Nos. 97, 103, 129 and 189 together.

The Government is giving detailed consideration to the findings of Report No. 112 of the National Economic and Social Council, Housing in Ireland: Performance and Policy as well as the Ninth Progress Report of the All-Party Oireachtas Committee on the Constitution, concerning private property and a report by Goodbody Economic Consultants.

The NESC report, in particular, provides an important analysis of the Irish housing system and an agenda for the future development of policy. Importantly, the report recognises that the general thrust of existing policy is well directed. My Department is addressing the issues raised in these reports and the merits of new measures that may be desirable in the short and more medium terms. These matters will be considered by Government shortly.

#### **Radon Gas Levels.**

98. **Mr. S. Ryan** asked the Minister for the Environment, Heritage and Local Government the number of persons believed to have died here in each of the past five years as a result of exposure to radon gas; the steps he intends to take to protect persons from exposure to potentially lethal gas; and if he will make a statement on the matter. [16361/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Epidemiological studies have shown that naturally occurring radon gas concentrations add to the incidence of lung cancer. While there is evidence to suggest that long-term exposure to high levels of radon can be a contributory factor in increasing the risk of lung cancer and that the incidence is higher among smokers than non-smokers, it is not possible to ascribe any one cancer death solely to radon. The Radiological Protection Institute of Ireland, RPII, estimates that approximately 10% to 15% of all lung cancer deaths in Ireland, equivalent to 150 to 200 deaths, are linked to radon gas

exposure and that the incidence is higher among smokers than non-smokers.

A recent report was published in the *British Medical Journal* of a study concerning radon and lung cancer which was funded by Cancer Research UK and the European Commission. This report was the result of a collaborative analysis of individual data from 13 case-control studies of residential radon and lung cancer in nine European countries, which did not include Ireland. The report concluded that radon in the home accounts for about 9% of deaths from lung cancer and about 2% of all deaths from cancer in Europe. It also concluded that the absolute risk to smokers and recent ex-smokers was 25 times greater than to lifelong non-smokers.

The Government, through the RPII, has over the years committed significant resources to assessing the extent of the radon problem throughout the country and to increasing public awareness of radon.

During the years 1992 to 1999, the RPII carried out a national survey of radon in domestic dwellings aimed at assessing the extent of the radon problem in homes. The RPII's website contains a comprehensive map of the high radon areas in Ireland as well as the report of its national survey of radon in homes.

In February 2002, my Department published a booklet entitled *Radon in Existing Buildings — Corrective Options* advising designers, builders and home owners on remediation options for reducing radon in existing houses to, or below, the national reference level.

Upgraded building regulations, introduced in June 1997, require all new houses which commenced construction on or after 1 July 1998 to incorporate radon protection measures. My Department has recently published an updated edition of the Technical Guidance Document C, TGD-C, on Part C of the Building Regulations, site preparation and resistance to moisture, incorporating enhanced radon prevention measures for new buildings commencing on or after 1 April 2005. This new guidance document is aimed at ensuring that the 1997 radon protection measures are carried out more effectively.

In recent months, the RPII has undertaken several initiatives to further heighten awareness of the radon issue in Ireland. In November 2004, the RPII hosted the third National Radon Forum in Dublin to raise awareness of radon as a health risk. Earlier this year, the RPII published a revised version of its booklet *Radon in Homes* and also published a booklet in October 2004, *Understanding Radon Remediation, a Householders Guide*. The RPII also plans to distribute an information poster on radon for display in libraries, medical centres, and other public areas advising people to have their homes checked for radon. The RPII has also just begun a new radon awareness campaign involving a series of nationwide information seminars, targeted at selected high radon areas, on the dangers of radon. Both the RPII and my Department will continue to use

[Mr. Roche.]

all appropriate opportunities to raise public awareness of radon, to urge householders, particularly those in high radon areas, to have their homes tested for radon and to encourage householders with radon concentrations above the national reference level to undertake the appropriate remediation works.

*Question No. 99 answered with Question No. 93.*

*Question No. 100 answered with Question No. 92.*

#### **Agricultural Schemes.**

101. **Mr. Sargent** asked the Minister for the Environment, Heritage and Local Government if analyses of soil samples resulting from the spreading of Biofert in County Carlow complied with all aspects of the biosolid recycling in agriculture scheme; if any excesses in heavy metals were noticed as a result of the spreading of Biofert and sludge cake; and if so, if farmers were informed of such findings. [14480/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The re-use of waste water sludge, including Biofert, in agriculture is subject to compliance with the Waste Management (Use of Sewage Sludge in Agriculture) Regulations 1998, as amended, which give full effect to Council Directive 86/278/EEC on the protection of the environment, and in particular of the soil when sewage sludge is used in agriculture.

The management, control and use of waste water sludge products, including Biofert, is a matter for individual sanitary authorities and producers and my Department has no direct function in regard to the use of such products in agriculture in individual cases.

I understand that in the case referred to, Biofert was spread on land with metal levels above the threshold of the regulations in a period from late 1999 through 2000. I also understand that this was discontinued in 2001 and no longer occurs. The issue arose from the spreading of Biofert on lands which had levels of metal above the prescribed threshold prior to the spreading of Biofert, rather than from any effect of the Biofert.

Individual farmers are required to be provided with copies of the certificate of analysis of the biosolids, the nutrient management plan, including soil testing details, and other monitoring data.

#### **Wastewater Treatment.**

102. **Mr. Quinn** asked the Minister for the Environment, Heritage and Local Government the progress which has been made in dealing with the odour problem at the Ringsend waste water treatment plant; if the proposed extension to the plant will be delayed until such time as the odour

problem is solved; and if he will make a statement on the matter. [16351/05]

124. **Mr. P. McGrath** asked the Minister for the Environment, Heritage and Local Government the action his Department is taking to remove the foul odours associated with the sewage treatment plant in Ringsend; and if he will make a statement on the matter. [16457/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 102 and 124 together.

Odour incidents at Dublin City Council's Ringsend wastewater treatment plant, which is operated on the city council's behalf under a public private partnership contract, have originated from the on-site sludge treatment facility and not from the secondary treatment plant.

I understand that a programme of works had been implemented by the city council that had greatly improved the overall situation since summer 2004. Regrettably, the odour problem re-emerged for short periods earlier this year due to maintenance procedures and equipment failure in the sludge process that have since been dealt with. I am informed that the council is continuing to work closely with the consortium that operates the plant to achieve a resolution of any outstanding odour issues. In that context, the council has appointed international engineering consultants who have recently commenced a comprehensive review of all aspects of the plant, including the design and ongoing operation and management performance.

The environmental impact statement for the Ringsend treatment plant envisaged future upgrading to achieve extra capacity and specific provisions to facilitate increased throughput were included into the 1998 tender documents. Approval, in principle, was subsequently given to Dublin City Council by my Department to proceed with the planning of a wastewater treatment capacity increase at the plant in the Water Services Investment Programme 2004-2006, published in May 2004. Copies are available in the Oireachtas Library.

The proposed scheme had earlier been included in a list of priority water and sewerage schemes in the city council's Water Services Investment Programme Assessment of Needs 2007-2112 produced in September 2003. This assessment of needs was subject to public consultation at the time and was formally adopted by the elected members of the council. Additional treatment capacity is now proposed to cater for increases in demand that have become established since the original environmental impact statement for the plant in 1997 and to facilitate future development requirements in the Dublin region.

With regard to the scale of any capacity increase, this will be informed by the analysis of the Greater Dublin Strategic Drainage Study which I expect to be submitted to my Department

shortly by the Dublin local authorities for consideration.

*Question No. 103 answered with Question No. 97.*

#### **Water and Sewerage Schemes.**

104. **Mr. Deenihan** asked the Minister for the Environment, Heritage and Local Government if he will approve the County Kerry wastewater villages advanced study in order to allow Kerry County Council to appoint consultants to design the schemes; and if he will make a statement on the matter. [16259/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I refer to the reply to Question No. 386 of 17 May 2005.

#### **Recycling Policy.**

105. **Mr. G. Mitchell** asked the Minister for the Environment, Heritage and Local Government the progress to date on his discussions with the newspaper industry in relation to the recycling of newsprint; and if he will make a statement on the matter. [16428/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Since 2001, my Department has been in discussion with the newspaper industry with a view to developing a producer responsibility initiative, PRI, for the recovery and recycling of newspapers and magazines. A joint industry taskforce, comprising the Regional Newspapers Association of Ireland, RNAI, Irish Retail Newsagents Association, IRNA, Newsprint and Eason Wholesale Ltd, and co-ordinated by National Newspapers of Ireland, NNI, was established and is leading the negotiations with the Department.

It is hoped to conclude discussions on the issue of the recycling of unsold copies of newsprint shortly and negotiations will continue with regard to post-consumer waste.

#### **Child Care Services.**

106. **Aengus Ó Snodaigh** asked the Minister for the Environment, Heritage and Local Government if he is satisfied that planning authorities are complying with Childcare Facilities: Guidelines for Planning Authorities; if he will carry out an assessment of the effectiveness of these guidelines; and if his Department will collate and make available data regarding the number of child care places that have been delivered as a result of compliance with these guidelines. [16522/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Guidelines for Planning Authorities on Childcare Facilities were issued by my Department in July 2001 and were intended to ensure a consistency of approach throughout the country to the treatment of planning applications for child care facilities. The guidelines were issued as ministerial guidelines under section 28 of the Planning and Develop-

ment Act 2000, and planning authorities and An Bord Pleanála are required to have regard to them in the performance of their functions. My Department does not have specific data on the number of planning applications for child care facilities.

#### **Private Rented Accommodation.**

107. **Mr. Hogan** asked the Minister for the Environment, Heritage and Local Government the numbers employed by the Private Residential Tenancies Board; its annual budget; and if he will make a statement on the matter. [16367/05]

188. **Mr. Crawford** asked the Minister for the Environment, Heritage and Local Government if his Department has audited or intends to audit the performance of the Private Residential Tenancies Board to date; and if he will make a statement on the matter. [16370/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I propose to take Questions Nos. 107 and 188 together.

The total number of persons currently working in the Private Residential Tenancies Board, PRTB, is 33. Some 19 staff are provided to the PRTB by the Department and part of the work of the PRTB is contracted to a data entry company, which has assigned 14 staff to such tasks. The budget estimate for the board in 2005 is €4.210 million.

The PRTB is subject to a number of statutory requirements to report on and account for progress in the performance of its functions, including the submission of an annual report. As the PRTB only commenced full operation of its functions in December 2004, it would be premature to undertake an audit of its performance at this point.

#### **National Spatial Strategy.**

108. **Mr. O'Shea** asked the Minister for the Environment, Heritage and Local Government the progress made to date with regard to implementation of the National Spatial Strategy; and if he will make a statement on the matter. [16341/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Government has put a wide range of measures in place at national, regional and local levels to implement the national spatial strategy, NSS, and achieve its objectives over its 20 year timeframe.

The initial phases of NSS implementation focused on embedding the policy approach of the NSS within key Departments, their agencies and in regional and local authorities. Significant milestones reached during this period included: the adoption by all regional authorities of regional planning guidelines which set the strategic policy agenda for local authority development plans; substantial progress in national development plan capital investment programmes, endorsed by the

[Mr. Roche.]

NSS, to provide major infrastructure such as key road and rail links needed to support the achievement of more balanced regional development; the mid-term review of the national development plan, which signalled strongly the potential for further aligning NDP expenditure with the NSS planning framework, particularly in the environmental infrastructure and regional operational programmes; and planning implementation frameworks now put in place for the gateways of Cork, Galway, Limerick, Waterford and Sligo, with work on similar frameworks advancing in other areas.

The proposals announced for substantial investment in new suburban rail services in the Cork area represent a significant example of a direct response from the Government to the strategic planning policies that have been put in place at local level.

Other practical examples of implementation progress include the requirement in agreements between Department of Finance and other relevant Departments on multi-annual capital envelopes that Departments demonstrate how investments are being prioritised to implement the NSS; account is currently being taken of the NSS and regional planning guidelines in the preparation currently of a ten year investment plan for transport. The draft Dublin city development plan proposes a substantial increase in housing output in Dublin city to reduce urban sprawl and long-distance commuting and thus achieve one on the key objectives of the NSS. In Sligo a series of private sector hotel, leisure, retail and commercial development totalling around €200 million in value have commenced since its designation as a gateway. The completion there of the inner relief road will provide further support for Sligo's development as a gateway.

Key priorities in implementing the NSS over the next 12 months will include: putting in place a monitoring framework to report on progress in implementing the NSS, with a special emphasis on up-to-date regional population and housing projections that take account of the latest CSO national population estimates of up to 5 million people by 2020; advancing a detailed study, in conjunction with key Departments, the development agencies and relevant local authorities, of the potential of the NSS gateways for accelerated development in housing, commercial and employment terms, including the identification of the key infrastructure priorities necessary to facilitate such development; intensifying efforts in co-ordinating activities in the areas of housing, environmental and water services infrastructure provision and local roads programmes in my Department to support the objectives of the NSS; and building on bilateral links between my Department and other Departments and agencies to effectively link their strategic and longer term planning of investment to the priorities identified in the NSS and in regional planning guidelines.

### Local Authority Lands.

109. **Ms O. Mitchell** asked the Minister for the Environment, Heritage and Local Government the progress to date in compiling a comprehensive register of land owned by local authorities as recommended by the Committee of Public Accounts; and if he will make a statement on the matter. [16424/05]

293. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the full extent of the land bank available for housing or other development purposes to each of the local authorities throughout the country, in view of the fact that the total of such lands is 12,500 hectares. [16706/05]

294. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government his instructions to the local authorities regarding the future use of their respective land banks in view of the serious public authority housing needs; his estimate of the maximum number of houses attainable through the use of the total land bank; and if he will make a statement on the matter. [16707/05]

295. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the length of time which the local authority land bank of 12,500 hectares has been in the ownership of the various local authorities; and if he will make a statement on the matter. [16708/05]

296. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the transactions or exchanges which have taken place between the various local authorities and other bodies, groups or agencies which might have affected the amount or location of the various authority land banks; and if he will make a statement on the matter. [16709/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I propose to take Questions Nos. 109 and 293 to 296, inclusive, together.

My Department does not have details of the extent of all lands owned by the State or local authorities. The figure of 12,500 hectares, referred to in the question, is the amount of serviced residential land as at 30 June 2004, owned privately and publicly, which would give an estimated yield of 367,000 housing units.

While information was returned at the time of the 2004 survey on residential lands in local authority ownership, it is incomplete. My Department is not satisfied that in its present form it gives the overall picture on this issue. My Department intends to obtain more detailed and further information as part of the 2005 survey.

There are no plans to produce a register of all local authority lands, and there was no formal recommendation by the Committee of Public Accounts to undertake such a task. The value of local authority lands is reflected in the authorities' assets registers which now form part of

their annual accounts. As lands in ownership will vary over time, depending on the purpose for which they have been required, a register would not be the best means of assessing an authority's ability to implement its various programmes.

In regard to housing, my Department initiated the development by local authorities of new five-year actions plans for social and affordable housing last year to ensure a systematic and integrated approach to the effective use of these resources. In developing these plans, local authorities were specifically requested to address the issue of land availability. I consider that given the nature of continuous housing need, the preparation of these action plans is beneficial to local authorities in identifying priority needs over the coming years and providing a coherent and co-ordinated response across all housing services, including delivery of housing by the voluntary and co-operative housing sector, and supporting these through necessary land management. The action plans will be reviewed in 2006 in the light of performance.

In this context, the broader questions of how local authorities manage their land portfolio to achieve objectives, including the question of exchanges or other transactions relating to their land banks are matters for the local authorities concerned.

*Question No. 110 answered with Question No. 85.*

*Question No. 111 answered with Question No. 95.*

#### **Local Authority Housing.**

112. **Mr. Gogarty** asked the Minister for the Environment, Heritage and Local Government the number of local authority units which do not have either hot water or central heating; and the funding which is being and which shall be made available to address this issue. [16510/05]

150. **Mr. McCormack** asked the Minister for the Environment, Heritage and Local Government the number of local authority housing units that do not have central heating installed; and if he will make a statement on the matter. [16385/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I propose to take Questions Nos. 112 and 150 together.

An indicative survey of local authorities carried out by my Department prior to the introduction last year of a scheme for the installation of central heating in existing local authority rented dwellings estimated the number of such dwellings lacking central heating facilities to be in the region of 45,000. The current figure is likely to be somewhat lower than this reflecting work carried out since the survey was undertaken. A revised national estimate is being prepared on the basis

of returns, which have been sought from local authorities.

The Irish national survey of housing quality carried out by the Economic and Social Research Institute for the period 2001-02 estimated that 3% of the local authority rented stock lacks hot running water.

My Department is encouraging and supporting local authorities to put in place programmes of works to improve the quality of existing local authority dwellings. In this context the central heating scheme provides for an Exchequer contribution of up to €5,600 or 80% of the cost, whichever is the lesser, for each approved dwelling. The remaining 20% is met by the local authority concerned. My Department's contribution under the scheme in 2004 amounted to €12 million in respect of 2,800 dwellings. A provision of €30 million has been made for the current year.

*Question No. 113 answered with Question No. 91.*

#### **Housing Policy.**

114. **Mr. Crowe** asked the Minister for the Environment, Heritage and Local Government his Department's policy on second homes. [16521/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** The Department does not have a definitive breakdown of house completions either by type of purchaser or whether they were second or holiday homes or intended for renting. However, with the unprecedented demand for housing, fuelled mainly by rapid economic growth and demographic changes, being the major driver of house price increases in recent years, it is clear that there has been significant activity over this period by investors and owners of second properties. This is to be expected in a growing economy and can offer gains in terms of the supply of private rented accommodation, tourist accommodation or revitalisation of areas.

My Department has recently issued rural housing guidelines, which acknowledge the trends for development of holiday homes in some coastal, scenic and lakeside parts of the country. These emphasise the importance of clustering some tourism driven activity as far as possible in well designed and appropriately scaled developments in or adjoining small towns and villages. The guidelines also call on planning authorities to closely monitor and respond to development trends in relation to holiday homes in rural areas to avoid negative impacts on the ability of persons with links in rural areas to provide permanent housing for themselves at reasonable costs.

#### **Local Authority Staff.**

115. **Ms C. Murphy** asked the Minister for the Environment, Heritage and Local Government the staffing limits his Department has placed on each local authority; and if it is intended to review

[Ms C. Murphy.]  
the local government staffing embargo for developing areas. [16258/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** In December 2002, the Government decided to cap public service numbers at the existing authorised level and to reduce numbers by 5,000 across all sectors by end 2005. Numbers in the local authorities are to be reduced by 1,000 over that period.

Local authorities were informed of the reduction required in the overall local government sector over the three year period 2003 to 2005 and the overall position is monitored on a quarterly basis. The latest quarter employment number, expressed in whole-time equivalents, at 31 March 2005 was 33,451, which represents a reduction of 849 since 2002.

I am keeping the overall position under review having regard to the employment demands in each local authority.

#### Waste Disposal.

116. **Ms Lynch** asked the Minister for the Environment, Heritage and Local Government when his Department received the study prepared by the Health Research Board on the health implications of waste incineration; when he intends to publish his response to the study; and if he will make a statement on the matter. [16336/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Health Research Board's study on the effects of landfill and incineration was published in 2003. My Department, together with the Department of Health and Children and the Environmental Protection Agency, has been considering this report with a view to co-ordinating a response to its findings. This process has taken longer than originally anticipated, due primarily to the need to also consider a more recently published UK Government report on a Review of Environmental and Health Effects of Waste Management.

Consideration of the issues has been concluded by the bodies concerned and an agreed draft response has been prepared, which I intend to publish without delay.

#### Water Pollution.

117. **Mr. Ring** asked the Minister for the Environment, Heritage and Local Government his views on the failure of some local beaches to meet EU bathing water standards as highlighted in the Environmental Protection Agency's bathing water quality in Ireland report 2004; and if he will make a statement on the matter. [16449/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Ireland's bathing waters were of a high standard during the 2004 bathing season and remain consistently near the top of the EU bathing water quality league table, according to the Environmental Protection

Agency's annual report, The Quality of Bathing Water in Ireland 2004. The report indicates that 98% of bathing areas complied with mandatory EU values while 88% complied with the stricter guide values specified in the directive. Where bathing waters do not comply with the specified standards, local authorities are required to take the necessary measures to ensure compliance with the standards as prescribed in relation to designated bathing waters by the Quality of Bathing Waters Regulations 1992.

My Department is promoting a major investment programme by local authorities to upgrade sewerage networks and wastewater treatment facilities, particularly where such facilities are required to meet EU standards. Significant progress has been made in recent years in meeting our targets under the EU urban wastewater directive and the main impact of this investment will be on estuarine and coastal areas.

As part of the implementation of the Water Framework Directive 2000/60/EC, my Department is promoting and funding, at regional level, the establishment by local authorities of inter-authority projects to develop river basin monitoring and management systems and to provide the bulk of the baseline data required for implementation of the directive and for development of river basin management plans. Five such projects have commenced in regard to the south-eastern region, the Shannon river basin, the eastern region, the western region and the south-western region. A further project, the North-South Shared Aquatic Resource, NS-SHARE, project commenced in August 2004 and addresses water quality management in cross-Border river basins which includes the Neagh Bann international river basin district and the north western international river basin district.

The river basin management projects will cover all inland surface waters and groundwaters as well as estuaries and coastal waters out to a distance of one nautical mile. These projects will identify all significant impacts on water quality and quantity, set quality objectives and identify and put in place the necessary monitoring and management measures to achieve those objectives. These projects should lead to improved water quality in coastal areas which, in turn, will have a significant positive effect on the quality of bathing water in those areas.

#### Proposed Legislation.

118. **Mr. Costello** asked the Minister for the Environment, Heritage and Local Government the status with regard to the proposed Critical Infrastructure Bill, which was first announced in October 2003; if a decision has been made not to proceed with the Bill; if so, his alternative proposals for dealing with major infrastructural projects; and if he will make a statement on the matter. [16330/05]

156. **Mr. Penrose** asked the Minister for the Environment, Heritage and Local Government

his views on the structure and remit of the proposed new division dealing with major planning applications in respect of the proposed reform of An Bord Pleanála; if planning applications for incinerators and other waste management facilities will be dealt with by this division; and if he will make a statement on the matter. [16343/05]

192. **Mr. McCormack** asked the Minister for the Environment, Heritage and Local Government the reason he has abandoned Government plans for a separate fast-track planning authority for major road and infrastructure projects; and if he will make a statement on the matter. [16431/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 118, 156 and 192 together.

I refer to the reply to priority Question No. 74 of today's date.

#### **Social and Affordable Housing Programmes.**

119. **Mr. Kehoe** asked the Minister for the Environment, Heritage and Local Government the action he will take to increase affordable housing output; and if he will make a statement on the matter. [16462/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** The Government has responded actively to increased levels of housing need by expanding affordable housing output very significantly. In the current year the Government has allocated record levels of funding to local authorities for their affordable housing programmes. Total capital spending on affordable housing output in 2005, including non-voted capital finance, will amount to over €432 million and will assist in meeting the housing needs of over 3,300 households.

The Government has placed a particular emphasis on the delivery of targeted schemes of affordable housing in recent years and we expect output of about 12,000 units from these schemes between 2005 and 2007.

#### **Environmental Policy.**

120. **Mr. Ferris** asked the Minister for the Environment, Heritage and Local Government if he will make a statement in relation to the recent European Court of Justice judgment against the State in relation to the failure of the State to fulfil obligations under various articles of the EU waste framework directive. [16517/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Ireland is now required to take the steps necessary to comply with the recent judgment of the European Court of Justice on the waste framework directive and to communicate our response to the Commission within three months of receiving the formal communication from it concerning the outcome of the case.

Ireland has not yet received this communication. Once it is received we will examine it carefully, formulate our national response, and discuss this with the Commission to ensure that our implementation plan meets the directive's requirements. My intention is to have the judgment studied by a high level group of officials from my Department, the Office of Environmental Enforcement, the local authorities and also with the assistance, as appropriate, of the Office of the Attorney General. Where gaps are identified in our current control regime these will be urgently rectified.

The ECJ case focused on 12 different complaints received by the European Commission between 1997 and 2000, involving some 18 waste disposal incidents, and one of the primary elements in the response will be to set out the current situation in each of the situations concerned with the aim of demonstrating full compliance with the waste framework directive in each case.

Since the period covered by these complaints, Ireland's waste regulatory regime has been brought up to modern standards. This was acknowledged by the OECD in its 2000 Environmental Performance Review of Ireland which noted that Ireland had a "modern and coherent body of environmental law". In addition, we have made major progress in modernising our waste infrastructure and services, including our capacity to deliver effective enforcement. In this regard a key initiative was the establishment of the Office of Environmental Enforcement just over one year ago.

It should also be taken from the judgment that Ireland needs to continue with the task of constructing a fully integrated waste management system, incorporating policies and infrastructure to support waste reduction, recovery and recycling so as to reduce greatly our reliance on landfill.

*Question No. 121 answered with Question No. 91.*

#### **Waste Management.**

122. **Ms O'Sullivan** asked the Minister for the Environment, Heritage and Local Government when he expects to receive the results of the Office of Environmental Enforcement audit of dump sites used between 1977 and 1996; when the planned regulations in relation to landowners whose land has been used for dumping will be prepared; when the total cost of the clean-up in relation to illegal dumping will be determined; if funding will be made available to local authorities in respect of this cost; and if he will make a statement on the matter. [16350/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The policy direction which I have recently issued under section 60 of the Waste Management Act 1996 directs the local authorities to ensure that the

[Mr. Roche.]

requirements of section 22 of that Act are fully met in the current review of their waste management plans. Section 22 states that a waste management plan shall include information on: the identification of sites at which waste disposal or recovery activities have been carried on; the assessment of any risk of environmental pollution arising as a result of such activities; measures proposed to be taken, or, where such an assessment has already been made, measures taken, in order to prevent or limit any such environmental pollution; and the identification of necessary remedial measures in respect of such sites, and measures proposed to be taken, or, where such measures have already been identified, measures taken, to achieve such remediation, having regard to the cost-effectiveness of available remediation techniques. This exercise will be completed as part of the process of replacing the current waste management plans over the coming months.

There are no proposals for further regulations in regard to the sites of illegal waste activity. The section 60 ministerial policy direction sets out the steps to be taken in relation to such sites.

As regards clean-up costs in relation to illegal dumping, the regulatory authorities have been directed to pursue illegal holders of waste looking to the maximum potential sanctions available in law. In that regard, prosecutions should be taken in all cases using the powers available under the Waste Management Act, as amended, or other relevant legislation to maximise the deterrent factor. The Garda Síochána should be asked to become involved in regard to more serious offences and the prosecution of offences should be at the highest available judicial level.

In addition, a landfill levy, as is prescribed in the Landfill Levy Regulations shall be applied in all circumstances of disposal of waste by means of an unauthorised landfill activity after 1 June 2002; and local authorities should, where practicable, pursue civil remedies against illegal operators under the provisions of sections 55 to 58 of the Act to, for example, seek to recover the costs of measures taken to prevent or limit environmental pollution caused by the waste.

Clearly there may be cost implications in regard to the remediation of older sites which may not be amenable to recovery in the courts from those concerned. There may also be cost implications for closed sites which are in the ownership of local authorities. Pending the outcome of the section 22 process it is not possible to quantify the extent of future costs in this regard.

### **Radon Gas Levels.**

123. **Mr. Hayes** asked the Minister for the Environment, Heritage and Local Government the progress to date in implementing the RPII's radon programme; and if he will make a statement on the matter. [16455/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Govern-

ment has in recent years, largely through the Radiological Protection Institute of Ireland, RPII, committed significant resources to assessing the extent of the radon problem throughout the country and to increasing public awareness of radon.

For example, during the years 1992 to 1999, the RPII carried out a nationwide survey of radon in domestic dwellings. The survey involved the measurement by the RPII of radon for a 12 month period in a random selection of homes in each 10 km by 10 km grid square throughout the country. In all, over 11,000 houses were measured. The RPII's website, *www.rpii.ie*, contains a comprehensive map of the high radon areas in Ireland identified as a result of the nationwide survey as well as the report of the survey. High radon areas are areas where the RPII estimates that more than 10% of the houses in each grid square have radon concentrations levels above the national reference level of 200 becquerels per cubic metre. This reference level is the level for long-term exposure to radon in a house above which the need for radon remediation works should be considered.

The consolidated Building Regulations 1997 require all new houses commencing on or after 1 July 1998 to incorporate radon prevention measures. In October 2004, my Department published an updated edition of Technical Guidance Document C on Part C of the Building Regulations, site preparation and resistance to moisture, incorporating enhanced radon prevention measures for new buildings commencing on or after 1 April 2005. This new guidance document is aimed at ensuring that the 1997 radon prevention measures are carried out more effectively. Ireland was among the first European countries to introduce specific building regulations and related technical guidance on radon prevention in new buildings.

In February 2002, my Department published a booklet entitled *Radon in Existing Buildings — Corrective Options* advising designers, builders and home owners on remediation options for reducing radon in existing houses to, or below, the national reference level.

For many years now, the RPII, through press releases and radio and television interviews, and through its own published reports on radon, has been promoting public awareness of radon and highlighting the risks associated with exposure to radon. The RPII has long been encouraging householders, particularly those in high radon areas, to have their homes tested for radon and to undertake radon remediation works where necessary.

The RPII has undertaken several other initiatives to further heighten public awareness of the radon issue. In November 2004, the RPII hosted the third National Radon Forum in Dublin to raise awareness of radon as a health risk. That same month, the RPII published a booklet entitled *Understanding Radon — A Householder's Guide*. That guide is directed at house-

holders who have been informed that they have radon concentration levels above the national reference level in their homes. The aim of the guide is to assist such householders in interpreting their radon measurement results and in deciding how to deal with the problem. The RPII also plans to distribute an information poster on radon for display in libraries, medical centres, etc., advising people to have their homes checked for radon. The RPII has also just begun a new radon awareness campaign which will involve a series of nationwide public information seminars on the dangers of radon and which will be targeted at selected high radon areas. As part of this campaign the RPII has organised road shows to further heighten awareness in relation to radon, particularly in areas with high radon levels.

Both the RPII and my Department will continue to use all appropriate opportunities to raise public awareness of radon and to encourage householders, particularly those living in high radon areas, to have their homes tested for radon and to undertake radon remediation works where radon concentration levels in excess of the national reference level are found.

*Question No. 124 answered with Question No. 102*

*Question No. 125 answered with Question No. 88.*

#### **International Agreements.**

126. **Mr. Allen** asked the Minister for the Environment, Heritage and Local Government if he has had contact with his US counterpart regarding the failure of the US to ratify the Kyoto Protocol; and if he will make a statement on the matter. [13516/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** EU international policy on climate change is determined through close co-ordination between all member states and the European Commission, and a common EU position is presented externally. The EU continues to engage with the United States on a range of climate change issues, despite the latter's decision not to ratify the Kyoto Protocol.

Since my appointment as Minister for the Environment, Heritage and Local Government, an appropriate opportunity to discuss climate change policy with my counterpart from the US Administration has not arisen. My predecessor met with representatives from the United States before and during Ireland's Presidency of the EU in 2004. At these meetings, he emphasised the EU position that it expects the United States to play a full part in global efforts to tackle climate change.

Following on from the Kyoto Protocol coming into effect on 16 February 2005, the focus of the international climate change agenda has moved on to the measures to be taken in the next phase, after the Kyoto commitment period ends in 2012.

It is important that the United States engage constructively in the international negotiations on the post-2012 objectives and that they take comparable measures to those being taken by the rest of the developed world in terms of greenhouse gas emissions reductions. This is the message that I will bring to any future meeting with representatives of the United States Administration.

#### **Fire Services.**

127. **Mr. Sherlock** asked the Minister for the Environment, Heritage and Local Government when the recommendations of the 2002 Government commissioned report on the fire service, including the recommendation for a national fire authority, will be adopted; the reason for the delay in adopting these recommendations to date; and if he will make a statement on the matter. [16352/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** On 17 February 2005 I announced a fire services change programme in which I set out a strategy for the future development of the fire service. This strategy includes measures addressing the development of community fire safety programmes, the development of a risk based approach to the determination of fire cover standards, the introduction of a competency-based approach to recruitment, retention and career progression in the fire service and the enhancement of health, safety and welfare programmes within the fire service.

My priority under the change programme is not to pursue further institutional change at this time but to use the available resources to bring about direct improvements in these key areas identified in the report review of fire safety and fire services in Ireland. All of the key stakeholder groups in the fire service are participating positively in the change programme and I am confident that this approach can take us forward and achieve real progress in modernising the fire service.

#### **Nuclear Plants.**

128. **Mr. O'Dowd** asked the Minister for the Environment, Heritage and Local Government his views on the issues raised in the recent report of the RPII visit to Sellafield; and if he will make a statement on the matter. [16446/05]

130. **Mr. M. Higgins** asked the Minister for the Environment, Heritage and Local Government if he has raised with the British Foreign Secretary the issue of the refusal of the authorities in Sellafield to make information which has been sought available for the Radiological Institute of Ireland; the steps he intends to take to make such information available; and if he will make a statement on the matter. [13547/05]

138. **Mr. Timmins** asked the Minister for the Environment, Heritage and Local Government if he has considered the recent report of the RPII visit to BNFL Sellafield; his views on the findings in relation to terrorist threats to the facility; and

[Mr. Timmins.]  
if he will make a statement on the matter.  
[12430/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 128, 130 and 138 together.

I welcome the publication of the report on the visit of the Radiological Protection Institute of Ireland, RPII, to the Sellafield nuclear plant. I gave a commitment in December last that this report would be made public and was pleased to be presented with a copy by the RPII chairman when it was published recently. I would like to thank all those involved in facilitating this visit and commend the quality of the report which is clear and concise in its presentation of complex technical issues.

The Government remains opposed to the continued operation of the Sellafield plant. We seek the safe and orderly closure of the Sellafield site and we will continue to explore every diplomatic and legal route to this end. Obviously, the United Kingdom has and continues to hold a significantly different view. However, in my view and for some considerable time, there has been significant scope for both Governments and administrations to develop a higher level of co-operative engagement on the nuclear issue. It is in this context that the provisional measures order of the UNCLOS tribunal was opportune and significant. This order provided for the development of improved co-operation and co-ordination measures between both Governments on nuclear safety. The visit by the RPII to Sellafield stemmed from discussions between Ireland and the United Kingdom under the terms of the order and further visits by the institute are planned.

This was the first visit to Sellafield by the institute since 2000. As the report clearly demonstrates, the visit helped the RPII to evaluate the associated hazards in the context of emergency preparedness. It also highlighted two areas that are of great concern and interest to Ireland, namely, developments in relation to the storage of high-level liquid radioactive waste on the site and the authorisation of radioactive discharges into the Irish Sea.

The nuclear inspectorate as regulators of Sellafield have imposed a requirement that the volume of liquid waste stored in the highly active storage tanks is to be progressively reduced. While this requirement is welcome, the modest rate of reduction in the volumes of this waste requiring storage at Sellafield up to 2010 does not, I believe, represent a decisive response. It remains to be seen if the recent events in relation to the THORP plant will result in a review of operational priorities at Sellafield that can positively address the risk posed by the long-term storage of highly active radioactive waste in tanks at Sellafield.

The highly active storage tanks represent a significant terrorist threat and the UK authorities have implemented a number of enhanced physical protection measures in attempts to address

this risk. Additionally, assurances to the effect that the terrorist threat to Sellafield nuclear plant is continually reviewed and assessed have been received from the UK authorities. Nevertheless, this Government has continued concerns in relation to the threat posed by the highly active storage tanks and this was one of the issues addressed in the international legal actions by the Government against the UK in relation to Sellafield.

There is an obvious conflict between the necessity for the UK authorities to ensure the security of the installation is not compromised by limiting access to security sensitive material and RPII's need for access to information to provide additional evaluation and advice to this Government and the public in relation to threat assessments and security arrangements. In this regard, the additional access provided by the UK authorities to the Garda Síochána has been useful. A visit took place in June 2003, and while the report is confidential, the overall view formed was reassuring. Further visits and contacts at senior police level are continuing. While the issue has not been raised directly with the UK Foreign Secretary, discussions under the UNCLOS order are continuing between Ireland and the UK. Access to further information sought by the institute is one of the issues being addressed in this process.

In relation to marine discharges of radioactive waste from Sellafield, the Irish Government's view remains that continuing radioactive discharges to the Irish Sea from Sellafield are untenable and they should cease. The welcome success of improved abatement techniques recently introduced at Sellafield in reducing dramatically the amount of technetium-99 discharged to the Irish Sea indicates the real potential for addressing this issue in a constructive way.

Overall, the RPII visit and report reflect the benefit of the improved co-operation arrangements between Ireland and the UK, which in no way detract from Ireland's stated objective for the safe and orderly closure of Sellafield.

*Question No. 129 answered with Question No. 97.*

*Question No. 130 answered with Question No. 128.*

### **Local Government Reform.**

131. **Mr. G. Murphy** asked the Minister for the Environment, Heritage and Local Government the status of his plans for local government reform, including the provision of directly elected mayors in cities; and if he will make a statement on the matter. [16411/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The better local government modernisation programme has brought significant benefits to local government. These include constitutional recognition and guaranteed local elections; enhanced levels of

funding; strengthened political and management structures; an updated legal framework as well as an efficiency agenda focused on improved corporate planning, IT, human resources, and customer service. Updated financial management systems, facilitating better financial management and planning, have also been introduced and a new initiative to improve service standards with an extended range of performance indicators was launched last year. A major independent study to identify future funding requirements and options for local government will be completed shortly.

Local government modernisation provides an enhanced role for elected members in policy formulation and review and in developing an integrated strategy for the economic, social and cultural development of their areas. This is undertaken in partnership with representatives of the sectoral interests through the establishment of strategic policy committees, SPCs, and the county-city development boards, respectively. The role of the locally elected representative has been further strengthened under the modernisation programme by the creation of a single mandate for councillors from the 2004 local elections and also by the improved financial support framework and better training-information opportunities.

Quality customer service is a key pillar of the modernisation programme. All of the various elements of the programme are centred around

this objective. Substantial resources have been provided by my Department to local authorities on specific initiatives to improve service provision. These include €31 million in support for a one-stop-shop programme and €9.8 million to improve efficiency and effectiveness in service delivery through the use of technology.

I am determined to intensify and consolidate the gains being made through the modernisation programme and, in particular, to promote improvements in performance and in service delivery by local authorities to their communities.

In relation to directly elected mayors legislation providing for the direct election of mayors was repealed by section 7 of the Local Government (No. 2) Act 2003. Accordingly, the question of directly elected mayors does not now arise.

#### Local Authority Staff.

132. **Mr. Naughten** asked the Minister for the Environment, Heritage and Local Government the numbers employed by each local authority for the years 2002, 2003 and 2004; the category under which they are employed; and if he will make a statement on the matter. [16384/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Based on information supplied by the local authorities, the numbers of staff employed by them, expressed in whole-time equivalents, on 31 December in each of the years 2002, 2003, and 2004, and the categories are set out in the following tables:

2002.

Local Authority	Managerial/Administration/ Clerical	Professional/Technical	Outdoor	Overall Total
<i>County Councils</i> <sup>1</sup>				
Carlow	114	47	216	377
Cavan	168.5	47.4	330	545.9
Clare	290	114	487	891
Cork	782	426	1,282	2,490
Donegal	358.5	201	706	1,265.5
Dún Laoghaire/Rathdown	507	238	670	1,415
Fingal	577	336	711	1,624
Galway	315	126	758	1,199
Kerry	416	173	660	1,249
Kildare	350	185	530	1,065
Kilkenny	199	72	346	617
Laois	167.5	66.5	255	489
Leitrim	137	59	208	404
Limerick	277	113	545	935
Longford	138	49	137	324
Louth	263	79	380	722
Mayo	301	89	916	1,306
Meath	273	113.5	339	725.5
Monaghan	172	63	121	356
Offaly	159.5	77	223	459.5
Roscommon	132	59.5	276	467.5
Sligo	228	85	278	591
South Dublin	663	160	619	1,442

Local Authority	Managerial/Administration/ Clerical	Professional/Technical	Outdoor	Overall Total
North Tipperary	171	55	239	465
South Tipperary	228	97	459	784
Waterford	166	68	397.5	631.5
Westmeath	185.5	64.5	280	530
Wexford	334	94	357	785
Wicklow	288	114	523	925
County Total	8,360.5	371.4	13,248.5	25,080.4
<i>City Councils</i>				
Cork	382	146	914	1,442
Dublin	2,752	*	3,906	6,658
Galway	149	53	269	471
Limerick	185	41	324	550
Waterford	174	48	256	478
City Total	3,642	288	5,669	9,599
Overall Total	12,002.5	3,759.4	18,917.5	34,292.4

\*Dublin City figure for Man./Admin includes Prof./Tech.

<sup>1</sup>Includes urban authorities.

2003.

Local Authority <sup>1</sup>	Managerial/ Administration/ Clerical	Professional/ Technical	Outdoor	†Other	Overall Total
Carlow	112	47	144	27	330
Cavan	160.6	56	215.5	17	449.1
Clare	279	111.5	428	144	962.5
Cork	744.74	360	1,172.91	130	2,407.65
Donegal	338	145	492.5	132	1,107.5
Dún Laoghaire/ Rathdown	471	232	584	102	1,389
Fingal	595	260	640	68	1,563
Galway	304.82	125.8	471.55	75.5	977.67
Kerry	378.5	136.4	533	144.6	1,192.5
Kildare	322	110	361	146.33	939.33
Kilkenny	167	76	312	38	593
Laois	167.5	71	153	20	411.5
Leitrim	113.5	47	126.5	22	309
Limerick	255	109	366	76	806
Longford	140.9	45	142.2	9	337.1
Louth	228.47	94.5	305.57	76	704.54
Mayo	229	167	613.5	176	1,185.5
Meath	206.5	109	269	143	727.5
Monaghan	157.4	63.6	179.63	24.1	424.73
Offaly	160	59.5	221	40	480.5
Roscommon	137	59	281	79	556
Sligo	200.66	78	218.03	30	526.69
South Dublin	620.9	144.8	522	43	1,330.7
North Tipperary	152	52	219	76	499
South Tipperary	216	85	372	27	700
Waterford	170	64	289	28	551
Westmeath	167.5	66	227	83.5	544
Wexford	299	80	363.45	92	834.45
Wicklow	258.5	114	373.5	69.83	815.83
County Total	7,752.49	3,168.1	10,595.84	2,138.86	23,655.29

Local Authority <sup>1</sup>	Managerial/ Administration/ Clerical	Professional/ Technical	Outdoor	†Other	Overall Total
<i>City Councils</i>					
Cork	366	143	907	172	1,588
Dublin	1,958.4	509.8	3,866.5	233	6,567.7
Galway	126.5	52	244	33	455.5
Limerick	184.5	45.6	316	76	622.1
Waterford	141	39	201	34	415
City Total	2,776.4	789.4	5,534.5	548	9,648.3
Overall Total	10,528.89	3,957.5	16,130.34	2,686.86	33,303.59

†Includes certain contract posts, temporary & seasonal workers (not separately collected in 2002).

<sup>1</sup>Includes urban authorities

2004.

Local Authority <sup>1</sup>	Managerial/ Administration/ Clerical	Professional/ Technical	Outdoor	†Other	Overall Total
Carlow	114	45	145	23	327.00
Cavan	165.6	59	215.5	27	467.10
Clare	279	113.5	428	144	964.50
Cork	764.89	359.4	1,145.27	193	2,462.56
Donegal	339	141	503	191	1,174.00
Dún Laoghaire/ Rathdown	475	232	581	100	1,388.00
Fingal	517	334	605	27	1,483.00
Galway	321.21	122.5	456.67	101.92	1,002.30
Kerry	403.2	149.4	519.66	145.04	1,217.30
Kildare	329	127	335.5	154	945.50
Kilkenny	169	77	295	45	586.00
Laois	160.1	66	158	19	403.10
Leitrim	118	48	125	20	311.00
Limerick	255	109	366	60.5	790.50
Longford	145	45	126.2	13	329.20
Louth	234.77	98.5	289.49	58.3	681.06
Mayo	229	164	613	209	1,215.00
Meath	237	117.1	273	73	700.10
Monaghan	161.2	62.6	177.63	43	444.43
Offaly	153.8	56	204	56	469.80
Roscommon	141	63	275	79	558.00
Sligo	198.16	78	221.97	51	549.13
South Dublin	662.4	143.6	527.5	32	1,365.50
North Tipperary	161	50	212	116	539.00
South Tipperary	221	89	372	21	703.00
Waterford	170	64	289	45	568.00
Westmeath	181	70	218.5	92.5	562.00
Wexford	294.5	80	370.35	87	831.85
Wicklow	274.75	112	377.9	91.3	855.95
County Total	7,874.58	3,275.6	10,426.14	2,317.56	23,893.88
<i>City Councils</i>					
Cork	366	145	905	119	1,535.00
Dublin	1,993.8	445.1	3,841.15	314.25	6,594.30
Galway	131.5	53	254	18	456.50
Limerick	169.7	40.6	287	61	558.30
Waterford	139	38	198	56	431.00
City Total	2,800	721.7	5,485.15	568.25	9,575.10
Overall Total	10,674.58	3,997.3	15,911.29	2,885.81	33,468.98

†Includes certain contract posts, temporary & seasonal workers (not separately collected in 2002).

<sup>1</sup>Includes urban authorities

### Water Pollution.

133. **Mr. Connaughton** asked the Minister for the Environment, Heritage and Local Government his plans to assist local authorities and community groups to clean up beaches and to improve amenities in order to increase the allocation of blue flags by the European Union; and if he will make a statement on the matter. [16430/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The blue flag scheme is operated by the Foundation for Environmental Education, an international non-governmental organisation based in Denmark, and is administered in Ireland by An Taisce. A local authority wishing to apply for blue flag status for a bathing area makes application to An Taisce who provides advice and guidance in relation to the scheme, the criteria on which decisions are based and aspects of beach management which may require improvement. My Department provides grant-aid to An Taisce as a contribution towards the administration expenses of the scheme.

To qualify for blue flag status, a beach must be a designated bathing area under the quality of bathing waters regulations. There are 131 such bathing areas, 122 seawater and nine freshwater, designated in Ireland. The quality of the bathing water in these areas must comply with the guideline standards laid down in the EU bathing water directive during the bathing season, which runs from 1 June to 31 August, of the year prior to the application for a blue flag. To secure a blue flag, a beach must additionally comply with criteria specified by the foundation in relation to the facilities available and general management, for example, car parking, toilets, litter control, access for the disabled and environmental information.

A total of 77 blue flags were awarded in 2004 to 73 bathing areas and four marinas, maintaining the high number of blue flags awarded in 2003. My Department has requested a report from An Taisce as to the options and measures that might be pursued for increasing the number of blue flags awarded to areas in Ireland and I expect to receive the report shortly.

The blue flag scheme is mainly directed towards developed, resort beaches that have, in addition to excellent water quality, appropriate infrastructure and services. As a complement to the blue flag scheme, a separate environmental award scheme called the Green Coast Award is now being operated to recognise beaches which have excellent water quality and which are also prized for their natural unspoilt environment. The scheme is being applied, at this stage, to the east coast of Ireland and forms a major part of the Clean Coast project that is operated by An Taisce with INTERREG support and in partnership with Keep Wales Tidy. The other major element of the Clean Coast project is Coastcare,

where voluntary groups adopt a beach and take responsibility for its care. Coastcare is particularly commendable in that it empowers local people to take charge of their own environment. Eleven beaches on the east coast have received Green Coast awards.

The potential to increase the number of environmental awards is being enhanced by the major investment programme underway to upgrade sewerage networks and wastewater treatment facilities. Enormous strides have been made in recent years in meeting our targets under the EU urban wastewater directive. Compliance with the December 2005 deadline of the directive stood at 25% at the start of the national development plan. That has now risen to some 90%. All remaining schemes needed to achieve full compliance with the directive are included in my Department's water services investment programme 2004-2006 which is available in the Oireachtas Library.

In addition, the river basin management projects, established under the water framework directive, will cover all inland surface waters and groundwaters as well as estuaries and coastal waters out to a distance of one nautical mile. These projects will identify all significant impacts on water quality and quantity, set quality objectives and identify and put in place the necessary monitoring and management measures to achieve those objectives. These projects should lead to improved water quality in coastal areas, which in turn, will have a significant positive effect on the quality of bathing water in those areas.

### Archaeological Sites.

134. **Ms Burton** asked the Minister for the Environment, Heritage and Local Government the matters discussed at his meeting with the director of the National Museum on 12 May 2005; if he will publish the letter he received from the director setting out his serious concerns regarding the implications of the proposed route for the M3; and if he will make a statement on the matter. [16327/05]

155. **Dr. Twomey** asked the Minister for the Environment, Heritage and Local Government if he will publish the advice of the director of the National Museum regarding the proposed M3 development in the Tara-Skryne valley; and if he will make a statement on the matter. [16436/05]

195. **Mr. Gormley** asked the Minister for the Environment, Heritage and Local Government if he will provide this Deputy with a copy of correspondence received in 2005 from the director of the National Museum regarding the Minister's pending decision regarding archaeological works along the route of the proposed M3 motorway in the vicinity of the Hill of Tara (details supplied); and if he will make a statement on the matter. [16512/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 134, 155 and 195 together.

Section 14(a) of the National Monuments Act 1930, as amended, provides that, before directions are issued by the Minister for the Environment, Heritage and Local Government to a road authority in relation to the carrying out of archaeological works connected with a road development which has been approved by An Bord Pleanála or in relation to a newly discovered national monument on the route of such a road, the director of the National Museum of Ireland is to be consulted.

I met the director on 1 March 2005 in relation to the issue of directions in respect of two cases and provided him with a copy of the proposed directions in each case. A written response was subsequently furnished by the director as regards each case. These related to an archaeological site at Woodstown, County Waterford and also to the carrying out of archaeological works at locations along the Dunshaughlin to Navan section of the proposed M3 motorway.

The directions were made publicly available last week once issued. I have arranged within my Department to have copies of all correspondence with the National Museum regarding the carrying out of archaeological works at locations along the Dunshaughlin to Navan section of the proposed M3 motorway issued to the Deputies today.

*Question No. 135 answered with Question No. 88.*

#### **Local Authority Housing.**

136. **Mr. Bruton** asked the Minister for the Environment, Heritage and Local Government if he intends to introduce open and transparent tender procedures for all voluntary housing projects as recommended by the Committee of Public Accounts; and if he will make a statement on the matter. [16422/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** In accordance with Government public procurement requirements, local authorities are requested to ensure that approved voluntary housing bodies who undertake projects under the capital funding schemes, are made aware of the need to operate competitive tendering procedures.

#### **Social Welfare Schemes.**

137. **Mr. Gilmore** asked the Minister for the Environment, Heritage and Local Government if there is evidence for the recent public assertion that there is widespread abuses of the rent allowance system; the number of cases of such alleged abuse that have been brought to his attention; the amount of rent allowance being wrongly claimed in respect of each such case of alleged abuse; the action he has taken in respect of each such case

of alleged abuse; and if he will make a statement on the matter. [16326/05]

170. **Mr. Wall** asked the Minister for the Environment, Heritage and Local Government the number of cases to which his attention has been drawn of tenants in receipt of the rent allowance not living in the dwelling concerned and sub-letting it; when his attention has been drawn to each such case; the action taken in respect of each such case; and if he will make a statement on the matter. [16357/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I propose to take Questions Nos. 137 and 170 together.

The issue of possible abuses of the rent allowance scheme has been brought to my attention in my capacity as a public representative. At my request, my Department has raised this concern with the Department of Social and Family Affairs so that the matter can be properly examined and considered by that Department.

*Question No. 138 answered with Question No. 128.*

*Question No. 139 answered with Question No. 95.*

#### **Waste Management.**

140. **Mr. J. O'Keefe** asked the Minister for the Environment, Heritage and Local Government his views on whether small electrical retail outlets will have a difficulty in fulfilling their obligations under the EU directive on waste electrical and electronic equipment; and if he will make a statement on the matter. [16417/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The EU directive on waste electrical and electronic equipment, WEEE, which came into effect on 13 February 2003, presents a challenge to all relevant stakeholder groups, including retailers, both large and small, and effective implementation will require a focused, committed approach from all concerned.

Draft regulations, which will transpose the directive into Irish law, have now just completed a period of public consultation. These regulations were prepared by my Department, working closely with the relevant public sector and industry stakeholders through a dedicated WEEE task force. Retailer interests are represented on this task force, which was established in February 2003.

In order to minimise the regulatory burden of the WEEE directive, the draft regulations propose that retailers be allowed to avail of an exemption from the normal waste permitting requirements for the storage and transport of WEEE in certain circumstances. Under the modified regime, which will be considerably less burdensome than the normal collection and waste

[Mr. Roche.]

permitting requirements, retailers will be required to register their premises with their local authority.

In recognition that some retailers, particularly those operating in the centre of a town, may have difficulties in catering for WEEE, the draft regulations also propose that retailers may, subject to the agreement of the appropriate local authorities, make alternative arrangements to in-store take-back, provided that such arrangements are not more inconvenient for the purchaser and remain free of charge.

My Department has made every effort to include all stakeholders, including retailers, in the process of developing the draft regulations. The draft regulations are balanced and take account of the circumstances of those affected by the directive. I have as part of the consultation process which has now ended, met with the retailers' representatives to discuss the draft regulations. All comments and submissions received will be considered by my Department in finalising the regulations, which I intend to make in advance of the coming into effect of the directive on 13 August 2005.

141. **Mr. Deenihan** asked the Minister for the Environment, Heritage and Local Government when he will publish final regulations in relation to waste management plans for construction and demolition waste; and if he will make a statement on the matter. [16434/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Government's policy statement, *Changing Our Ways*, September 1998, provided a framework for the adoption and implementation by local authorities of strategic waste management plans under which specific national objectives and targets would be achieved. It set out specific targets for the recycling of at least 50% of construction and demolition, C&D, waste by end 2003 rising progressively to at least 85% by end 2013.

A National Construction and Demolition Waste Council was established by the construction industry in June 2002 as a voluntary producer responsibility initiative to facilitate the achievement of the national C&D waste recycling targets. In September 2004, the council launched its voluntary construction industry initiative which involves all key participants in the construction industry committing to a series of specific actions that have the overall objective of increasing recycling rates for C&D waste. The initiative aims to concentrate on the major waste fractions in the early years and establish the most suitable practices for Ireland through practical experience. It is envisaged that further steps will be initiated at a later stage to focus on the remaining elements of C&D waste.

In tandem with the launch of the voluntary construction industry initiative, my Department announced new draft best practice guidelines on

the preparation of waste management plans for construction and demolition projects for public consultation. The aim of the draft guidelines is to promote an integrated approach to C&D waste management throughout the duration of a project and ensure the projects are designed to promote sustainable development, environmental protection and optimum use of resources. The guidelines introduce the concept of on-site C&D waste management plans which would apply to projects above certain specified thresholds. It is my intention to finalise the draft guidelines as soon as possible following a comprehensive evaluation of the submissions recently received from the public consultation process. The finalised guidelines will be submitted to the National Construction and Demolition Waste Council for its formal endorsement.

My Department has developed revised draft waste permitting regulations which address a number of issues, including the permitting of inert soil and construction type wastes that are being used for the purposes of land reclamation and other similar activities. I intend to publish these draft regulations shortly for public consultation.

#### **EU Directives.**

142. **Mr. O'Shea** asked the Minister for the Environment, Heritage and Local Government the number of EU directives for which his Department has responsibility and which have yet to be implemented and in respect of which the deadline has passed; the number of cases in which the EU has either initiated prosecutions or given notice of its intention to prosecute for failure to implement such directives; and if he will make a statement on the matter. [16342/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I am fully aware of the importance of timely transposition of EU environmental legislation, some 200 items of which, including more than 140 directives, have by now been transposed in this country.

There are currently six directives in my Department's area of responsibility which are outstanding for transposition. These are: 2000/53/EC, end-of-life vehicles, ELVs. This directive contains two stages of transposition, the first by 21 April 2002 for new vehicles sold after 1 July 2002 and the second by January 2007 for all other vehicles. It is anticipated that this directive will be transposed in 2005; 2002/49/EC, assessment and management of environmental noise. Drafting of regulations to transpose this directive is well advanced and transposition is intended by mid-2005; 2002/88/EC, measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery. Draft regulations are nearing completion with a view to transposition of this directive by mid-2005. These regulations will also transpose Directive 2004/26/EC on non-road mobile machinery, which has a transposition tar-

get date of 20 May 2005; 2002/95/EC and 2002/96/EC, with its amending Directive 2003/108/EC. These two related directives deal, respectively, with restrictions on the use of certain hazardous substances in electrical and electronic equipment and arrangements for dealing with waste electrical and electronic equipment. Legislative proposals for the transposition of both directives are now in drafting. It is intended that the directive will be transposed by mid-2005; and 2003/4/EC, public access to environmental information, repealing Directive 90/313/EEC. Legislative proposals for the transposition of this directive are in drafting. It is intended that this directive will be transposed shortly.

One case has been taken by the European Commission to the European Court of Justice in relation to the non-transposition of these directives, specifically the end-of-life vehicles directive. The court delivered a judgment in this case on 28 October 2004. As stated earlier, work is continuing to complete full transposition of this directive having regard, *inter alia*, to the terms of the court judgment.

#### **Decentralisation Programme.**

143. **Ms B. Moynihan-Cronin** asked the Minister for the Environment, Heritage and Local Government the position in regard to the number of his Department's Dublin based staff who have applied through the central applications facility for decentralisation for the proposed new locations for his Department at Kilkenny, New Ross and Wexford; the grades of staff who have applied; and if he will make a statement on the matter. [16339/05]

152. **Mr. P. McGrath** asked the Minister for the Environment, Heritage and Local Government the number of employees of his Department who have applied for transfers under the decentralisation programme; and if he will make a statement on the matter. [16470/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 143 and 152 together.

My Department is co-operating with the Department of Finance, the Decentralisation Implementation Group, DIG, and the Office of Public Works to ensure the Government's decentralisation programme is implemented efficiently and effectively. In accordance with the Government decision on the first phase of moves under the programme, the transfer of my Department's headquarters to Wexford is included in the list of those considered as potential early movers.

A total of 495 applications had been received at the central applications facility, CAF, priority cut-off date on 7 September 2004 in respect of the 661 posts to be decentralised from my Department's Dublin offices and which are fillable through the CAF. A total of 31 staff from my Department's Dublin offices have applied for decentralisation to the Department's proposed

four locations in the south east — Wexford, Kilkenny, New Ross and Waterford. The grades and numbers involved are detailed in the following table. Some 139 staff of my Department had also at that date applied for decentralisation to other Departments or agencies.

An implementation plan, which sets out the broad issues to be addressed in implementing the decentralisation programme for this Department, has been submitted to the DIG. My Department is in the process of finalising a revised implementation plan dealing with issues arising in the context of the move to Wexford.

	Number
Principal Officer	3
Assistant Principal Officer	3
Higher Executive Officer	4
Administrative Officer	3
Executive Officer	5
Staff Officer	1
Clerical Officer	5
Accountant	1
Inspector	3
Senior Meteorological Officer	1
Archaeologist	1
Assistant Fire Adviser	1
Total	31

#### **Water Pollution.**

144. **Mr. P. Breen** asked the Minister for the Environment, Heritage and Local Government the assurances he will give to communities in Balbriggan and Skerries that the quality of bathing water at their beaches will be improved; and if he will make a statement on the matter. [16373/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Where bathing waters do not comply with the standards prescribed in relation to designated bathing waters by the Quality of Bathing Waters Regulations 1992, the relevant local authorities are required to take the necessary measures to ensure compliance with these standards.

Under the Water Services Investment Programme 2004-2006, €23 million is being provided to Fingal County Council for the construction of a state-of-the-art wastewater treatment plant at Barnageeragh, which will deal with all domestic, commercial and industrial wastewater from both Balbriggan and Skerries and which is due for completion by autumn 2006. This treatment plant will improve water quality at the Balbriggan and Skerries beaches to the highest possible standards so that in future years these beaches should be eligible for blue flag status.

*Question No. 145 answered with Question No. 85.*

### Waste Disposal.

146. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government his plans to tackle emissions from backyard burning; if he has monitored an increase in such burning in recent months; and the enforcement action which can be and which has been taken to address this form of pollution. [16506/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. B. O’Keeffe):** Under the Air Pollution Act 1987, the occupier of any premises, other than a private dwelling, is required to use the best practicable means to limit and, if possible, to prevent emissions, including smoke emissions, from such premises. In addition, the occupier of any premises is prohibited from causing or permitting an emission in such a quantity or manner as to be a nuisance. The Act provides local authorities with powers to prevent or limit air pollution and penalties include fines and-or imprisonment upon conviction.

In addition, the Waste Management Act 1996 places a general duty of care on the holder of waste not to hold, transport, recover or dispose of waste in a manner that causes or is likely to cause environmental pollution. Local authorities are empowered to require measures to be taken to prevent or limit environmental pollution caused by the holding or disposal of waste and mitigate or remedy the effects on the environment of any such activity.

In light of the foregoing, I am satisfied that local authorities have adequate powers to deal with backyard burning and I have no plans to introduce further legislation.

### Local Authority Services.

147. **Mr. Timmins** asked the Minister for the Environment, Heritage and Local Government the steps he is taking to ensure that the taxpayer receives value for money from local authorities; and if he will make a statement on the matter. [16468/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** While local authorities have primary responsibility for delivering value for money in their activities, my Department is actively involved on a range of fronts to ensure that this is achieved. Key initiatives by my Department include: full implementation in 2004, in co-operation with local authorities, of new financial management systems based on accrual accounting principles and incorporating balance sheets is designed to deliver better management information and enhanced performance management capacity, and to facilitate improved value for money measurement. This work will be complemented by the development of a new costing system in local authorities. The introduction of five year multi-annual capital investment programmes provides a structured basis for the planning and

delivery of all capital programmes in a way that ensures that best value for money is achieved. In the housing area, to maximise the benefits of this multi-annual approach, local authorities have prepared five-year social and affordable housing action plans. This plan-led approach will focus on achieving maximum output under the programmes and ensure that this output is delivered in a coherent, integrated and sustainable manner. In the area of water services where three year rolling plans were introduced in 2000, in order to deliver infrastructure more speedily and to improve operation and maintenance standards, my Department has adopted design build and operate as the standard form of procurement for all new treatment facilities to be provided by local authorities. Public private partnerships are also being used in the areas of waste management and housing. In the non-national roads programme, a multi-annual restoration improvement programme is in place which ensures that priority is given to the more critical schemes, a number of best practice documents have been issued to local authorities and training for non-national roads staff in local authorities was introduced in 2002 to improve efficiencies and develop appropriate skills. The first phase — demonstration and capacity building — of the local government e-procurement strategy which has been adopted by my Department is currently under way. The strategy will generate value for money in the local government sector through better management of the procurement process, including the sourcing of lower prices, lower transaction costs and improved control of inventories. The use of the needs and resources model in the allocation of general purpose grants from the local government fund encourages efficient use of resources by local authorities. The management of 42 local authority performance measurement indicators across a range of services will foster increased emphasis on value for money in service delivery. Economy, efficiency and effectiveness in the local government system are key elements in the terms of reference of a major independent review on local government funding which is being undertaken. The appointed consultants are due to report shortly. All local authority expenditure is subject to audit by the local government audit service and projects co-financed by the EU are subject to EU value for money scrutiny and cost benefit analysis. The value for money unit of the local government audit service has carried out a number of value for money studies on different local government expenditure areas and further such studies are planned.

*Question No. 148 answered with Question No. 91.*

### Water and Sewerage Schemes.

149. **Ms O. Mitchell** asked the Minister for the Environment, Heritage and Local Government the progress to date on the serviced land initiat-

ive; and if he will make a statement on the matter. [16423/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The objective of the serviced land initiative is to provide water and wastewater services, primarily as extensions of existing water and sewerage schemes, to increase the supply of serviced land to meet residential development needs. The target number of serviced sites when the scheme was introduced was 100,000.

To date, approximately 300 serviced land initiative schemes have been approved under my Department's water services investment programme. Over 200 schemes, providing services for over 154,000 housing units, had been either completed or were at construction at 30 December 2004. By the end of this year a total of 260 schemes are expected to be completed or at construction, representing 200,000 sites.

*Question No. 150 answered with Question No. 112.*

#### EU Directives.

151. **Mr. G. Murphy** asked the Minister for the Environment, Heritage and Local Government the likely cost to the State in fines if Ireland fails to implement the outstanding EU directives for which he is responsible; and if he will make a statement on the matter. [16393/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** To date, fines have not been ordered by the European Court of Justice in relation to any case taken against Ireland.

While the majority of issues raised by the European Commission are resolved without recourse to the European Court of Justice, there are currently eight cases where legal proceedings have been initiated by the Commission in relation to EU environmental directives, seven of which are the direct responsibility of my Department. This includes one case where the Commission has applied to the court seeking the application of a daily fine of €21,600 for each day of delay in implementing measures in relation to the environmental impact directive. It is not possible to anticipate the decision of the court in this case.

*Question No. 152 answered with Question No. 143.*

*Question No. 153 answered with Question No. 88.*

#### Social and Affordable Housing Programmes.

154. **Mr. Noonan** asked the Minister for the Environment, Heritage and Local Government the action he will take to increase voluntary housing output; and if he will make a statement on the matter. [16463/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** The voluntary and co-operative housing sector has an important contribution to make in the provision of social housing. By working in close partnership with local authorities, it plays a significant role in supplementing the efforts of local authorities in providing social housing in areas where particular housing needs have been identified. It is supported by my Department through two separate funding schemes, the capital assistance scheme and the loan subsidy scheme.

The Government is fully committed to developing and expanding the sector and to supplying the necessary resources and support to enable it become an important and significant force and provider in the housing area. This commitment is reflected in the National Development Plan 2000-2006, which includes ambitious targets for output by the sector for each year of the plan. There has been a steady increase in output by the sector from a level of 579 units of accommodation in 1999 to a record output of over 1,600 units in 2004.

Capital spending on these schemes has been increased significantly from €47 million in 1999 to €183 million in 2004. In conjunction with this funding for the voluntary housing programmes, my Department has also initiated the development by local authorities of five year action plans, commencing in 2004, for the delivery of social and affordable housing, including the voluntary programme, to ensure a systematic and integrated approach to the effective use of these resources. I am concerned to ensure that the considerable investment involved will continue to increase output of the sector and reach the targets contained in the current and subsequent action plans.

*Question No. 155 answered with Question No. 134.*

*Question No. 156 answered with Question No. 118.*

#### Local Authority Housing.

157. **Mr. Sargent** asked the Minister for the Environment, Heritage and Local Government if he will consider improvement of the quality and timeliness of his Department's information on the extent and nature of housing need, including homelessness (details supplied). [16525/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** The most recent assessment of need for local authority housing took place at end March 2005. Local authorities have been asked to forward completed returns to my Department by 27 May and my Department will then collate these returns to present an overall national position. The results of the last assessment were published in November 2002 and I expect that my Department will be in a position to publish the

[Mr. N. Ahern.]

results of this year's assessment by next September or October.

The 2005 assessment of need is more rigorous than heretofore and requires local authorities to submit data in electronic format to the local government computer services board, LGCSB, for input into a data warehouse. This will enable my Department to improve its analysis of aggregate data in respect of all households, including homeless households. It is also envisaged that a new IT system being developed for housing authorities will provide the Department with information on housing needs on a more regular basis in the future.

It is recognised that a comprehensive data system is essential to monitor progress in addressing homelessness. In response to this the homeless agency in conjunction with homeless service providers in Dublin, developed the LINK system, with funding provided by my Department. The purpose of the system is to improve and develop services and service delivery to homeless persons to ensure they receive a continuum of care based on an accurate and up to date assessment of their needs.

The LINK system is intended to help the local authorities to formulate appropriate responses to the accommodation needs of homeless households and individuals. It also facilitates the identification of their requirements other than accommodation and provide a basis for the formulation of responses to their case and support needs by the statutory and voluntary agencies involved.

*Question No. 158 answered with Question No. 85.*

#### **Waste Disposal.**

159. **Caoimhghín Ó Caoláin** asked the Minister for the Environment, Heritage and Local Government his plans to introduce civic amenity centres specifically to meet the needs of small and medium size enterprises; and if he will make a statement on the matter. [16518/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Local authorities have a statutory duty under the Waste Management Act 1996 to provide and operate, or to arrange for the provision and operation of, facilities for recovery and disposal of household waste. Local authorities are not precluded from providing such facilities for commercial waste, but are not under a duty to do so. In general, I would consider the provision of recycling facilities for businesses as primarily a commercial matter, and do not believe that it would be appropriate to divert the limited resources of the environment fund, or to direct the diversion of local authority funds, to providing special facilities for the use of the business sector.

#### **National Monuments.**

160. **Mr. McGinley** asked the Minister for the Environment, Heritage and Local Government his plans to consolidate the national monuments code; and if he will make a statement on the matter. [16419/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** There have been significant changes in responsibilities and the transfer of functions for the built and natural heritage between a number of Departments since June 2002. This has resulted in a re-organisation and a rebranding of heritage administration and its incorporation into my Department's remit as finalised in April 2003. Despite these functional and organisational changes, significant preparatory work was done to consolidate and modernise existing national monuments legislation, culminating in an initial draft Bill being completed by parliamentary counsel in April 2003.

In the interim the National Monuments (Amendment) Act 2004 was made in July 2004 in response to new challenges to the protection of the archaeological, architectural and historical heritage and to take account of, and give effect to, various Supreme and High Court judgments. Five direct pieces of existing legislation now require to be consolidated under the national monuments code in addition to potential consequential impacts on other statutory codes. It has been necessary to review these developments and assess the adequacy of the draft 2003 Bill in order to progress the consolidation exercise to conclusion. My Department is working to this end and I expect significant progress in this regard to be achieved by the end of the year.

*Question No. 161 answered with Question No. 95.*

#### **Housing Aid for the Elderly.**

162. **Dr. Cowley** asked the Minister for the Environment, Heritage and Local Government in view of the amendment to the capital assistance scheme, introduced in November 2001 if the details of older emigrants (details supplied) on the safe-home programme waiting list will be calculated in each of the county council assessment of housing need figures for 2005 as a category in their own right; and if the recently notified requirements that such applicants hold PPS numbers will not be a requirement in order to ensure that the assessment of housing needs is fully inclusive and truly represents housing need; and if he will make a statement on the matter. [16260/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I refer to the reply to Question No. 497 on 19 April 2005. The position is unchanged.

### Radon Gas Levels.

163. **Mr. Hayes** asked the Minister for the Environment, Heritage and Local Government the number of directives issued by the RPII to employers to measure radon gas in the workplace; the number of legal actions commenced by his Department against employers who have failed to measure radon gas in the workplace following receipt of such a direction from the RPII; and if he will make a statement on the matter. [16456/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Article 30(1) of the Radiological Protection Act 1991 (Ionising Radiation) Order 2000 requires employers to measure radon gas concentrations in their workplaces on being directed to do so by the Radiological Protection Institute of Ireland, RPII. On receipt of a direction, an employer has six months to comply with the direction. To date, the RPII has issued 2,670 directions to employers.

Failure to comply with the direction issued by the RPII is an offence under section 40 of the Radiological Protection Act 1991. Responsibility for undertaking prosecutions is a matter for the RPII and not for my Department. However, I understand that in a number of cases, where employers have failed to act following receipt of a direction, the process leading to prosecution has been put in train by the RPII. No case has yet been heard.

### Environmental Policy.

164. **Mr. Rabbitte** asked the Minister for the Environment, Heritage and Local Government his views on the progress of the report to the EU Commission detailing the way in which Ireland is dealing with ozone depleting substances; the reason for the failure to produce the report by the deadline of 31 December 2001; the steps taken to ensure the completion of the report following the Commission's warning that the Government could face financial penalties for ignoring the European court ruling on the issue of October 2004; and if he will make a statement on the matter. [16348/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Due to competing demands in the requirements of new EU environmental legislation, and the need to deploy available resources on a priority basis, it has not previously been possible to put in place the detailed arrangements which are necessary for the administration of EU Regulation 2037/2000 on substances that deplete the ozone layer. It is important to note that none of the substances controlled under the regulation are produced in this country.

Prior to the judgment of the European Court of Justice, steps had already been taken towards implementing the regulation. URS Ireland Limited were appointed as consultants at the end of 2003 by the Environmental Protection Agency,

EPA, on behalf of my Department to advise in this regard. Their final report has been received by the EPA and will be made available shortly. In the meantime, my Department is consulting with the EPA on appropriate administrative arrangements to fully implement the regulation and meet all reporting obligations.

*Question No. 165 answered with Question No. 88.*

### Local Authority Housing.

166. **Mr. Kenny** asked the Minister for the Environment, Heritage and Local Government if he will increase the 30% maximum discount to prospective tenant purchasers of local authority housing; and if he will make a statement on the matter. [16448/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** The terms of the present tenant purchase scheme strike a reasonable balance between the aspirations of existing tenants to own their homes and providing a fair level of discount having regard to the overall management of the local authority housing stock. While my Department has no immediate proposals to amend the scheme, the terms of the scheme are kept under continuing review.

*Question No. 167 answered with Question No. 89.*

*Question No. 168 answered with Question No. 92.*

*Question No. 169 answered with Question No. 88.*

*Question No. 170 answered with Question No. 137.*

### Social Housing Programmes.

171. **Mr. J. O'Keeffe** asked the Minister for the Environment, Heritage and Local Government if his Department has plans to expand vastly the provision of move on accommodation designed to enable homeless persons to move into independent living and to prevent vulnerable persons from becoming homeless; and if he will make a statement on the matter. [16418/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** The number of transitional and move-on accommodation units funded under section 10 of the Housing Act 1988 in various local authority areas in 2004 was 568. This does not include social housing units provided directly by local authorities or voluntary bodies or units sourced in the private sector by individuals, resettlement services, the Housing Access Unit — operated by Threshold on behalf of the Homeless Agency — or specialist units in other Depart-

[Mr. N. Ahern.]  
ments. A breakdown of these categories is not readily available in my Department.

In the context of the new housing action plans, renewed focus is now being placed on the provision of move-on and permanent accommodation together with the supports necessary to enable homeless persons to move into independent living. This accommodation may be provided by way of local authority housing or the voluntary sector, the capital funding for which is available from my Department. In addition, the introduction of the rental accommodation scheme will also enhance the availability of housing options for those homeless persons capable of independent living. I am confident that we will see a significant increase in assistance to homeless persons through a combination of these schemes in 2005 and subsequent years.

Funding available from my Department for recoupment to local authorities of costs incurred in the provision of accommodation and related services for homeless persons in 2005 is €51 million. This brings to €236 million the total funding available from my Department for this purpose since the implementation of the integrated strategy in 2000.

#### **Water Pollution.**

172. **Mr. McEntee** asked the Minister for the Environment, Heritage and Local Government the assurances he will give to communities in Laytown and Bettystown in County Meath that the quality of bathing water will be improved; and if he will make a statement on the matter. [16459/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Where bathing waters do not comply with the standards prescribed in relation to designated bathing waters by the Quality of Bathing Waters Regulations 1992, local authorities are required to take the necessary measures to ensure compliance with these standards.

Under the east Meath coastal sewerage scheme, which was funded under my Department's water services investment programme, municipal wastewater from Laytown, Bettystown and Mornington is transferred for treatment to the new wastewater plant in Drogheda. Since the new pumping stations, including the main pumping station to Drogheda were commissioned, I understand that there have been some mechanical difficulties with the pumps which have resulted in storm overflows coming into operation more frequently than intended. I understand that Meath County Council is addressing this issue.

#### **Waste Management.**

173. **Mr. G. Mitchell** asked the Minister for the Environment, Heritage and Local Government the underspend on waste management for each

year since 2000 to date; and if he will make a statement on the matter. [16427/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The waste management investment foreseen in the National Development Plan 2000-2006 was based on the situation which obtained in 1999, when the plan was formulated. Since then, rapid change has occurred in the delivery of waste management services. In particular, a significant and vibrant private waste industry has rapidly formed and has begun to invest in waste infrastructure in a manner, and to a degree, not anticipated. This has permitted the public sector investment to be both reduced and targeted at key deliverables in the areas of provision of recycling infrastructure and enforcement of waste management legislation. Some €50 million from the environment fund has been allocated in this way since 2002 resulting in a doubling of the number of bring banks and civic amenity sites to 1,800 and 60, respectively.

In consequence, the prospective NDP investment of €825 million over the period to end 2006 was not drawn upon until 2002. In that year and in 2003 and 2004 the annual spend was €1.644 million, €8.212 million and €19.139 million, respectively. While further increases in expenditure can be anticipated, including in regard to the procurement of elements of heavy waste infrastructure by means of public private partnerships, it is inevitable that this will extend beyond the current NDP period and will need to be considered in the context of successor arrangements.

*Question No. 174 answered with Question No. 88.*

#### **Building Regulations.**

175. **Mr. Noonan** asked the Minister for the Environment, Heritage and Local Government his views on whether his Department has protected the hollow block construction industry (details supplied); and if he will make a statement on the matter. [16439/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I refer to the reply to Question No. 58 of 13 April 2005, in which I explained the open and transparent procedure used for the formulation and adoption of building code standards. This guards against any sectoral interest having undue or improper influence on the regulatory process.

The building regulations lay down performance-based standards, and do not either mandate or prohibit the use of specific construction products-systems. Various competing products-systems demonstrating compliance with the regulations may lawfully be used; and the choice is left to the designers, builders and the market.

Part L of the building regulations deals with the conservation of fuel and energy in buildings. Stricter thermal performance and insulation standards apply to new dwellings commencing on or

after 1 January 2003. Prior to the adoption of these standards, the building regulations advisory body, BRAB, commissioned a technical study by the energy research group, ERG, University College Dublin, of the impact of much higher thermal performance levels for new houses on the most common house construction types in Ireland. These were: twin leaf construction, using solid blocks; single leaf construction, using hollow blocks; and timber frame construction.

The results of the ERG-UCD study were published in November 2000 and showed that all commonly used house construction systems could be insulated to comply with the higher Part L standards proposed. The study recommended minor adjustments in the u-values for roofs and walls. The recommended u-values were subsequently incorporated in the 2002 edition of technical guidance document L on how to comply with part L, published by my Department.

#### Departmental Capital Projects.

176. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the extent of overrun on the various projects publicly advertised for tender by his Department in the past five years; if all such contracts have concluded on time and within cost; the exceptions and his plans regarding the way in which this matter will be dealt with; and if he will make a statement on the matter. [16473/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** My Department directly commissions relatively few capital projects. Capital projects funded by my Department are, in the main, initiated by local authorities, and while my Department oversees and provides the policy framework for its capital programmes, the delivery of individual projects including any related procurement process is a matter for the implementing bodies concerned.

Information on the two major capital projects directly commissioned by my Department that come within the scope of the question is set out below. The original tender price of the contract for the introduction of an electronic voting and counting system was €31.49 million. This continuing project began as planned in January 2001 on the basis of a phased roll-out with review at each stage. To date total payments to the contractor amount to €38 million. The additional expenditure is due to the purchase of additional voting machines, programme reading units, ballot modules and the upgrading and retro-fitting of the voting machines used at the pilot polls.

The original tender price of the contract for footpath works at Diamond Hill, Connemara National Park, was €1.3 million. The project began as planned in October 2004 and is expected to be of 15 months duration. At this point it is not anticipated that there will be over-runs on either budget or time.

*Question No. 177 answered with Question No. 84.*

#### Rural Housing.

178. **Ms Shortall** asked the Minister for the Environment, Heritage and Local Government the number of additional dwellings he expects to be built in rural areas as a result of the changes he recently announced to the planning guidelines; and if he will make a statement on the matter. [16355/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** It is not possible for my Department to forecast definitively how many additional dwellings will be built in rural areas as a result of the recently launched guidelines for planning authorities on sustainable rural housing. However, according to the latest statistics available, it is estimated that of the order of 15,000 one-off houses were built in rural areas in 2004. This equates to approximately 25% of the houses completed last year.

My Department has commissioned research from the National Spatial Research Institute at NUI Maynooth which will show, *inter alia*, at district electoral division level, the numbers of one-off houses constructed during different periods, the intensity of rural house building in different areas and the ratio of farm to non-farm one off houses. This research is expected to be available shortly and will be of assistance in analysing the numbers, locations and intensity of house-building in rural areas.

#### Waste Management.

179. **Mr. Deasy** asked the Minister for the Environment, Heritage and Local Government further to Parliamentary Question No. 42 of 4 November 2004, the reason he has stated subsequently that he will use the powers granted to him under the Waste Management Act to crack down on this problem; and if he will make a statement on the matter. [16458/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** As stated in reply to Question No. 42 of 4 November 2004, waste enforcement activities in individual cases are primarily a matter for the local authorities concerned and-or the Office of Environmental Enforcement.

However, section 60 of the Waste Management Act 1996 authorises the Minister for the Environment, Heritage and Local Government to give general directions to the Environmental Protection Agency and-or local authorities on waste management plans, waste licensing, the movement of waste and other matters. The powers conferred by section 60, do not extend to individual cases. The legislation precludes the Minister from exercising any power or control in relation to the performance in particular circumstances by the agency or a local authority of their waste management functions.

[Mr. Roche.]

On 3 May 2005, I gave policy directions under section 60 which addressed action against illegal waste activity and movement of waste. As regards the former, the stated purpose of the direction was to encourage an intensification of action against illegal waste activity — which includes unauthorised disposal of waste, such as the abandonment, dumping or uncontrolled disposal of waste — and enhance the response of local authorities and the Environment Protection Agency in ensuring the protection of the environment and human health and the prosecution of offenders. In determining the nature of such prosecutions regard was to be had to the elimination of the economic benefit deriving from the illegal activity.

I consider that this element of my recent policy direction was fully justified and consistent with the requirements of the legislation, while respecting the independence of the EPA and local authorities in relation to enforcement activity in particular cases.

#### **Nuclear Plants.**

180. **Mr. M. Higgins** asked the Minister for the Environment, Heritage and Local Government the initiatives he has taken to advance the Sellafield issues; if he has taken steps at international level; if such steps include potential legal action; and if he will make a statement on the matter. [13548/05]

184. **Mr. S. Ryan** asked the Minister for the Environment, Heritage and Local Government the position regarding the international legal action taken by Ireland with a view to securing the closure of the Sellafield nuclear reprocessing plant; and if he will make a statement on the matter. [16360/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 180 and 184 together.

The Government initiated international legal proceedings against the UK under the United Nations Convention on the Law of the Sea, UNCLOS, concerning the Sellafield MOX Plant. The current position in relation to the litigation by Ireland under UNCLOS is that the arbitration remains suspended pending resolution of jurisdictional issues in the dispute, which were raised by the European Commission. These issues are now the subject of litigation between Ireland and the Commission before the European Court of Justice and formal pleadings have been exchanged. In November 2004, Ireland applied to the court for the holding of an oral hearing, and a court hearing of the case is expected later this year.

However, the tribunal in the UNCLOS case issued an order on 24 June 2003, after hearing an application by Ireland for provisional measures. The provisional measures award and orders recommended that Ireland and the UK enter into

dialogue to improve co-operation and consultation between both Governments and report to the tribunal on specified dates. The most recent report to the tribunal was submitted on schedule by both parties on 30 November 2004 and the next report is due to be submitted by 31 May 2005.

In line with the obligation on both parties to improve co-operation and co-ordination arrangements, complex discussions, confidential to the tribunal and the parties pending outcomes, are at present continuing.

It was my stated intention to report on progress arising from this process at the appropriate instance and the signing of an agreement on notification and exchange of information arrangements between Ireland and the UK on, 10 December 2004, afforded both parties an opportunity to do so. The agreed package of measures announced is designed to address a wide range of issues related to nuclear safety and includes, *inter alia*, the facilitating of visits to Sellafield by the Radiological Protection Institute of Ireland and the Garda Síochána, provision of access for the institute to the UK's radiation monitoring system, and a series of initiatives to develop and improve existing co-operation arrangements between both Governments.

In accordance with the commitment in the Government's programme for Government to use every legal and diplomatic opportunity to secure the orderly closure of Sellafield, I and my Department utilise all bilateral and multilateral opportunities to articulate Ireland's concerns about Sellafield. Considerable opportunities arise at international fora, such as the International Atomic Energy Agency, IAEA, the European Union and the OSPAR Commission, to advance our views on issues such as marine transport of nuclear waste, nuclear safety and radioactive discharges to the marine environment. All these issues have direct relevance to Ireland's concerns regarding Sellafield and I intend to continue Ireland's proactive engagement at these and other fora with a view to maximising support for our policies among like minded states.

#### **Sustainable Energy Strategy.**

181. **Mr. Sherlock** asked the Minister for the Environment, Heritage and Local Government if he has approved the draft action plan on the implementation of the EU Directive on the Energy Performance of Buildings by Sustainable Energy Ireland for publication; when he intends to publish the plan for public and industry consultation; and if he will make a statement on the matter. [16353/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The draft action plan for implementation of the EU Energy Performance of Buildings Directive in Ireland was published on 27 April 2005 by Sustainable Energy Ireland, SEI, on behalf of an interdepartmental working group. The group comprises senior

officials from my Department, the Department of Communications, Marine and Natural Resources, and SEI. I have arranged for a copy of the draft action plan to be placed in the Oireachtas Library.

I have issued a press statement welcoming publication of the draft action plan and pointing out the public has three months, ending on 29 July 2005, to submit comments on the draft to SEI. I expressed the hope that this opportunity will be availed of by a wide cross-section of the general public, construction industry and the auctioneering and legal professions.

### Noise Pollution.

182. **Mr. Boyle** asked the Minister for the Environment, Heritage and Local Government his plans to review and simplify the complaints procedure, legislation and regulation in the area of noise pollution from vehicle and building alarms. [16507/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. B. O'Keefe):** There are various general legislative provisions applicable to noise nuisance, as well as a number of practical arrangements to reduce the instances of unnecessary noise from alarms and to tackle persistent incidence of such noise.

Section 107 of the Environmental Protection Agency Act 1992 provides local authorities with powers to require measures to be taken to prevent or limit noise. In the case of a faulty alarm, a local authority may serve a notice under this section. I am aware, for example, that intruder alarms gave rise to 7%, or 40 complaints, of the noise complaints made to Dublin City Council in 2003. Where the council receives a complaint, an advisory letter is issued to the owner-occupier advising of the terms of the current standards for intruder alarm systems.

A European standard for external intruder alarms has now replaced all national standards, and incorporates considerably stricter controls, regarding minimum and maximum duration for the sounding of alarms. The new limits are 90 seconds minimum and 15 minutes maximum duration from the sounding of external alarms in buildings. The alarms must cease automatically after the maximum duration. This standard has been applied by the NSAI for intruder alarms installed by certified installers since 1 March 2004. In addition, a new European standard is being developed for alarm monitoring centres, including a code of practice detailing the circumstances when the Garda Síochána should be alerted. When adopted, this should ensure that the reporting of alarms to the Garda Síochána is carried out in a consistent manner.

The Private Securities Services Act 2004 provides for a private security authority to license, control and supervise installers of security equipment, including alarm systems, and has powers to

maintain and improve standards in the provision of security services.

The current and developing European standards, improved equipment and the co-operation of the installers certified by the NSAI, should together ensure that the incidence of false alarms and the failure of audible alarms to cut off will be significantly reduced.

The standard for car alarms is operated by car manufacturers and alarm installers, and covers both installation during manufacture and the retrospective fitting of alarms. The object of this standard, IEC 60839, is to ensure, among other things, a reduction in the number of false alarms.

Under the Environmental Protection Agency Act 1992 (Noise) Regulations 1994, a local authority or any person may seek an order in the District Court to have noise giving reasonable cause for annoyance abated. The procedures involved have been simplified to allow action to be taken without legal representation. A public information leaflet outlining the legal avenues available to persons experiencing noise nuisance is available from my Department or on [www.environ.ie](http://www.environ.ie).

I have no plans to review existing legislation on noise from house or car alarm systems.

### Anti-Poverty Strategy.

183. **Mr. Stanton** asked the Minister for the Environment, Heritage and Local Government the efforts he is making at local authority level to reduce poverty; and if he will make a statement on the matter. [11900/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The promotion of social inclusion is a key policy objective for Government. Local authorities have an important role in achieving this objective at local level, reflecting their democratic mandate, wide ranging service delivery functions and specific responsibilities in areas such as housing and community development. The Local Government Act 2001 identifies social inclusion as a core issue that should be reflected in local government activities. Local authorities also participate in delivering the national anti-poverty strategy, NAPS, and the national action plan against poverty and social exclusion 2003-05.

Local authorities are giving effect to their role and responsibilities in tackling poverty and promoting social inclusion through the implementation of a range of initiatives. For example, in line with guidelines issued by my predecessor in 2004 local authorities are now required to ensure social inclusion is properly addressed in their corporate plans and supporting annual operational plans. In 2002 pilot social inclusion units were established for a three year period in seven local authorities with funding of €4.1 million to date from my Department. I extended the programme for one more year to enable its future operation to be considered further. The local government anti-poverty learning network, representative of

[Mr. Roche.]

elected members and officials, was established in 2000 to provide a forum for sharing information and exchanging different local experiences and best practice on anti-poverty measures. Local authorities are supporting the RAPID programme, revitalising areas by planning investment and development, which is targeted at the most disadvantaged areas and under which such areas are prioritised for investment to tackle social exclusion. The cost to local authorities of employing the local co-ordinators in RAPID areas is met directly by my Department at a cost of €2.8 million per annum. County and city development boards led by local government, and comprising social partners, State agencies and local development organisations operating locally, were established in 2000 to bring about the more co-ordinated delivery of public and local development services at local level. The boards have an important role in promoting social inclusion and tackling poverty at a local level. Each county or city local authority also has a community and enterprise unit which provides administrative back up to the board and supports the local authorities' expanded role in community development and social inclusion. Community and voluntary fora, established in each city and county in 2000 with funding of more than €1.2 million per annum from my Department, are also supported by local authorities. The fora are involved in promoting social inclusion and facilitating community representation on public sector structures. Local authorities have a pivotal responsibility in providing and supporting the provision of social and affordable housing. Access to housing for low income groups is particularly important in tackling issues of poverty and social exclusion. More than €2 billion will be spent in 2005 on various housing measures. Local authorities' five-year action plans for social and affordable housing now provide the basis for delivery of housing measures in an integrated and holistic manner and in a manner which breaks cycles of dependency and disadvantage. The plans cover not only the capital investment in new housing units but also address regeneration of run down estates and policies on estate management and maintenance, all of which are key to developing good living environments for social housing tenants. I am satisfied that local authorities are now well placed, co-operating as necessary with other agencies, to meet the needs of the socially disadvantaged at local level.

*Question No. 184 answered with Question No. 180.*

#### **Waste Management.**

185. **Mr. O'Dowd** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the research and development on modern non-burn alternative treatments for hazardous and other waste; and if

he will make a statement on the matter.  
[16445/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I am aware of a number of waste management technologies being developed and tested. Some, such as mechanical biological treatment, involve pre-treatment of waste to produce refuse derived fuel, although it should be noted that the fuel is ultimately burned. There are also interesting prospects from gasification, thermolysis and pyrolysis. Waste cooking oils can be converted to fuel and at least one company in Ireland is working on this on a commercial basis. Stabilisation techniques are becoming recognised as an economic and environmentally sound way of dealing with certain types of hazardous wastes.

Overall, there is significant ongoing research and development on a variety of waste treatment technologies for many different types of waste. However, many of the non-burn treatments proposed for municipal waste are as yet unproven in terms of operations of scale and are not commercially available. My Department is monitoring technological developments and, as and when processes become environmentally and economically viable and reliable, I will consider how they can be incorporated into waste management policy at a national level.

#### **Social and Affordable Housing Programmes.**

186. **Dr. Upton** asked the Minister for the Environment, Heritage and Local Government the progress made with regard to the announcement on 24 February 2005 to swap State-owned lands for private sites on which housing development has already been completed to help fast track the provision of the 10,000 affordable houses promised under Sustaining Progress; and if he will make a statement on the matter.  
[16332/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I refer to the reply to Question No. 77 of 13 April 2005. While the contract negotiations with the preferred bidder for the Harcourt Terrace site have advanced by Dublin City Council, they have not yet been completed. It is hoped they will be brought to a successful conclusion soon.

*Question No. 187 answered with Question No. 88.*

*Question No. 188 answered with Question No. 107.*

*Question No. 189 answered with Question No. 97.*

#### **Local Authority Funding.**

190. **Mr. Wall** asked the Minister for the Environment, Heritage and Local Government if he

will make funds available to Carrick-on-Suir Town Council to appoint a tenants liaison officer; and if he will make a statement on the matter. [16356/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** An application from Carrick-on-Suir Town Council for funding under the housing management initiatives grant scheme is under consideration in my Department and the council will be notified of the decision as soon as possible.

#### Environmental Policy.

191. **Mr. Gormley** asked the Minister for the Environment, Heritage and Local Government the measures currently in place to gather and recover chlorofluorocarbons from discarded fridges and freezers in the State; the amount of CFCs recovered in each of the past five years; and if he will make a statement on the matter. [16511/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** EU Regulation 2037/2000 on ozone depleting substances requires, *inter alia*, the recovery and destruction of CFCs from all refrigeration equipment, including domestic fridges and freezers, and the putting in place of detailed reporting arrangements on this. For reasons set out in the reply to Question No. 164 on today's Order Paper, Ireland has not as yet completed the administrative arrangements which are necessary for the implementation of this regulation and it is not, therefore, possible to provide a comprehensive report on the recovery of CFCs from all such equipment. Arrangements for the full implementation of the regulation are being progressed by my Department in consultation with the Environmental Protection Agency.

As regards domestic fridges and freezers, however, an all-island initiative for the recycling of domestic fridges and freezers was commenced in February 2004. This was developed by my Department in conjunction with the Northern Ireland Department of the Environment and in co-operation with local authorities on both sides of the Border. The scheme, in which 32 local authorities and 26 district councils are participating, involves the collection and recycling of waste fridges and freezers and the destruction of ozone depleting substances. Over 5,500 kg of CFCs were recovered in 2004 from fridges and freezers collected in the South as part of the scheme and the equivalent figure to date in 2005 is almost 1,800 kg. The contract period for the scheme in the South will end on the 12 August 2005 coinciding with the coming into operation of EU Directive 2002/96/EC on waste electrical and electronic equipment, which will be implemented in full from 13 August 2005. From that date, the costs of the collection, treatment, recovery and recycling of waste electrical and electronic equip-

ment including waste fridges and freezers will be a producer responsibility.

*Question No. 192 answered with Question No. 118.*

#### Planning Issues.

193. **Mr. Kenny** asked the Minister for the Environment, Heritage and Local Government his views on the Law Society's report, Discriminatory Planning Conditions: the Case for Reform; and if he will make a statement on the matter. [16447/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I am aware of the recent report by the Law Society's reform committee entitled Discriminatory Planning Conditions: the Case for Reform. Section 39 of the Planning and Development Act 2000 and corresponding earlier planning legislation provides that a condition may be attached to a grant of planning permission for a house, specifying that the house must be occupied by persons of a particular class or description, with provision to that effect to be incorporated in an agreement under section 47 of the Act. In effect, occupancy conditions are applied in certain circumstances as a mechanism to facilitate a positive approach to applications from persons who are part of or linked to certain rural communities in circumstances where a different application might have to be refused.

In addressing the issue of occupancy conditions, the recently launched guidelines for planning authorities on sustainable rural housing state such conditions are only appropriate in certain cases such as permissions being granted to persons with roots or links to areas close to the larger cities and towns under strong pressure for urban generated development and in the case of permissions being granted to permanent residents in an area where there is an over-concentration of holiday or second home development. The guidelines use illustrative examples to demonstrate that people who fall into the category of having local roots or links would include people who have spent much of their lives in rural areas and are building their first homes, farmers and their families, returning emigrants, people involved in forestry, inland waterway and marine related occupations, teachers in rural schools and other people whose work is predominantly in rural areas. This list is not intended to be exhaustive and planning authorities are asked to carry out their own assessment of the rural housing needs to be catered for in the areas mentioned, taking account of local conditions and planning issues and to add to the list as appropriate.

I am aware that in administering the planning code, planning authorities are required to act in a manner that is consistent with the norms of administrative and constitutional law, the European Convention on Human Rights law, EU law and equality law. It is my intention to monitor the

[Mr. Roche.]  
effectiveness of the guidelines and in that context I will continue to bear in mind the concerns of the Law Society's recent report.

### EU Directives.

194. **Ms Enright** asked the Minister for the Environment, Heritage and Local Government the status of his Department's implementation of the nitrates directive; and if he will make a statement on the matter. [16437/05]

286. **Ms Enright** asked the Minister for the Environment, Heritage and Local Government the reason the classification of County Donegal was altered in the latest nitrates directive action plan submitted to the European Commission; the scientific basis for the decision; and if he will make a statement on the matter. [16438/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 194 and 286 together.

The nitrates directive was adopted by the EU in 1991 with the objective of reducing water pollution caused or induced by nitrates from agricultural sources. The European Court of Justice delivered a judgment on 11 March 2004 that Ireland was non-compliant with the directive. The main finding was that Ireland had not fulfilled its obligations under the directive by reason of failure to establish and implement an action programme to protect water quality against pollution by farming. Following extensive consultations with the main farming organisations and other interested parties, a nitrates action programme was submitted to the European Commission on 22 October 2004, a copy of which is available in the Oireachtas Library.

In response, the Commission issued a letter of formal notice — an Article 228 letter — of further legal infringement action against Ireland on 22 December 2004. This letter of notice indicated that the Commission did not regard the October 2004 action programme as being complete or compliant with the judgment of the Court. It was the view of the Commission that the action programme needed to be strengthened in certain respects, for example, to extend the prohibited periods for landspreading livestock manure and to require additional storage capacity for livestock manure. In addition, it was the view of the Commission that the minimum storage period of 16 weeks then proposed for County Donegal was inappropriate.

Following a series of discussions with the European Commission and consideration of the issues involved by Government, a substantive response to the Article 228 letter was sent to the Commission on 20 April 2005. My Department, in consultation with the Department of Agriculture and Food, is revising the nitrates action programme and a copy will be submitted to the Commission shortly.

*Question No. 195 answered with Question No. 134.*

### Health Service Allowances.

196. **Mr. Ellis** asked the Tánaiste and Minister for Health and Children if her Department will sanction a mobility grant for a person (details supplied) in County Leitrim; and the reason for the delay in the sanctioning of same. [16583/05]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. This includes responsibility for payment of and entitlement to the mobility allowance. Accordingly, my Department has requested the chief officer for the executive's north-western area to investigate the matter raised and to reply directly to the Deputy.

### Accident and Emergency Services.

197. **Mr. Ferris** asked the Tánaiste and Minister for Health and Children the contingency plans which will be in place at Kerry General Hospital's accident and emergency department over the summer months to cope with the increase in admissions at the department (details supplied). [16585/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. This includes responsibility for the provision of services at Kerry General Hospital. My Department has, therefore, asked the chief officer for the executive's southern area to respond directly to the Deputy about the issue raised.

### Services for People with Disabilities.

198. **Mr. Neville** asked the Tánaiste and Minister for Health and Children if the practice whereby five persons are paid between €50 and €80 per week for working approximately 30 hours at a training centre (details supplied) in Dublin 24 under HSE supervision will be examined. [16586/05]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. This includes responsibility for rehabilitative training. Accordingly, my Department has requested the chief officer for the executive's

south western area to investigate the matter raised and to reply directly to the Deputy.

It is possible that the individuals referred to by the Deputy may be in sheltered work or sheltered occupational services rather than rehabilitative training. Sheltered occupational services for people with disabilities are managed in the main by voluntary organisations, with financial support from the Health Service Executive. Such services usually comprise a combination of structured occupational activities and support services for people with disabilities who require a significant amount of flexibility, time and personal support.

The status of people in sheltered services or sheltered-supported employment is being considered by my Department in consultation with the Departments of Enterprise, Trade and Employment and Finance.

#### **Mental Health Services.**

199. **Mr. Neville** asked the Tánaiste and Minister for Health and Children the number of psychotherapists in the health services for each of the years between 2000 and 2004 and to date in 2005; and if she will make a statement on the matter. [16587/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** Psychological therapies, including psychotherapy, are currently provided within the health service by a range of health professionals. As there is no national grade of psychotherapist within the public health service, the health service personnel census does not capture the specific employment information requested by the Deputy.

The Deputy will wish to know, however, that a working group was established by the former health board CEO group to examine the role of psychotherapy in the health service in order to assess the requirement for the future. The report of the working group, which provides advice on how to progress many issues, including the development of psychotherapy and counselling services on a national basis, is currently being finalised by the Health Service Executive.

#### **Hospital Services.**

200. **Mr. Perry** asked the Tánaiste and Minister for Health and Children further to Question No. 76 of 14 April 2005, if a person (details supplied) in County Sligo will be called for treatment; and if she will make a statement on the matter. [16588/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. As the person in question resides in County Sligo, my Department has requested the chief officer of the execu-

tive's north western area to investigate the matter raised and to reply directly to the Deputy.

#### **Mental Health Services.**

201. **Ms Enright** asked the Tánaiste and Minister for Health and Children if specific funding is given to mental health services which deal with young persons in County Laois; and if she will make a statement on the matter. [16589/05]

202. **Ms Enright** asked the Tánaiste and Minister for Health and Children the funding which is given to mental health services in County Laois; and if she will make a statement on the matter. [16590/05]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** I propose to take Questions Nos. 201 and 202 together.

The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. This includes responsibility for mental health services in County Laois. Accordingly, my Department has requested the chief officer of the executive's midland area to investigate the matters raised and to reply directly to the Deputy.

#### **Hospital Services.**

203. **Mr. P. McGrath** asked the Tánaiste and Minister for Health and Children if a person (details supplied) in County Westmeath will be admitted for surgery; and if she will make a statement on the matter. [16591/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. As the person in question resides in County Westmeath, my Department has requested the chief officer of the executive's midland area to investigate the matter raised and to reply directly to the Deputy.

#### **Hospital Procedures.**

204. **Mr. P. McGrath** asked the Tánaiste and Minister for Health and Children the number of persons who have presented at the accident and emergency department at Tallaght Hospital on each of the past 21 days; and the effect these persons have had on the normal admissions at the hospital. [16592/05]

205. **Mr. P. McGrath** asked the Tánaiste and Minister for Health and Children if her attention has been drawn to the fact that all elective surgery has been cancelled at Tallaght Hospital since 10 April 2005; the number of procedures and patients so postponed or cancelled; if she has put in place a protocol to prevent a repeat of this

[Mr. P. McGrath.]  
crisis situation; and if she will make a statement on the matter. [16593/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** I propose to take Questions Nos. 204 and 205 together.

The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. Services at the Adelaide and Meath Hospital, incorporating the National Children's Hospital, Tallaght, are provided under an arrangement with the executive. My Department has, therefore, requested the chief officer for the executive's eastern regional area to examine the issues raised and to reply to the Deputy directly.

#### EU Directives.

206. **Mr. Howlin** asked the Tánaiste and Minister for Health and Children if the full provisions of EU Directive 93/16/EEC, with regard to contracts under the GMS scheme, apply in respect of doctors who have been in general practice here for several years prior to the introduction of this directive; if long experience in general practice can provide an exemption from the vocational training requirement of this directive; and if she will make a statement on the matter. [16601/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** The application of EU Directive 93/16/EEC, as it effects the general medical services, GMS, scheme, was agreed with health boards in 1994 following consultation with the representatives of the Medical Council, the Irish College of General Practitioners and the Irish Medical Organisation. With effect from 1 January 1995, doctors entering the GMS scheme are required to have graduated from a recognised vocational training scheme or to possess acquired rights under the directive. Certificates of acquired rights may be issued by the Medical Council to applicants who satisfy various criteria including previous experience in general practice.

#### Industrial Relations.

207. **Mr. Connaughton** asked the Tánaiste and Minister for Health and Children if she will provide the necessary moneys to honour the Labour Court recommendation (details supplied) concerning sponsorship towards a higher diploma in public health nursing for 32 claimants but which as yet has not been awarded; and if she will make a statement on the matter. [16608/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Health Act 2004 provided for the Health Service Executive, HSE, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf,

health and person social services. This includes responsibility for the funding of industrial relations settlements involving health service staff. Accordingly, my Department has requested the acting national director for human resources at the HSE to investigate the matter raised and to reply directly to the Deputy.

#### Respite Services.

208. **Mr. Connaughton** asked the Tánaiste and Minister for Health and Children if her attention has been drawn to the fact that the Brothers of Charity in Galway may not have sufficient funding to provide respite services for children reaching the age of 12 on or before 6 March due to a reduction in the budget available to Galway children respite services; if her attention has further been drawn to the fact that one child (details supplied) needs such a service; and if she will make a statement on the matter. [16609/05]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. This includes responsibility for funding of respite services. Accordingly, my Department has requested the chief officer for the executive's western area to investigate the matter raised and to reply directly to the Deputy.

#### Nursing Home Charges.

209. **Mr. Lowry** asked the Tánaiste and Minister for Health and Children the date by which she and the HSE expect the first repayments under the national repayment scheme for long-stay charges to begin. [16620/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Government has agreed the key elements of a scheme for the repayment of long stay charges for publicly funded long term residential care. All those who were charged and are alive and the estates of all those who were charged and died in the six years prior to 9 December 2004 will have the charges repaid in full. The scheme will not provide for repayments to the estates of those who died more than six years ago. The repayments will include both the actual charge paid and an amount to take account of inflation using the CPI since the time the person involved was charged.

Legislation will be brought before the Oireachtas as soon as possible to provide a clear legal framework for the scheme. The legislation will reflect the detailed design of a scheme drawn up by the company chosen by tender to assist the Health Service Executive with the repayment scheme. The objective is to initiate repayments later this year.

### **Nursing Home Regulations.**

210. **Mr. Lowry** asked the Tánaiste and Minister for Health and Children if she will report on the regulations which govern private and public run nursing homes; and if she will make a statement on the matter. [16621/05]

**Minister of State at the Department of Health and Children (Mr. S. Power):** Regulation of the private nursing home sector is governed by the Health (Nursing Homes) Act 1990 and regulations made under this Act. The regulations provide for the registration and inspection of private nursing homes and also for the payment of subvention to those patients in private nursing homes who qualify on both dependency and means grounds.

The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage, deliver, or arrange to be delivered on its behalf, health and personal social services. This includes responsibility for the management and regulation of public nursing homes.

### **Cancer Incidence.**

211. **Mr. McGinley** asked the Tánaiste and Minister for Health and Children if data is available concerning the annual death rate from cancer in County Donegal; the number of male and female deaths from cancer; the types of cancer prevalent in the county; if there is any divergence from the norm; and if she will make a statement on the matter. [16622/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** Statistics on cancer incidences and cancer deaths are collated by the National Cancer Registry. My Department has asked the director of the registry to examine this matter and to reply directly to the Deputy.

### **Survivors of Symphysiotomy.**

212. **Mr. Gormley** asked the Tánaiste and Minister for Health and Children if she will report on the assistance given to date to Survivors of Symphysiotomy; the reason such assistance has not been forthcoming; and if she will make a statement on the matter. [16634/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** My predecessor, the Minister for Enterprise, Trade and Employment, Deputy Martin, met with the group, Survivors of Symphysiotomy, in late 2003 and agreed that a range of measures would be put in place to support it. My Department is advised by the Health Service Executive that the position in this regard is as follows.

The former health boards and the relevant voluntary hospitals have appointed liaison officers, who have met and continue to meet with patients that have undergone symphysiotomy to discuss their health care needs. An exercise was conduc-

ted, in conjunction with the Survivors of Symphysiotomy group, to profile patients in order to assist in formulating a needs assessment for each individual. An assessment service for patients has recently been established at Cappagh Hospital, Dublin. This service is provided by a multidisciplinary team which undertakes an assessment of patients, following which, recommendations for care pathways are discussed with individual patients.

Independent clinical advice is available, on request, through the liaison personnel, to patients who have undergone symphysiotomy. This has already been availed of by a number of members of Survivors of Symphysiotomy and appropriate follow-up has been arranged. Independent counselling services are available to patients where requested. Information packs have been made available to general practitioners and relevant health care personnel. Medical cards have been granted, based on medical grounds, to Survivors of Symphysiotomy patients who do not have such eligibility. The Health Service Executive is finalising arrangements for the issuing of replacement medical cards to the group which will contain a special patient identifier that will allow for the fast-tracking of patients requiring hospital appointments and treatments, together with the provision of certain non-GMS items recommended for patients by their GP and/or consultant.

My Department is advised that, following a number of meetings with the Survivors of Symphysiotomy group, it was agreed to defer the setting-up of a helpline. The provision of an information line is subject to active consideration by the Health Service Executive. It is evident from the foregoing that considerable progress has been made in putting in place a comprehensive range of support services for patients who have undergone symphysiotomy. The executive will continue to oversee the provision of necessary support services for this patient group.

### **Health Services.**

213. **Mr. F. McGrath** asked the Tánaiste and Minister for Health and Children if the chief officer of the Health Service Executive north-western Area, and the chief executive officer of the Health Service Executive will respond to a complaint made by a person (details supplied) in County Donegal and come to a resolution on this matter; and if she will investigate the proposal of an independent inquiry. [16687/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy will appreciate that I can have no function in this matter as responsibility rests in this instance with the Health Service Executive — north-western area. My Department has therefore asked the chief officer to investigate this matter and I have been advised that an update has already issued to the Deputy on this issue.

### Services for People with Disabilities.

214. **Mr. F. McGrath** asked the Tánaiste and Minister for Health and Children the reason the CASA respite house in Malahide was forced to close; and if it will receive the maximum funding in 2005 for persons with disabilities. [16688/05]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The Health Act 2004 provided for the Health Service Executive established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. This includes responsibility for the provision and funding of respite services. Accordingly, my Department has requested the chief officer for the executive's northern area to investigate the matter raised and to reply directly to the Deputy.

215. **Mr. F. McGrath** asked the Tánaiste and Minister for Health and Children the number of persons with disabilities who are on waiting lists for day care, respite and residential care at St. Michael's House, Dublin 9; and if she will make a statement on the matter. [16689/05]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The Health Act 2004 provided for the Health Service Executive established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver or arrange to be delivered on its behalf, health and personal social services. This includes responsibility for the matter referred to by the Deputy. Accordingly, my Department has requested the chief officer for the executive's eastern regional area to investigate the matter raised and to reply directly to the Deputy.

### Hospital Services.

216. **Caoimhghín Ó Caoláin** asked the Tánaiste and Minister for Health and Children if her attention has been drawn to the fact that many hospitals in the State, including Waterford Regional Hospital, Cork University Hospital and Letterkenny General Hospital, do not meet her Department's guidelines that cancer chemotherapy be administered in designated inpatient and day care facilities, which are properly staffed and resourced; the steps she intends to take to achieve these guidelines; and when she will take these steps; and if she will make a statement on the matter. [16690/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Health Act 2004 provided for the Health Service Executive established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. This includes responsibility for the provision of cancer services. Accordingly, my Department has requested the interim chief executive officer of the Health Service

Executive to investigate the matters raised and to reply directly to the Deputy.

### Flood Relief.

217. **Mr. Durkan** asked the Minister for Finance if he has received communication from Kildare County Council regarding the possible implementation of a scheme to alleviate flooding in the Prosperous, Allenwood, Timahoe, Coill Dubh areas of County Kildare; and if he will make a statement on the matter. [16717/05]

**Minister of State at the Department of Finance (Mr. Parlon):** No communication has been received in the Office of Public Works from Kildare County Council on the possible implementation of a flood relief scheme in the Prosperous, Allenwood, Timahoe and Coill Dubh areas of County Kildare.

### Architectural Heritage.

218. **Mr. Durkan** asked the Minister for Finance if his attention has been drawn to the conditions adjacent to Connolly's Folly monument, Maynooth, County Kildare with particular reference to its deteriorating condition; his proposals to carry out repairs, improvements, reinstatements or restoration in or around the monument; and if he will make a statement on the matter. [16719/05]

**Minister of State at the Department of Finance (Mr. Parlon):** There is no change in the position outlined in my reply on 13 April 2005 to the Deputy's question on this issue. As I have indicated in previous replies, the Folly is constantly monitored and, in the event of essential repairs being deemed necessary, they will be carried out. A clean up of litter is being organised and the provision of CCTV is being actively pursued.

### Flood Relief.

219. **Mr. Durkan** asked the Minister for Finance the position in regard to the permanent alleviation of flooding at Mill Lane, Leixlip, with particular reference to discussions between his Department and Kildare County Council. [16723/05]

**Minister of State at the Department of Finance (Mr. Parlon):** The Office of Public Works received a report in April 2005 from Kildare County Council on flood alleviation measures in Leixlip, County Kildare. The Commissioners of Public Works are still considering this report among the many other such reports received from local authorities.

### Tax Collection.

220. **Mr. Ferris** asked the Minister for Finance if a company (details supplied) has paid any income tax in this State since 1959; if so, when it commenced to do so; and the amount of revenue involved. [16547/05]

**Minister for Finance (Mr. Cowen):** The particular tax arrangements for the company concerned date from an agreement reached in 1959, a copy of which agreement was laid before the House at the time. The scope and status of the agreement was covered in full by the Committee of Public Accounts in its 2001 report on the appropriation accounts, etc. I refer the Deputy to paragraphs 4.9 to 4.13 on pages 45 and 46 of the report.

#### **Freedom of Information.**

221. **Ms Enright** asked the Minister for Finance if he will designate the Higher Education Training Awards Council as a body subject to the Freedom of Information Act 1997; when new institutions will be added; and if he will make a statement on the matter. [16548/05]

**Minister for Finance (Mr. Cowen):** The consideration of public bodies being brought under the Freedom of Information Act during 2005 will be finalised within the coming weeks. Pending publication of the details of the extension, I do not propose to make any further statements about individual bodies in this regard.

#### **Pension Provisions.**

222. **Mr. Howlin** asked the Minister for Finance the status of outline proposals made for the enhancement of pensions for retired public servants on low incomes; and if he will make a statement on the matter. [16602/05]

**Minister for Finance (Mr. Cowen):** The proposal to enhance the pension entitlement of retired public servants on low pay is at an advanced stage. Discussions are ongoing with the public service unions. These discussions will be completed successfully and that the relevant circular will issue in the near future to implement the new arrangements. The proposals will benefit public service employees who are on full pay related social insurance and whose pensions are integrated with a social welfare pension. The proposal under consideration will benefit those whose income is below three and one third times the old age contributory pension. The application of the improved terms will be retrospective to 1 April 2004.

223. **Mr. Howlin** asked the Minister for Finance if persons aged 65 years and over who remain in employment and wish to continue to make additional voluntary pension contributions are entitled to avail of tax relief on their additional voluntary contributions on the same terms as persons aged under 65 years; and if he will make a statement on the matter. [16603/05]

**Minister for Finance (Mr. Cowen):** The rules governing the approval by the Revenue Commissioners of retirement benefit schemes, such as occupational pension schemes, provide, among other things, that the basic benefit under such

schemes must be a pension for the employee at a specified age not earlier than 60 years of age and not later than 70 years of age. It is a condition of approval that individual occupational pension scheme rules specify the age at which members will normally retire. In practice, this is typically set at 65 years.

An individual occupational pension scheme member who remains in service after reaching his or her normal retirement age, say 65 years, may continue paying contributions, including additional voluntary contributions, up until the date of his or her actual retirement, subject to the maximum retirement age of 70 years of age. Tax relief on such contributions is subject to the age related percentage limit of 30% of salary and annual earnings cap of €254,000 as applies to those over 50 years of age.

Under current rules, the maximum pension that an individual can receive at normal retirement age is two thirds of final remuneration. Part of this may be taken as a tax-free lump sum up to one and a half times final remuneration. However, not all occupational pension schemes provide the maximum pension benefits allowed by the Revenue Commissioners and, even where they do, an individual scheme member may not have the requisite service to draw maximum benefits. Where this is the case, a scheme member may, depending on the rules of the scheme, top up the occupational pension benefits by additional voluntary contributions. These may be used to increase the basic pension or to provide benefits based on non-pensionable pay; increase the tax-free lump sum; provide for, or increase, cost of living provisions on benefits; increase death in service provisions; provide for the social welfare offset in the case of a co-ordinated scheme; and provide for periods of service while not a scheme member.

The benefits payable under the occupational pension scheme and the additional benefits funded through additional voluntary contributions cannot exceed the maximum permissible Revenue benefits.

#### **Tax Yield.**

224. **Mr. Hogan** asked the Minister for Finance the number of requests for balancing statements made by PAYE taxpayers since 1 January 2005; the number of such requests that have resulted in a repayment of tax to taxpayers; the average amount repaid; the total sum paid to date; the anticipated total sum to be repaid to PAYE taxpayers in respect of overpaid tax by 31 December 2005; and if he will make a statement on the matter. [16628/05]

**Minister for Finance (Mr. Cowen):** I am advised by the Revenue Commissioners that the information requested is not readily available but the Revenue Commissioners will source as much information as possible and forward this to the Deputy within a matter of weeks.

### Third Level Institutions.

225. **Mr. Kenny** asked the Minister for Finance if he will report on the implications under equality legislation, or any other implications, for staff in the public sector if his Department sanctions an extension of the term of office of a person (details supplied); if he plans to request an official reply from the governing body of the third level institution concerned before making a decision regarding the extension; and if he will make a statement on the matter. [16631/05]

**Minister for Finance (Mr. Cowen):** As the Deputy will be aware, extending the term of office in the case referred to requires an amendment to the pension scheme of the institution concerned. Such an amendment requires the approval of the HEA together with the consent of the Minister for Finance and the Minister for Education and Science. A proposal to extend the term of office is being considered by my Department in conjunction with the Department of Education and Science. This consideration is based on a request from the HEA which has already approved the amendment proposed by the institution concerned.

In taking my decision I will be looking at all the relevant factors, including the equality aspect. I do not propose to request an official reply from the governing body of the institution concerned. Any direct contact with the institution would be appropriate to the HEA, which in turn comes under the aegis of the Minister for Education and Science.

### Decentralisation Programme.

226. **Cecilia Keaveney** asked the Minister for Finance the position regarding a site selection for decentralisation for the Department of Social and Family Affairs offices for Buncrana in County Donegal; and if he will make a statement on the matter. [16691/05]

**Minister of State at the Department of Finance (Mr. Parlon):** The Office of Public Works has agreed terms, subject to contract, for the acquisition of a suitable site for a decentralised office in Buncrana for the Department of Social and

Family Affairs The legal aspects of the acquisition are currently being progressed.

### Tax Collection.

227. **Mr. F. McGrath** asked the Minister for Finance if urgent assistance will be given to a person (details supplied) in Dublin 9 with tax issues; and if the Revenue Commissioners and the Companies Registration Office will assist this person with the complaint. [16692/05]

**Minister for Finance (Mr. Cowen):** The Revenue Commissioners have informed me that this taxpayer has approached them with information concerning suspected undisclosed income in the case of another taxpayer or taxpayers. Because of the requirements of taxpayer confidentiality, the Revenue Commissioners are unable to advise this person of the outcome of any investigations made on foot of the information supplied.

I am informed by the Companies Registration Office that it is unaware of any complaint which this person might have but is willing to assist him in relation to any complaints that fall within the remit of the office. The office can be contacted by phone on its Lo-call number 1890 220226 or in writing at 14 Parnell Square, Dublin 1.

### Tax Code.

228. **Mr. Bruton** asked the Minister for Finance if he will consider increasing the threshold for the transfer of property to a niece or nephew under the capital acquisitions tax code, or relaxing the conditions under which a niece or nephew can obtain favoured status under the terms of that tax, in order to encourage mutual support within the extended family; and if he will make a statement on the matter. [16693/05]

**Minister for Finance (Mr. Cowen):** For the purpose of gift and inheritance tax, the relationship between the person who provided the gift or inheritance, the disponent, and the person who received the gift or inheritance, the beneficiary, determines the maximum tax free threshold, known as the group threshold. Three such thresholds exist, which are indexed by reference to the consumer price index. The indexed group thresholds for 2003, 2004 and 2005 are set out in the table below.

Group	Relationship to Disponent	Group Threshold		
		2003 (after indexation)	2004 (after indexation)	2005 (after indexation)
		€	€	€
A	Son/Daughter	441,198	456,438	466,725
B	Parent/Brother/Sister/Niece/Nephew/Grandchild	44,120	45,644	46,673
C	Relations other than Group A or B	22,060	22,822	23,336

The current threshold for gifts-inheritances made to a niece or nephew of the disponent is €46,673, and where the value of the gift or inheritance is greater than this, a single rate of 20% applies to the excess. Favourite niece-nephew relief is

available to certain nephews and nieces who take a gift or an inheritance of a business or farm from the disponent. If the niece-nephew qualifies for the relief, he or she is treated as a child of the disponent for CAT purposes, and instead of a group

B threshold, currently €46,673, is entitled to a group A threshold, currently €466,725, for the business or farm assets only. This means that if a gift or inheritance includes business-farm and non-business/farm assets the group B threshold will apply to the non-business/farm assets and the group A threshold will apply to the business-farm assets.

In order to qualify for the relief, the applicant must be a child of a brother or sister of the donor, so that a nephew-niece in law will not qualify. He-she must also have worked substantially on a full-time basis for the donor for a minimum of five years ending on the date of the gift or inheritance. This relief is intended to take account of the close working relationship that exists between certain nieces-nephews and their uncles-aunts. It is not intended to apply generally to all gifts or inheritances taken by nieces-nephews, and applying the relief to all such disposals would run counter to the Government's policy of broadening the tax base in order to keep direct tax rates low.

#### **Child Care Facilities.**

229. **Mr. Bruton** asked the Minister for Finance if the Office of Public Works plans to open a crèche in the Northside Civic Centre; if a contract for the operation of this crèche has been negotiated; if so, the identity of the proposed operator; and if he will make a statement on the matter. [16694/05]

**Minister of State at the Department of Finance (Mr. Parlon):** The crèche in the Northside Civic Centre was intended to provide child care for staff working in the centre. There is not sufficient demand to use it for this purpose. The Commissioners of Public Works will place advertisements in the papers shortly for proposals from parties interested in operating this crèche.

#### **Foreshore Licences.**

230. **Mr. F. McGrath** asked the Minister for Communications, Marine and Natural Resources the position regarding the proposed land reclamation of 52 acres in Dublin Bay; if Dublin Bay will remain the property of all Irish citizens; and if he will make a statement on the matter. [16540/05]

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Gallagher):** Dublin Port Company applied in March 2002 for ministerial consent for the reclamation of 21 hectares of foreshore in Dublin Bay. As private ownership of the foreshore in question was claimed, the application was made in accordance with the provisions of sections 10 and 13, as amended, of the Foreshore Act, 1933.

Issues arose concerning proof of ownership of this area of foreshore and these are being actively pursued by the State's legal services, acting on behalf of the Department, with Dublin Port Company's legal advisers. The ownership question is

a material issue in terms of the form of consent that would be required for the proposed reclamation and the factors that I am required to consider in making a decision on the application.

The proposed development will also require planning permission, and Dublin Port Company has been advised that it is more appropriate that the necessary consent under the planning process be obtained before the foreshore application is dealt with. This is in accordance with normal practice where a substantial development wholly or partly on the foreshore requires planning permission.

Dublin City Council, which is the appropriate planning authority for the area, has been advised that the Minister does not object to the making of a planning application for the proposed development. However, it was made clear that there was no commitment on the Minister's part to grant the necessary foreshore consents for the development and that the application would have to be fully considered.

#### **Broadcasting Legislation.**

231. **Dr. Upton** asked the Minister for Communications, Marine and Natural Resources if his attention has been drawn to the fact that inappropriate viewing channels can be accessed from a television provider (details supplied); the action he intends to take to facilitate barring of such channels within a household; and if he will make a statement on the matter. [16561/05]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** Content broadcast on RTE's television channels, along with channels licensed by the Broadcasting Commission of Ireland, is subject to Irish codes and rules for television programmes. There are, however, many other channels available to Irish viewers on pay television platforms. Such channels are subject to the regulations of the country from which they originate and are not subject to Irish regulation.

In a digital environment, channels are accessed through the use of an electronic programme guide. It is the norm that such guides categorise programmes by genre to help viewers find the type of programme they wish to watch. Pay television operators sometimes provide their customers with tools for controlling access to certain channels. The pay television service provider referred to by the Deputy operates from the UK and as a result the UK authorities regulate its operations. I have no role in the matter.

#### **Telecommunications Services.**

232. **Ms Burton** asked the Minister for Communications, Marine and Natural Resources if his Department's attention has been drawn to the inadequate broadband service to the Palmers-town area; and if he will make a statement on the matter. [16604/05]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** I understand that the telephone exchanges serving the Palmerstown area have been enabled for the provision of DSL broadband, and a number of service providers are marketing broadband in the area.

While the principal broadband technology in use in Ireland is digital subscriber line, DSL, which is also the situation in most European countries, there are technical limitations to the service, such as line quality and distance from the exchange. Even though a line may be in an enabled exchange it may not be suitable for DSL broadband. If a telephone line cannot carry DSL, other technologies may be considered, such as wireless, cable modem or satellite. My Department's website, *www.broadband.gov.ie*, lists a number of service providers who offer broadband in the Palmerstown area, including nine DSL, one wireless and 11 satellite service providers. The website also gives comparative details of prices and service levels.

The provision of telecommunications services, including broadband, is a matter for the private sector companies operating in a fully liberalised market. Recent press announcements by some of the major service providers indicate a growing level of competition in the broadband market, and a considerable increase in availability. I expect these trends to continue.

#### Departmental Reviews.

233. **Mr. Lowry** asked the Minister for Communications, Marine and Natural Resources when he will have completed his view of a report (details supplied); when he will make a decision on the matter; and if he will make a statement on the matter. [16624/05]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** I cannot forecast when a decision will be made. While the report I am reviewing covered a wide range of complex and difficult issues, including legal matters, there are also some further questions and consultations required as part of the deliberation process. I will make a decision when I am satisfied all the relevant information is available and necessary consultations and legal clarification completed. There are issues of broad public policy involved, and I will announce a decision following finalisation of my review of all the issues.

#### Post Office Network.

234. **Mr. Lowry** asked the Minister for Communications, Marine and Natural Resources if he will bring the 400 rural post offices which are considered non-viable under the ambit of a public service obligation; and if he will make a statement on the matter. [16625/05]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** The

Government and An Post share the objective of maintaining a viable nationwide post office network through a strategy of maximising the volume of public and private sector business handled by the network. Notwithstanding the commercial remit of An Post, there is clear Government recognition of the social benefits of maintaining a nationwide post office network. Accordingly, An Post development strategies for the network will continue to take full account of these social benefits.

#### Middle East Peace Process.

235. **Mr. F. McGrath** asked the Minister for Foreign Affairs the position regarding developments in the Middle East, particularly the future of the Palestinian people. [16701/05]

**Minister for Foreign Affairs (Mr. D. Ahern):** The Government, bilaterally and within the framework of the EU and UN, is continuing its efforts to encourage progress in the Middle East peace process, leading to two states, Israel and Palestine, living at peace within secure and recognised borders. We are ready, in concert with our EU partners, to assist the parties to the conflict in their efforts to move forward on the basis of the roadmap. Ireland, through its membership of the European Union, and its relations with Palestine, Israel, the United States, Arab and other key partners will strongly support early action, led by the quartet, to advance the implementation of the roadmap.

At its meeting on 25 April, the General Affairs and External Relations Council called on both sides to renew their efforts to implement the commitments made at the Sharm el Sheikh Summit. It expressed its concern on issues of increased settlement-building and the continued construction of the separation barrier, and reiterated that no party should take measures which might prejudice the outcome of negotiations on a final settlement. The council welcomed recent statements by the US, concerning a freeze on settlement activity. The council recalled its support for Israeli withdrawal from Gaza and parts of the West Bank, and stressed the importance of accelerating reforms within the Palestinian Authority, while welcoming recent measures to reorganise the Palestinian security services. The appointment of James Wolfensohn as the quartet's envoy for disengagement was welcomed, and the council expressed its support for his mission.

#### Swimming Pool Projects.

236. **Ms C. Murphy** asked the Minister for Arts, Sport and Tourism when a new swimming pool programme will be put in place. [16626/05]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** The closing date for receipt of applications under the current round of the local authority swimming pool programme was 31 July 2000, and the priority up to now has been to support the 55 projects submitted for consideration.

Of these 55 projects, 25 have been allocated grant aid, with 15 completed and ten at construction stage. The remaining 30 projects are at various stages in the process, with six at tender stage, 15 at contract documents stage and nine at preliminary report stage.

The question of re-opening the programme will be considered following an expenditure review of the programme which is being carried out by my Department and is expected to be completed later this year. The review is examining issues such as how the programme has worked to date, the benefits which have accrued to the areas where pools have been built and what amendments, if any, are required to ensure the effective and efficient delivery of the programme.

#### **Tourism Promotion.**

237. **Mr. Durkan** asked the Minister for Arts, Sport and Tourism if, from the moneys voted by his Department, he has provided funds directly to arts, sport or tourism related projects in the past 12 months; and if he will make a statement on the matter. [16703/05]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** My Department provides direct funding to projects under the sports capital programme, the local authority swimming pools programme and the ACCESS scheme. It does not provide direct funding to tourism projects. From January 2004 to date, over €95 million has been provided under the sports capital programme, over €18 million under the local authority swimming pools programme and over €8 million under the ACCESS scheme.

In addition, capital funding of €1 million has been provided in respect of the retention amount on the construction of the National Aquatic Centre at Abbotstown, and €1.75 million has been provided to the Lansdowne Road stadium redevelopment project during the same period.

#### **State Airports.**

238. **Mr. Coveney** asked the Minister for Transport if, in view of the commitment given that the new Cork and Shannon Airport Authorities would be debt free, his Department is reneging on that undertaking (details supplied); and if he will make a statement on the matter. [16560/05]

**Minister for Transport (Mr. Cullen):** As the Deputy will be aware, the Cork Airport Authority was incorporated in September last following the passing of the State Airports Act 2004. The authority has been given the responsibility of preparing to assume full responsibility for the management and development of the airport. The authority also has responsibility for carrying out functions delegated to it, on an agreed basis, by the Dublin Airport Authority.

The 2004 Act provides a framework for a phased approach to the transfer of assets to the Shannon and Cork Airport Authorities which allows for one of the new airport authorities to

be vested first, with the second being vested once sufficient distributable reserves have been built up within the Dublin Airport Authority. A key part of the preparatory work in advance of a separation of Cork Airport from Dublin Airport Authority is the preparation of a comprehensive business plan by the Cork Airport Authority. Business plans are also being prepared by the Dublin and Shannon Airport Authorities. The 2004 Act requires that both I and the Minister for Finance must be satisfied as to the state of operational and financial readiness of the Shannon and Cork Airport Authorities, including business planning, before the assets of each of those airports are vested in their respective authorities.

The business planning process will provide a basis for determining the most feasible options for carrying through the restructuring. As required under the State Airports Act, the Deputy can be assured that Cork's ability to operate on a fully commercial basis will be fully assessed as part of this process and will be factored into the decisions made.

#### **Road Network.**

239. **Mr. Bruton** asked the Minister for Transport if he will report on the restrictions which are placed on the use of moneys collected from parking fees by councils; if councils are not permitted to use these moneys for road maintenance; and if so, if he will lift this restriction (details supplied). [16699/05]

**Minister for Transport (Mr. Cullen):** Section 36 of the Road Traffic Act 1994 provides the legislative basis for road authorities to make by-laws for the operation of fee based on-street parking schemes. Under the section, the manner in which parking fees can be disposed of is a matter for the determination of the elected members of the authority.

#### **Irish Language.**

240. **Mr. O'Shea** asked the Minister for Community, Rural and Gaeltacht Affairs his plans to expand pre-school education through Irish (details supplied); and if he will make a statement on the matter. [16576/05]

**Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív):** My Department supports the development and progress of Irish language pre-school education outside of Gaeltacht regions through Foras na Gaeilge by way of assistance to Forbairt Naíonraí Teoranta, FNT, and, within Gaeltacht regions, through Údarás na Gaeltachta.

In the case of Údarás na Gaeltachta, support is provided to more than 70 naíonraí, which operate in Gaeltacht areas since the establishment of the first Gaeltacht naíonra in 1970. In 2004 Comhar Naíonraí na Gaeltachta was set up by Údarás and it provides support to both new and existing naíonraí within the Gaeltacht areas. Údarás also

[Éamon Ó Cuív.] operates a funding scheme, pobal, cultúr agus teanga, which offers support for a range of initiatives coming from the local community, including initiatives that complement the main naíonra funding. Údarás funding for the naíonraí was increased from €327,552 in 2002 to €904,007 in 2004 with payments of €300,000 from an estimated budget of €950,000 made to date this year.

FNT, which was established in 2003, has responsibility for pre-schooling through the medium of Irish throughout the island of Ireland with the exception of the Gaeltacht areas. The board of FNT has a wide range of representatives from organisations, North and South. FNT provides financial support and an advisory service to naíonraí. FNT, in conjunction with interested parties, is preparing a strategic plan for the organisation and for Irish language pre-schooling in general.

### Rural Development.

241. **Mr. Ellis** asked the Minister for Community, Rural and Gaeltacht Affairs the funding allocated by his Department for co-operation on rural development with Northern Ireland. [16556/05]

**Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív):** I take it the Deputy is inquiring about funding of such programmes under the aegis of my Department, in conjunction, where appropriate, with Northern Ireland departments. Under the INTERREG III Ireland-Northern Ireland Programme 2000-2006, funding of €14 million is being provided for rural development measures over the period of the programme. Funding of €5.7 million is also being provided for such measures under the PEACE II Programme 2000-2004. These amounts comprise both EU and national contributions. In addition, specific allocations totalling €1.937 million have been put in place to date for cross-Border rural development projects under LEADER+ and the area-based rural development initiative.

### Rural Social Scheme.

242. **Mr. Ring** asked the Minister for Community, Rural and Gaeltacht Affairs if he will remove an anomaly (details supplied) that exists in regard to the rural social scheme; if so, when. [16557/05]

**Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív):** A review of the rural social scheme is being undertaken by my Department. This review includes an examination of the eligibility criteria.

### Grant Payments.

243. **Mr. Perry** asked the Minister for Agriculture and Food if a decision will be made on the single payment *force majeure* for a person (details

supplied) in County Sligo; and if she will make a statement on the matter. [16549/05]

**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 on 30 March 2005. The findings of the committee were that the original decision taken by my Department should be upheld. I am arranging for my officials to re-examine this case and my Department will contact the person regarding the outcome of the review.

### Animal Health Strategy.

244. **Mr. Ellis** asked the Minister for Agriculture and Food the funding allocated by her Department for co-operation on animal health with Northern Ireland. [16550/05]

**Minister for Agriculture and Food (Mary Coughlan):** There is no specific allocation within my Department's budget for co-operation on animal health with Northern Ireland. Activities associated with North-South co-operation relate to the general animal health and welfare, disease control or animal identification policies of the Department and are, therefore, absorbed into the overall budgets for these activities. For example, the two Administrations worked successfully in a co-ordinated manner to address the foot and mouth disease crisis and have since developed co-ordinated contingency arrangements in the event of future outbreaks of FMD. The cost of development of these co-ordinated arrangements has been absorbed in the overall cost of revision of the FMD contingency plan. Similarly, with regard to BSE, testing and results data on BSE surveillance are exchanged as a matter of routine as are the results of BSE reported passive cases. However the associated costs are not identified specifically in the budget for control of BSE.

The programme of work on co-operation and development of a common animal health strategy for the island has been taken forward by a series of working groups at official level, which have met at regular intervals over the past three years. The main achievements to date are the development of a co-ordinated and complementary approach towards import policies and portal controls at points of entry to the island and the convergence of policies on tuberculosis and brucellosis, animal identification and scrapie.

In addition, there has been a significant deepening and strengthening of co-operation, information exchange and ongoing co-ordination between the two administrations on a variety of issues such as FMD, BSE and cross-Border fraud

while the Farm Animal Welfare Advisory Council includes representation from DARD. On cross-Border fraud, the two Administrations have worked together successfully in a number of joint enforcement actions against alleged offenders and ongoing exchanges of expertise and information are taking place.

#### **Agricultural Education.**

245. **Mr. Ellis** asked the Minister for Agriculture and Food the funding allocated by her Department for agricultural education. [16551/05]

**Minister for Agriculture and Food (Mary Coughlan):** The funding provided by my Department to Teagasc for non-capital purposes in 2005 amounted to €107 million for research, education and training programmes and advisory services. It is Teagasc's responsibility to allocate this funding in accordance with its priorities. In addition, under the national development plan, NDP, €11.6 million was allocated to Teagasc for agricultural training this year. In general Teagasc usually allocates 19% of its overall operating budget — €155 million in 2005 — for education and training programmes.

My Department provides funding also under the NDP equine measures for agricultural education. The funding allocated this year is €376,000, broken down as follows: €305,000 for distance learning diploma and certificate courses in equine science run by the University of Limerick; and €71,000 for educational courses in equine health and husbandry, nutrition, stud management and quality breeding run in conjunction with the Irish Thoroughbred Breeders Association.

#### **Farm Safety.**

246. **Mr. Ellis** asked the Minister for Agriculture and Food the funding that has been allocated for farm safety since 2003; and if she will make a statement on the matter. [16552/05]

**Minister for Agriculture and Food (Mary Coughlan):** Funding for the Health and Safety Authority, the State agency with overall responsibility for the administration and enforcement of health and safety, is provided by the Department of Enterprise, Trade and Employment, the parent Department of the authority. Safety on farms is particularly important and, at the launch of Farm Safety Week last month, I expressed my commitment to ensuring the farming sector improves its safety record. My Department includes safety aspects in its specifications for all farm buildings and animal handling facilities. There are farm safety elements in the education and training programmes provided by Teagasc, the agriculture and food development authority, which is financed by my Department. In addition, participants in the rural environment protection scheme undertake a Teagasc training course, which includes safety on the farm. My Department is

also represented on the national farm safety partnership chaired by Teagasc.

#### **Departmental Regulations.**

247. **Mr. Ellis** asked the Minister for Agriculture and Food the revenues her Department has raised by means of financial penalties for breaches of farming regulations. [16553/05]

**Minister for Agriculture and Food (Mary Coughlan):** My Department is obliged, under the relevant EU regulations, to apply penalties where scheme conditions are breached and, in general, to refund those amounts to the EU Commission. In its annual EAGGF guarantee account for 2004, my Department reported a total of €3,774,777.48 in penalties. Of this, €27,269.69 related to market supports, with the remainder relating to premia paid directly to farmers. This compares to more than €1.3 billion in guarantee funded payments to farmers in 2004.

#### **Cattle Breeding Programmes.**

248. **Mr. Ellis** asked the Minister for Agriculture and Food the funding allocated by her Department in 2005 to promote quality breeding among cattle. [16554/05]

**Minister for Agriculture and Food (Mary Coughlan):** Up to the 1990s my Department operated a series of cattle breed improvement measures including milk recording, on-farm weight recording, genetic evaluations, development of livestock improvement programmes, and the management of the central bull performance testing station at Tully, County Kildare. In the 1990s, a series of initiatives was taken to reduce the Departments involvement in cattle breeding improvement and, at the same time, to provide a structure that would facilitate more rapid genetic gains in the Irish herd. A feasibility study funded under the Operational Programme for Agriculture, Rural Development and Forestry, OPARDF, in 1995 confirmed an industry-led proactive approach to cattle breed improvement with State leadership and involvement as the best way forward. This led to the establishment in 1997 of the Irish Cattle Breeding Federation, ICBF, an organisation mainly controlled by the industry. Responsibility for most cattle breed improvement programmes operated previously by the Department and their associated costs have transferred to ICBF.

In addition to taking over functions from the Department of Agriculture and Food, ICBF has made a great deal of progress in the collection, storage and retrieval of the data that are essential for cattle breeding. ICBF has re-organised database systems used for cattle breeding in a way that eliminates duplication and facilitates the efficient collection of a wider range of accurate information than was the case heretofore. The current database offers greatly increased functionality compared with that offered by previous systems. ICBF is delivering to the industry and to

[Mary Coughlan.]  
farmers improved information on which they can make decisions based on knowledge. This is of increasing importance in the current era of decoupling.

My Department has provided ongoing substantial financial assistance to ICBF since its inception in 1997 by way of grant aid and under the national development plan, under the cattle breeding infrastructures submeasure and previously under the OPARDF, the predecessor to the NDP. Given the important contribution ICBF continues to make to ongoing improvements in cattle breeding in Ireland, I have made provision in this year's Estimate for €888,000 for ICBF in grant aid and €500,000 in NDP funding.

#### Grant Payments.

249. **Mr. Perry** asked the Minister for Agriculture and Food the payments which a person (details supplied) in County Leitrim will receive under the single payment scheme; and if she will make a statement on the matter. [16555/05]

**Minister for Agriculture and Food (Mary Coughlan):** A provisional statement of entitlements issued to the person named on 6 August 2004 for €477.91. The operation of the single payment scheme is governed by the provisions of Council Regulation EC No. 1782/2003. In general, article 28 of that regulation provides for issue of payment under the scheme once a year within the period from 1 December of the scheme year to 30 June of the following year. My Department is in the final stages of implementing the single payment scheme and my primary objective is that payment should issue to farmers from the beginning of December 2005.

#### Animal Welfare.

250. **Ms Harkin** asked the Minister for Agriculture and Food the precise changes in the regulations governing the transport of registered equidae as set out in Council Regulation EC No. 1/2005 of 22 December 2004 for journeys of more than 65 km and less than eight hours duration. [16611/05]

251. **Ms Harkin** asked the Minister for Agriculture and Food the precise changes in the regulations governing the transport of registered equidae as set out in Council Regulation EC No. 1/2005 of 22 December 2004 for journeys of less than 65 km. [16612/05]

252. **Ms Harkin** asked the Minister for Agriculture and Food the precise changes in the regulations governing the transport of animals as set out in Council Regulation EC No. 1/2005 of 22 December 2004 for journeys of more than 65 km and less than eight hours duration. [16613/05]

253. **Ms Harkin** asked the Minister for Agriculture and Food the precise changes in the regulations governing the transport of animals as set out in Council Regulation EC No. 1/2005 of 22

December 2004 for journeys of less than 65 km. [16614/05]

**Minister for Agriculture and Food (Mary Coughlan):** I propose to take Questions Nos. 251 to 253, inclusive, together.

The objectives of Council Regulation EC No. 1/2005, which applies generally from January 2007, are to improve the welfare of animals during transport and to ensure a consistent and effective application of rules governing the transport of animals across the European Union. It is the result of intense negotiations at both the official and political level.

The main changes introduced by this regulation are that persons transporting animals, including registered equidae, over distances of more than 65 km but of less than eight hours duration, must be authorised by my Department and must complete appropriate training related to the welfare of animals during transport. In the cases of journeys of more than eight hours duration, the regulation provides that in addition to the foregoing, drivers and attendants must have appropriate certificates of competence and approval of vehicles.

These requirements do not apply in the case of the transport of live animals, including registered equidae up to a maximum distance of 65 km. In addition, the main provisions of the regulation will not apply to the transport by farmers of their own animals using their own vehicles for distances up to 50 km. However, the following general conditions apply to the transport of all animals, including registered equidae regardless of the duration of the journey: the animals must not be transported in a manner that is likely to cause injury or undue suffering; all necessary arrangements must have been made in advance to minimise the length of the journey and to meet the animals needs during the journey including the provision of sufficient floor area and of adequate water, feed and rest; the animals must be fit to travel; the transport, loading and unloading facilities must be designed, constructed, maintained and operated to avoid injury and suffering and ensure the safety of the animals; the transport must be carried out without delay to the place of destination; and the welfare conditions of the animals must be regularly checked during the journey.

My Department is considering the arrangements and requirements relating to the operation of the new regime for the transport of animals from 2007 onwards. In this regard, my Department will consult all relevant parties on the most effective way to implement the regulation. The regulation does not apply to the transport of animals, including registered equidae, where they are not in connection with an economic activity nor to the transport of animals directly to or from veterinary practices or clinics under the advice of a veterinarian.

#### Departmental Staff.

254. **Mr. Naughten** asked the Minister for Agri-

culture and Food further to Question No. 127 of 14 April 2005, if her Department has concluded its review of staffing numbers; the total number of staff from her Department who will be transferring to the new offices; and if she will make a statement on the matter. [16619/05]

**Minister for Agriculture and Food (Mary Coughlan):** In view of recent developments in my Department, including the introduction of the single payment scheme, SPS, we are continuing to review staffing requirements of our local offices. In this context, a definitive decision on the staffing requirement for a dedicated Leitrim office has yet to be taken.

#### Public Order Offences.

255. **Mr. Gormley** asked the Minister for Justice, Equality and Law Reform the steps he has taken to deal with the continuing problem of drunkenness and rowdiness in the Ranelagh area; if he has plans to deal with this problem; if he will agree to more cycle patrols in the Ranelagh area; and if he will make a statement on the matter. [16594/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Garda authorities have informed me that high priority is given to the policing of anti-social behaviour. In Dublin, Operation Encounter is a Garda initiative aimed at providing high visibility Garda foot patrols in areas where large numbers of people socialise late at night and in the early morning. It is aimed at dealing effectively with public order issues, especially problems associated with drunkenness. This proactive initiative is kept under constant review by local Garda management and tailored to meet circumstances at any given time. The Garda authorities regard Operation Encounter as effective and intend that it will continue.

I am also informed that local Garda management is currently exploring the possibility of operating cycle patrols that would incorporate the Ranelagh area.

In order to deal with the problems caused by the abuse of alcohol, I brought forward tough new provisions in the Intoxicating Liquor Act 2003 and the Criminal Justice (Public Order) Act 2003. I have also put forward proposals in the Criminal Justice Bill 2004 and intend to bring forward further proposals for inclusion in the Bill.

Finally, I would advise the Deputy that there was a drop of 21%, over 1,000 incidents in the number of assaults causing harm for 2003 compared to 2002. This downward trend has continued in 2004 and the first quarter of 2005. Furthermore, there was a drop of 14%, over 1,000 incidents in the number of lesser assaults for 2003 compared to 2002 and a drop of 9% in public damage for 2003 compared to 2002.

#### Garda Operations.

256. **Mr. Gormley** asked the Minister for Justice, Equality and Law Reform if there will

be cycle patrols operating from Irishtown Garda station in the near future; and if he will make a statement on the matter. [16595/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Garda authorities have informed me that the Garda mountain bike unit was introduced on a pilot basis on 5 June 2001 in the Tallaght and Raheny Garda districts of the Dublin metropolitan region, DMR. In February 2002 a review conducted by the Garda authorities found that the deployment of Garda personnel on mountain bikes was successful in tackling and responding to certain types of offences. Their mobility and versatility is recognised as a method of high-visibility crime prevention.

Since that time, the Garda mountain bike unit has been expanded both inside and outside the DMR. The total number of mountain bikes available to the Garda Síochána is 85, of which 55 are allocated to districts within the DMR and 30 are allocated to districts outside the DMR. Garda management is currently exploring the possibility of operating cycle patrols from Irishtown Garda station.

#### Residency Permits.

257. **Mr. Fleming** asked the Minister for Justice, Equality and Law Reform when an application for permission to remain here, on the basis of marriage to an Irish person, will be approved for a person (details supplied) in County Laois. [16596/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** An application for permission to remain in the State, based on marriage to an Irish national, was received from the person concerned in September 2004. To ensure fairness, applications of this type are dealt with in chronological order and currently take approximately 16 months to process.

#### Prison Staff.

258. **Mr. Cregan** asked the Minister for Justice, Equality and Law Reform if prison officers who have transferred from Spike Island prison will be made permanent at their present location; if so, when these permanent appointments will be made (details supplied). [16597/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I refer the Deputy to my response to Questions Nos. 191 and 207 on 21 April and to Question No. 256 on 5 May last, in which I outlined the measures I now intend to pursue to ensure the efficient and effective use of the valuable resources at my disposal.

The position regarding permanent placement for the staff temporarily assigned to other institutions as a result of the closure of Fort Mitchel place of detention is currently being examined and it is expected that staff will shortly be notified of the prisons to which they are being permanently redeployed. I am not in a position to indi-

[Mr. McDowell.]

cate that the staff involved will be redeployed permanently at their present locations, as I must have regard to the wider staffing needs of the service. I have arranged, however, to elicit the preferred prison locations to which staff wish to be assigned so that some consideration might be given to their preferences. However, it has been made clear to all concerned that the needs of the service remains the primary issue of concern. Unfortunately, I cannot be more specific at this point on exactly what prisons will be involved.

#### Registration of Title.

259. **Mr. Perry** asked the Minister for Justice, Equality and Law Reform if the Land Registry Office will expedite an application for a person (details supplied); if so, when; and if he will make a statement on the matter. [16598/05]

**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 16 September 2004. Dealing number D2004SM007873A refers.

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.

Queries issued to the lodging solicitor on 10 May 2005 and the application cannot proceed until these queries have been satisfactorily resolved. However, I can assure the Deputy that on receipt of a satisfactory reply, the matter will receive further attention in the Land Registry.

#### Security Operations.

260. **Mr. Quinn** asked the Minister for Justice, Equality and Law Reform the additional security resources that were allocated to Shannon Airport on 10 May 2005 to facilitate the proposed stopover by President George W. Bush; the cost of these resources (details supplied); the duration of the security operation; and if the cancellation of the stopover affected the costs in any way. [16605/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Garda authorities inform me that an additional 204 gardaí were allocated to Shannon Airport on 10 May 2005, in connection with the planned stopover of President George W. Bush. The duration of these security arrangements was 19 hours.

It is not currently possible to provide details of the associated costs, as not all claims have been submitted for payment at this time. As the cancellation of the stopover resulted in the security arrangements being stood down earlier than projected, costs were correspondingly reduced.

#### Garda Stations.

261. **Mr. Gregory** asked the Minister for Justice, Equality and Law Reform if there are plans to close Mountjoy Garda station, Dublin 7, and Fitzgibbon Street Garda station, Dublin 1; and if he will make a statement on the matter. [16623/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** There are currently no plans to close Mountjoy Garda station or Fitzgibbon Street Garda station.

#### Garda Operations.

262. **Mr. Gormley** asked the Minister for Justice, Equality and Law Reform the steps he is taking to ensure a more visible Garda presence in the Portobello area; if his attention has been drawn to the upsurge in vandalism and crime in the area; if he will take all steps in future to ensure a Garda presence; and if he will make a statement on the matter. [16635/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Garda authorities, who are responsible for the detailed allocation of resources, including personnel, inform me that the Portobello area is predominantly policed by gardaí from Kevin Street Garda station. The personnel strength of Kevin Street Garda station as at 17 May 2005 was 119, of all ranks. I am advised that the policing consists of patrols by uniformed and detective personnel, the community policing unit, the divisional crime task force, the district resource unit, the district drug unit and the Garda mountain bike unit.

It is the policy of local Garda management to ensure that high visibility policing is the norm at all times and this will continue.

While there have been miscellaneous breaches of the criminal law in the area referred to, all are under active investigation. Furthermore, there is no evidence to suggest that criminal activity is out of control in the Portobello area.

The number of Garda personnel assigned to Kevin Street Garda station, together with overall policing arrangements and operational strategy, are constantly monitored and reviewed. Such monitoring ensures that optimum use is made of Garda resources and that the best possible service is provided to the public.

On the question of Garda resources generally, the Government has approved my proposal to increase the strength of the Garda Síochána to 14,000 members on a phased basis, in line with a commitment in An Agreed Programme for Government in this regard. This is a key commitment in the programme for Government and its implementation will significantly strengthen the operational capacity of the force.

The Garda Commissioner will draw up plans on how best to distribute and manage these additional resources. In this context, the needs of Kevin Street Garda station will be fully considered within the context of the needs of Garda

stations throughout the country. Clearly, the additional resources will be targeted at the areas of greatest need, as is envisaged in the programme for Government. The programme identifies particular areas with a significant drugs problem and a large number of public order offences, but it will be possible to address other priorities, such as the need to very significantly increase the number of gardaí allocated to traffic duties as part of the new Garda Traffic Corps. I have already promised that the additional gardaí will not be put on administrative duties. They will be put directly into frontline, operational, high-visibility policing. They will have a real impact.

#### **Garda Deployment.**

263. **Mr. Penrose** asked the Minister for Justice, Equality and Law Reform if the Garda complement at Killucan Garda station in County Westmeath will be restored to its original level of three; and if he will make a statement on the matter. [16695/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Garda authorities, who are responsible for the detailed allocation of Garda resources, including personnel, inform me that the personnel strength of Killucan Garda station as of 17 May 2005 was one garda.

It is the responsibility of the divisional officer to allocate personnel within his or her division.

Garda management will continue to appraise the policing and administrative strategy employed in the Longford Westmeath division, with a view to ensuring an effective Garda service is maintained.

On the question of Garda resources generally, the Government has approved my proposal to increase the strength of the Garda Síochána to 14,000 members on a phased basis, in line with a commitment in An Agreed Programme for Government in this regard. This is a key commitment in the programme for Government, and its implementation will significantly strengthen the operational capacity of the force.

The Commissioner will draw up plans on how best to distribute and manage these additional resources. In this context, the needs of the Longford Westmeath division will be fully considered within the context of the needs of Garda divisions throughout the country. Clearly, the additional resources will be targeted at the areas of greatest need, as envisaged by the programme for Government. The programme identifies particular areas with a significant drugs problem and a large number of public order offences, but it will be possible to address other priorities, such as the need to significantly increase the number of gardaí allocated to traffic duties as part of the new Garda Traffic Corps. I have already promised that the additional gardaí will not be put on administrative duties. They will be put directly into frontline, operational, high-visibility policing. They will have a real impact.

264. **Mr. Penrose** asked the Minister for Justice, Equality and Law Reform if the manning level of Delvin Garda station in County Westmeath will be restored to its normal level; and if he will make a statement on the matter. [16696/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Garda authorities, who are responsible for the detailed allocation of Garda resources, including personnel, have informed me that the personnel strength of Delvin Garda station as of 17 May 2005 was one garda.

It is the responsibility of the divisional officer to allocate personnel within his or her division. A garda is due to be assigned to Delvin Garda station on 14 June 2005.

Garda management will continue to appraise the policing and administrative strategy employed in the Longford Westmeath division, with a view to ensuring an effective Garda service is maintained.

On the question of Garda resources generally, the Government has approved my proposal to increase the strength of the Garda Síochána to 14,000 members on a phased basis, in line with a commitment in An Agreed Programme for Government in this regard. This is a key commitment in the programme for Government and its implementation will significantly strengthen the operational capacity of the force.

The Garda Commissioner will draw up plans on how best to distribute and manage these additional resources. In this context, the needs of the Longford Westmeath division will be fully considered within the context of the needs of Garda divisions throughout the country. Clearly the additional resources will be targeted at the areas of greatest need, as envisaged in the programme for Government. The programme identifies particular areas with a significant drugs problem and a large number of public order offences, but it will be possible to address other priorities, such as the need to significantly increase the number of gardaí allocated to traffic duties as part of the new Garda Traffic Corps. I have already promised that the additional gardaí will not be put on administrative duties. They will be put directly into frontline, operational, high-visibility policing. They will have a real impact.

#### **Visa Applications.**

265. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform when a holiday visa will issue to a person (details supplied); and if he will make a statement on the matter. [16726/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** My Department has no record of a visa application from the person named in the details supplied by the Deputy. I advise the Deputy to forward the reference number of the visa application in question to the immigration division of my Department to enable officials to check on the status of the application.

### **Pupil-Teacher Ratio.**

266. **Mr. Gormley** asked the Minister for Education and Science the reason no progress has been made towards the Government's stated commitment that the average size of classes of children under nine will be below the international best practice guidelines of 20:1; the steps she will take to address the situation at a school (details supplied) in Dublin 4; and if she will make a statement on the matter. [16574/05]

**Minister for Education and Science (Ms Hanafin):** The mainstream staffing of a primary school is determined by applying the enrolment of the school on 30 September of the previous school year to a staffing schedule, agreed between my Department and the education partners.

The system for allocating teachers to primary schools is based on ensuring an overall maximum class of 29 in each school. Where some classes in a school have class sizes of greater than 29, it is generally because a decision has been taken at local level to use teaching resources to ensure smaller numbers in other classes.

The Deputy should note that significant improvements have been made in this area in recent years. The average class size at primary level is now 23.9, down from 26.6 in 1996-97. The pupil-teacher ratio which includes all the teachers in the school, including resource teachers, has fallen from 22.2:1 in the 1996-97 school year to 17.44:1 in 2003-04. Over 4,000 additional teachers have been employed in our primary schools since 1997. These additional teaching posts have been used to reduce class sizes, to tackle educational disadvantage and to provide additional resources for children with special needs.

The staffing of the school referred to by the Deputy for the school year 2004-05 is one principal and three mainstream class teachers, based on an enrolment of 95 pupils at 30 September, 2003. In addition, the school has the services of a learning support teacher based in the school.

In accordance with the staffing schedule issued recently to boards of management, the staffing of the school for the 2005-06 school year will remain at one principal and three mainstream class teachers based on an enrolment of 91 pupils at 30 September, 2004.

To ensure openness and transparency in the system, an independent appeals board is now in place to decide on any appeals. The criteria under which an appeal can be made are set out in Department primary circular 19/02, which is also available on my Department's website. The appeals board will meet in June to consider appeals on the mainstream teaching allocation to schools for the 2005-06 school year.

The closing date for appeals is 3 June 2005. Appeals must be submitted to primary payments section, Department of Education and Science, Athlone, on the standard application form, clearly stating the criterion under which the appeal is being made. The application form is available from primary payments section, Depart-

ment of Education and Science, Athlone or on my Department's website.

The Deputy will appreciate that it would not be appropriate for me to intervene in the operation of the independent appeals board.

### **All-Irish Schools.**

267. **Mr. O'Shea** asked the Minister for Education and Science her proposals to expand second level education through Irish; and if she will make a statement on the matter. [16575/05]

**Minister for Education and Science (Ms Hanafin):** It is my policy to support the provision of all-Irish school facilities at primary and second level in areas outside the Gaeltacht regions, where a demand for such provision is demonstrated and where no alternative exists within a reasonable distance.

There are currently 120 recognised gael scoileanna operating within the State. There are in excess of 50 schools providing varying degrees of education through Irish at second level and my Department is currently examining applications for the development of such facilities in other locations.

The valuable contribution to the Irish language being made by many other schools is recognised and appreciated as an important resource in the promotion of Irish as a living language and as a medium of instruction.

In line with the provisions of the Education Act 1998, a new statutory body, An Chomhairle um Oideachas Gaeltachta agus Gaelscolaíochta has been established to promote education through Irish as well as the teaching and learning of Irish. The new body is undertaking a range of advisory and support functions with regard to Irish language education. These functions include the planning and co-ordination of textbooks and learning aids and the development of policies to facilitate the provision of education through Irish in Gaeltacht schools as well as in recognised schools generally.

The commission on school accommodation recently published a report entitled Criteria and Procedures for Establishing and Maintaining Provision through the medium of Irish in second level schools or clusters of schools. This report presents a framework of key issues and makes a number of recommendations on the provision of second level education through the medium of Irish. It is currently being examined in my Department in the context of establishing a revised process for the recognition of all-Irish second level schools.

### **Teaching Qualifications.**

268. **Mr. McCormack** asked the Minister for Education and Science if she will establish the status of graduates of the B.Th degree in regard to their being able to teach religion in secondary schools if they decide to proceed with a H.Dip after graduating from the Milltown Institute; and

if she will make a statement on the matter. [16577/05]

**Minister for Education and Science (Ms Hanafin):** Four degrees from the Milltown Institute have been recognised by the Registration Council for the purposes of teaching religious education in secondary schools. These degrees are: Bachelor of Arts in Theological and Philosophical Studies; Bachelor of Arts in Theology Ministry; Bachelor of Divinity; and Bachelor of Arts in Philosophy and Theology.

While the holder of any of these degrees is eligible for admission to a course leading to the higher diploma in education, not all eligible applicants are successful in accessing such a course.

### School Staffing.

269. **Mr. Crawford** asked the Minister for Education and Science if an extra teacher will be appointed to a school (details supplied) in County Cavan by September 2005; her views on whether it is unfair that a teacher be asked to deal with 35 pupils aged nine and ten from three different classes; and if she will make a statement on the matter. [16578/05]

**Minister for Education and Science (Ms Hanafin):** The staffing of a primary school is determined by reference to the enrolment of the school on 30 September of the previous school year. The actual number of mainstream posts sanctioned is determined by reference to a staffing schedule which is finalised for a particular year following discussions with the education partners.

The mainstream staffing of the school referred to by the Deputy for the current school year is a principal and three mainstream class teachers based on the enrolment of 105 pupils on 30 September 2003. The enrolment on 30 September 2004 was 113 pupils. Based on this figure the average class size in the current school year is 28.

The system for allocating teachers to primary schools is based on ensuring a maximum average class size in the school of 29. Where some classes in a school have class sizes of greater than 29, it is generally because a decision has been taken at local level to use their teaching resources to have smaller numbers in other classes.

Based on the enrolment on 30 September 2004 of 113 pupils, the mainstream staffing for the school year 2005-06 will remain at a principal and three mainstream class teachers.

The schedule referred to previously can only be deviated from when a school experiences rapid growth in its enrolment. Rapid growth is defined as an increase in its enrolment in one year relative to the previous year of 25 pupils plus a stipulated excess of five pupils on the appointment figure. In order for the school concerned to be considered for developing school status, it would require a minimum enrolment of 138 pupils on 30 September 2005. If the board of management of the school feels that the enrolment of the school

will increase to a minimum of 138 pupils by 30 September 2005, it may apply for a post under the developing schools criteria as outlined in Department circular 15/05 which issued to all boards of management recently.

To ensure openness and transparency in the system, an independent appeals board is now in place to decide on any staffing appeals. The criteria under which an appeal can be made are set out in Department primary circular 19/02 which is available on my Department's website. The appeals board will meet in June to consider appeals on the mainstream teaching allocation to schools for the 2005-2006 school year.

The closing date for appeals is 3 June 2005. Appeals must be submitted to primary payments section, Department of Education and Science, Athlone, on the standard application form, clearly stating the criterion under which the appeal is being made. The application form is available from the primary payments section, or on my Department's website.

I am sure the Deputy will appreciate that it would not be appropriate for me to intervene in the operation of the independent appeals board.

270. **Ms B. Moynihan-Cronin** asked the Minister for Education and Science the number of two-teacher national schools in the country; the number of these schools which have a classroom assistant; the number of two-teachers schools which will lose resource teachers under the new weighted system; and if she will make a statement on the matter. [16579/05]

**Minister for Education and Science (Ms Hanafin):** I can confirm for the Deputy that there are approximately 553 two-teacher primary schools in the country. Of these, 154 schools currently have special needs assistant support, SNA support, as follows: 123 schools have one SNA; 30 schools have two SNAs; and one school has three SNAs.

It is not possible at this stage to indicate the resource teaching position in two-teacher schools following the introduction of the new general allocation system. I trust the Deputy is aware that my Department has now completed its review of the general allocation system of resource teaching support. The new model replaces that which was notified to schools in June 2004, which has been reviewed to take account of difficulties that it may have caused for smaller schools.

I can confirm that 660 additional special needs teaching posts will be put in place in primary schools from next September to facilitate the implementation of the new general allocation system. The introduction of this new system will involve the provision of an estimated additional 340 permanent posts in primary schools from September next. A further 320 posts are being provided on a temporary basis to facilitate the transition to the new system.

My Department is now devising school clusters in respect of allocations to be made under the

[Ms Hanafin.]

general allocation system. These will be notified to schools shortly along with the details of each school's individual allocation. This communication will clarify the position regarding the resource allocation available to the schools referred to by the Deputy. My Department is also finalising a circular for schools which will contain detailed information on how the new system will operate. It is intended that this circular will issue before the end of the current school year.

271. **Ms B. Moynihan-Cronin** asked the Minister for Education and Science if a primary school (details supplied) in County Kerry will retain its existing resource teacher under the new weighting system; and if she will make a statement on the matter. [16580/05]

**Minister for Education and Science (Ms Hanafin):** I trust the Deputy is aware that my Department has now completed its review of the general allocation system of resource teaching support. The new model replaces that which was notified to schools in June 2004, which has been reviewed to take account of difficulties that it may have caused for smaller schools.

I can confirm that 660 additional special needs teaching posts will be put in place in primary schools from next September to facilitate the implementation of the new general allocation system. The introduction of this new system will involve the provision of an estimated additional 340 permanent posts in primary schools from September next. A further 320 posts are being provided on a temporary basis to facilitate the transition to the new system.

My Department is now devising school clusters in respect of allocations to be made under the general allocation system. These will be notified to schools shortly along with the details of each school's individual allocation. This communication will clarify the position regarding the resource allocation available to the school referred to by the Deputy. My Department is also finalising a circular for schools which will contain detailed information on how the new system will operate. It is intended that this circular will issue before the end of the current school year.

#### **Schools Building Projects.**

272. **Ms Enright** asked the Minister for Education and Science the position of a school (details supplied); when this project will go ahead; and if she will make a statement on the matter. [16581/05]

**Minister for Education and Science (Ms Hanafin):** I am pleased to inform the Deputy that the school in question has accepted the grant for the provision of an extension under the 2005 small schools initiative which I announced recently. The school authority is managing this project on a devolved basis, but I understand that

the project is scheduled to go on site in late 2005 or early 2006.

#### **School Discipline.**

273. **Ms Enright** asked the Minister for Education and Science if the final appeal on a proposed expulsion from a school is made to the education and welfare board; and if she will make a statement on the matter. [16582/05]

**Minister for Education and Science (Ms Hanafin):** The Education (Welfare) Act 2000 established the National Educational Welfare Board as the single national body with responsibility for school attendance. The Act provides a comprehensive framework promoting regular school attendance and tackling the problems of absenteeism and early school leaving. The general functions of the board are to ensure that each child attends a recognised school or otherwise receives a certain minimum education.

Section 24(4) of the Act requires that a student shall not be expelled from a school before the passing of 20 school days following the receipt of such a notification by the educational welfare officer. However, this requirement is without prejudice to the right of the board of management of a school to take such other reasonable measures as it considers appropriate to ensure that good order and discipline are maintained in the school and that the safety of students is secured.

In January 2005, the NEWB issued guidance booklets to the management authorities of all primary and post primary schools on the reporting of student absences and expulsions.

Section 29 of the Education Act 1998 provides for an appeal to the Secretary General of my Department where a board of management or a person acting on behalf of the board refuses to enrol a student, suspends a student for a cumulative total of more than 20 days in an academic year or expels a student from the school.

Provision also exists under section 29 for the NEWB to make a submission at the hearing of an appeal brought by a parent or student against expulsion. The NEWB may take an appeal under section 29 of the Education Act 1998. However, the NEWB does not exercise a decision-making function with regard to determining an appeal under section 29 of the Education Act 1998.

#### **Special Educational Needs.**

274. **Mr. Penrose** asked the Minister for Education and Science if a person (details supplied) in County Westmeath will be approved immediately for a special needs assistant from September 2005; and if she will make a statement on the matter. [16615/05]

**Minister for Education and Science (Ms Hanafin):** I can confirm for the Deputy that a special needs assistant was sanctioned by my Department to be shared between the pupil in question and one other pupil in the school. This

decision was conveyed to the school authorities on 11 March 2005.

The Deputy may be aware that the National Council for Special Education, NCSE, which was established recently, and which has been operational since 1 January 2005, is responsible for processing applications for special educational needs supports. The NCSE, through the local special educational needs organiser, SENO, will also review the level of support in schools in the context of pupils ongoing needs. This will ensure that each school has the level of resources required to cater for its pupils with special educational needs. With regard to the pupil referred to by the Deputy, the school may wish to liaise with the local SENO concerning the pupil's requirement for special needs assistant support for the coming school year.

I am anxious to ensure that special education support services are properly targeted at the children who require them and that the substantially increased resources which are being made available in the special educational area have the desired effect of ensuring that all children assessed as having special needs receive the support they require.

275. **Ms C. Murphy** asked the Minister for Education and Science, further to Question No. 479 of 4 May 2005, the way in which the post-primary needs of a person (details supplied) will be met. [16616/05]

**Minister for Education and Science (Ms Hanafin):** The National Council for Special Education, NCSE, has been established as an independent statutory body with responsibilities as set out in the National Council for Special Education (Establishment) Order 2003.

With effect from 1 January 2005, the NCSE through local special educational needs organisers, SENOs, is responsible for processing resource applications for children with special educational needs and identifying appropriate educational settings for individual children with special educational needs.

The NCSE has confirmed to my Department that SENOs have been assigned to the area in question and may be contacted for assistance in this matter.

276. **Ms C. Murphy** asked the Minister for Education and Science the number of counties which have not had an SENO appointed yet; and when this will be rectified. [16617/05]

**Minister for Education and Science (Ms Hanafin):** The National Council for Special Education, NCSE, has appointed 71 special educational needs organisers, SENOs, who are based throughout the country to carry out the council's functions at local level.

At this stage only one county does not yet have a SENO appointed to it. Arrangements have been put in place by the NCSE which ensures that any applications from schools in this county

are processed by the existing SENOs. The Deputy's county, County Kildare, has a SENO appointed to it.

### School Staffing.

277. **Mr. Naughten** asked the Minister for Education and Science further to Questions Nos. 249, 250 and 251 of 13 April 2005, if she will report on the issue. [16618/05]

**Minister for Education and Science (Ms Hanafin):** I am pleased to advise the Deputy that my Department has now completed its review of the general allocation system of resource teaching support. The new model replaces that which was notified to schools in June 2004, which has been reviewed to take account of difficulties that it may have caused for smaller schools.

I can confirm that 660 additional special needs teaching posts will be put in place in primary schools from next September to facilitate the implementation of the new general allocation system. The introduction of this new system will involve the provision of an estimated additional 340 permanent posts in primary schools from September next. A further 320 posts are being provided on a temporary basis to facilitate the transition to the new system.

My Department is now devising school clusters in respect of allocations to be made under the general allocation system. These will be notified to schools shortly along with the details of each school's individual allocation. My Department is also finalising a circular for schools which will contain detailed information on how the new system will operate. It is intended that this circular will issue before the end of the current school year.

### Special Educational Needs.

278. **Ms O'Sullivan** asked the Minister for Education and Science if a person (details supplied) in Dublin 22 will be given an appropriate primary school place in an autistic unit for September 2005; and if she will make a statement on the matter. [16629/05]

**Minister for Education and Science (Ms Hanafin):** The Deputy may be aware that the National Council for Special Education, NCSE, which was established recently, and which has been operational since 1 January 2005, is responsible for processing applications for special educational needs, SEN, supports. Seventy one special educational needs organisers, SENOs, have been recruited throughout the country and they will be a focal point of contact for schools and parents.

My officials have been informed by the NCSE that the matter referred to by the Deputy has been forwarded to the local SENO for processing. The SENO has been in contact with a prospective school and has arranged to visit the school shortly to discuss the child's need for school placement.

### University Governance Provisions.

279. **Mr. Kenny** asked the Minister for Education and Science if her Department was requested to arrange a visitation to a third level institution (details supplied) in County Cork; if, under the terms of the charter of that institution, a visitor has been appointed; if she will report on procedures for appointing such a person; and if she will make a statement on the matter.

[16630/05]

**Minister for Education and Science (Ms Hanafin):** The Universities Act 1997 provides a framework of legislation that is compatible with the role, function and operation of universities in modern society. The Act, which was the first Act of general application to all the university institutions since the foundation of the State, was a culmination of an extensive process of consultation and debate both within and outside the Houses of the Oireachtas. Among the significant features of the Act was the provision of revised governance structures for the universities which ensure that all the major stakeholders are represented on the university governing authority, the principal decision-making body of the institutions.

The Universities Act 1997, in addition to providing for strengthened governance arrangements at an institutional level, also provides a wider public interest protection in a case where the Minister for Education and Science is of the opinion that there are reasonable grounds for contending that the functions of a university are being performed in a manner which *prima facie* constitutes a breach of the laws, statutes, or ordinances applicable to the university. This general protection is set out in sections 19, 20 and 21 of the Act, which provide for the appointment of a visitor to a university by the Government from time to time and for the visitor to conduct an inquiry at the request of the Minister, with the concurrence of the Government, in such circumstances.

The visitor has powers to inquire into the academic affairs of the university or to conduct any inspection relevant to his or her inquiry. On foot of the recommendations of the visitor, the Minister may recommend to the Government the suspension of the governing authority and the termination of the membership of its members.

In the case to which the Deputy refers, my predecessor received representations from certain members of the governing body of a university requesting the appointment of a visitor. In June 2004, in order to assist the Minister in considering requests for the appointment of a visitor, a report was sought from the Higher Education Authority.

A report was received from the HEA which took account of comprehensive background documentation made available by the governing body of the university. The view of the HEA was that there were no reasonable grounds for concluding that the functions of the university were being performed in a manner which, *prima facie*,

was in breach of the laws, statutes and ordinances applicable to the university and that there was therefore no reasonable basis for the appointment of a visitor. Having considered the report and background documentation, the then Minister agreed with this assessment and the HEA was advised accordingly on 23 July 2004. Those making representations were also so advised.

### School Discipline.

280. **Mr. F. McGrath** asked the Minister for Education and Science the position regarding action plans to deal with violent and disruptive pupils in schools; and if she will make a statement on the matter. [16698/05]

**Minister for Education and Science (Ms Hanafin):** The Deputy will be aware that I recently established a task force to consider and report on the issue of student behaviour in second level schools. The task force is chaired by Dr. Maeve Martin of the National University of Ireland, Maynooth.

The terms of reference of the task force are: to examine the issue of disruptive student behaviour as it impacts upon teaching and learning; to consider the effectiveness of strategies at present employed to address it; to advise on existing best practice, both nationally and internationally, in fostering positive student behaviour in schools and classrooms; and to make recommendations on how best to promote an improved climate for teaching and learning in classroom and schools.

I want the work of this task force to provide a solid foundation for developing policies and best practice in our schools into the future. The task force will link closely to a wide range of interests across our education system on this very important issue. A consultative group is part of the process, comprising all the partners in education and allowing for their input to the deliberations of the task force.

In addition, I have asked that the task force should constitute fora of teachers, parents and students with a view to testing emerging ideas and proposals. The task force invited, by public advertisement, submissions from interested individuals and groups. I have asked it to let me have an interim report by June 2005 and to complete its work by the end of 2005.

My Department has provided guidelines to boards of management to assist them in discharging their obligations in the area of school discipline. The guidelines, which issued in 1991, were drawn up following consultation with representatives of management, teachers and parents, and are sufficiently flexible to allow each school authority to adapt them to suit the particular needs of the school.

Each board of management is responsible for formulating, in consultation with parents, a fair and efficient code of behaviour. This code should ensure that the individuality of each child is accommodated while acknowledging the right of each child to education in a relatively disruption-

free environment. The code should also include provision for dealing with serious breaches of discipline and continuously disruptive pupils.

Social attitudes and parental approaches to discipline vary from one school community to another, and it would be impractical and even undesirable for the Minister or her Department to set out a formal and detailed code of behaviour for all schools.

Section 23 of the Education Welfare Act 2000 requires all schools to have in place a code of behaviour specifying: (a) the standards of behaviour that shall be observed by each student attending the school; (b) the measures that may be taken when a student fails or refuses to observe those standards; (c) the procedures to be followed before a student may be suspended or expelled from the school concerned; (d) the grounds for removing a suspension imposed on a student; and (e) the procedures to be followed relating to notification of a child's absence from school.

The school principal is required, before registering a child in the school, to provide the child's parents with a copy of the code of behaviour and may, as a condition of registering the child, require his or her parents to confirm in writing that the code is acceptable to them and that they will make all reasonable efforts to ensure that the child will comply with the code.

#### **Security Resources.**

281. **Mr. Quinn** asked the Minister for Defence the additional security resources which were allocated to Shannon Airport on 10 May 2005 to facilitate the proposed stopover by President George W. Bush; the cost of these resources (details supplied); the duration of the security operation; and if the cancellation of the stop affected the costs in any way. [16606/05]

**Minister for Defence (Mr. O'Dea):** The Deputy will appreciate that it would not be appropriate, for reasons of security, for me to comment on the exact nature of the deployment to Shannon Airport on 10 May 2005. However, it is estimated that the overall cost to the Defence Forces was approximately €28,000.

#### **Waste Management.**

282. **Mr. Sargent** asked the Minister for the Environment, Heritage and Local Government the initiatives which are planned regarding extended producer responsibility; the persons who shall have responsibility for their implementation; the roles which local authorities will play; the budget he plans for this; and if he will make a statement on the matter. [16607/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** A key component of waste management policy in Ireland in recent years has been the development of producer responsibility initiatives. Such initiatives are in line with EU and national policy on waste

management, which is firmly grounded in the internationally recognised waste management hierarchy that prioritises respectively waste prevention and minimisation, increased levels of reuse, recycling and biological treatment, energy recovery and utilising landfill as the last resort for residual waste that cannot otherwise be recovered. This approach is reflected in my Department's policy statements: *Changing Our Ways*, 1998, *Delivering Change*, 2002, and *Taking Stock Moving Forward*, 2004.

Successful producer responsibility initiatives operate in Ireland in packaging, farm plastics and construction and demolition wastes. I recently made regulations to streamline further the packaging regulations made in 2003. The idea of producer responsibility is embedded in waste management policy and practice, but we need to build on this experience so it can contribute to waste prevention and reduce negative environmental impacts. Extended producer responsibility involves assigning increased responsibility to producers. It gives producers a direct financial incentive to incorporate environmental considerations in the design of products. It deals not only with the waste phase, but also with upstream issues relating to resource selection and product design. The focus on design is included in EU legislation on end-of-life vehicles and waste electrical and electronic equipment and the directives on the restriction of hazardous substances in electrical and electronic equipment. Regulations transposing the directives into Irish law will be made this year.

Producer responsibility places financial and logistical burdens on producers. Local authorities play an important complementary role in providing the necessary infrastructure and enforcement. The Government is committed to establishing an effective regime to ensure that producer responsibility initiatives are backed up by effective enforcement. The establishment of the Office of Environmental Enforcement in the EPA in late 2003 and the provision of additional funding to local authorities from the environment fund to facilitate co-ordinated and stepped-up enforcement of waste management legislation are intended to assist in this regard. The national waste prevention programme, which is being developed and implemented by the EPA, involves the development of waste prevention and minimisation strategies aimed at reducing negative environmental impacts. The EPA was given an initial budget of €2 million to fund the programme.

#### **Environmental Policy.**

283. **Mr. Sargent** asked the Minister for the Environment, Heritage and Local Government if he will report on progress on, or plans to implement, the recommendations of the United Nations environment programme country profile on Ireland; and if he will make a statement on the matter. [16632/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The UN environment programme country profiles provide a brief overview of a country's environment and international environmental activities. While the profile for Ireland does not make recommendations, it outlines the scope for using economic instruments as part of an approach to addressing the key environmental challenges facing this country. I accept that fiscal instruments can play a useful role as part of overall Government policy to protect and enhance the environment. The instruments in question are mentioned as potential economic instruments in Ireland's Environment — A Millennium Report, published by the EPA. The merits of such instruments are evaluated on a case by case basis.

Landfill charges and the plastic bags levy are examples of economic instruments which promote good environmental behaviour and provide resources through the environment fund for a range of environmental programmes. The structure of charges for domestic waste disposal, by local authorities or private collectors, has been modified to relate directly to usage, with a view to providing incentives towards more sustainable waste management. The potential further use of economic instruments is kept under ongoing review.

#### **Local Authority Funding.**

284. **Ms C. Murphy** asked the Minister for the Environment, Heritage and Local Government his plans for an e-procurement initiative at local Government level in view of the combined purchase power of the local Government system and the potential savings that could be made. [15040/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** In September 2003, the Department of the Environment, Heritage and Local Government endorsed the local government e-procurement strategy, which was produced by IBM Consultants in collaboration with the Local Government Computer Services Board, a number of local authorities and the Department. The strategy provides for the application of electronic processes to procurement activities and the prior modernisation, which is necessary in this context, of existing procurement processes and practices. All local authorities have been urged by the Department to commit to the implementation of the strategy. A number of pilot e-procurement projects have been undertaken by various local authorities and agencies in pursuance of the strategy. By the end of 2004, some €825,000 of matching funding had been granted by the Department to organisations in respect of such projects. A further €244,000 of funding has been made available for 2005.

A team compiled by the national public procurement policy unit, which is based in the Department of Finance and includes officers of the Department of the Environment, Heritage

and Local Government and the Local Government Computer Services Board, has conducted a further study of procurement in the local government sector. It has made a number of recommendations for further actions in accordance with the objectives of the local government e-procurement strategy. Its report will be presented to the County and City Managers Association soon.

It is difficult to quantify the exact level of savings that could result from the widespread adoption of e-procurement. The results of the pilot projects indicate that significant savings are achievable by the end of the timeframe envisaged in the strategy. The savings would arise not only from aggregate purchasing within and between local authorities, which would be facilitated by e-procurement, but also from such factors as the better use of staff resources, improvement in service delivery and reductions in transaction and logistical costs.

#### **Greenhouse Gas Emissions.**

285. **Mr. Eamon Ryan** asked the Minister for the Environment, Heritage and Local Government the latest annual figures he has for the level of emissions of greenhouse gases from the transport sector here; and the projections he has for the increase or decrease in these levels over the short, medium and longer terms. [15664/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** As part of the overall EU commitment to reducing greenhouse gas emissions by 8% during the Kyoto Protocol period, which is between 2008 and 2012, Ireland is committed to limiting emissions to 13% above 1990 levels. The latest available greenhouse gas emissions figures from the national inventory report, which is compiled by the Environmental Protection Agency, indicate that overall emissions in 2003 were equivalent to 66.57 million tonnes of carbon dioxide. That figure is approximately 25% above 1990 levels, down from approximately 29% in 2002 and 31% in 2001. The figures show that significant progress is being made towards the 13% target. Regarding the transport sector, the national inventory report indicates that emissions for 2003 were equivalent to 11.85 million tonnes of carbon dioxide, or approximately 18% of the total of emissions for 2003.

Projections for greenhouse gas emissions, which have been calculated up to 2012, are contained in the 2004 ICF-Byrne Ó Cléirigh study, Determining the Share of National Greenhouse Gas Emissions for Emissions Trading in Ireland. The study shows that expected emissions from the transport sector for 2004 are equivalent to 11.96 million tonnes of carbon dioxide, which is a projected marginal increase on the outturn for 2003. The average annual projected emissions for the transport sector over the Kyoto commitment period are expected to be equivalent to 13.3 million tonnes of carbon dioxide.

The national climate change strategy identifies a range of policies and measures to reduce the level of greenhouse gas emissions in various sectors. The Department of the Environment, Heritage and Local Government is reviewing the strategy, taking account of developments since its publication in 2000. While the Department has overall responsibility for the strategy, it is a matter for Departments with direct responsibility for each sector identified in the strategy to implement the optimum mix of policies and measures to control and reduce Ireland's overall level of greenhouse gas emissions.

*Question No. 286 answered with Question No. 194.*

### **Environmental Policy.**

287. **Mr. Noonan** asked the Minister for the Environment, Heritage and Local Government his assessment of the impact of the Good Friday Agreement, and the resultant cross-Border and East-West co-operation, on measures to protect the Irish environment; and if he will make a statement on the matter. [16440/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Since the signing of the Good Friday Agreement in 1998, new relationships based on mutually beneficial partnerships and equality have been established between administrations North and South and east and west. They have enabled us to address common challenges in a mutually beneficial way through enhanced co-operation and joint action on a range of environmental issues including waste management, water quality management, natural heritage, information and awareness, environmental research, environmental impacts of agricultural activities, planning, regional development, fire services and emergency planning.

I will give some examples of North-South co-operation bringing practical environmental benefits to the people of this island. An all-island scheme for the management of waste domestic fridges and freezers was developed by the environment departments on both sides of the Border under the auspices of the North-South Ministerial Council. In the first 13 months of its operation, over 122,000 units have been collected for recycling. The authorities on both sides of the Border are working together to tackle illegal movements of waste. The environmental protection measure of the current North-South INTERREG programme is providing EU support to 20 cross-Border projects, at a cost of €24 million.

The British-Irish Council, the most recent meeting of which was held in Farmleigh on 7 April last, provides a unique and useful forum where representatives of the member administrations can meet to address issues of mutual interest. Since its establishment, the council has acted as a forum for co-operation and exchange

of information and has led to a greater appreciation of the valuable relationships between these islands. A programme of work involving enhanced co-operation on environmental areas of common interest, including impacts of climate change and adaptation, waste management, radioactive waste from Sellafield, integrated coastal zone management and follow-up action to the World Summit on Sustainable Development, is being taken forward through the council.

### **Local Authority Funding.**

288. **Ms M. Wallace** asked the Minister for the Environment, Heritage and Local Government the way in which his Department, in determining the funding for local authorities, provides balance between urban authorities and rural authorities in funding; if his attention has been drawn to the fact that urban authorities afford such a luxury as parks departments whereas the rural authorities are struggling for basic necessities; and if he will make a statement on the matter. [16544/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Department of the Environment, Heritage and Local Government provides specific grants, including capital grants, to local authorities for a wide range of programmes. The allocation of such funding is carried out on the basis of national and local priorities relating to the programme concerned and having regard to the overall amount of funding available for each programme.

No specific funds are available to the Department to provide grants for the operation of parks departments in local authorities. Local authorities fund such expenditure from a variety of sources including commercial rates, fees and charges for services and general purpose grants from the local government fund. Such general purpose grants are determined on the basis of a number of factors including the overall resources in the fund, the application of the needs and resources model, which takes account of the appropriate cost to each individual local authority of providing a reasonable level of services, and the income available to each authority from local sources.

The funding provided to local authorities through the grants has increased substantially in recent years. Grant allocations from this source in 2005 were, on average, 8.6% higher than the corresponding allocation for 2004 and approximately 130% higher than the level of such grants in 1997. The financial position of local authorities has been greatly strengthened in recent years because of increases in central funding and the strengthening of local income bases. It is a matter for each local authority to determine its own spending priorities in its annual budget having regard to locally identified need and the resources available to it.

### **Library Projects.**

289. **Mr. Deenihan** asked the Minister for the

[Mr. Deenihan.]

Environment, Heritage and Local Government when work will commence on the new library at Castleisland, County Kerry; and if he will make a statement on the matter. [16545/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** In January of this year, the Department of the Environment, Heritage and Local Government approved tender documentation for a branch library at Castleisland and authorised Kerry County Council to proceed to invite tenders for the project. Further advancement of the project is a matter for Kerry County Council.

#### **Local Authority Staff.**

290. **Ms C. Murphy** asked the Minister for the Environment, Heritage and Local Government the number of counties which employ an archivist. [16546/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Based on the annual staffing returns received from local authorities for 2003, nine county councils and four city councils employ an archivist.

#### **Litter Pollution.**

291. **Mr. Gormley** asked the Minister for the Environment, Heritage and Local Government the further steps he intends to take to ensure compliance with dog dirt littering laws; and if he will make a statement on the matter. [16633/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. B. O’Keeffe):** Under the Litter Pollution Acts 1997 to 2003, primary responsibility for enforcement of the litter laws, including section 22 of the Litter Pollution Act 1997, which relates to dog fouling, rests with the local authorities. I am satisfied that the Acts give adequate penalties and enforcement powers to local authorities to deal with the problem of dog fouling.

#### **Register of Electors.**

292. **Mr. Penrose** asked the Minister for the Environment, Heritage and Local Government if he has received correspondence from a person (details supplied); if the Government is considering the possibility of extending the right to Irish citizens abroad to participate in the forthcoming referendum and other electoral contests; and if he will make a statement on the matter. [16697/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** A letter from the person in question was received by the Department of the Environment, Heritage and Local Government on 12 May. It was acknowledged on 13 May and a substantive reply will issue shortly. The compilation of a register of electors is a matter for the appropriate registration authority in accordance with electoral law. To be able to vote, a person’s name must be

entered in the register of electors for the constituency in the State in which the person ordinarily resides. The person’s citizenship determines the polls at which he or she is entitled to vote. Irish citizens who are registered to vote may vote at all polls. British citizens may vote at Dáil, European and local elections, EU citizens other than Irish and British citizens may vote at European and local elections and non-EU citizens may vote at local elections only.

Postal voting is provided for certain categories of person as specified in electoral law. The Electoral Act 1992 provides for postal voting for members of the Garda, whole-time members of the Defence Forces and Irish diplomats serving abroad and their spouses. Subsequent legislation enacted by the Oireachtas has extended postal voting to other categories. The Electoral (Amendment) Act 1996 extended postal voting to electors living at home who are unable to vote because of a physical illness or disability. The Electoral Act 1997 extended postal voting to electors whose occupation, service or employment makes it likely that they will be unable to vote in person at their local polling station on polling day and to full-time students registered at their home who are living elsewhere while attending an educational institution in the State. The Electoral (Amendment) Act 2001 extended postal voting to certain election staff employed at the poll outside the constituency where they reside.

The question of voting rights for Irish citizens living abroad has been considered in detail on a number of occasions, most recently by the All-Party Committee on the Constitution in its examination of Parliament. The committee’s seventh progress report, published in March 2002, concluded that the right to vote in Dáil elections should remain confined to citizens ordinarily resident in the State and that the right to vote at referenda should not be granted to emigrants. While electoral law is subject to ongoing review, there are no proposals to alter the existing arrangements.

*Questions Nos. 293 to 296, inclusive, answered with Question No. 109.*

*Question No. 297 answered with Question No. 95.*

*Questions Nos. 298 to 301, inclusive, answered with Question No. 85.*

#### **Public Procurement Procedures.**

302. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government if all contracts, procurements, disposals or acquisitions in which his Department has been involved in the past five years have been open to public tender and in accordance with procurement or other procedures; and if he will make a statement on the matter. [16715/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** My Department seeks to comply fully with Department of Finance and EU procurement procedures in relation to tendering and awarding of contracts. Public procurement procedures as detailed in Department of Finance circular 40/02 do not require that all contracts should go to public tender. My Department has an approval and registration process in place for contracts where a single tender has been obtained, which is overseen by the Department's internal audit function and reported to the Comptroller and Auditor General. In relation to the disposal of assets, I can confirm that my Department have disposed of no assets exceeding €100,000 over the past five years.

#### Planning Issues.

303. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the extent to which local authorities have adopted his recently issued guidelines in respect of rural housing for the indigenous population; if local authorities have decided to ignore these guidelines; and if he will make a statement on the matter. [16716/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I refer to the reply to Question No. 227 of 12 May 2005.

#### Waste Management.

304. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government if his Department has issued guidelines in respect of the location of landfill sites; if such guidelines are as restrictive as those in respect of housing; and if he will make a statement on the matter. [16720/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** My Department has not issued guidelines in relation to the location of landfill facilities. However, I have recently issued a policy direction under section 60 of the Waste Management Act 1996 to provide greater clarity in regard to the appropriate application of the proximity principle so as to facilitate the provision of environmentally sustainable and economically viable waste infrastructure in accordance with overall national policy on waste management.

305. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the number of illegal dumps or sites that have to date been identified in the country; and if he will make a statement on the matter. [16721/05]

306. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the number of illegal dumps identified in County Kildare; and if he will make a statement on the matter. [16722/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 305 and 306 together.

The Office of Environmental Enforcement has commissioned a study on unauthorised waste activities, to be completed shortly and made available for public consultation. This will include establishing as completely as possible the extent of unauthorised activities, reviewing current procedures and developing improved guidance for investigation of such activities. In the meantime, the office and the relevant local authorities are taking urgent and co-ordinated action against identified illegal waste activities, and these actions will be further assisted when the results of the study are available.

In the context of general policy directions on waste management matters which I recently issued under section 60 of the Waste Management Act 1996, I have reminded local authorities of the need to ensure that the requirements of section 22 of the Act are fully met in the current review of their waste management plans. Section 22 states that a waste management plan shall include information on: the identification of sites at which waste disposal or recovery activities have been carried on; the assessment of any risk of environmental pollution arising as a result of such activities; measures proposed to be taken, or, where such an assessment has already been made, measures taken, in order to prevent or limit any such environmental pollution; and the identification of necessary remedial measures in respect of such sites, and measures proposed to be taken, or, where such measures have already been identified, measures taken, to achieve such remediation, having regard to the cost-effectiveness of available remediation techniques.

#### Local Government Regulations.

307. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government if he is satisfied that the commitment given with regard to access for Oireachtas Members to local authority structures, management, directors of service and others involved in the local authority system is being honoured in view of the commitment to Dáil Éireann during the passage of legislation to abolish the dual mandate; and if he will make a statement on the matter. [16724/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** From the commencement of the single mandate for elective local government, local authorities were required to make specific arrangements to provide a reasonable level of service for Oireachtas Members and facilitate them in carrying out their work on behalf of local communities. These arrangements provide, *inter alia*, for the supply of specified documentation to Oireachtas Members by the local authority, and equivalent systems, procedures and timeframes to those used in relation to correspondence from local authority

[Mr. Roche.]  
members apply also in respect of Oireachtas Members.

Managers are required to meet at least annually with local Oireachtas members and thus provide an opportunity for an update on developments and for any difficulties encountered to be raised and addressed. This is additional to normal and regular contacts between public representatives and local authority officials regarding particular problems or issues.

Quite apart from the regulations in this area, I expect that any issues around the operation of these arrangements will be resolved as local authorities and Oireachtas Members become more familiar with the process. I intend to contact local authorities this year to obtain information on the practical application of the scheme to date. Arising from this, I will, if necessary, issue supplementary guidance to local authorities taking account of the responses on the matter.

I am concerned that local authorities should at all times facilitate parliamentary representatives in both the spirit and the letter of the regulations in relation to the timely provision of local authority documentation.

#### **Local Authority Funding.**

308. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the reason sufficient funds have not been made available to Kildare County Council to fund

essential repair grant applications; and if he will make a statement on the matter. [16725/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** It is a matter for local authorities to decide on the level of funding to be provided for the essential repairs grant scheme in their area from within the allocation notified to them for disabled persons and essential repairs grants by my Department and to manage the operation of the schemes from within this allocation. My Department recoups to local authorities two thirds of their expenditure on the payment of individual grants and it is a matter for the authorities to fund the remaining one third from their own revenue resources with amounts provided for that purpose in their annual estimates of expenses.

In May 2004, Kildare County Council received a combined capital allocation of €934,000 for disabled persons and essential repairs grants in May 2004. It subsequently sought an increase in the allocation of €116,000, which was allocated to it on 9 September, to bring its total allocation for 2004 to €1,050,000. No further requests for increased funding were received in 2004 from Kildare County Council.

A combined capital allocation of €70 million has been provided for the payment of disabled persons and essential repairs grants in 2005. Allocations, which will be notified to local authorities shortly, will be based on their requirements as notified to my Department.