



## DÁIL ÉIREANN

*Dé Céadaoin, 4 Deireadh Fómhair 2006.  
Wednesday, 4 October 2006.*

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

*Paidir.  
Prayer.*

### Leaders' Questions.

**Mr. Kenny:** First, we should congratulate the Leas-Cheann Comhairle, Deputy Pattison, who was elected to the House 45 years ago today. That is an outstanding record of public service.

**Deputies:** Hear, hear.

**Mr. Kenny:** The Taoiseach addressed the House for two hours yesterday, trying to explain his position. He failed in a number of fundamental areas to answer pertinent questions. He failed to explain how he amassed a sum of more than €60,000 without having a bank account. People find this incredible and he might take some time to explain that and, for example, whether his monthly salary cheque was cashed in the same place. How could that happen?

He also failed to address the contradiction between not accepting money in Dublin and accepting money in Manchester. He said that if he saw the collection going around the table, he would not have accepted it, yet he did so when he walked out the door and the person who handed it to him, God rest his soul, was not in a position to tell him whether it was a political donation or a personal donation.

The Taoiseach failed to respond comprehensively to a question as to whether he attended a function in any other jurisdiction and received personal moneys. There is an old saying down the country that a hen that lays out once will lay out again. He might like to address these questions.

**An Ceann Comhairle:** I thank the Deputy for staying within his two minutes.

**The Taoiseach:** I spent two hours 20 minutes answering questions here yesterday and I spent an hour last week. At every opportunity where members of the national media asked questions over the past two weeks, whether that was in Clare, Cavan or Dublin, I answered. I gave comprehensive answers yesterday so I will not go on each day rehashing the same questions.

The only question of substance the Deputy asked was whether I got a gift or donation in any other jurisdiction. If I did not answer it yesterday, my apologies. No, I did not.

**Mr. Stanton:** What?

**Mr. Durkan:** How does the Taoiseach know?

**Mr. O'Dowd:** Answer the questions.

**Mr. Kenny:** It is simply incredible that a Minister of Finance who did not have a bank account was still in a position to put together more than €60,000 in savings in the 1990s. Deputy Rabbitte queried where that might have been kept. This matter consumes the public.

**Mr. Martin:** It does not.

**Mr. Kelleher:** It consumes the Deputy.

**Mr. Bruton:** The public does not believe what Government Members are saying.

**Mr. Kenny:** None of the Government Members believe he did wrong anyway.

Will the Taoiseach clarify what is now the new standard accepted by the Progressive Democrats and Fianna Fáil, which means, as far as I can understand it, that any Minister can attend a function, switch off his or her public ministry, become a private citizen, feel that he or she is not under obligation to any organisation and accept €60,000 without it being morally, politically or ethically incorrect?

**An Ceann Comhairle:** The Deputy's time is concluded.

**Mr. Kenny:** What is the difference between that and what happened to the former Minister of State, Deputy Callely?

**An Ceann Comhairle:** I am sorry, but the Deputy cannot go on asking questions after his minute is concluded. The Taoiseach only has a minute to reply.

**Mr. Kenny:** If the Taoiseach finds that any of his Ministers is caught in that boat, will he be able to sack them?

**The Taoiseach:** The Government and the House have brought in a range of stringent legislation over the past decade which governs this House. This includes the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001. We all make our annual returns.

I appreciate Deputy Kenny's previous statements that he does not want to go in to my separation issues. I have explained that the accounts were in our joint names and when I was going through the separation agreement, I did not put

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the money into a joint account. That is all I did for the obvious reason that——

**Mr. Durkan:** Where did the Taoiseach put it?

**The Taoiseach:** ——if one is going through a separation, life is not particularly easy. That is all I did. I did no more than that.

**Mr. Connaughton:** Where did the Taoiseach put the money?

**Mr. Stanton:** Did he put it under the bed or something?

**Ms O. Mitchell:** What about the £50,000?

**The Taoiseach:** That is irrelevant.

**Mr. Durkan:** It is not irrelevant.

**Mr. F. McGrath:** What about the 34% increase in gas prices?

**Mr. Rabbitte:** Last week the Tánaiste and Minister for Justice, Equality and Law Reform during his brief flirtation imagining he was Desmond O'Malley said the one thing he wanted the Taoiseach to make clear was the identity of the donors at Manchester. However, the one thing the Taoiseach did not make clear yesterday was the identity of the donors at Manchester. Although at Ballyjamesduff the Taoiseach said he had been over there so many times that there was not a business organisation in Manchester that he had not spoken to and he knew these guys well, he seems to have resiled from that position. He named a person who is deceased and the gentleman who went on the television said it definitely was not a political donation. The Tánaiste stated in this morning's newspapers that the Taoiseach told him that he would reconstitute the list. Yesterday, the Taoiseach said more people from Manchester who think they were there contacted him than attended the original event. Is Deputy McDowell correct when he states that he expects the Taoiseach will reconstitute that list?

Second, the Minister seated beside the Taoiseach, Deputy Martin, who would defend anything, says there is no difficulty in this regard. He says anybody can go to Manchester, or to any function, and take any money for his or her personal benefit so long as he or she declares it.

**Mr. F. McGrath:** He said that on the airwaves.

**Mr. Rabbitte:** Is that the position? I understood the position was that if donations are made to Members of this House, we must put them into our political accounts——

**Mr. Martin:** I said that last week.

**Mr. F. McGrath:** The Minister did not say it.

**Mr. Rabbitte:** ——and we have to use them for political purposes.

**An Ceann Comhairle:** The Deputy's time is concluded.

**Mr. Rabbitte:** Is that the case or not?

The Taoiseach referred to the 1995 Act. I asked him yesterday whether those gentlemen from Manchester were doing business here, whether they had been awarded any contracts, whether they had been appointed to any position and so on. We certainly know in the case of Drumcondra 1 and Drumcondra 2 that many of those involved have been appointed on several occasions to State boards.

**An Ceann Comhairle:** The Deputy's time is concluded.

**Mr. Rabbitte:** Is the Taoiseach not required under the 1995 Act to declare whether he got any benefit from these people before they were appointed? Did he so declare?

**The Taoiseach:** We are all governed by the standards applying to political accounts and donations. The Minister, Deputy Martin, made that clear. I stated that I have attended many functions and social events in Manchester. To try to piece together a list of every person who attended each individual event from the time I first began going to Manchester as a councillor, a Deputy and a backbencher is impossible. I cannot do it and will not be able to do it. I have explained this to the House, to the public and everywhere else. I have no problem getting a list of people but I cannot reconstitute a list. That is the position.

The Deputy asked me whether any people from Manchester had been appointed to any boards. The answer is that they have not been.

**Mr. O'Dowd:** How does the Taoiseach know that?

**Mr. Durkan:** I thought he could not remember them.

**An Ceann Comhairle:** This is Deputy Rabbitte's question.

**The Taoiseach:** Deputy Rabbitte asked me whether I am beholden in any way to any of the others who gave me loans, which I paid back in full with interest. I am not.

**Mr. Rabbitte:** That is not what I asked the Taoiseach. I asked him to state whether he complied with section 14 of the Ethics in Public Office Act 1995, which required him to state whether he received any material interest or benefit from these people before he appointed them. I include the Drumcondra tranches in this. Did the Taoiseach declare this or not? Whatever the

Minister, Deputy McDowell, stated in the newspapers this morning with regard to his expectation that the Taoiseach will reconstitute the list, did the Taoiseach just now state it is not possible to reconstitute the list?

Who is Michael Collins? Deputy Shortall tells me the only Collins she knows from the pub referred to by the Taoiseach is Mr. Tim Collins. Is there any relationship between the two? Who is this guy?

**An Ceann Comhairle:** The Deputy's time is concluded.

**Mr. Rabbitte:** As in his television interview, the Taoiseach repeated yesterday that he paid gift tax. Why did he do so? Did he receive other gifts? He said yesterday he did not, so why did he pay gift tax?

**An Ceann Comhairle:** The Deputy's time is concluded.

**Mr. Rabbitte:** The Taoiseach stated on a number of occasions that he was advised he had no Revenue obligations. Did he clear with Revenue whether this is the case? Will he do so?

**The Taoiseach:** As I said, I will not go back over all of these questions. I have already answered in the public domain with regard to Michael Collins and I would only be answering the same questions. He is no relation of Tim Collins. What I said yesterday with regard to gift tax has nothing to do with these issues or any of the issues about which I was asked. On the Revenue question, I have been advised by two eminent people that I have dealt with these matters. With regard to Manchester, in as far as I can identify people at various functions, I will give that information to the tribunal, as I said yesterday. That is all I can do.

**Mr. J. O'Keefe:** What of section 14?

**Mr. Sargent:** The Taoiseach yesterday told us he will not resign and he will not call an early election. The third option I put to him was a reform of the way politics is funded. I suggest it is time we had a measuring of election spending from polling day to polling day, not just during the three weeks before the election. The Taoiseach will understand the reasons for this when he sees the billboards throughout this city and beyond. We should have a limit on the spending at all elections, not just national but local, and limits on postering. Moreover, we should end the culture of corporate donations that is in many ways responsible for the position in which the Taoiseach finds himself.

There should be no place for bank drafts drawn on a company account supporting the lifestyle of a Minister for Finance. Corporate funding has already ruined the careers and legacy of four former Ministers, Ray Burke, Pádraig Flynn,

Michael Lowry and the late Charles Haughey, as well as the late Liam Lawlor and others. As he admits, it has not helped the Taoiseach's career either, although he may have done the State some service by exposing the hypocrisy and the "power versus principle" issues that the PDs have had to face. Perhaps their political oblivion will be one of the Taoiseach's legacies.

The Taoiseach did not answer the question I put to him yesterday, having first asked it on 18 February 1999. I asked: "[H]as the Taoiseach been the beneficiary of a payment, contribution or gift from any source which, with the benefit of hindsight, he now considers to be unorthodox, unusual or irregular?"

**An Ceann Comhairle:** The Deputy's time is concluded.

**Mr. Sargent:** I conclude by asking the Taoiseach three questions. Was a gift of Stg£8,000, a huge sum of money at that time, not unorthodox? Was it not unusual? Was it not irregular? The Taoiseach told us the Stg£8,000 payment was the only such payment he received. Is it not the case that the Taoiseach clearly misled the Dáil by not answering that he received such a payment, and by suggesting that no gift he received was unorthodox, unusual or irregular?

**The Taoiseach:** The Deputy asked me that question yesterday.

**Mr. Boyle:** The Taoiseach did not answer.

**The Taoiseach:** He used exactly the same words. The answer today is the same as it was yesterday.

The Deputy asked about legislation. The Government has over the past seven or eight years put several pieces of legislation on the Statute Book. We established the Standards in Public Office Commission, which carries out its work in a rigorous fashion on all matters. I and all other Members comply with it and will continue to do so.

Changes in the law with regard to spending outside election periods are a matter for political parties to state their——

**Mr. Gogarty:** It is a matter for the Taoiseach.

**The Taoiseach:** We have already legislated.

**Mr. Sargent:** It is not enough.

**The Taoiseach:** We have legislated in a way that was acceptable——

**Mr. Gogarty:** We get the best politicians that money can buy in this House.

**An Ceann Comhairle:** It is Deputy Gogarty's leader's question. He is quite competent to deal

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with it himself. I ask Deputy Gogarty to desist from interrupting.

**Mr. S. Power:** He does not have the same assistance.

**Mr. Sargent:** I asked a straightforward question. I did not get an answer yesterday or today. Is the Taoiseach seriously asking us to believe that the Stg£8,000 sterling payment was not unorthodox? That suggests it was quite normal and not unusual. Is he suggesting there were other payments, if it was not unusual? Is he suggesting the Stg£8,000 payment was not irregular? The Taoiseach, in his own words, stated it was the only such payment. How does he square this with the non-answer he gave in 1999, essentially misleading the Dáil and giving the impression that he never received a payment that was unorthodox, unusual or irregular? That is clearly not the case. He lied. He misled the Dáil and I ask him to face up to that.

**An Ceann Comhairle:** The Deputy will withdraw the word “lie”.

**Mr. Gormley:** He misled the Dáil.

**Mr. Sargent:** I withdraw the word “lie” but the Taoiseach misled the Dáil. I ask him to face up to that, recognise the error of his ways and be honest.

**The Taoiseach:** I made a statement yesterday and I will repeat it. It stated:

I realise that my judgment in accepting help from good and loyal friends and the gift in Manchester, albeit in the context of personal and family circumstances, was an error. It was a misjudgment, although not in breach of any law.

I apologised for those matters and I think there is nothing more to answer.

**Mr. Sargent:** It was unorthodox, unusual and irregular.

## Ceisteanna — Questions.

### Departmental Agencies.

1. **Mr. Kenny** asked the Taoiseach the projected costs to date of the communications unit in his Department; and if he will make a statement on the matter. [28190/06]

2. **Mr. Sargent** asked the Taoiseach the functions and cost of the communications unit in his Department; and if he will make a statement on the matter. [30659/06]

3. **Mr. Rabbitte** asked the Taoiseach the costs incurred to date in 2006 by the communications unit in his Department; the projected costs to the end of 2006; and if he will make a statement on the matter. [30871/06]

**The Taoiseach:** I propose to take Questions Nos. 1 to 3, inclusive, together.

The total projected cost of the communications unit for 2006 is €352,626. Some €153,757 is a direct cost to my Department, with on average €39,774 being borne by the five other Departments which have staff seconded to the unit. The cost to date in 2006 is €264,470.

The unit provides a media information service to Ministers and their Departments. It furnishes news updates and transcripts that ensure Departments are kept informed of any relevant news developments in a fast and efficient manner. In this way, Departments are able to provide a better service to the public.

The communications unit works an 18-hour day based on a flexible rota of three working shifts. The unit is staffed by six established civil servants, five of whom are seconded from other Departments. The work of the unit means that Departments have greatly reduced their use of external companies, and it ensures that they no longer duplicate work such as transcripts and tapes. The communications unit is estimated to save Departments approximately €200,000 per annum.

**Mr. Sargent:** I wish to ask a question that has been asked before regarding the communications unit and I see no reason it should not be put again. The information gleaned at taxpayers' expense should be available to all political parties so that we can best inform ourselves and best ensure we are responding on matters of policy. It would also ensure we are as productive as possible. Why is the information not made available to all political parties?

Does the communications unit have a role in monitoring not just broadcast and print media, but media outlets such as Internet blogs? How has it changed to meet the development in communications? Has the communications unit been briefed on the possible implications of the Privacy Bill 2006, given that section 13 may involve it in securing secret hearings, if that Bill is to be implemented into legislation. Is the communications unit involved in drafting, or is it briefed on, that legislation?

**The Taoiseach:** The communications unit is scrupulously apolitical. It is a Civil Service unit which provides a service to Government in its extended departmental sense, that is, to Ministers, Ministers of State and a large range of officials across Departments. It has not moved into Internet monitoring or similar services. It focuses purely on the national media and one or two of the bigger local stations and is limited to

that. It has no role whatever in any of the policy areas, or in drafting or speeches.

**Mr. Sargent:** Other parties cannot use it.

**The Taoiseach:** No.

**Mr. Rabbitte:** I cannot think of anything to ask.

**Mr. Bruton:** Does the communications unit do any work that might be partisan in nature, such as monitoring the activity or statements of Opposition parties? Does it communicate with people within particular party organisations about what an appropriate response would be? Does it have any such partisan role?

I did not quite grasp the reason in the Taoiseach's reply why this valuable resource of information relevant to Departments would not be made available to the Houses of the Oireachtas. Did I miss a component of the sums in that it costs approximately €400,000 but saves approximately €200,000? Is the Taoiseach stating the cost would be €600,000 if this unit did not exist?

**The Taoiseach:** Previous to the unit's existence, outside companies were used for many years to provide tapes of programmes and related issues. That would cost approximately €200,000. The communications unit provides the service of recording news programmes etc. That is all it does. There is no political analysis or monitoring. It operates strictly under Civil Service codes.

The only reason it is not available to the Houses of the Oireachtas is that it is a service for Government, meaning the extended range of Civil Service across Departments. There are approximately 100 people—

**Mr. Bruton:** Would it not be useful to the Oireachtas? We would track these issues largely on a fairly amateur basis compared to this very sophisticated unit. It would certainly improve the quality of the work here if we could get that sort of reportage.

**The Taoiseach:** I would not say it is very sophisticated. It would probably not be nearly as good as political press offices, but the staff do their jobs as civil servants. If the Oireachtas Commission believes it would be useful, there are no great secrets in what is available. Perhaps it would save even more money.

#### Departmental Staff.

4. **Mr. Kenny** asked the Taoiseach the duties and responsibilities of the special political advisers appointed by him; and if he will make a statement on the matter. [28191/06]

5. **Caoimhghín Ó Caoláin** asked the Taoiseach the number and roles of political advisers in his

Department in 2002 and 2006; and if he will make a statement on the matter. [28317/06]

6. **Mr. Sargent** asked the Taoiseach the functions and cost of special political advisers appointed by him; and if he will make a statement on the matter. [30660/06]

7. **Mr. Rabbitte** asked the Taoiseach the political staff currently working in his Department; if it is intended to fill the position of special adviser (details supplied); and if he will make a statement on the matter. [30872/06]

**The Taoiseach:** I propose to take Questions Nos. 4 to 7, inclusive, together.

There are currently five special advisers appointed by me. The Deputies will be aware that one of my special advisers recently took up office with the Health Service Executive. No decision has yet been taken to replace this special adviser. There has been no increase in their number since I took office.

Under the direction of the programme manager, the primary function of the advisers is to monitor, facilitate and help secure the achievement of Government objectives and to ensure effective co-ordination in the implementation of the programme for Government. They are also tasked with giving me advice and keeping me informed on a wide range of issues, including business, financial, economic, political, administrative and media matters and performing such other functions as may be directed by me from time to time.

Each of the advisers liaises with a number of Departments and acts as a point of contact in my office for Ministers and their advisers. My advisers attend meetings of Cabinet committees and cross-departmental teams relevant to their responsibilities. They also liaise, on my behalf, with organisations and interest groups outside of Government.

In addition, a number of my advisers have specific responsibilities relating to speech drafting. My programme manager meets other ministerial advisers on a weekly basis. He monitors and reports to me on progress in implementing the programme for Government.

**Caoimhghín Ó Caoláin:** Given that we are now in the run-up to a general election, can the Taoiseach explain the position of the political advisers in his Department during an election campaign? Are the political advisers contracted to work to the end of the current Dáil, up to and including the general election or beyond that to the formation of a new Government? What is the position of political advisers in the period after a general election being called?

Does the Taoiseach avail of their services during the election campaign period? Do the advisers have a role and function in, for example, the preparation of public statements, policy posi-

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tions or whatever other role they may perform in the ordinary course of the Dáil in place?

If it is the case that they continue in the service of the Taoiseach once the Dáil is dissolved, is there an obligation on the Taoiseach, under the reportage to the Standards in Public Office Commission, to advise of the services of these paid officials post the dissolution? It is a very important point and one that requires clarity at this time, given that we are facing a general election.

**The Taoiseach:** The position on this has been clear for many years. The contracts for advisers always run to the formation of the next Government. They cease their duties on the night before a Government is appointed, if they are not reappointed, as happened in the last instance. If they involve themselves on a full-time basis in a campaign, they must take leave. They are not allowed to be working in the normal course of their jobs and be involved in other activities. They must use their own annual leave according to the guidelines that were set down even before the introduction of the Standards in Public Office Act.

**Mr. Sargent:** Tá ceist agam ar an Taoiseach. The Taoiseach says that the functions of political advisers are to achieve Government objectives. Aside from implementing the programme for Government, would one of those objectives be, for example, the retention of power? Can the Taoiseach give us any idea what other objectives might be involved? The Taoiseach also said that other functions may be assigned to political advisers as directed, from time to time, by him. I wonder if, in recent weeks for example, the Taoiseach was advised to say that the €50,000 loan was off the wall. Is that the kind of advice he received? Are the Taoiseach's political advisers covered by Towards 2016?

**The Taoiseach:** When I referred to specific departmental responsibilities I meant that each of them covers a number of Departments. One of them has responsibility for the Departments of Agriculture and Food, Finance, and Health and Children. They would liaise and keep in touch with the relevant issues. Another has responsibility for the Departments of the Environment, Heritage and Local Government, Transport, Social and Family Affairs, and Arts, Sport and Tourism. A third has responsibility for the Departments of Community, Rural and Gaeltacht Affairs, Education and Science, and Enterprise, Trade and Employment. Another has responsibility for the Departments of Justice, Equality and Law Reform, Communications, Marine and Natural Resources, and Foreign Affairs. The vast majority of their work is involved in engaging and liaising with Depart-

ments on Government policy issues relevant to the meetings of the Dáil; they engage with departmental staff and Cabinet sub-groups relevant to those Departments. Predominantly, that is their job.

I also said they were assigned other duties from time to time. Regularly enough they meet groups on my behalf that would be seeking meetings with me. As the Deputy will appreciate, it would be impossible for me to meet all the groups that seek such meetings but if they can meet an adviser they can at least put forward whatever issues they wish to pass on to the relevant Government section.

**Mr. Sargent:** What about crisis management or electoral strategy?

**The Taoiseach:** No. If they engage in that, it is done in their spare time.

**Mr. Sargent:** Of which they have plenty.

**Mr. Rabbitte:** The Taoiseach referred to the former special adviser who has now taken up a position with the HSE but no decision has been taken to replace him. Does the Taoiseach intend to replace him?

I read in the newspapers that the programme manager for the Tánaiste has departed. Will that position be filled? I am not sure why the Tánaiste would need a programme manager, as the Taoiseach has him where he wants him after yesterday. Will the post be filled anyway?

Is it true, as reported in one of the newspapers at the weekend, that another of the special advisers is taken up full-time in advising the Taoiseach and acting as a go-between with the various tribunals? On the face of it, that seems to be a fairly extraordinary mission. At the end of all of this, the man ought to be properly rewarded. I hope there is a bonus system in place.

**The Taoiseach:** Katherine Bulbulia, who was a special adviser to the former Tánaiste, left office on 13 September. She was programme manager to the then Tánaiste and was based in my Department. I assume she will be replaced.

My adviser has gone to the HSE. My thinking on that at this stage is that I will not replace that position but will reassign work within the Department. Some of the functions which we were undertaking will just revert to the Civil Service system.

**Mr. Rabbitte:** It is not true that the third person is involved full-time in advising the Taoiseach.

**The Taoiseach:** He would need to be a senior counsel.

**Caoimhghín Ó Caoláin:** Who determines the demarcation line between the role of political advisers after a general election is called and dur-

ing the course of same? Who determines the demarcation line between their traditional role while the Dáil is in session, and that concerning not only the Taoiseach's responsibilities for the duration of the campaign but also those of a contesting candidate in a general election? It would be easy to see the waters muddied in such a situation. Where political advisers have a role or function complementary to the electoral effort of the Taoiseach and his colleagues, he has indicated that to have any such participation they would be obliged to take annual leave. Is it the case that by taking annual leave they could then give their services? Is that strictly correct or appropriate?

**The Taoiseach:** It is.

**Caoimhghín Ó Caoláin:** Annual leave is part of the terms of anyone's employment but in those circumstances it seems to be stretching their functions and responsibilities somewhat that they would have an electoral role. In that situation they are more than political advisers. In the Taoiseach's view, would they not also be electoral aides?

**The Taoiseach:** If somebody is contracted to a job and takes annual leave, outside of that they are entitled to do what they will, once it is within the law. They have to take annual leave, however, and cannot be involved in their day-to-day advisers' work during an election campaign when they are working on a party political basis. That is the distinction, so if they are working on a party political campaign they take their holidays. During the last election some of my staff worked on in the Department while others took their annual leave. It is a clear procedure and has been there for a long time. It works well and I do not think there is any room for any abuse in that. If somebody takes their annual leave, what they do during that time is not a matter for any of us. They could be down saving the hay or canvassing. That is not a matter for us.

**Caoimhghín Ó Caoláin:** Saving the day?

**The Taoiseach:** Saving the hay.

**Mr. Martin:** Waiting for the hens to lay.

### Public Private Partnerships.

8. **Mr. Kenny** asked the Taoiseach when the cross-departmental team on infrastructure and public private partnership will next meet; the number of meetings of the team planned for the remainder of 2006; and if he will make a statement on the matter. [28193/06]

9. **Mr. Rabbitte** asked the Taoiseach if he will report on the work of the cross-departmental team on infrastructure and public private partnership; and if he will make a statement on the matter. [28245/06]

10. **Caoimhghín Ó Caoláin** asked the Taoiseach the number of meetings scheduled for the inter-departmental group on housing, infrastructure and public-private partnerships for the remainder of 2006; and if he will make a statement on the matter. [28318/06]

11. **Mr. J. Higgins** asked the Taoiseach the progress made by the cross-departmental team on infrastructure and public private partnerships; and if he will make a statement on the matter. [29218/06]

12. **Mr. Sargent** asked the Taoiseach when the cross-departmental team on infrastructure and public private partnerships last met; when its next meeting is scheduled; and if he will make a statement on the matter. [30661/06]

**The Taoiseach:** I propose to take Questions Nos. 8 to 12, inclusive, together.

The cross-departmental team on housing, infrastructure and PPPs last met yesterday. The items on the agenda were Transport 21, broadband and the new National Development Plan 2007-2013.

The team is scheduled to meet next on 8 November 2006. It has one further meeting planned for the remainder of this year.

The team's role is to assist in progressing and resolving issues related to infrastructure planning and delivery. The team plays a valuable role in identifying appropriate issues to be addressed and ensuring that they are adequately prepared for consideration by the Cabinet committee and, where necessary, by Government.

Such cross-departmental co-ordination has helped to improve significantly the capacity for the delivery of national infrastructure, especially in terms of time and cost.

Lead responsibility remains with the relevant Minister and Department in respect of each individual infrastructure project.

**Mr. Rabbitte:** The Taoiseach made a passing reference to the national development plan. How much of the focus of this committee is on getting projects moving that are chartered out at the moment? How much of it is in preparation for the new national development plan to 2013? Has the situation with regard to Cork Airport been clarified? As the Minister, Deputy Martin, knows, there is a major issue about the overhang debt at Cork Airport.

Can the Taoiseach tell us if Dublin Airport has been the subject of any recent meetings of the cross-departmental team? In regard to over-runs in public contracts and public contracts coming in late, to what extent, in his assessment at this stage, have we learned from the lessons of the past and to what extent is that phenomenon under control?

**The Taoiseach:** This particular team is not dealing with the Cork Airport issue but it is being



[The Taoiseach.]

dealt with elsewhere. That matter is close to being resolved. If not formally resolved, the parameters of a resolution have been worked out on the structures for the airport so the matter should soon be wrapped up by the various boards. The team worked very effectively during the last few years. Originally we did not have cross-departmental structures but because of the size and scale of the projects the team has worked well. Deputy Rabbitte is correct in saying that most of its work is in ensuring that ongoing capital projects are dealt with efficiently and move through the system. It has done a good job during the past five years. Much of the effort between the various organisations, the National Roads Authority, local authorities and various other bodies, is due to the work done by this group of civil servants across the Departments. Because of the significant changes in design and build, the cost estimation and the new procurement arrangements, most of the major contracts come in under time and under budget. Of the recent contracts, the Naas Road contract came in on budget, but nearly all the others came in under budget and under time, with a significant number of months being knocked off the contract time. There is always the danger that difficulties will arise in complex areas such as the Dublin Port tunnel. Given that we have never built a tunnel of that magnitude it has been necessary to carry out various checks and many additional safety issues have arisen. Almost all the other projects have got on top of their estimations, timescales and planning. This team began its work in 1999, and since the start of 2000, 63 major projects have been finished, 25 are under construction this year and a large number of contracts are at various stages of planning for the next decade. In fairness to this particular group, it has done a very good job on major infrastructural projects.

**Mr. Rabbitte:** On the Taoiseach's reference to the experience of Dublin Port tunnel, is it settled Government policy that the metro will go to the airport? Given the experience we have had with the tunnel and all the safety and other issues that have delayed it and everything that has surrounded it, is the Government settled in the conviction that a metro is the correct way to go as distinct from some form of surface connection to the airport?

**An Ceann Comhairle:** General questions are all right under these questions. This specific question should be directed to the Minister for Transport.

**The Taoiseach:** It is in Transport 21 so it is listed.

**Mr. Rabbitte:** So it is settled is the answer.

**Caoimhghín Ó Caoláin:** Will the inter-departmental group or cross-departmental team in its forthcoming meetings address the issue of the restoration of Part V of the Planning and Development Act 2000 as instituted in 2000 on the passage of that legislation given that housing is one of the key areas? I note with some concern that the questions posed invariably here do not reflect that housing is one of the three central pillars of responsibility of this interdepartmental group. I am anxious to establish if the Taoiseach envisages address of the restoration of Part V of that Act at future meetings of this team.

**An Ceann Comhairle:** That is a question for the Minister.

**Caoimhghín Ó Caoláin:** Does the team look at infrastructural development on an all island basis? Is its consideration confined only to developments within the State or is it taking the wider view and recognising the importance of cross-Border co-operation in infrastructural development particularly but not solely with the beneficial effect in relation to the Border counties? Will the Taoiseach indicate if that is something the team addresses and what progress, if any, he is aware of as a result of those deliberations? For instance, is there somebody within the team who has a specific remit to examine the role of the team in relation to its impact on all Ireland matters, not only infrastructural but under the other areas of responsibility? Can the Taoiseach advise whether telecommunications infrastructure comes under the remit of the team and what attention it has given to the importance of the roll out State-wide of broadband? Currently its absence in vast swathes of the 26 counties of our country is an impediment to real progress on those areas reaching their natural potential.

**The Taoiseach:** On the North-South issues, a sub-group of the cross-departmental team has been examining existing and potential areas of co-operation. Until now it has been mainly on roads, road development and road infrastructure. As the Deputy is aware it has done quite a good job on the Dublin-Belfast Road and the Ballymascanlon-Newry project is well under way. There is also a high level of North-South co-operation on infrastructural initiatives. In the energy area, the energy regulators, North and South, are working together on the creation of an all island energy market which is a big and significant project. On the roads, as I have mentioned, there is the Newry-Dundalk link but improvements are under way and are well advanced in planning on the N2 and N3 which have a cross-Border dimension. On waste, there are 32 local authorities in the South and 26 district councils in the North participating in an all island recycling scheme which was declared the winner of the UK national recycling awards in its category. There

has also been an all island approach to a successful project for the disposal of waste fridges and freezers. These are examples of where there is much co-operation. There are many other issues on which there is co-operation in various Departments but I would not be aware of them all.

On the issue of broadband, we came from a slow start as there were difficulties after the Eircom issues but substantial progress is being made. The provision of telecommunications services, including broadband, is a major issue for the private sector companies operating in a fully liberalised market, regulated by ComReg, the independent regulator. It was clear for some time that the private sector had failed to invest at the level necessary to keep pace with the demand for broadband. The recent broadband programme addressed that issue. There are 120 towns and cities nationwide in the metropolitan areas network. Phase 1 of that programme, into which we have invested more than €80 million, has delivered fibre optic networks to 27 towns. The second stage of that MANs programme is well under way. The Department of Communications, Marine and Natural Resources has also given assistance to group and community broadband schemes and the projects cover approximately 575 communities with a combined population of 400,000. By next year broadband penetration throughout the country will be in excess of 90%. I admit we started slowly, but we are growing faster than anywhere else and the figures for last year and this year are impressive. There will obviously be small areas left that must be dealt with and the Minister is concentrating on these. Penetration is successful and broadband take-up is very good.

**Caoimhghín Ó Caoláin:** Everything is all right. That is always the Taoiseach's answer.

**Mr. Sargent:** I have three questions and will try not to repeat those asked by others. Has the group had climate change on its agenda? One third of the built environment, including houses, hospitals and schools, areas that would be on the agenda, contributes to greenhouse gases which are an issue that must be tackled. Given the critical importance in getting it right when it comes to facing up to that challenge, has the group had any input into the climate change review? I do not know whether the Taoiseach has had the chance to see the film "An Inconvenient Truth", but perhaps he should bring the group to see it.

**An Ceann Comhairle:** The Deputy is going outside the scope of these questions and should address his questions to the line Minister.

**Mr. Sargent:** I appreciate that and will stay on the point, but what I have said is still relevant. A meeting was held in May to discuss airports. Have cost-benefit analyses been carried out or will they be a requirement for projects being carried out at

airports or for any work contemplated? There is no cost-benefit analysis on the runway plan at Dublin Airport. Is that in line with Government policy?

On the issue of broadband, we are currently 14th out of the EU 15 with regard to provision. The Taoiseach mentioned in his reply that we live with a liberalised market. Does he believe that as Eircom owns the golden mile, the monopoly—

**An Ceann Comhairle:** That is a question for the Minister for Communications, Marine and Natural Resources.

**Mr. Sargent:** I want to ask the Taoiseach if he means what he says—

**An Ceann Comhairle:** We cannot go all over the place on these questions. They are specific.

**Mr. Sargent:** —because I do not believe it is a liberalised market. Eircom has a monopoly in that regard.

**The Taoiseach:** I will not go into the general issues. The new owners of Eircom are anxious and determined to deal with and get on top of the broadband and other issues. I wish them well on that.

On energy policy issues, in recent months the team has considered these and wider energy issues. Its discussions focused mainly on the issues of climate change, energy issues, particularly the overall policy direction to be given to the Environmental Protection Agency, and on preparing a second national allocation plan for the emission trading system. The team spent some time on this and its deliberations have helped to prepare the way for careful consideration for the necessary balance between environmental protection and the protection of overall competitiveness. They also helped inform Government on overall policy of the EPA and covered the features that should be included in it. The team has, therefore, played a major part. The Green Paper on Energy, which we presented last week, brings these issues together in a single document for the first time in 20 years.

**Mr. Bruton:** What targets does the Taoiseach set for this team? Each year the Minister for Finance produces the public-private partnership target and announces how much money will be spent and at the end of the year we see how much has actually been spent. From memory, I would say the Government achieves approximately 20% of its target each year and therefore fails to the extent of 80%. How does the team explain away this consistent failure to achieve its central reason for its existence, namely, to co-ordinate work to deliver these targets?

Each year when we read the National Competitiveness Council's annual report, we see we are bottom of the league on port infrastructure,

[Mr. Bruton.]

broadband infrastructure and in a host of other key infrastructural areas. What sort of score sheet does this team from the Taoiseach's Department keep to inform him as to how we rate compared to our competitors in these areas? If this sort of team is to have any sense, it must take a broad view and give the Taoiseach a picture of where we stand. Does it work to a score sheet or to a performance in terms of PPP delivery or does it simply just get on with the usual drudgery of its work and never report on these sorts of high level achievements?

**The Taoiseach:** A cross-departmental team of all key Departments, not just a group in my Department, looks at the competitiveness report. It takes the report into account and probably feels satisfied when it sees all the areas in which we are top or in the first three or four. There are some areas, and I have mentioned —

**Mr. Bruton:** Infrastructural areas would be number one.

**The Taoiseach:** The reason we are not high in some infrastructural areas is that until approximately a decade ago what we spent in this country on infrastructure was pathetically low. We did not have the money because we were spending our money on the national debt.

**Mr. Bruton:** Therefore, the team's pride has nothing to do with delivering infrastructure, but with a broader national pride.

**The Taoiseach:** I would not like to think that people across Departments, who are trying to see road, waste and other infrastructural projects go through, would spend their time either looking at EU reports or statistical analyses of an academic exercise that is useless to the people. What they are trying to do is to ensure the removal of any administrative, structural or other blocks in the system in order to allow us spend the money now available to have better procurement and cost systems. They are succeeding in doing that and that is the reason this country now has a capital programme that is higher *pro rata* than anywhere else in Europe. It is delivering on that programme. Despite all the difficulties and problems of planning and other issues, the group does a good job. It has brought together the roads investment programme which has completed 65 projects, has 25 under way and from 40 to 50 coming through. The group has worked across the agencies to do this and has done the same in areas such as energy, broadband, regional airports and housing programmes.

The team would be conscious of shortfalls and of where we are not achieving targets. It spent some time this year on the third level education sector trying to get co-ordination and co-operation in the sector to obtain better use of the

research and development budget. Where it sees deficiencies, it works with the stakeholders to try to achieve better delivery. In fairness, the team has made a significant difference compared to the old way a Department tended to go ahead with a project without any connectivity.

I remember being at a meeting on transport some years ago in which senior people from the NRA, the RPA, CIE and other groups were involved. It was clear that even though they were all involved in transport, they had never met, did not know each other and had never sat down together to have a meeting on integrated transport. We have moved a long way from that. On whether the situation is ideal, nothing is ever perfect, but significant improvements have been made. The reason things did not work so well in the past is because there was no connectivity between the various bodies. In recent years the system is working well across Departments. There is always room for improvement, but cost estimation, planning and structures within Departments are far better than ever.

**Mr. Bruton:** Does the Taoiseach agree that dismissing as idle statistical exercises analyses of why our roads or housing programmes have not met our targets —

**An Ceann Comhairle:** That is an area for the line Minister and not really a question for the Taoiseach.

**Mr. Bruton:** It is relevant.

**An Ceann Comhairle:** This may be relevant, Deputy, but it is not a question.

**Mr. Bruton:** It is a question. This cross-departmental committee deals with infrastructure. We are entitled to ask why there is failure in every one of these areas.

**An Ceann Comhairle:** The Chair has ruled on many occasions. The Deputy is not entitled to ask that as it does not arise out of these questions.

**Mr. Bruton:** It arises directly.

**An Ceann Comhairle:** The Chair has ruled on many occasions, as have my predecessors, that questions to line Ministers should be directed to line Ministers and not to the Taoiseach.

**Mr. Bruton:** Arising directly out of the Taoiseach's reply, he says there is now greater co-ordination within the transport companies. Did he read the Comptroller and Auditor General's report on integrated ticketing where it is precisely the failure and obstruction by companies—

**An Ceann Comhairle:** Again, Deputy—

**Mr. Bruton:** It was the Taoiseach who raised this matter. If the Taoiseach is in order to set this

out, we are surely entitled to ask about the reply he has given.

This is a most bizarre ruling from the Chair if the Taoiseach is allowed say things and we cannot question him about them.

**An Ceann Comhairle:** The Deputy is entitled to his opinion but the ruling is in line with all my predecessors.

**Mr. Bruton:** The Chair should be consistent.

**The Taoiseach:** I do not agree with the Deputy's analysis. However I am not allowed discuss it. The Deputy has argued that these projects are not moving well——

**Mr. Bruton:** I said they are not achieving their targets.

**An Ceann Comhairle:** Please allow the Taoiseach as the time is almost concluded.

**The Taoiseach:** I refer the Deputy to the Fermoy bypass which was opened the other day and is only one of approximately 20 this year. It was completed seven months ahead of schedule and is under budget.

**Mr. Martin:** It is an outstanding project.

**The Taoiseach:** I accept there were difficulties in the past.

**Mr. Bruton:** The Taoiseach is deliberately misinterpreting the question I asked.

**An Ceann Comhairle:** It might well be better if the Deputy directed his questions to the line Minister.

**Mr. Bruton:** The question I asked is with regard to our roads programme. By the end of the period of the roads programme, scarcely two thirds of the roads will have been built.

**An Ceann Comhairle:** It would be better if the Deputy directed his question to the line Minister.

**The Taoiseach:** By the end of this decade, the targets will be achieved for the Cork, Limerick and Galway roads. I acknowledge the Waterford road may be behind. The bus capacity and the rail targets are way ahead. They are not way behind. It shows a negative attitude to concentrate on one among many projects. Huge progress is being made in this area. I acknowledge that difficulties exist in some areas, such as in the area of broadband. However, they are catching up and should be encouraged.

We should aim to motivate the entire system instead of trying to find another report to show we are lower down in the list. This is a very negative attitude which kept us where we were since the 1920s. Our attitude was that this country

could never do things. If one has that negative attitude to life, one will always believe everything is a failure.

**Mr. Bruton:** I would respond but my question would be ruled out of order.

**Ms O. Mitchell:** The answers are not in order anyway.

**An Ceann Comhairle:** I ask Deputy Rabbitte to be brief as we are running out of time.

**Mr. Rabbitte:** Nobody would ever accuse the Taoiseach of not having a positive approach to life.

**The Taoiseach:** I thank the Deputy.

**Mr. Rabbitte:** Is this cross-departmental team strictly a co-ordinating team or has it any interaction with outside relevant bodies, even public sector organisations? Is there any structured role or involvement of the National Development Finance Agency and how does this knit into the work of this committee?

I refer to the Taoiseach's reply to the same question on 27 June 2006. A large part of his response was taken up with the refurbishment of the M50 which he stated will take between three and four years. Will the Taoiseach give any indication in respect of the particular matter where he says, almost unbelievably for the lay person, that it will take between three and four years to put in barrier-free tolling of the kind that one sees elsewhere in member states of the Union?

**An Ceann Comhairle:** That question is for a line Minister.

**Mr. Rabbitte:** I am not going down that road, Ceann Comhairle.

Will the Taoiseach say if this is the case? It beggars belief as to the reason it should be the case because there is no constraint on the availability of this technology, as I understand it. If that is the case and if we are going to have to put up with between three and four years of torture while motorists are log jammed on the M50 during the period of refurbishment——

**An Ceann Comhairle:** The Deputy has made his point. We are out of time.

**Mr. Rabbitte:** I am not making a point. I am trying to ask a question. The Ceann Comhairle is intervening all day to reduce question time. I was just about to finish my question.

**An Ceann Comhairle:** I want to allow Deputy Durkan to ask a question.

**Mr. Rabbitte:** I do not care who the Ceann Comhairle wants to bring in. I want to ask my question.

[Mr. Rabbitte.]

I ask the Taoiseach if that is the situation is there any reason the State cannot throw open the toll bridge for the period of the refurbishment—

**An Ceann Comhairle:** That does not arise on these questions. It is a matter for the line Minister.

**Mr. Rabbitte:** —in a negotiated arrangement with the toll operators? Why can we not do that much?

**An Ceann Comhairle:** Before the Taoiseach answers the question, I will take a brief question from Deputy Durkan who has been waiting patiently.

**Mr. Durkan:** It is not a related matter but the Taoiseach may be able to inform the House whether this interdepartmental group discussed the cessation of the beet growing industry and its possible replacement by an indigenous alternative fuel industry and if it did—

**An Ceann Comhairle:** It is not a brief question. I call the Taoiseach for a final reply.

**Mr. Durkan:** If this cross-departmental group were meeting and talking together and co-ordinating their efforts, what was its recommendation in the aftermath of the cessation of the beet growing industry?

**An Ceann Comhairle:** The Deputy has made his point. I call the Taoiseach for a final reply.

**The Taoiseach:** To be helpful to Deputy Durkan, this group is not dealing with this matter. However, a ministerial group dealing with energy is working on the biofuel, biomass and bioenergy issues.

In answer to Deputy Rabbitte's question on the M50, there will be three or four phases. I have attended meetings on this issue. Work has commenced on phase one. Phase two is to be a public private partnership project and will start at Easter time, I believe. Phase three consists of a short link of 3.2 km on the plaza end of the West Link. It is estimated this work will take about two years and should be finished in 2008. I understand there are five or six global companies who can undertake the barrier-free tolling initiative and discussions have commenced with these companies. It is the view that all the projects must be undertaken together. More chaos will be created if the barrier is removed in isolation. The N3, N4 and N7 routes will need to be done at the same time. It is projected there will be barrier-free tolling in two years' time, in the third quarter of 2008. It is based on all the work on the M50 being completed within a four year period which is 2010. The barrier-free element of the project will be introduced in 2008. Any opening in the interven-

ing time, considering the ongoing road works, would only create more difficulties. It might seem the easy solution, but it is not so. There should be a significant improvement in the two-year period but it is a four-year contract for the whole project consisting of four phases.

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

**An Ceann Comhairle:** Before coming to the Order of Business, I propose to deal with a number of notices under Standing Order 31.

**Mr. Sargent:** I move that the Dáil be adjourned under Standing Order 31 to discuss an urgent matter of public importance, namely, that Dáil Éireann be adjourned to put in place a serious action plan to ensure Garda provision keeps pace with population increase in towns depending on Garda stations in Balbriggan, Swords and Malahide, in light of the disproportionately large Garda presence at Ballinaboy in recent days, where the Shell company has still not announced its alternative pipeline route.

**Mr. Durkan:** I seek the adjournment of the Dáil under Standing Order 31 to discuss a matter of vital national interest, namely, the large scale disconnection of telephone and broadband services throughout the country with a consequent negative economic impact, damage to consumer confidence and the concept of deregulation and the urgent need for the Minister for Communications, Marine and Natural Resources and the regulator to draw up plans, issue guidelines and directions to prevent any such recurrence, in the national interest.

**Mr. Healy:** I wish to seek the adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely, the need for the Minister for Education and Science to immediately approve a site for and the building of a new school for Gaelscoil Cluain Meala — the school is currently located in a substandard overcrowded building and has been waiting for approval for a new school for more than 12 years; and to ask the Minister to make a statement on the matter.

**Dr. Cowley:** I wish to seek the adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely, why hundreds of gardaí are still deployed in Rosspoint, County Mayo, to quash a peaceful protest while drug barons run free in Dublin, Limerick and elsewhere, drugs pour into our airports due to a lack of gardaí and this country and County Mayo are getting little or nothing from the Corrib gas; and whether it is acceptable to adopt the heavy-handed and oppressive Garda approach against local people in Mayo.

**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. *a1*, Road Traffic and Transport Bill 2006 [*Seanad*] — Second and Remaining Stages; No. 17, Patents (Amendment) Bill 1999 — Order for Report, Report and Final Stages; No. 2, Civil Law (Miscellaneous Provisions) Bill 2006 — Second Stage, resumed; and No. 3, Electoral (Amendment) Bill 2006 — Order for Second Stage and Second Stage. It is proposed, notwithstanding anything in Standing Orders, that the Second and Remaining Stages of No. *a1* shall be taken today and the following arrangements shall apply: the proceedings on the Second Stage shall, if not previously concluded, be brought to a conclusion after 65 minutes; the speeches shall be confined to a Minister or Minister of State and to the main spokespersons for the Fine Gael Party, the Labour Party and the Technical Group, who shall be called upon in that order and who may share their time, which shall not exceed 15 minutes in each case; a Minister or Minister of State shall be called upon to make a speech in reply which shall not exceed 5 minutes; and the proceedings on the Committee and Remaining Stages shall, if not previously concluded, be brought to a conclusion after 30 minutes by one question which shall be put from the Chair and which shall, in relation to amendments, include only those set down or accepted by the Minister for Transport. Private Members' Business shall be No. 52, motion re: report of the Comptroller and Auditor General for 2005, resumed, to conclude at 8.30 p.m.

**An Ceann Comhairle:** There is one proposal to put to the House. Is the proposal for dealing with No. *a1*, conclusion of Second and Remaining Stages of the Road Traffic and Transport Bill 2006 [*Seanad*], agreed? Agreed.

**Mr. Bruton:** In 2002, the programme for government outlined the seven Bills to be implemented in the area of justice legislation reform, of which six have not been implemented. These include matters like the proceeds of corruption Bill, extending the powers of the DPP to permit appealing lenient sentences handed down by the District Court, the single crimes Bill and dealing with fines. In the case of many Bills, the Tánaiste and Minister for Justice, Equality and Law Reform cannot even indicate a possible date of publication. What has happened to the priority set out in the programme for government in 2002 that such matters have not even bestirred themselves as we approach the end of this Dáil?

**The Taoiseach:** I normally answer questions on the Order of Business on the area of justice, as we are trying to complete Bills. We have intro-

duced an enormous amount of legislation. The legal costs Bill and the property services regulatory authority Bill are due. There are the immigration and residence Bill and the judicial council Bill. In this session, we will have the enforcement of fines Bill. There is an enormous amount of justice legislation before the House.

There is also a huge list of legislation in the justice area in various stages of preparation, which needs to take its course. The criminal justice (confiscation orders) Bill, criminal justice (DNA database) Bill and the criminal justice (provisions) Bill are all coming—

**Mr. Bruton:** It brings into question the programme for government if it is a programme for five years and none of these matters is completed.

**The Taoiseach:** In every session we passed many Bills in the justice area. All the Bills I mentioned are coming through the system in the coming months.

**Mr. Rabbitte:** Where stands the Privacy Bill now? I recently read that the matter had been postponed until 2007. Is this true and, if so, will the Government proceed to introduce and enact the Defamation Bill in any case?

**The Taoiseach:** The Bill is ordered for Second Stage in the Seanad.

**Mr. Rabbitte:** What Bill is in the Seanad?

**The Taoiseach:** The Privacy Bill.

**Mr. Rabbitte:** Will it come to this House?

**The Taoiseach:** It must go through the Seanad first.

**Mr. Rabbitte:** I understand that. The Tánaiste is quoted in one of the newspapers as saying that he did not think it was possible to enact that Bill until 2007. Is that purely a question of parliamentary timetabling here or are there issues given rise to by recent events relating to the Privacy Bill and the wisdom of proceeding with the one in the Seanad?

**The Taoiseach:** Both the Defamation Bill and the Privacy Bill are ordered for discussion in the Seanad. They are unlikely to reach this House before Christmas. However, both Bills are before the Seanad now.

**Mr. Sargent:** There have been numerous false starts and announcements about the citizens information Bill. My latest information was that it would be published this Friday, 6 October. Can the Taoiseach confirm this and is there any significance that it ties in with Ivy Day? While I know it is due this session, I wonder if we can expect publication on 6 October.

**The Taoiseach:** The purpose of the Bill is to change the name of the statutory body from Comhairle to the citizens information board. I understand the legislation is almost ready and is due in the House this session.

**Mr. Durkan:** What is the position regarding the minerals development Bill, which was to keep legislation in line with the proposal of delivering better government? Yesterday, Deputy Stagg asked about the broadcasting Bill, the heads of which have been approved and a discussion document has been published. Is the deadline for submissions now extended beyond the projected deadline on the document itself, which was 4 October? From what I heard yesterday, it seems to have been extended to Christmas. If so, what was the reason for extending the deadline for submissions?

**The Taoiseach:** The Government approved the heads of the minerals development Bill at the end of June. The legislation has now gone for formal drafting and the Bill is due next year. Regarding the broadcasting Bill, from what the Minister told me yesterday when Deputy Stagg raised the issue, I understand it has gone for e-consultation. He said the closing date was the beginning of December.

**Ms McManus:** In 2003, we passed the Public Health (Tobacco) Act. The provision regarding the sale of cigarettes in packs of ten was not implemented on Monday. Surely the Taoiseach will accept it is inexcusable to have legislation passed by the House and secondary legislation compiled, but when it comes to the very simple measures to protect public health, they simply do not happen because of pressure from tobacco companies. Who is in charge?

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

**Ms McManus:** Is public policy determined by the Government or by cigarette companies that want to make profits?

**The Taoiseach:** The Public Health (Tobacco) Act was enacted some time ago. There is no other legislation.

**Ms McManus:** That is exactly my point. The Act included a measure to prevent the sale of cigarettes in packs of ten. That provision was due to come into force on Monday. It is to protect young people. However, the Government has not done it and has buckled to the power of cigarette companies——

**An Ceann Comhairle:** Secondary legislation——

**Ms McManus:** ——to determine Government policy on public health.

**The Taoiseach:** The Deputy will need to table a question to the Minister. The legislation is passed.

**Ms McManus:** But it is not working.

**An Ceann Comhairle:** Secondary legislation may be deferred to another day.

**The Taoiseach:** I assure the Deputy the Government is not buckling to the cigarette industry.

**Ms McManus:** That is exactly what happened.

**An Ceann Comhairle:** The Deputy should put the question directly to the Minister.

**Ms McManus:** The date was set to introduce a measure that we agreed in the House and the Government backed down.

**The Taoiseach:** If a question is put to the Minister, the Minister will answer.

**Mr. Cullen:** Out in the rain with an umbrella.

**Caoimhghín Ó Caoláin:** With regard to promised legislation from the Department of Health and Children, two Bills have been on the legislative programme for some time. The adoption — Hague Convention, Adoption Authority — Bill was repeatedly promised over a series of legislative programmes. In the summer programme, it was expected in late 2006 but now it is due in early 2007. The same applies to the Voluntary Health Insurance Board corporate status Bill, which was expected in late 2006 but is now signalled for early 2007. A pattern arises in respect of both Bills and my question, apart from verifying the Taoiseach's opinion on the current status of their publication date, is whether either Bill will be presented before the general election?

**The Taoiseach:** The heads of the Voluntary Health Insurance Board corporate status Bill have been approved for a considerable period of time. The Bill went for drafting and it is due in the spring session.

**Caoimhghín Ó Caoláin:** That is not what it says. The Taoiseach says——

**An Ceann Comhairle:** Allow the Taoiseach to answer.

**The Taoiseach:** It is due in early 2007. The heads of the Adoption — Hague Convention — Bill have also been approved for a considerable period and it is hoped that Bill will be before the House early next year.

**Mr. Stanton:** With regard to yesterday's decision in the European Court of Justice on the Bernadette Cadman case concerning equal pay for women and length of service, I understand the

Government has requested that, in the event of the court ruling in favour of Ms Cadman, the legal impact of the judgment should be delayed until a specified date in the future to prevent a flood of claims. I also understand it is now part of Irish law. What is the possible impact of this judgment on the legislative programme? Will it have an impact on legislation that is in the pipeline and is it now the law of the land?

**The Taoiseach:** The decision was made only yesterday on the case of Ms Cadman versus the UK Health and Safety Executive. The ruling will, of course, be examined in detail by the Department of Justice, Equality and Law Reform. The initial information available to me is that the judgment clarifies but does not change the law as it has been understood to date. We have to examine it very carefully because equality legislation is an important issue.

**Mr. Gilmore:** The preliminary census figures, which were published during the summer, indicate that the ratio of population to Dáil constituencies is out of line with the limits set down in the Constitution and, therefore, the present constituency arrangements are vulnerable to legal challenge. Two weeks ago, the Minister for the Environment, Heritage and Local Government stated publicly that the Government had decided against introducing legislation to revise the constituencies on the basis of advice received by the Minister from the Attorney General. I had intended to ask the Minister if he would publish the advice he received but the Ceann Comhairle has ruled my question out of order on the grounds that the Minister has no official responsibility to Dáil Éireann for advice which is sought or received from the Attorney General. I ask the Taoiseach whether the Government will publish the advice.

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

**Mr. Gilmore:** The Ceann Comhairle has ruled out of order a parliamentary question on the matter so this is the only opportunity—

**An Ceann Comhairle:** It would be wrong of the Ceann Comhairle to rule a parliamentary question out of order and then allow a question on the floor of the House.

**Mr. Gilmore:** This is a serious matter.

**An Ceann Comhairle:** Deputy Bruton says the Chair must be consistent.

**Mr. Bruton:** That would be a big step forward.

**Mr. Gilmore:** Indeed, but the Chair must also protect the rights of Members.

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

**Mr. Gilmore:** If my question is ruled out of order, the Ceann Comhairle will have to allow me to put it to the Taoiseach on the Order of Business.

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

**Mr. Gilmore:** What is the answer?

**The Taoiseach:** The answer is that no legislation is promised and the Minister has given the Government's view on it.

**Mr. Gilmore:** Why will the Government not publish the advice of the Attorney General?

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

**Mr. Healy:** In view of the fact that instructions from the Minister for the Environment, Heritage and Local Government will wrongly delete thousands of voters from the register of electors, will the Taoiseach ensure the matter is addressed in the Electoral (Amendment) Bill 2006?

**An Ceann Comhairle:** We cannot discuss on the Order of Business legislation that is before the House.

**Mr. Healy:** The Taoiseach might like to answer the question.

**An Ceann Comhairle:** Even if the Taoiseach would like to answer the question, he would be out of order to do so.

**Ms O. Mitchell:** The Public Transport Regulation Bill has been on the legislative programme under one guise or other for the past seven or eight years. Will it ever be brought before the House?

**The Taoiseach:** It is listed for next year.

**Ms O. Mitchell:** In that case, never.

**Mr. Durkan:** It will never happen.

**Mr. Stagg:** On a number of previous occasions, I raised the matter of providing RTE television signals to the Irish in Britain. The Government agreed to do that but when it examined the matter, it discovered that the legislation establishing RTE was inadequate in respect of ordering RTE to provide the service. RTE could offer a service if it had the will but was not obliged to do so by legislation. I asked that a short Bill be introduced to change the legislation and my request was facilitated through a section which was added to the Broadcasting Bill. On several occasions over the past year, I asked when that Bill would be taken and was advised that it would be published this year. However, I note it is not possible to indicate at this stage when the



[Mr. Stagg.]

legislation might be published. I am aware of the problems encountered by the Chief Whip with regard to Ministers seeking time for legislation but that means the Bill does not have a snowball's chance in hell of coming before the Dáil in advance of the next general election. I ask the Taoiseach to consider the matter with a view to determining whether a short Bill could address it.

**The Taoiseach:** I will raise the matter with the Minister for Communications, Marine and Natural Resources because the e-consultation process has commenced in respect of the entire Broadcasting Bill and that process appears to have been extended.

**Mr. Stagg:** I thank the Taoiseach.

**Mr. Gormley:** The Taoiseach told us this morning that the Government had not buckled in the face of pressure from the tobacco industry. However, is it not fair to say that it has kowtowed to the alcohol industry by removing the alcohol products Bill from the legislative programme?

**An Ceann Comhairle:** The Taoiseach on the alcohol products Bill.

**Mr. Gormley:** Will the Taoiseach tell the House when the trial period will end for the co-operative deal made with the alcohol industry and when the legislation will be introduced?

**The Taoiseach:** Voluntary agreements have been reached with the alcohol and advertising industries and, therefore, the Department of Health and Children wishes to postpone the introduction of the legislation pending the outcome of these agreements.

**Mr. Gormley:** For how long?

**The Taoiseach:** I am not sure how long.

**Ms O'Sullivan:** The Student Support Bill, which is listed for this session, appears to have been watered down from its original intention to address the unfairness of the assessment system for PAYE families. Will no provision be now made in that respect and will the Bill therefore solely pertain to allowing VECs to become awarding bodies? Will the Bill address the issue of fairness of assessment for PAYE families?

**The Taoiseach:** The legislation will be taken this session and the matter can be debated at that stage.

**Mr. Kehoe:** I seek direction from the Ceann Comhairle. On 16 July, I put down a question to the Minister for Finance with regard to property owned by the OPW. To date, I have not received

a reply, although I have been in ongoing contact with the Department on the matter.

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

**Mr. Kehoe:** What options are available to me?

**An Ceann Comhairle:** The Deputy has many ways of raising issues in the House, such as through parliamentary questions to the Minister and on the adjournment.

**Mr. Kehoe:** I am merely seeking direction.

**An Ceann Comhairle:** The Chair does not give direction on the floor of the House on such matters.

**Mr. Broughan:** With regard to the Energy (Miscellaneous Provisions) Bill 2006, which is on Report Stage, a tranche of amendments, practically amounting to a new section, was brought forward yesterday and many more are promised. In view of the current energy situation, will the Minister consider introducing a comprehensive new Bill?

With regard to the mayhem that took place in various parts of the country over the summer, for which the Minister for Justice, Equality and Law Reform is 100% responsible—

**An Ceann Comhairle:** Does the Deputy have a question on legislation?

**Mr. Broughan:** —will the Taoiseach provide some time in this session—

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

**Mr. Broughan:** I did not ask my question.

**An Ceann Comhairle:** The Deputy can only ask a question on the Order of Business.

**Mr. Broughan:** I want to ask about the RAPID programme. In my constituency, which the Taoiseach knows well—

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

**Mr. Broughan:** There are 27 objectives but we are only working on five and the Government has nearly finished its term.

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

**Dr. Cowley:** The Taoiseach spoke earlier about justice legislation. It troubles me that while hundreds of gardaí are deemed necessary to suppress the peaceful protest in north Mayo—

**An Ceann Comhairle:** We will move to the next business, the Road Traffic and Transport Bill.

**Dr. Cowley:** —only five extra gardaí have been deployed to Moyross after the tragic events there.

**Road Traffic and Transport Bill 2006 [Seanad]:  
Second Stage.**

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

I thank the Members present for their interest in this Bill and for agreeing to deal with this matter at such short notice. I particularly thank the spokespersons for each party for facilitating this debate and the speedy passage of the legislation. The Bill is short, as it comprises only two sections, the first relating to road traffic law which underpins and promotes road safety in the area of drink-driving and the second relating to road transport matters. The Bill is mostly a technical one, although it proposes two important policy initiatives which improve and strengthen provisions relating to drink-driving. I shall address the road safety provisions in the first instance.

Deputies have shown a particular interest in road safety issues generally, expressing particular concern about the high level of deaths and injuries on our roads — a concern that I equally share. Indeed, many of the issues raised by Deputies during debates and discussions are now reflected in legislation enacted by the House. The key determinant of road safety performance is the behaviour of road users. Positively influencing behaviour forms the primary focus of our road safety strategies.

Behaviour is influenced by initiatives across a number of areas, including the promulgation and enforcement of laws that promote road user behaviour. Such laws must also be underpinned and supported by the application of fines, prison sentences and driving disqualifications that collectively create an appropriate deterrent to those who endanger the lives of others by their failure to acknowledge and comply with the appropriate behavioural norms. The Road Traffic Act 2006 considerably strengthened the law in these areas.

The number of people being killed and injured on our roads is still unacceptably high. I do not hide my personal concern about the trends in road deaths established over the past two years. A total of 396 people lost their lives in 2005 and 279 people died up to the end of September 2006. However, there is a glimmer of hope for the future. A small change has happened — potentially a very significant one. Since the introduction of roadside mandatory alcohol testing, MAT, in July, which has a legislative basis in the Road Traffic Act 2006, drivers are beginning to take heed and, more importantly, they are beginning to change their behaviour and attitudes towards drinking and driving.

The number of road deaths in August 2006 was 17 — the lowest number for any month since November 1999. This compares to 24 road deaths

in August 2005 and 35 in August 2004. This trend is also reflected in the number of deaths during September 2006 which was 22, compared to 31 deaths in September 2005 and 34 in September 2004. This downward trend follows the introduction of MAT. In parallel, the number of road collisions has also fallen. Increased levels of enforcement are having a significant deterrent effect on those who would otherwise drink and drive. While it is important not to base trends on two months' statistics, the reduction during August and September is a positive development which I am hopeful will continue.

The immediate focus of the Bill on the road traffic side is to support the introduction of legislation that will further strengthen drink-driving provisions and improve enforcement. Section 13 of the Road Traffic Act 1994 provides that a person arrested under various provisions relating to drink driving, and the commission of other serious offences, can be required to provide a breath, blood or urine sample in a Garda station for evidential purposes. However, the section refers to the formation of an opinion by a member of the Garda that an intoxicant has been consumed in advance of administering an evidential test.

My Department has looked at decisions in the courts and has found that the presentation of the wording of the section gives rise to the potential for misinterpretation. In recognising that this is a pivotal provision in terms of the overall code applying to drink-driving, I am taking the first available opportunity to both clarify and strengthen the provision. It is proposed to re-state section 13(1), therefore, to remove the requirement for a member of the Garda to form an opinion in the Garda station, where a driver is arrested under any of the drink-driving provisions, including those relating to a refusal to provide a roadside sample, and in the case of the other serious road traffic offences which are not drink-driving related.

This amendment is sensible since the initial roadside encounter between a garda and a driver involves either the commission of a serious road traffic offence, the formation of an opinion that an intoxicant has been consumed or, in the case of a MAT checkpoint, a refusal by a driver to provide a sample where there was no requirement to form an opinion. In the circumstances, with the assistance of the Attorney General, I am proposing to streamline the provision so that the necessity to form an opinion again in the Garda station no longer applies.

At present, only a designated doctor can take a blood or urine sample in a Garda station. The timely availability of a doctor has given rise to problems in this area. Given the increase in detections resulting from the introduction of MAT, it is likely that this problem will become more significant. It is proposed to extend the pool of resources available to the gardaí to take blood and urine samples. The provision will ensure that,

[Mr. Cullen.]

once practical arrangements are in place for the identification of nurses in the vicinity of Garda stations, a greater number of medical staff are available for taking samples. There are a number of consequential amendments resulting from this provision included in the Bill.

A typographical error, which could have a limited impact on the operation of mandatory alcohol testing, is also being corrected. Section 4 of the Road Traffic Act 2006 provides for the introduction of MAT checkpoints. It is an offence under section 4(6) to refuse to give a roadside breath sample, the penalty for which is a fine of up to €5,000 on conviction and/or imprisonment for up to six months. Anyone who refuses to give a roadside breath sample can be arrested under section 4(7).

Section 13 of the Road Traffic Act 1994 provides that a person arrested under various provisions relating to drink-driving, and the commission of other serious offences, can be required to provide a breath, blood or urine sample in a Garda station for evidential purposes. Section 4 of the Road Traffic Act 2006 amends section 13 of the Road Traffic Act 1994 to provide that a person, who is arrested for refusing to provide a roadside breath sample under the MAT system, can be required to provide an evidential test in a Garda station. The amended section 13 refers to a person arrested under section 4(6) of the 2006 Act. This should read section 4(7). This typographical error relates only to a small number of cases where a person refuses to give a roadside breath sample and where they are arrested for the purpose of providing an evidential test.

The MAT system has been operating effectively since the end of July and the numbers who refuse to provide samples are, according to the gardaí, very low. It would ultimately be a matter for the courts in any relevant case brought before them to determine whether the typographical error did or did not negate the clear intention of the Oireachtas in enacting the relevant provisions of the 2006 Act. However, to remove any such uncertainty, and in light of legal advice received from the Attorney General on this matter, it is proposed to amend the section. There are also a small number of consequential technical amendments, which arise as a result of the changes which are being made.

Section 2 of the Bill deals with road transport provisions, in particular the granting of operator licences to both road haulage operators and to road passenger operators. The reason for these provisions is to address an issue that was identified during routine work within my Department. It emerged that section 3 of the Road Transport Act 1986 had been inadvertently repealed in October 2005. This section is the main statutory power given to the Minister to grant licences to road haulage operators. The repeal was made under the Road Transport Act 1999 (Repeals) (Commencement) Order 2005, made on 28

October 2005, in the mistaken belief that section 3 of the 1986 Act was obsolete.

The Office of the Attorney General has confirmed that a power for the Minister to grant such road haulage operator licences must be contained in primary legislation — the necessary powers to do so do not exist under the European Communities Act 1972. As both passenger and haulage operators share a common regulatory framework under EU law, the Office of the Attorney General also reviewed my power, as Minister for Transport, to grant passenger transport operator licences. The power to grant such licences is contained in regulation 3 of the European Communities (Road Passenger Transport) Regulations, 1991, which were made under section 3 of the European Communities Act 1972.

The advice of the Office of the Attorney General was that specific provisions are not contained in the parent EU directives that permit or oblige the issue of these licences. Accordingly, that office advised that it was beyond the Minister's power at the time to make regulations providing for such licences. Instead, such a power must be contained in primary legislation. Section 2 of this Bill will remedy this problem by providing for such a power.

The main provisions of section 2 are as follows. Subsection (1) provides for the Minister to have the power to grant both road haulage and road passenger transport operator licences. Subsection (2) provides that applicants must be of good repute, appropriate financial standing and have professional competence. Subsection (5) retrospectively validates any licences for both road haulage and passenger operators granted, or deemed to have been granted, under the previous legislation.

The Office of the Attorney General has advised that all relevant statutory instruments made under the Road Transport Acts be reviewed to ensure they are statutorily compliant in relation to licensing. This work is underway. A comprehensive review of all legislation governing the road haulage and road passenger operator sectors will then be undertaken with a view to consolidating them into one Bill, a point Deputy Olivia Mitchell has raised on a couple of occasions and with which I agree.

I am conscious that the Road Traffic Acts have also become a complex body of legislation and this needs to be addressed. A programme of restatement of legislation is being commenced under the Government initiative to improve the quality and accessibility of legislation. In response to the consultation exercise carried out during the summer, my Department put forward the Road Traffic Acts as a body of legislation suitable for restatement and I understand this is currently under consideration. The restatement of these Acts will greatly facilitate their subsequent consolidation.

I thank the House for allowing the urgent debate on these important provisions. I look for-

ward to a positive and supportive debate on the Bill and I commend it to the House.

**Ms O. Mitchell:** In the interests of road safety generally and of good governance, I am anxious to co-operate in the speedy and efficient dispatch of this business, that is, passing this Bill into law, because I recognise it is urgent. I share the hope of the Minister that our road safety legislation is perhaps beginning to have an impact. I hope the better figures for last month and the previous one are part of a trend rather than one off figures.

I am compelled to say it is really a bit of an embarrassment that we are amending legislation we only passed the last week we sat before the summer break. We have dealt with three transport Bills this year, including this one, and the Minister has promised a fourth one. I was pleased to hear him say we should consolidate all this legislation into one Act rather than try to do almost the impossible.

What has happened here is an example of what happens when we do not have the type of scrutiny which is absolutely essential for legislation. We passed a series of unrelated items — a hodge-podge — quite apart from the mandatory breath testing, or MAT as it is called, before the summer break. It was done in an enormous hurry — like a rabbit pulled out of a hat — even though we had been told for some time it was not possible. I feel sorry for people in the drafting departments who are asked to produce legislation at very short notice. In this case, we had been told all along it was impossible to bring this legislation forward.

To add to our difficulties, the Opposition was told not to delay the passage of the legislation — that it was not to do its job, that it was not to try to amend or even examine the legislation in any great detail for fear it would hold it up. The debate was guillotined and the result is defective legislation. Both myself and Deputy Shortall warned of that at the time and we have been proved right. I hate to have to say we told the Minister so. It became an issue in the media and, as far as the Minister was concerned, we had to produce something but what we produced was defective. Let us be honest about it.

It is the role of the Dáil to scrutinise legislation and ensure it is robust but that did not happen with this legislation. As the Minister is aware and mentioned in his contribution, I warned of the danger for our road traffic laws generally of a secretion of Acts, one amending another and inserting, deleting, enhancing, refining or expanding on what went before. The Minister's description of the mistakes and how they happened was so archaic that it is a mystery that any of the legislation is implemented correctly in the area of road traffic because it has become almost impossible for those trying to draft legislation. Not only is there legislation but there are all orders, schedules for new offences created by legislation and new penalties imposed, changed, refined and so on. I suggested consolidating legis-

lation and I believe Deputy Shortall has also spoken about that. I have tabled an amendment asking the Minister to introduce such legislation and I am pleased it is a suggestion that will be taken on board.

Of the four elements in the Bill, two seek to address errors in the road traffic legislation. One corrects an oversight and the other one extends to nurses the ability to become involved in evidential testing. That refines rather than corrects the legislation. However, the above shows a record of poor legislative scrutiny. By failing in what we do, we make it almost impossible for the practitioners — judges, barristers, solicitors, local authorities and, most of all, the unfortunate gardaí — to do their jobs. If the written law is not clear, its implementation will not be clear. It is almost impossible to unravel the labyrinth of road traffic offences and penalties attaching to them which are often amended.

It is no wonder that in recent cases daily practitioners of the law and of road traffic law, in particular, assumed the offence of dangerous driving carried a mandatory penalty. They assumed the offence carried mandatory disqualification but when it became clear that was not the case, it was assumed that at least penalty points attached. The reality is that neither applies. That is a genuine mistake, although I know the Minister suggested in a reply to a parliamentary question that one would not get penalty points if there was a possibility of losing one's licence in the courts. However, the reality is it is only a possibility. There is also a possibility that one would lose one's licence for careless driving. Surely, if there is a hierarchy of offences, such as dangerous and careless driving, there should also be a hierarchy of penalties attaching to them. That is an error and a loophole in the law which we should try to solve. Whether the Minister accepts my amendment to solve it or does so in another way, it definitely needs to be addressed. It is no wonder practitioners of the law assume there must be a law stating that one loses one's licence or one gets penalty points.

Recently I spoke to a member of the Garda Síochána about enforcing the law in regard to cars parking on cycle paths. The garda told me there was no such offence as parking on a cycle path. I told him to look again which he did. There is such an offence but he did not know that. It must be impossible for young gardaí, particularly those coming out of Templemore, to even know where to get the information about what is and is not legal in terms of road traffic.

In terms of road transport, even more disturbing is that there was no legal basis for the granting of the road passenger and road haulage licences as it was deleted by accident. Again, it is perfectly understandable how that happens when one sees just how archaic the whole system is. We can only hope that now the information is public, it will not have any implications for the Minister or licence holders, particularly in respect of their

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insurance if accidents took place during the period when they were not legally licensed.

I hope that if we pass this legislation, we will move immediately to try to introduce a consolidated road traffic Bill in the interests of clarity for all the practitioners involved in trying to impose the law. Every time we make a mistake, either in the drafting or implementation of the law — they are not unconnected — we devalue the law in the eyes of the public and show ourselves not to be serious when we speak on the one hand about the importance of road safety but on the other keep failing to get it right.

**Ms Lynch:** I do not believe anyone in the Chamber wishes to hold up or place an obstacle in the way of having this legislation enacted. Ultimately, many people, including many Members, travel by road. Thus, the laws governing road safety are vitally important.

The day that penalty points were introduced it was evident that the same type of overtaking did not take place. I refer to the road from Dublin to Cork. Most definitely, there was a sense of security and safety on the roads at that time but this very quickly evaporated. It soon became clear that this particular section of road legislation was not being implemented. I am sure the Minister would accept this point. Behaviour on the roads reverted to how it had been previously. This makes it unsafe for people who travel by car due to the persistent and constant danger on the road and gives rise to a sense of unease which leads people to look to other methods of transport to get from A to B.

I do not think anyone would disagree that road traffic legislation is vitally important. However, road traffic legislation is not what road safety in its entirety is about. It is also about behaviour, standards and what one perceives to be the purpose of roads. While legislation is a pivotal element, it is about more than legislation. I accept that it is vitally important to enact this amended legislation.

Deputies Olivia Mitchell and the Labour Party spokesperson on transport, Deputy Shortall, have consistently said that consolidation in this area is vitally important. It is about more than fragmented items of legislation. Joined-up thinking is crucial, not only in the area of legislation but also in related areas. A programme of education is required, especially in regard to young people and resources.

Deputy Olivia Mitchell correctly pointed out, and Deputy Shortall previously made the point in regard to the earlier legislation, that sufficient time is not provided to discuss the legislation. It is evident that the Department does not have the necessary resources in order to produce legislation that is not flawed. We are not blaming anybody, merely stating that the resources are insufficient. Surely a Department that relies so heavily on a legislation-based approach should have its

own senior counsel. We are only now trying to come to terms with road traffic offences and we desperately want to get it right. Expert advice is required on this specific area. We should not always have to rely on the Attorney General's office, which we know from past experience cannot always be relied on.

It is of the utmost importance that the kind of joined-up thinking that is required in this area would come together in one Bill. I accept that such a Bill would be weighty. When such legislation comes before the House, sufficient time must be provided for it. Widespread consultation is also required, in addition to an appendix of ancillary services, not just relating to penalties and the implementation of the law. This point has been previously made in the House by all those concerned with this matter.

The Labour Party has tabled two technical amendments to the Bill which Deputy Shortall hopes the Minister will accept. They are concerned with ensuring that the citing of the legislation in the Short Title will facilitate people in navigating the legislation. This brings me back to why we are here today; so that people who need it can find out about the legislation and how it links into other legislative measures. That is the sole purpose of the amendments. People from other jurisdictions researching legislation down through the years find it virtually impossible to wade through the maze of legislation that exists, how it was enacted etc. It is important that we would bring some regulation into the system.

Deputy Shortall asked me to refer to an issue she previously raised — the citing of European legislation in regard to car testing. She still has significant doubts on this matter. Now that the legislation has returned to the House she hopes the Minister will re-examine the issue. If someone got it wrong in respect of breath testing then it is possible that he or she also got it wrong in this area. She remains concerned about this matter. She believes the legislation is not cited properly and that a problem could arise at a later stage. While we do not wish to put anybody wise to it, we believe the matter should be examined carefully. Deputy Shortall is most anxious that the Minister would review the matter.

The consolidation of road traffic legislation was supposed to have been completed by the end of the year. Will the Minister indicate if that is still likely to be the case? The legislation is likely to be weighty and, despite the fact that no one talks about the elephant in the room, we are in the run-in to an election. This legislation is important and we need to take our time over it. Nobody wants it to be rushed. Is it likely that the legislation will appear this side of Christmas or will it be after Christmas? Will it be dealt with before the election? It is important that we would know. If the Bill will not be ready before the election, will the heads of the Bill be published?

Two reports have been produced by a committee of the Oireachtas on road safety and traffic

and they are well worth examining. They refer to experiences in other countries. We need to adopt approaches similar to those in Australia and France. While legislation is at the heart of the matter, implementation and resources are of crucial importance. I hope the Minister will take this point on board.

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

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

**Mr. Eamon Ryan:** I believe the Minister will receive support from across the House to get this short Bill through as quickly as possible. My party is in full agreement with the provisions outlined. We understand the need for them. It is regrettable but understandable how such mistakes can be made. I do not think anyone here is beyond reproach in this regard. We have made similar mistakes ourselves in the past. It is not worth our time dwelling on the reasons some of those mistakes were made, other than to state that in this area the question of resources available to the Department is a serious issue. Colleagues have previously made this point.

I do not speak in terms of this legislative area alone. We have a new Department of Transport and we find it is an area that is increasingly in the news and is the source of contentious debate around transport issues. In the past three or four years, we have gone from one fire fighting issue to another, be it the airports, bus regulation, the building of public transport or overruns in road programmes. In a constructive manner, I would question whether there are sufficient resources within the Department or whether it is structured in a way to give it those resources to cover all of these bases and operate in a strategic and forensic manner instead of running from one crisis to another. In those circumstances, it is more likely that typographical or legislative errors will be made.

A question must be asked about the scope, resources and ability of the Department to fully cover the wide transport brief with which it is charged. Any new Government should consider strengthening the Department by, for example, moving the roads function of the Department of the Environment, Heritage and Local Government to the Department of Transport, where it would have a natural home. This would give a transport Department the resources to legislate and have joined-up thinking in its area; this is something which my party will certainly consider.

I do not have any problem with the provisions or changes to be made. I welcome a new addition that has not been made on the basis of a typographical error or mistake in the original Bill, namely, the use of nurses to take blood samples in Garda stations. Our nursing profession is not sufficiently recognised for the skills and expertise

of its members. It is appropriate that nurses are able to administer some of the medical procedures they would not have been allowed to do previously. The Acting Chairman might excuse my view, as no offence to the good doctors of this country is meant, but there is no reason such procedures should not be taken over by the nursing profession.

I also welcome an apparent trend in the past two months. While it is difficult to speak of trends when examining a mere two months' figures, the coincidence of the introduction of mandatory breath testing with the reduction in the number of collisions, which I suppose is the most accurate measure, and fatalities is welcome. We should go further with this. The political will exists across the House and the country for Deputies to effectively address the tragedy that is the number of deaths, injuries and losses on our roads. As has been said, this would not only require legislative changes, but would also stiffen our resolve to go further.

Three "E"s are involved in the examination of what needs to be done in terms of road safety. Enforcement and education are of crucial importance, but I would turn to the "E" in respect of which we are not seeing action or sufficient priority being given, namely, engineering. The foremost task or role of the traffic department of each local authority, the Railway Procurement Agency and other transport delivering bodies is to design safe facilities that will further reduce fatalities. The only correct approach is to have no tolerance, not only for drink driving, but also for road conditions that allow or tend to lead to road accidents occurring. I would like to see the resources of the State being invested in the crucial area of road design and engineering, down to every junction. One must start from a local level and work out.

If one walks outside the front gates of this building onto Kildare Street, one is faced with a typical example of what exists in every corner of the country. How can one cross from Buswells Hotel to Leinster House in a road-safe way? It is impossible. One is effectively forced to jay walk, as there is no pedestrian crossing or right of way. One need go no further than the front door of this building to see the problems that exist. This type of lack of planning and attention to detail in road traffic management typifies what spreads from Leinster House to the rest of the country.

While I support the introduction of mandatory breath testing, for which my party has called for a long time, any consequent reduction in the number of accidents is an impetus to further action and endeavour. My party will support the Bill. We hope the Minister will provide a consolidated road traffic Bill before the next election. This matter should be at the top of the legislative agenda of all parties in the House because it is a matter in which any legislation enacted will be picked apart by lawyers. The legislation must be clearly understood, but for that to happen we will

[Mr. Eamon Ryan.]

need a consolidated Bill. It should be on the agenda of whoever is in office after the next election.

**Mr. Crowe:** I welcome the opportunity to speak on this Bill. I listened to the Minister speaking about the reduction in the number of deaths and so on and we all welcome that it is a decreasing trend. I have the Garda national traffic bureau's statistics with me. In February 2003, there were 21 deaths whereas there were 31 deaths in the same month this year. The important fact is that the current figures are decreasing. I have the figures for 2000 to 2006 and I guarantee that each of the Deputies present has attended a funeral of one of the individuals killed in this way and has gone through the trauma of families affected. Meeting the survivors of serious accidents has affected me as a public representative. Our statistics do not delve into the matter of survivors.

Deputy Lynch spoke about taking a journey in Ireland. Driving a car is taking one's life in one's hands due to bad behaviour, dangerous driving and so on. Anyone who drives from this House to Cork, Donegal or wherever will encounter at least one incident of someone breaking the rules of the road, taking crazy risks or doing something that might result in a person being killed. Perhaps it has something to do with my getting older, but I find the road is a frightening place because of speed and so on. While we are discussing changes to sound legislation, road safety comes down to the personal responsibility of people who decide to get into cars, trucks or vans or onto motorcycles. We can have the best laws in the world, but those people need to take responsibility for their own driving.

I agree with Deputy Eamon Ryan about the need for extra resources. I would not say it is embarrassing to be discussing this matter again, but it sends the wrong signal to the crazy drivers. On my way here this morning, I saw a four-car pile up on the Cheeverstown Road in Tallaght. On the same road last night, there was another four-car pile up. People say this is down to bad driving, but it is also down to people's frustration with trying to get out of traffic, get to work or take their children to school. Being caught in bottlenecks causes problems.

I agree with the consolidated Bill concept and the call for extra resources for the Department of Transport, particularly legal resources. There is something wrong with society when all these intelligent members of the Law Library seem to spend most of their working lives thinking up ways of getting around existing legislation. Considering what is happening on the roads, there is something wrong with society when supposedly the best brains in the country spend so much time trying to find loopholes in laws, and that is why I agree with the idea of extra resources.

I have seen the extra levels of enforcement and all of us will agree they are welcome. I have been

stopped a number of times going home from this Chamber. I see greater visibility of gardaí on the roads and that is welcome. I also still see gardaí with cameras at the usual spots. Maybe that will change, but a mentality exists to build up the conviction figures and get so much in fines at certain spots on roads where I have never seen accidents or where there is rarely an accident, but we do not see them at accident black spots.

The legislation also requires that applicants for an operator's licence must be of good repute, of appropriate financial standing and have professional competence. While I can understand the requirement for professional competence, I presume financial standing means that the person is not bankrupt. Perhaps the Minister will expand on that. What exactly is meant by a person of good repute? For instance, is it to do with someone who may have a criminal conviction? I listened to the Minister for Justice, Equality and Law Reform speaking about someone from his constituency who was convicted of an offence 20 years ago and said he was looking at ways of changing matters to take account of circumstances where such a person has learnt his or her lesson and has gone on to be a good citizen. What does the Minister mean by "good repute" in the Bill?

A colleague of mine in Donegal stated that one of the best forms of enforcement was where a local garda sergeant comes out in one village in Donegal with the traffic gun. It is well known in the area that one sergeant in that Garda station comes out on a regular basis and people in that area slow down going through that village on the basis of that garda's initiative. Other gardaí, if they are listening to this and maybe do not have something better to do, might come up with similar initiatives.

On the issue of road safety, high visibility works. The Garda authorities need to concentrate on those areas and times where there are difficulties on the roads, particularly in the hours after midnight, rather than spending the time on public order, high visibility on the street etc. We probably also need in equal measure Garda checkpoints in those particular areas.

The legislation covers road safety and road haulage. EU rules state there should be places for truck drivers to rest, sleep, eat and wash, and many haulage drivers here experience difficulty in that regard. While I recognise there is talk of change in that regard, when one asks the Minister a question it is ruled out of order because it relates to the NRA. Tired truck drivers on our roads will increase the likelihood of accidents and it is a matter to be addressed.

I welcome the opportunity to discuss these issues again. I hope we can close all the loopholes this time.

**Minister for Transport (Mr. Cullen):** I thank Deputies for their support and the recognition of the issues in the Bill. To be fair to the parliamen-

tary counsel staff, they work, like us in many respects, under enormous pressure and, unfortunately, a typographical error caused this issue. The secondary issue, which has become familiar in recent times, that of secondary legislation versus primary legislation, is one with which we collectively need to grapple. As a result, as I stated in response to Deputy Olivia Mitchell, we are looking at the entire spectrum to ensure that there is nothing else we are missing *vis-à-vis* statutory instruments and implementation of EU law under directives, and to correct any issues there.

I also welcome the fact that the Bill introduces two policy initiatives. The issue of nurses being facilitators in taking a blood or urine sample in a Garda station is a good one. I have always taken the view that there is no legislation in any area passed in this Houses on which we cannot improve in the future and I have no issue with taking opportunities when they arise to do so. The House is of the same view and we are doing that here today to enhance and strengthen the legislation.

A clear message coming from the House, with which I agree, is that it has worked hard collectively to bring in tough, clear legislation. We need enforcement on the other side to ensure it is driven home — no pun intended — and that is happening. We need to maintain this level of enforcement through the expansion and visibility of the traffic corps and the recognition by all that while there is a collective approach to road safety, much of it comes down to personal understanding. People's habits, approach and attitude are changing and that is a good development which we need to reinforce. Equally, many elements within the media have helped to reinforce the message of collective responsibility, and we must understand that we have a responsibility, not alone to ourselves but to all road users.

I happened to see one of the more powerful messages the other evening, the piece with Charlie Bird on "Six One News" at the end of the month, which has been a feature in recent times. It gives a positive message and helps to remind us of road safety. It does not matter what the age of a person killed — obviously, when people are killed it is tragic — but when persons of 17 and 21 years of age are killed, people starting out in life, it is traumatic.

**Ms Lynch:** Aged 14.

**Mr. Cullen:** Some are even younger, as Deputy Lynch stated, even 14 years of age, and it brings home to us that there is no second chance in many respects. The moment we go out on to the roads is the moment we must be responsible, think about what we are doing and act responsibly.

Many colleagues have pointed out the arcane nature of the language on some of the issues, and

Deputy Olivia Mitchell tabled an amendment in that regard.

I confirm to the House that on the consolidation of the Road Transport Acts dealing with haulage and road passenger transport licences, it is our intention to rewrite and simplify all the passenger transport licensing laws and repeal all the previous Acts and statutory instruments dating back to the 1930s. This will bring all the licensing legislation into one Act and one standard instrument, which we all would welcome. My Department will ensure that this new Act and standard instrument will contain all necessary powers and provisions. Of course, we must meticulously keep all that up to date.

I have some experience of this from when I was Minister of State at the Department of Finance and, with former Minister, Charlie McCreevy, we consolidated all the Tax Acts. I was heavily involved in bringing that Bill through both Houses and I am familiar with the process and the meticulous and tedious nature of the work necessary to bring all these Acts together correctly. It takes time and there is no short-cut. We will do this because it is a process which we all, irrespective of our positions, would want to see completed. The first step, which we have started, is to restate the Road Traffic Acts in a way we can understand them and then we will begin the consolidation process. I am in agreement with everybody in the House that we need to do that.

I thank the House for supporting this legislation in the manner that it has.

Question put and agreed to.

### **Road Traffic and Transport Bill 2006 [Seanad]: Committee and Remaining Stages.**

#### SECTION 1.

**Acting Chairman:** Amendments Nos. 1 and 5 form a composite proposal and will be discussed together.

**Ms Lynch:** I move amendment No. 1:

In page 5, lines 27 and 28, to delete subsection (2).

**Minister for Transport (Mr. Cullen):** The purpose of this amendment is to move the collective citation provision from section 1 to section 3. The Bill is effectively split into two distinct sections. Section 1 amends Part 3 of the Road Traffic Act 1994 and section 2 relates to road transport issues. In the circumstances, the advice of the parliamentary counsel was that the reference to the collective citation "Road Traffic Acts 1961 to 2006" to include section 1 of the Bill should be part of that section and the same approach is taken in section 2. That is the way it is done in order not to confuse the issue.

Amendment, by leave, withdrawn.



Section 1 agreed to.

Section 2 agreed to.

**Acting Chairman:** Amendment No. 2 is out of order because it is outside the scope of the Bill.

**Ms O. Mitchell:** Why is it out of order?

**Acting Chairman:** Deputy Olivia Mitchell seeks to amend section 5(3)(ii) of the Road Traffic Act 1961, which relates to dangerous driving rather than drink driving. While the amendment relates to the general subject matter, it does not fall within the provisions of the Bill. The amendment, therefore, must be ruled out of order.

**Ms O. Mitchell:** I do not know how anything could fall outside the scope of this Bill because it has no scope. It is only a mish-mash. However, I will find another way to bring this forward because it is an important issue. It falls neatly within this legislation because it deals with a loophole, a genuine legislative mistake and oversight, but I accept the ruling.

Amendment No. 2 not moved.

#### NEW SECTION.

**Ms O. Mitchell:** I move amendment No. 3:

In page 7, before section 3, to insert the following new section:

3.—The Minister shall, as soon as is practicable, begin the process of producing a Road Traffic Consolidation Act that will act as a consolidated statute of all road traffic legislation.”.

This is a reference to consolidation. Will the Minister accept the amendment?

**Mr. Cullen:** I cannot insert it in the legislation, as the Deputy will appreciate, but I have given her full support for what she proposes and we have begun the process.

**Ms O. Mitchell:** I welcome that and withdraw the amendment.

Amendment, by leave, withdrawn.

**Acting Chairman:** Amendment No. 4 is out of order because it is outside the scope of the Bill.

**Ms O. Mitchell:** The Minister has expressed genuine general support for this notion. When can something be done about it because it is causing many problems throughout the country?

**Mr. Cullen:** I have met groups, as the Deputy has, and it is an issue I want to address. However, it is complex legally and I do not mean to use that as an excuse. I am anxious to address it. We have met staff in the Attorney General's office. We are

waiting for a legal framework and an interpretation of what we need to do to correct it. Various groups have visited my office and I stated that once I have that, I will tell them what it is. Submissions will be taken if people feel the need to put them forward. I hope to deal with the issue in the new Bill I will introduce in the next few months if the process can be completed quickly. I support addressing this issue. There are issues on the traffic side that complicate this from the Garda's point of view and those need to be resolved.

**Ms O. Mitchell:** Will the Minister keep us posted on that?

**Mr. Cullen:** Yes.

Amendment No. 4 not moved.

#### Section 3.

**Ms Lynch:** I move amendment No. 5:

In page 7, after line 36, to insert the following subsection:

“(2) The collective citation “Road Traffic Acts 1961 to 2006” includes *section 1*.”.

I have no difficulty with the Minister's suggestion regarding the citation in this amendment and amendment No. 1 but I would like him to put that in writing to Deputy Shortall. I would appreciate that very much.

**Mr. Cullen:** I will forward the note to the Deputy.

Amendment, by leave, withdrawn.

Section 3 agreed to.

Title agreed to.

Bill received for final consideration.

**Minister for Transport (Mr. Cullen):** I move: “That the Bill do now pass”.

I thank all my officials, the Attorney General and his officials, the Whips and Members for facilitating the quick passage of the legislation and their support for it.

Question put and agreed to.

#### Patents (Amendment) Bill 1999: Order for Report Stage.

**Minister of State at the Department of Enterprise, Trade and Employment (Mr. M. Ahern):** I move: “That Report Stage be taken now”.

Question put and agreed to.

### Patents (Amendment) Bill 1999: Report and Final Stages.

**Acting Chairman:** Amendments Nos. 2 to 4, inclusive, amendment No. 22 and amendments thereto are related to amendment No. 1 and they will be discussed together.

**Ms Lynch:** I move amendment No. 1:  
In page 5, line 9, after “ORGANISATION” to insert “DONE AT MARRAKESH ON 15 APRIL 1994”.

**Minister of State at the Department of Enterprise, Trade and Employment (Mr. M. Ahern):** These amendments relate to how various international agreements are referred to in the Bill. Amendments Nos. 1, 4 and 22 relate to the agreement establishing the World Trade Organisation and the insertion of a reference to the agreement being done at Marrakesh on 15 April 1994. I accept these amendments.

Amendment No. 2 relates to the references to the European patent convention in the Long Title of the Bill and proposes the insertion of a reference to the convention as “DONE  
*1 o'clock* AT MUNICH ON THE 5TH DAY OF OCTOBER, 1973”. I propose an amendment to substitute “SIGNED” for “DONE” in order to achieve consistency with the manner in which the European patent convention is defined in the 1992 Act. I am advised by the Parliamentary Counsel that nothing will turn on this legally. I propose to accept the amendment as amended in this regard.

Amendment No. 3 relates to the reference to the patent law treaty in the Long Title of the Bill and proposes the insertion of a reference to the treaty as having been “DONE AT GENEVA ON 1 JUNE 2000”. As the patent law treaty was “adopted” at Geneva on 1 June 2000 rather than “done”, I have submitted an amendment to substitute an amendment to substitute “adopted” for “done”.

**Ms Lynch:** I thank the Minister.

**Mr. Hogan:** I thank the Minister for accepting Deputy Quinn’s amendments, tidying-up amendments which arose from Committee Stage proceedings. The Bill is largely technical and the Opposition is glad to facilitate the Minister and the Department in putting through the amendments. The fact the Bill goes back to 1999 is a clear indication it was not urgent at that time but it has become more urgent since then. The Minister explained the urgency of the Bill on Committee Stage and a speedy passage of Report Stage will be facilitated by the Opposition.

**Mr. Quinn:** I thank the Minister for indicating he will accept the amendments.

Amendment agreed to.

**Mr. Quinn:** I move amendment No. 2:

In page 5, line 10, after “CONVENTION” to insert “DONE AT MUNICH ON THE 5TH DAY OF OCTOBER, 1973”.

**Mr. M. Ahern:** I move amendment No. 1 to amendment No. 2:

To delete “DONE” and substitute “SIGNED”.

Amendment to amendment agreed to.

Amendment No. 2, as amended, agreed to.

**Mr. Quinn:** I move amendment No. 3:

In page 5, line 11, after “TREATY” to insert “DONE AT GENEVA ON 1 JUNE 2000”.

**Mr. M. Ahern:** I move amendment No. 1 to amendment No. 3:

To delete “DONE” and substitute “ADOPTED”.

Amendment to amendment agreed to.

Amendment No. 3, as amended, agreed to.

**Mr. M. Ahern:** I move amendment No. 4:

In page 5, line 28, to delete “signed” and substitute “done”.

Amendment agreed to.

**Mr. M. Ahern:** I move amendment No. 5:

In page 10, line 17, to delete “Where the application is made” and substitute “Where the application for a patent was made”.

The amendment is of a clarifying nature and relates to section 9 of the Bill as amended on Committee Stage. Section 9 amends the Patents Act 1992 by inserting a new section 35A, which deals with the reinstatement of applications. The purpose of this amendment is to correct an error in the tense of the verb “to be” in subsection (4) of the new section 35A. For reasons of additional clarity, the Parliamentary Counsel has suggested that a reference be included to the application being “for a patent”.

Amendment agreed to.

Bill recommitted in respect of amendments No. 6 to 12, inclusive.

**Mr. M. Ahern:** I move amendment No. 6:

In page 10, line 22, after “section 28” to insert the following:

“and it appears to the Controller that reasonable care was taken to comply with the requirement within the prescribed period or, as the case may be, the period specified by the Controller”.

[Mr. M. Ahern.]

Section 9, as considered by the committee, amends the Patents Act 1992 by inserting a new section 35A, which provides for the possibility of reinstatement of applications where an applicant had failed to comply with a requirement within the time limit provided. Subsection (5) provides for the advertisement of a request for reinstatement and the possibility for third parties to oppose the request. As currently drafted, the controller would be required to advertise the request for reinstatement even if the applicant had not taken reasonable care to try to comply with the time limit and invite unnecessary opposition proceedings. The controller should be advised to advertise the request only where the applicant has made a *prima facie* case for reinstatement. Amendment No. 6 clarifies subsection (5) to provide that a controller shall advertise the making of the request for reinstatement only where it appears to him that the applicant had taken reasonable care to comply with the requirement.

Amendment agreed to.

**Acting Chairman:** Amendments Nos. 7 to 12, inclusive, 16 to 20, inclusive, and 25 will be recommitted. The amendments are related and may be discussed together.

**Mr. M. Ahern:** I move amendment No. 7:

In page 11, to delete lines 25 to 27 and substitute the following:

“the person shall have the right to continue to do the act concerned or, as the case may be, to do that act, notwithstanding the reinstatement of the application and the grant of the patent.”

These amendments, while appearing complex and significant, do not involve any change in policy from the Bill as considered in committee. They arise from recent legal advice from the Attorney General's office that the provision in section 37(7)(b) of the Patents Act 1992, which gives power to the Minister to prescribe in rules the protection for third parties, who may have begun to use the invention the subject of a patent in the intervening period between its lapse and restoration, may be too wide. The advice is that the protection for such third parties should be set out in the Act itself rather than in rules under the Act.

The protection for the intervening rights of third parties is currently set out in Rule 38 of the Patent Rules 1992. This protection is very important. Without such protection, third parties would be open to infringement proceedings if they continued to use the invention following the restoration of the patent. The protection provided by Rule 38 allows a third party, acting in good faith, who began to do certain acts which would constitute infringement of the patent or application, had it been in force, or made serious preparations to do such acts, to continue to do such acts after restoration, provided such acts were commenced before the publication of notice that the proprietor or applicant was seeking to restore the patent or application.

The protection afforded does not allow a third party a right to grant a licence to any other person but does allow the person to authorise business partners to do the act. The right to do the act can also be assigned or transmitted on death, or dissolution in the case of a company, to any person who acquires that part of the business in the course of which the act was done or preparations had been made to do it. Where the product is disposed by the third party to another, that other person and any person claiming through that other person can deal with it as if it had been disposed of by the proprietor of the patent.

The protection for the intervening rights of third parties acting in good faith arises in a number of other sections of the Patents Act, namely, sections 119, 120 and 121, where there are provisions in section 119(5) and 120(5) to provide protection for such persons in cases where a European patent designating the State is revoked and subsequently restored, or the applicant for a European patent re-establishes his rights after his application had been refused or deemed withdrawn.

Section 121(4) provides protection for third parties acting in good faith who begin to do an act while relying on an inaccurate translation of a European patent. If the translation is subsequently corrected, that person can continue to act even if it constitutes infringement under the corrected translation. The formula of words used to provide the protection in each case is “as if an order had been made under section 37(7)”.

Section 9, reinstatement of application, section 27, effect of restoring a withdrawn application, and section 30, restoration where a translation is not filed under section 119(6) of the principal Act of the Bill as considered in committee, also contain provisions for third-party protection following the reinstatement or restoration of applications or a patent in the circumstances set out in the respective sections. Again, the protection is conferred by a cross-reference to “as if an order had been made under section 37(7)”.

Hence, it will be necessary to amend each of these sections to set out the protection currently contained in rule 38 of the patent rules. This is the purpose of amendments Nos. 7, 8, 12 and 16 to 20, inclusive. For reasons of transparency, the Parliamentary Counsel has set out the protection in full in each section affected apart from amendment No. 18, which relates to section 119, where a cross-reference to section 37 (8) (c) to (11) was possible.

Amendment No. 19 also makes a minor amendment to section 120(5) to clarify that the protection for third parties applies where the act of the third party would constitute an infringement of the rights conferred by publication of the application, since it is the publication of an application which confers provisional protection on an applicant to prevent others from using his invention.

Amendments Nos. 9 and 11 are textual amendments consequent on amendments Nos. 8 and 12. The effect of amendment No. 10 is to delete subsection (7)(b) of section 37 of the Act. The text was amended in section 10 of the Bill as con-

sidered on Committee Stage but not with regard to the power to prescribe protection. The protection for third parties where a patent has been restored is now set out in subsections (8)(c) to (11) of section 37 inserted by amendment No. 12. The text that is now set out as section 37(7) in amendment No. 10 comprises the existing text of section 37(7) of the 1992 Act without the text in subsection (7)(b).

With regard to amendment No. 16, which replaces section 27 of the Bill as considered on Committee Stage, it has proved necessary for the Parliamentary Counsel to include it in the redrafting process to facilitate the addition of new subsections (2) to (5), which provide the third party protection. The section which was considered on Committee Stage is now included as subsection (1) and is unchanged apart from the deletion of “the person shall have the same protection as if an order had been made under Section 37(7)” in paragraph (iii) and its replacement by a reference to “the person shall have the rights conferred by the new subsection (2)”.

With regard to amendment No. 25, it is necessary to insert changed commencement provisions consequential on changes relating to those sections affected by the new third-party protection provisions. It effectively includes rule 38.

Amendment agreed to.

**Mr. M. Ahern:** I move amendment No. 8:

In page 11, between lines 27 and 28, to insert the following:

“(2) Paragraph (c) of subsection (1) does not extend to granting a licence to any person to do an act referred to in that paragraph.

(3) If the act referred to in paragraph (c) of subsection (1) was done, or the preparations were made to do it, in the course of a business, the person entitled to the right conferred by the said paragraph (c) may -

(a) authorise that act to be done by any partner of that person for the time being in that business, and

(b) assign the right, or transmit that right on death (or in the case of a body corporate on its dissolution), to any person who acquires that part of the business in the course of which the act was done or preparations had been made to do it.

(4) Where a product is disposed of by any person to another person in exercise of a right conferred by paragraph (c) of subsection (1) or by subsection (3), that other person and any person claiming through that other person shall be entitled to deal with the product in the same way as if it had been disposed of by the applicant.”.

Amendment agreed to.

**Mr. M. Ahern:** I move amendment No. 9:

In page 11, to delete line 28 and substitute the following:

“(5) In this section “termination”, in relation to”.

Amendment agreed to.

**Mr. M. Ahern:** I move amendment No. 10:

In page 11, to delete lines 34 to 42 and substitute the following:

“(a) by substituting the following for subsection (7):

“(7) An order under this section for the restoration of a patent may be made subject to such conditions as the Controller thinks fit, including in particular a condition requiring the entry in the register of any matter in respect of which the provisions of this Act as to entries in the register is not complied with and if any condition to which an order under this section is subject is not complied with by the proprietor of the patent, the Controller may revoke the order and give such directions consequential on the revocation as he thinks fit.”.

Amendment agreed to.

**Mr. M. Ahern:** I move amendment No. 11:

In page 12, line 13, to delete “infringing act.” and substitute “infringing act;”.

Amendment agreed to.

**Mr. M. Ahern:** I move amendment No. 12:

In page 12, between lines 13 and 14, to insert the following:

“(c) where, after the expiration of the period of extension specified for the purpose of section 36(3) and before the date of publication of the application for restoration of the patent in the Journal under subsection (4), a person—

(i) began in good faith to do an act which would constitute an infringement of the patent if it had not lapsed, or

(ii) made in good faith effective and serious preparations to do such an act, the person shall have the right to continue to do the act concerned or, as the case may be, to do that act, notwithstanding the restoration of the patent.

(9) Paragraph (c) of subsection (8) does not extend to granting a licence to any person to do an act referred to in that paragraph.

(10) If the act referred to in paragraph (c) of subsection (8) was done, or the preparations were made to do it, in the course of a business, the person entitled to the right conferred by the said paragraph (c) may—

[Mr. M. Ahern.]

(a) authorise that act to be done by any partner of that person for the time being in that business, and

(b) assign the right, or transmit that right on death (or in the case of a body corporate on its dissolution), to any person who acquires that part of the business in the course of which the act was done or preparations had been made to do it.

(11) Where a product is disposed of by any person to another person in exercise of a right conferred by paragraph (c) of subsection (8) or subsection (10), that other person and any person claiming through that other person shall be entitled to deal with the product in the same way as if it had been disposed of by the registered proprietor of the patent.”.

Amendment agreed to.

Bill reported with amendments.

**Acting Chairman:** Amendment No. 13 arises out of Committee Stage proceedings and amendments Nos. 14 and 15 are related. Amendments Nos. 13 to 15, inclusive, may be discussed together by agreement.

**Mr. M. Ahern:** I move amendment No. 13:

In page 14, to delete lines 9 to 13 and substitute the following:

“concerned, provided that such invention involves an important technical advance of considerable economic significance in relation to the invention claimed in the first patent.”.

Amendments Nos. 13 and 15 arise from Committee Stage amendments proposed by Deputy Hogan, which I undertook to consider further before Report Stage. Having examined them, I am moving these amendments, the effect of which is to accept Deputy Hogan’s Committee Stage amendments.

With regard to amendment No. 14, having examined the matter further, it would appear that neither the current qualification of subsection (3) of “Subject as hereinafter provided, where” or the alternative proposed by Deputy Hogan on Committee Stage, “Subject to the provision of this section”, is necessary. The subsection can simply begin with the word “Where”, as subsections (3) and (4) of section 70 can stand alone.

**Mr. Hogan:** I thank the Minister of State for including those amendments.

Amendment agreed to.

**Mr. M. Ahern:** I move amendment No. 14:

In page 14, line 14, to delete “Subject as hereinafter provided, where” and substitute “Where”.

Amendment agreed to.

**Mr. M. Ahern:** I move amendment No. 15:

In page 14, to delete lines 26 to 28 and substitute the following:

“licence to be granted upon such terms as the Controller thinks fit, provided that:”.

Amendment agreed to.

Bill recommitted in respect of amendments Nos. 16 to 21, inclusive.

**Mr. M. Ahern:** I move amendment No. 16:

In page 17, to delete lines 32 to 46 and in page 18, to delete lines 1 to 29 and substitute the following:

27.—The Principal Act is amended by inserting the following section after section 110:

110A.—(1) Where—

(a) the Controller is requested to correct an error or mistake in a withdrawal of an application for a patent, and

(b) an application for a patent has been restored in accordance with that request, the following provisions apply:

(i) anything done under or in relation to the application during the period between the application being withdrawn and its restoration shall be treated as valid;

(ii) where the Controller has published notice of the request referred to in section 110(2A), anything done during the period referred to in subparagraph (i) which would have constituted an infringement of the rights conferred by publication of the application if the application had not been withdrawn shall be treated as an infringement of those rights if it was a continuation or repetition of an earlier act infringing those rights;

(iii) where the Controller has published notice of the request referred to in section 110(2A) and, after the withdrawal of the application and before publication of the notice, a person—

(I) began in good faith to do an act which would have constituted an infringement of the rights conferred by publication of the application if the withdrawal had not taken place, or

(II) made, in good faith, effective and serious preparations to do such an act, the person shall have the rights conferred by subsection (2).

(2) The person referred to in subsection (1)(iii) shall have the right to continue to do the act concerned or, as the case may be, to do that act, notwithstanding the restoration of the application and the grant of the patent.

(3) Subsection (2) does not extend to granting a licence to any person to do an act referred to in subsection (1)(iii).

(4) If the act referred to in subsection (1)(iii) was done, or the preparations were made to do it, in the course of a business, the person entitled to the right conferred by subsection (2) may—

(a) authorise that act to be done by any partner of that person for the time being in that business, and

(b) assign the right, or transmit that right on death (or in the case of a body corporate on its dissolution), to any person who acquires that part of the business in the course of which the act was done or preparations had been made to do it.

(5) Where a product is disposed of by any person to another person in exercise of a right conferred by subsection (2) or (4) that other person and any person claiming through that other person shall be entitled to deal with the product in the same way as if it had been disposed of by the applicant.“.”.

Amendment agreed to.

**Mr. M. Ahern:** I move amendment No. 17:

In page 19, to delete lines 7 to 16 and substitute the following:

“(c) in subsection (5)—

(i) by substituting the following for paragraph (a):

“(a) under the European Patent Convention a European patent designating the State—

(i) is revoked for failure to observe a time limit and is subsequently restored, or

(ii) is revoked by the Board of Appeal and is subsequently restored by the Enlarged Board of Appeal, and”,

and

(ii) by substituting “the person shall have the rights conferred by subsections (8)(c) and (10) of section 37 and subsections (9) and (11) of that section shall apply accordingly.” for “he shall have the same protection as if an order had been made under section 37(7).”.”.

Amendment agreed to.

**Mr. M. Ahern:** I move amendment No. 18:

In page 20, to delete lines 23 and 24 and substitute the following:

“subsections (8A) to (8D) shall apply.

(8A) The person referred to in subsection (8) shall have the right to continue to do the

act concerned or, as the case may be, to do that act, notwithstanding the restoration of the effect of section 119(1).

(8B) Subsection (8A) does not extend to granting a licence to any person to do an act referred to in subsection (8).

(8C) If the act referred to in subsection (8) was done, or the preparations were made to do it, in the course of a business, the person entitled to the right conferred by subsection (8A) may—

(a) authorise that act to be done by any partner of that person for the time being in that business, and

(b) assign the right, or transmit that right on death (or in the case of a body corporate on its dissolution), to any person who acquires that part of the business in the course of which the act was done or preparations had been made to do it.

(8D) Where a product is disposed of by any person to another person in exercise of a right conferred by subsection (8A) or (8C) that other person and any person claiming through that other person shall be entitled to deal with the product in the same way as if it had been disposed of by the proprietor of the patent.”.”.

Amendment agreed to.

**Mr. M. Ahern:** I move amendment No. 19:

In page 21, between lines 17 and 18, to insert the following:

“(c) by substituting the following for subsection (5):

“(5) Where between the cesser, by virtue of subsection (4), of subsections (1), (2) and (3) as regards an application for a European patent and the re-establishment of the rights of the applicant, a person begins in good faith to do an act which would, apart from section 77, constitute an infringement of the rights conferred by publication of the application if subsections (1), (2) and (3) then applied, or makes in good faith effective and serious preparations to do such an act, subsections (5A) to (5D) shall apply.

(5A) The person referred to in subsection (5) shall have the right to continue to do the act concerned or, as the case may be, to do that act, notwithstanding subsections (1) to (3) applying again and notwithstanding the grant of the patent.

(5B) Subsection (5A) does not extend to granting a licence to any person to do an act referred to in subsection (5).

(5C) If the act referred to in subsection (5) was done, or the preparations were made to do it, in the course of a business,

[Mr. M. Ahern.]

the person entitled to the right conferred by subsection (5A) may—

(a) authorise that act to be done by any partner of that person for the time being in that business, and

(b) assign the right, or transmit that right on death (or in the case of a body corporate on its dissolution), to any person who acquires that part of the business in the course of which the act was done or preparations had been made to do it.

(5D) Where a product is disposed of by any person to another person in exercise of a right conferred by subsection (5A) or (5C) that other person and any person claiming through that other person shall be entitled to deal with the product in the same way as if it had been disposed of by the applicant.”.

Amendment agreed to.

**Mr. M. Ahern:** I move amendment No. 20:

In page 21, between lines 29 and 30, to insert the following:

32.—Section 121 of the Principal Act is amended—

(a) in subsection (4), by substituting “subsections (5) to (8) shall apply.” for “he shall have the same protection as if an order had been made under section 37(7).”,

(b) by inserting the following subsections after subsection (4):

“(5) The person referred to in subsection (4) shall have the right to continue to do the act concerned or, as the case may be, to do that act, notwithstanding the publication of the corrected translation and notwithstanding the grant of the patent.

(6) Subsection (5) does not extend to granting a licence to any person to do an act referred to in subsection (4).

(7) If the act referred to in subsection (4) was done, or the preparations were made to do it, in the course of a business, the person entitled to the right conferred by subsection (5) may—

(a) authorise that act to be done by any partner of that person for the time being in that business, and

(b) assign the right, or transmit that right on death (or in the case of a body corporate on its dissolution), to any person who acquires that part of the business in the course of which the act was done or preparations had been made to do it.

(8) Where a product is disposed of by any person to another person in exercise of a right conferred by subsection (5) or (7) that other person and any person claiming through that other person shall be entitled to deal with the product in the same way as if it had been disposed of by the registered proprietor of the patent or the applicant, as the case may be.”.

Amendment agreed to.

**Mr. M. Ahern:** I move amendment No. 21:

In page 21, between lines 29 and 30, to insert the following:

33.—Section 122 of the Principal Act is amended in subsection (1) by substituting “Where an application designating the State is deemed withdrawn under the provisions of the European Patent Convention because it has not been forwarded to the European Patent Office in due time,” for “Where under the European Patent Convention an application for a European Patent designating the State is deemed to have been withdrawn because it has, not within the period required by the said Convention, been received by the European Patent Office,”.

Amendment agreed to.

Bill reported with amendments.

**Mr. Quinn:** I move amendment No. 22:

In page 23, line 35, to delete “signed” and substitute “done”.

Amendment agreed to.

**Mr. M. Ahern:** I move amendment No. 23:

In page 24, line 43, to delete “effect” and substitute “affect”.

The purpose of this amendment is to correct a typographical error. The context of the provision relates to bona fide use of a trademark before the entry into force of the WTO agreement. It provides that such use does not “affect”, as opposed to “effect” those rights.

Amendment agreed to.

**Mr. Quinn:** I move amendment No. 24:

In page 25, between lines 32 and 33, to insert the following:

“(2) The Patents Act 1992 and this Act may be cited together as the Patents Acts 1992 and 2006.”.

**Mr. M. Ahern:** This amendment has been considered in conjunction with the Parliamentary

Counsel, which was reluctant to create a collective citation as it would be necessary to ensure that all other intervening amendments would be included. There is concern that there may be an oversight if any amendment made in the past 14 years was to be omitted.

The fact that the Bill, as published, contained a collective citation is not an argument for having one in the Bill. The citation proposed does not give a full picture of any amendments made to the Patents Act in the interim. It merely signposts that the Patents Act was last amended in 2006. Also, as the Bill amends other intellectual property legislation, if a citation were made a similar provision would be needed in respect of those Acts.

The Parliamentary Counsel is satisfied with the section as it stands. I do not propose to accept the amendment.

Amendment, by leave, withdrawn.

Bill recommitted in respect of amendment No. 25.

**Mr. M. Ahern:** I move amendment No. 25:

In page 25, to delete lines 38 to 40 and substitute the following:

“(3) This section and sections *i*, 2(*a*), (*f*) and (*g*), 7, 10, 12, 15, 16, 18 to 25, 29(*c*) (*ii*), 31(*c*), 32, 34 to 38 and 40 to 48 shall come into operation on the passing of this Act.”.

Amendment agreed to.

Bill reported with amendment.

Bill, as amended, received for final consideration.

**Minister of State at the Department of Enterprise, Trade and Employment (Mr. M. Ahern):** I move: “That the Bill do now pass.”

I thank Deputy Hogan and Deputy Quinn for their co-operation. Some changes have been made following the queries and views they raised on Committee Stage. I also wish to thank my staff for the excellent work they have done to ensure the passage of this Bill.

Question put and agreed to.

#### **Civil Law (Miscellaneous Provisions) Bill 2006: Second Stage (Resumed).**

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

**Minister of State at the Department of Justice, Equality and Law Reform (Mr. Fahey):** Section 50 of the Bill repeals section 20(4) of the Petty Sessions (Ireland) Act 1851, which requires District Judges to keep a note of the evidence. In

two cases, *Friel v McMenamin* ([1990] IRLM 761) and *Hegarty v Fitzpatrick* ([1990] 2 IR 377), the court refused to permit the applicants to have access to the note of the evidence required under section 20(4) of the Act of 1851. In essence, the present law could be viewed as *de facto* rendering the note of evidence pursuant to section 20(4) irrelevant. In these circumstances, it is considered appropriate to repeal the section.

Section 51 of the Bill makes provision for video-conferencing in civil proceedings. The January 2005 report of the committee on video-conferencing proposed draft legislation to facilitate video-conferencing facilities in criminal and civil proceedings. Provision for such facilities in criminal proceedings has already been made in the Prisons Bill. This section extends the facility for video-conferencing to civil cases. Subsection (1) provides that a court may direct that a party may participate in any hearing in the proceedings, or a witness may give evidence in the hearing from a location other than the court itself, by means of a live television link. Subsection (2) provides that such video-conferencing shall not be permitted unless the facilities are available to enable the parties or witness to see and hear the proceedings and to be seen and heard by those present in the courtroom. Neither shall it be permitted if it were to be unfair to the parties or otherwise be contrary to the interests of justice to do so. Subsection (3) provides that where a direction is given under subsection (1), the person concerned shall be deemed to be present at the hearing. Subsection (4) ensures that, where a court does not give a direction under subsection (1), it shall give its reasons for not doing so. Subsection (5) applies the section to proceedings that are either brought on or after the commencement date of the section or are pending on the date of such commencement.

Part 5 of the Bill amends the Gaming and Lotteries Act 1956. Section 55 inserts new values of 50 cent as the maximum stake and €30 as the maximum prize for gaming machines. The current maximum stake and prize values are six pence and ten shillings respectively in old money; the euro equivalents are three cent and 63 cent respectively. By any measure, these values are undoubtedly out of date.

Section 56 allows the Minister to vary the amounts in stake and prize money in the future. Since publication of the Bill last April, the Minister has, in conjunction with his Cabinet colleagues, given further thought to the new limits in the Bill as it stands, and proposes to bring forward on Committee Stage an amendment which would set the new limits at higher levels. In particular, a maximum stake limit of €2, the highest coin denomination, will pitch this limit at a realistic level and will enable operators of these machines to offer a wide range of settings to suit different strata of the market.



[Mr. Fahey.]

Part 6 of the Bill deals with business tenancies. Sections 57 and 58 of the Bill amend, respectively, section 17 of the Landlord and Tenant (Amendment) Act 1980 and section 85 of that Act, so as to enable a business tenancy to contract out of Part II of the Act, conferring the right to a new tenancy. This is conditional, however, on the tenant having received independent legal advice in the matter. This facility is already available to some business tenants but only where the premises are let as office accommodation. The proposal to extend it to all classes of business tenancy, including existing tenancies, is a deliberate policy change to meet the dynamic market economy that exists in the State. It is intended to allow greater flexibility than at present in the arrangements which business landlords and tenants choose to make between each other. At the same time, it maintains a good balance between sometimes competing interests by ensuring tenants cannot sign away the protections currently afforded by the law without first having obtained independent legal advice.

Part 7 of the Bill amends the Statutory Declarations Act 1938. Section 59 of the Bill is designed to take account of the fact that, increasingly, foreign nationals who are here to do business or as workers, need to transact legal or other business that may involve the making of statutory declarations. The current requirements of that Act are that the person making the declaration must either be personally known to the witness before whom the declaration is being made or is identified to the witness by someone personally known. This naturally creates difficulties where the person seeking to make the declaration is a foreign national who knows very few people in the State and whose network of acquaintances here may be such that none of them is personally known to a peace commissioner or other person qualified under the Act to be a witness to a declaration. The solution, in section 59 of the Bill, is to amend section 2 of the Statutory Declarations Act to allow for additional means of identification of a person making a statutory declaration. Most foreign nationals lawfully carry a passport or some other form of national identification from their own country. Others may have refugee documentation or other documentation issued by the Irish State. The amendment will allow the declarant to be identified by the production of a passport or other suitable document. Section 61 of the Bill carries this change through in the form of the statutory declaration.

Section 60 of the Bill amends section 6 of the Statutory Declarations Act 1938. This amendment has been introduced in response to a suggestion from the Standards in Public Office Commission that consideration be given to increasing the timescale within which a possible offence under section 6 of that Act could be

referred to the Director of Public Prosecutions. The amendment allows summary proceedings to be commenced at any time within 12 months of the date on which the offence was committed or at any time within six months from the date on which evidence, that in the opinion of the person bringing proceedings is sufficient to justify the bringing of proceedings, comes to that person's knowledge.

Part 8 of the Bill amends a number of provisions of the Juries Act 1976. Section 62 deals with the sequestration of juries and amends section 25 of the Act to allow for a jury, unless the trial judge directs otherwise, to separate at any time before they retire to consider their verdict. It also allows the jury to separate at any time after they retire to consider their verdict for such period or periods as the judge might allow. This gives more flexibility than at present possible to make arrangements when, for instance, a jury has not reached its verdict by nightfall and must resume its deliberations on the following day.

Sections 63 to 66 of the Bill amend sections 34 to 37 of the 1976 Act to provide for increases in the maximum fine for failure to comply with the provisions set out in these sections.

Section 67 amends Part 1 of the First Schedule of the Juries Act 1976 which sets out the classes of persons ineligible for jury service. Among such classes currently there is reference to "incapable persons" which encompasses persons who "because of insufficient capacity to read, deafness or other permanent infirmity" are "unfit to serve on a jury". This particular class is to be replaced by a reference to "other persons", namely those who have an incapacity to read or an enduring impairment such that it is not practical for them to perform the duties of a juror. Essentially, it replaces what by today's standards could be reasonably considered to be offensive language with regard to persons with a disability.

Part 9 of the Bill makes two amendments of a technical nature to the Bankruptcy Act 1988. Section 68 amends section 85(3)(a) of the Act of 1988 with the aim of ensuring that only those persons who have a say in what happens in a bankruptcy are those who have formally proved through the Bankruptcy Court. It seeks to avoid a situation where, while the proof of debt process is ongoing, representations might be made to the creditors to accept lesser amounts than they could otherwise prove for.

Section 69 amends section 91 of the Act of 1988 concerning the filing of a statement of affairs by the arranging debtor and is of a procedural nature. It seeks to overcome administrative difficulties in the current arrangement by changing the deadline for the filing of the statement of affairs.

Debate adjourned.

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

## Ceisteanna — Questions (Resumed).

### Priority Questions.

#### House Prices.

109. **Mr. O'Dowd** asked the Minister for the Environment, Heritage and Local Government the plans his Department have to encourage so-called empty nesters to trade down to smaller properties; and if he will make a statement on the matter. [31194/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** Prevailing house price differentials mean the environment is generally favourable for people who wish to trade down to smaller homes. Ultimately, this is not merely a financial matter, but rather a question of personal choice, depending on a household's circumstances and on connections to wider family and community. Our strategy has and will continue to be to increase housing supply to meet the diversity of demand. The residential density guidelines for planning authorities, issued by my Department six years ago, highlighted the need for a mix of dwelling types. The increased availability of a range of size and types of dwellings in new residential developments should assist people who wish to move to smaller homes in the same neighbourhood.

The Government is committed also in the social partnership agreement Towards 2016 to increasing the mix of dwelling types of good design across all tenures. Investment over the period 2007 to 2009 will enable increased output from social and affordable housing measures. This will include sheltered housing, which is an option for people on lower incomes who find that their accommodation no longer meets their needs. Already a number of local authorities operate "financial contribution schemes" under which private housing is part-exchanged for social rented accommodation specifically designed for older people. In addition, the voluntary and co-operative housing sector may use the discretion available to it under the capital assistance scheme to allocate up to 25% of units in its projects in a similar fashion.

**Mr. O'Dowd:** The CSO quarterly national housing survey has shown there are approximately 50,000 people living alone in houses with four or more bedrooms. Obviously they are not all elderly but a significant number is elderly. Many retired people, over the age of 65, are living in homes they can no longer maintain. These

people are asset rich but cash poor. I ask the Minister of State to look again at this issue. The supply of housing can be increased if we can find it attractive for people to move to smaller houses. I acknowledge the commitment from some local authorities to assist that process. As many new first-time younger buyers want to get on the market and 50,000 elderly people in houses of four or more bedrooms there is an inequality in terms of market supply. If more people can be attracted out of those homes and into smaller homes and assisted in whatever way possible, that would be socially just, would be a constructive policy and would increase the supply of housing so that young families can get into the market. That is one of the issues that needs to be addressed. Will the Minister of State consider schemes for retired people over the age of 65 and ask his Department to research this area to make it more attractive for people to trade down?

**Mr. N. Ahern:** I know the theory of what the Deputy has said. He did not mention it but he is probably trying to introduce a reduced rate of stamp duty. One can make a theoretical argument for the point the Deputy has made. These things can be done by the carrot and the stick. Some countries might do it by the stick by imposing rates or a property charge on elderly people which would force them out of their homes. Certainly we have not done that and will not do it. We do it with the local authorities under the financial contribution schemes. Much of our emphasis is on the first-time buyer who is going for these smaller homes. While what the Deputy has said is reasonable and I can understand it from one point of view, at the same time I would not like it to be too successful because it might put pressure on the shortage of smaller homes for first-time buyers. We now have a better mix of developments. There is a better range of house-apartment types in new developments. At the end of the day it is not just about a carrot to encourage them to trade down. There are many factors involved. I agree there are many people in four or more bedroom houses and one may ask why they do not trade down. They have raised their families there and it is not always the couple of quid that encourages them. There are other factors. I know what the Deputy is getting at but we would need the support of the Department of Finance to encourage it. If it was too successful I would be nervous of it putting extra pressure on the first-time buyers' market.

**Mr. O'Dowd:** I understand the Minister of State's reply but the key point is to assist retired empty nesters to trade down should they so wish and thus make more homes available in the market place. One of the problems is supply and making affordable homes available. I agree with the Deputy on the need for a mix in social and

[Mr. O'Dowd.]

affordable housing. Will the Minister of State agree that, perhaps, we ought to ask local authorities to examine the centre of their urban communities, particularly vacant sites that could be made available, and designate them and at the planning stage insist they make more affordable housing available to retired people. That would encourage such people into the centre where the services are located. Also the houses would be cheaper because they would be smaller. That would be socially just and it would be a constructive policy for the Government to look at.

**Mr. N. Ahern:** I am not dismissing the Deputy's idea. I know the idea and have often talked about it. It is done under the financial contribution schemes where, certainly in the city, people are selling their houses back to local authorities at prices ranging up to €450,000. The scheme exists at that level. Depending on one's age one makes a financial contribution. Currently the scheme does not exist for houses valued at more than €450,000. Under the new partnership agreement, a working group is being set up to look at more integrated living for older people which would provide care plus housing. Various aspects of it are being examined. The voluntary sector will be involved in that side because there are older people who want to move into accommodation with independent living in the shorter term but which might have options for care. Different ideas are being examined and expanded on. Given that a working group is to be set up under the new partnership agreement to look at that aspect I do not dismiss what the Deputy says.

**Mr. O'Dowd:** It needs to be examined further.

**Mr. N. Ahern:** One would need to tread carefully because the whole market is finely balanced. If it was too successful, one could solve one group's problems but create a shortage in another area.

### **Social and Affordable Housing.**

110. **Mr. Gilmore** asked the Minister for the Environment, Heritage and Local Government the number of dwellings completed and handed over to date for affordable housing under Part V of the Planning and Development Act 2000; and if he will make a statement on the matter. [31183/06]

**Mr. N. Ahern:** Up to end June 2006, 1,837 affordable homes were acquired under Part V, while 2,373 dwellings were under construction and 3,012 were proposed on foot of agreements with developers.

In addition to the number of affordable housing units acquired under Part V, the end-June figures also indicate that 950 social units were

acquired, with 1,428 under construction and 1,097 proposed. Some 51 land transfers to local authorities have been completed involving 40 hectares. A further 259 partially or fully serviced sites have been transferred to local authorities and voluntary housing bodies and €38 million has been received in lieu of land. This output reflects the use of the various flexible options now available to satisfy Part V obligations.

It is important to stress that not all housing output in the State is subject to Part V. Regularly, the mistake is made that in viewing output under Part V one simply applies a percentage to the total overall housing output to determine the Part V contribution, but that is not the case. Part V is restricted to multiple housing developments on land zoned for residential use, or a mixture of residential and other uses. Therefore, not all housing developments are subject to Part V. It does not apply to planning permissions granted prior to the introduction of Part V, many of which are still being built on. It is estimated that just over 10,000 units of the total housing output last year was subject to Part V.

I have no doubt that Part V will play an increasing role in the delivery of social and affordable housing in the future. However, it is not intended that Part V should be the only mechanism for the provision of social and affordable housing. The main local authority housing construction programme together with the voluntary and co-operative construction programme and the various affordable programmes continue to be the major contributors to the national social rented and affordable housing stock.

It is envisaged that approximately 8,000 social and affordable units will be delivered under Part V in the next three years.

**Mr. Gilmore:** When commencing the Planning and Development Act on 31 October 2000, the then Minister for the Environment, Heritage and Local Government, Deputy Noel Dempsey, said it was not an exaggeration to say that Part V of the Act would bring about the most fundamental changes in how local authorities plan and provide for housing.

Since the Act came into effect, approximately 400,000 private houses have been built. The Minister of State has said that 1,837 have been delivered for affordable housing and 950 for social housing. We were supposed to get 20%, but the figure he announced today is not even 1% of the total number of private houses built here since the Act came into effect. It is barely 1% of half the number of houses built. The only exaggeration here is the degree to which the Government exaggerated its promise. It promised 20% but delivered only 1%. That is the Government record on social and affordable housing under Part V, seven years after it was announced, six

years after it was enacted and five years after it came fully into force.

Whatever the Minister of State may say about the Government's role in terms of house prices and the housing market, delivery on Part V was the one thing it was supposed to achieve. It was supposed to deliver 20% of the private housing output for social and affordable housing. It has delivered less than 1%. This is a monumental failure on the part of the Government and the Minister of State with responsibility for housing.

**Mr. N. Ahern:** The changes being made and those that will come from the legislation will have a fundamental effect.

**Mr. Gilmore:** When? The Government has had seven years to do it.

**Mr. N. Ahern:** The figures I gave demonstrate that almost 3,000 units have been delivered.

**Mr. Gilmore:** The figures are 1,837 and 950.

**Mr. N. Ahern:** Right, 2,787.

**Mr. Gilmore:** Less than 1% of the total.

**Mr. N. Ahern:** Over 3,800 are under construction and agreement has been reached for 4,000 more. I consider these figures fundamental. I am blue in the face saying that, as we all know, Part V applies to new planning permissions, not to unzoned land—

**Mr. Gilmore:** Because the Government changed the law.

**Mr. N. Ahern:** The figures are adding up and will continue to do so. In the future Part V will be seen as a significant means of providing social and affordable housing. There is no doubt that it takes time to deliver the dividend, but it is coming. The figures indicate that and each quarter they are on an upward graph. Part V is and will be a fundamental delivery mechanism for social and affordable housing into the future.

**Mr. Gilmore:** Given that, seven years after this measure was announced, which promised that 20% of private housing would be social and affordable, less than 1% is delivered, will the Minister of State tell us how many more decades of Fianna Fáil rule will be required before we reach the 20% target?

**Mr. N. Ahern:** The Deputy fully understands the rules relating to Part V, but he continues to try to mislead—

**Mr. Gilmore:** The Government has had seven years, but less than 1% has been delivered.

**Mr. N. Ahern:** —by selectively quoting figures. We know Part V does not apply to existing planning permissions, to unzoned land, one-off housing or schemes of under five units. However, Part V will be a significant contributor—

**Mr. Gilmore:** When?

**Mr. N. Ahern:** Now, today, and next year.

**Mr. Gilmore:** Some 1,800 out of 400,000—

**Mr. N. Ahern:** The Deputy knows that planning permission lasts for five years and many of the houses on sale this weekend got their planning permission five to seven years ago. No one action can be taken overnight to ramp up the delivery of affordable units. However, as the old planning permissions die out, the dividend in the future will be considerable.

**Mr. Gilmore:** That is rubbish. The Minister of State knows as well as I do that a planning permission has a five-year life. Any planning permissions developers got before this Act was published in 1999 have expired. Anybody who had a 1999 planning permission would have to get new planning permission. Therefore, what the Minister of State has said is rubbish. The Act should now be fully operational. The problem is that the Government, which has been in office for almost ten years, promised the people, including all the young people trying to get houses, that a social and affordable housing scheme would deliver 20% of the private housing development.

The figures the Minister of State gave us, the 1,837 affordable and 950 social units, have made up less than 1% of the total private housing output of the country since the Act came into effect. No matter how he spins it or what excuses the Minister of State offers, this is a monumental failure on the part of Government and an absolute betrayal of all the people who are trying to provide a roof over their heads while mortgage rates are rising and after ten years of rising house prices.

**Mr. N. Ahern:** I suggest it is Deputy Gilmore who is putting a spin on the situation. Many of the housing units currently on sale are still exempt.

**Mr. Gilmore:** That is because after 2003 the Minister of State made them exempt.

**Mr. N. Ahern:** The Deputy knows well also that many of the big developments, particularly in the Dublin area, got ten-year planning permissions from the local authorities. The dividend on affordable units is delivering and coming forward—

**Mr. Gilmore:** It has delivered less than 1%.

**Mr. N. Ahern:** Not alone have we got Part V, there are other schemes. Last year these schemes, including Part V, delivered nearly 3,000 units. This will increase to 8,000 over the next couple of years. The dividend from Part V will be considerable, not to mention the good work the affordable homes partnership will do and the different land swaps that will be made. The Deputy will always try to make something look small. If the Deputy wishes me to add all the schemes—

**Mr. Gilmore:** The Minister of State is good at double addition.

**Mr. N. Ahern:** —I can do so and the figures will look much more impressive. Part V is and will be a very good source of affordable houses in the future as the old planning permissions die out.

### Water and Sewerage Schemes.

111. **Mr. J. Breen** asked the Minister for the Environment, Heritage and Local Government if in view of the fact that the network designed and approved under the preliminary report for the Scarriff, Feakle, Quilty and Mullagh sewerage schemes and also the pricing policy report submitted by Clare County Council continue to be under discussion with his Department with a view to extensive rationalisation of the network, he will provide the housing figures and commercial margins used for each area to determine the figure of €8.8 million allocated; the way this amount was sanctioned without prior approval of the pricing policy report for the combined design, building and operation scheme; when he expects the capital allocation to be drawn down and used for the actual construction of the scheme; and if he will make a statement on the matter. [31184/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I hope I will have less contentious news for Deputy Breen.

Discussions between my Department and Clare County Council in respect of this scheme have been satisfactorily concluded. My Department has approved the council's revised proposals for the scope and scale of the new infrastructure to be provided in each of the locations involved which, I understand, do not involve any significant reductions in the areas to be served by the scheme. My Department has also agreed the overall funding arrangements for the scheme with the council.

The council is now updating the tender documents for the three new treatment plants. These will be procured as a single contract to optimise cost and construction. How quickly work will start on the treatment plants will largely depend on progress made by the council with the tender process. I have instructed my Department to request the council to submit the updated tender documents for the waste water treatment plants

for approval as quickly as possible. They will be dealt with urgently by the Department on receipt with a view to allowing the council to invite tenders with the least possible delay. I insist on the least possible delay because these schemes have been going on for a long time. I am hopeful that construction will commence in the latter part of 2007. In the meantime, the council may proceed with the work on the collection systems without any further reference to my Department in accordance with more streamlined approval procedures I introduced earlier this year to accelerate progress under the water services investment programme. At that time I reduced from four to two the number of stage approvals which local authorities are required to obtain from my Department for schemes costing less than €5 million. Following approval of the preliminary report in such cases, local authorities may now proceed to construction without any further approval from my Department, provided they remain within budget.

Last month I eased the approval system further by dispensing altogether with the need for local authorities to obtain clearance from my Department to award traditional contracts, irrespective of cost. At the same time I introduced a standard scale for calculating the contribution to be made by the non-domestic sector towards the capital cost of new schemes. This will obviate the need for local authorities to produce detailed water services pricing policy reports and should lead to quicker progress with less bureaucracy for these schemes.

**Mr. J. Breen:** After 26 years of broken promises, I welcome the allocation of €8.8 million for the Quilty, Mullagh, Scarriff and Feakle schemes. However I ask the Minister to explain the purpose of a pricing policy if an allocation can be made without the policy being finalised. How has the magic figure of €8.8 million been arrived at?

Labasheeda and Carrigaholt are small villages in the west of Ireland which are crying out for sewerage schemes but are being held back indefinitely because of the pricing policy. What criteria were used here to raise the magic figure of €8.8 million? The contract documents were submitted to the Department two years ago. Why have they not been finalised? I welcome the allocation but I cannot envisage this scheme going ahead for a long time.

The Minister hoped to save money by asking the county council to trim the schemes in the case of Mullagh and Quilty and to trim by nearly half in the case of Feakle. How is it possible to ask the councils to trim the schemes once the allocation has been made? Why was this not taken into consideration by the Minister before he made the allocation? He has given them money on one hand and told them to trim the schemes on the other hand. Those four towns are looking

for a sewerage scheme but some houses will be unable to tap into it. Will the Minister change the pricing policy? Labasheeda and Carrigaholt are small villages which cannot be developed to their full potential and because there are so few houses the price per house is enormous. It is all right to have a pricing policy where there is an existing sewerage scheme but in those cases where there is nothing, will the Minister ease the pricing policy?

**Mr. Roche:** The Deputy has referred to schemes which are not the subject of his question.

I will deal with the water services pricing policy and specifically with the point made by the Deputy about Feakle, Quilty and Scarriff. When the preliminary reports for Feakle, Quilty and Scarriff were approved in 2000 and contract documents were received in late 2004, it appeared on the basis of the information available in the Department from the Deputy's county council, that the cost per existing house in Feakle would be €33,134, €18,587 in Scarriff and a massive €56,410 in Quilty. The Deputy well knows that a householder could provide a proprietary single house treatment plant for a fraction of those figures. It would have been a disgrace to proceed with such a scheme. This House and the Committee of Public Accounts would have been justified in asking the Minister of the day how a scheme costing €56,000 per house was agreed to. We have a responsibility to tend to the interests of the taxpayers as well as the interests of the residents of those areas.

I am surprised at the Deputy's response because the news I have given him today is extraordinarily positive. In the case of Quilty, Feakle and Scarriff we have made extraordinary progress in containing costs.

It is not conceivable that the Deputy could come to the House and expect any Minister, irrespective of whom the Minister was, to stand over a scheme costing €56,000 per house to make a connection. This would be grotesquely unfair to taxpayers.

With regard to the water services pricing policy, reports are calculated at the proportion of the capital cost of the infrastructure which must be paid by the non-domestic sector if it is charged on a country-wide basis as part of the non-domestic consumers' water services charges. We do not apply water charges on the domestic sector.

To simplify the process, a standard percentage contribution will now be applied to schemes where the non-domestic capital contribution has yet to be determined. This is fair and reasonable for the county councils because it is very difficult for them to deal comprehensively with the contribution or with the take up from the non-domestic sector. This approach obviates the need for elaborate water services pricing policy reports which

are costly, which take a lot of time to prepare and which are contentious by their very nature. This course of action could still be the final solution. However, in the case in question, a group of schemes which were tied up in red tape for years have now been released. I think a smidgen of support from the Deputy's side of the House in recognition of this would not be uncalled for. I accept his frustration that these schemes were tied up, considering the schemes for Feakle, Quilty and Scarriff were first approved in 2000 and the contract documents arrived in the Department in 2004. I suggest if the Deputy has a query about that period he should address it in Ennis, not in Dáil Éireann.

**Mr. J. Breen:** The Minister did not listen to what I said. I welcome both the schemes and the progress made. I wish to ascertain how the Minister arrived at the figure of €8.8 million. How many houses were included in the make-up of the amount? Why did the Minister ask for the scheme to be trimmed after the €8.8 million had been allocated? I welcome the scheme with open arms and I will help the Minister in every way to progress it. I was trying to achieve this during my 26 years as a county councillor in Clare County Council without success but I am here in this House now and I want to help the Minister in every way I can.

**Mr. McCormack:** Even if the Progressive Democrats pull out.

*(Interruptions).*

**Mr. J. Breen:** Is dona linn an briseadh seo. I just wish to know the number of houses and the reason the Minister asked for the scheme to be trimmed.

**Mr. Roche:** I think the Deputy will accept that the figure of €56,000 per house is not acceptable. A further calculation was carried out with the county council to achieve the €8.808 million Exchequer grant. This was agreed in July 2006 and approved by the Department in August. It allows €10,000 each for 99 existing houses in Feakle, 372 existing houses in Scarriff and 351 existing houses in Quilty. An additional allowance of €4,000 will be made for 23 future houses in Feakle, 62 houses in Scarriff and 62 future houses in Quilty. This works out at 40% and is a quick rule of thumb to allow for further expansion in those areas. In the circumstances, a figure of €10,000 per house plus a 40% rule of thumb for expansion is generous.

#### House Prices.

112. **Mr. McCormack** asked the Minister for the Environment, Heritage and Local Government his views on the imbalance between Dublin and the rest of the country identified in the EBS-

[Mr. McCormack.]

DKM affordability index published on 28 September 2006 that shows that while first-time buyer couples nationally are spending up to 25% of their joint disposable income on mortgage repayments, working couples in Dublin are spending up to 37% of their income on mortgage payments; and if he will make a statement on the matter. [31195/06]

**Mr. N. Ahern:** Increasing house prices and mortgage interest rates mean that a greater proportion of disposable income is now needed to meet mortgage payments. Despite this affordability both nationally and in Dublin remains within the affordability limits now typically applied by lending institutions in deciding mortgage applications.

My Department's affordability index reflects the position at the end of March this year for a couple on a combined income of just under €76,000, based on the average industrial and non-industrial wage. The mortgage outgoings of such a couple represent about 29% of their disposable income. This ratio would in fact be lower if account is taken of the longer loan periods which are now on offer from the lending institutions.

The Government has taken a wide range of actions to maximise access to home ownership. The success of these is demonstrated by the fact that over 45% of new house loans last year were taken out by first-time buyers. First-time buyers pay at least 13% below the average price for a new house and significantly less for second-hand houses. Some 90% of the houses bought by first-time buyers cost less than €350,000 nationally and 75% cost less than €350,000 in the Dublin area. The availability of new financial products such as longer-term mortgages has also assisted in keeping mortgage repayments relatively affordable.

A key feature of the Government's housing policy is to promote an adequate supply of housing to meet demand. The delivery of more than 500,000 new homes since 1997 has enabled an unprecedented number of first-time buyers to access home ownership during the period. Last year 81,000 houses were built and the figure this year will be higher again — the current rate is 20% up on last year.

A number of measures to assist those who cannot access affordable housing without assistance have been put in place. These include the shared ownership scheme, the affordable housing scheme and affordable housing under Part V of the Planning and Development Acts. Eligibility and subsidy levels under the various schemes were increased in January.

**Mr. McCormack:** I presume the Minister of State does not believe the script he has just read. He would not want to be influenced by what lending institutions might give because they have their own agenda. Is the Minister of State aware of another report published in the past month,

which shows that key public workers, including gardai, teachers and nurses, are being priced out of the housing market in four of the five largest cities in the State, Dublin, Cork, Galway and Waterford? I ask the Minister of State to consider establishing a special unit in his Department to deal solely with this issue and not to read out the irrelevant details he has just given us.

That unit should tackle changing the stamp duty regime whereby first-time buyers buying houses costing more than €317,500 are subject to the full amount of stamp duty on the houses. This adds considerably to the dilemma and hardship of first-time buyers. Between all charges, those buyers are paying the Government up to 50% of the cost of the house. Stamp duty alone adds from €20,000 to €40,000 to the price of a house for a first-time buyer. Does the Minister of State agree with the Tánaiste, who believes that the Government no longer wants the €2 billion it raises from stamp duty? Would he consider abolishing stamp duty for first-time buyers in accordance with the Fine Gael policy?

**Mr. N. Ahern:** Many studies have been carried out by different financial institutions. However, first-time buyers are key buyers in the market. As I said, 45% of mortgages for new homes taken out last year were by first-time buyers, which shows they are buying. Different people can play around with figures. The survey by Halifax mentioned by the Deputy was very selective in its prices. It used the average price of all houses, which includes big second-hand houses that might have development land adjacent. It used particular salary levels — in the case of a nurse it used the salary in her first or second year. It is possible to play around with figures to get the maximum effect. However, first-time buyers represent a very large proportion of the market. Some 45% of new houses are bought by first-time buyers. The average house that a first-time buyer buys costs 13% less than the average new house bought by others, mainly people trading up. Relating what the first-time buyer pays for a house to the average price of a second-hand house is irrelevant, because we all know that second-hand houses include many fancy houses in the leafier parts of the city and elsewhere.

On affordability, house prices have increased in recent years.

**Mr. Gilmore:** Really.

**Mr. N. Ahern:** The affordability index is more important. While that has also increased it is still not as bad as it was for a period in the early 1990s. Affordability comprises the price of the house, the tax rate, the interest rate and the average take-home pay. While affordability has worsened, many people have got over it. While, sadly, I might give out about it, many affordability indexes are based on either a 20-year loan or, in some cases, including that of DKM, a 25-year

loan. In reality people are now getting 35-year mortgages, which considerably decreases the percentage of the net take-home pay spent on mortgage repayments.

**Mr. McCormack:** The Minister of State said that 45% of mortgages are taken out by first-time buyers. While that may be a fact, and I take his word for it, they are taken out to buy houses on which the Government is charging those first-time buyers stamp duty. How many people in that 45% are buying houses costing more than €317,500? While I do not know if the Minister of State has such experience, I have experience of this because my daughter is a nurse in Dublin trying to buy her first house. As she cannot get a house for less than €317,500, she will be obliged to pay the Government €40,000 or €50,000 for buying the house in the vicinity of where she works or on the outskirts of the city.

Is the Minister of State aware that the recent census showed that the population of Dublin city rose by only 2% between 2002 and 2006? However, there was a huge growth in the neighbouring counties of Fingal with a 22% increase, Meath with a 21% increase and Kildare with a 14% increase. This clearly shows that first-time buyers must go considerably outside the city and away from where they originate and work to acquire a house at a reasonable price. If the Government increased the threshold for stamp duty or abolished it altogether for first-time buyers it would be doing the first-time buyers a service rather than paying lip service. Of course it is true to say that first-time buyers are buying houses for 13% less than the average person because he is comparing them with people who have traded up. In any case most first-time buyers buy flats or apartments.

**Mr. N. Ahern:** The stamp duty rates are set by the Department of Finance and there is no point in us going into that. Generally speaking first-time buyers are more inclined to buy new homes than to buy second-hand ones. When we reduced the rates two years ago it shifted the balance and brought a far greater number of first-time buyers into the second-hand market.

**Mr. McCormack:** What is wrong with that?

**Mr. N. Ahern:** There is nothing wrong with that. Generally first-time buyers buy new houses rather than second-hand houses. The Deputy mentioned the census figures. There are four local authorities in County Dublin. Dublin city is almost fully built up. Naturally the population of the city will not increase in the same way as Kildare, Meath or north County Dublin. It goes back to the point Deputy O'Dowd made earlier. Some of the middle-class, middle-range suburbs of Dublin now have many three and four-bedroom homes containing only two adults. In a large swathe of Dublin, in areas such as Clontarf,

Glasnevin, Rathmines and Clonskeagh, the populations are falling. There is a logic to Deputy O'Dowd's remark that it would be sensible to recycle some of those homes but the opportunity for building new homes in Dublin does not exist other than in the docklands, Pelletstown and other such places. While affordability has worsened slightly, the fact that people are now taking out 35 year mortgages means the percentage of net take home pay being spent on mortgage repayments is no greater than it was when the Deputies opposite or I bought our houses.

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

113. **Mr. Crowe** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the fact that fire doors have not been installed in local authority dwellings in which lifts were constructed to facilitate people with disabilities; and the plans he has to introduce specific regulations to rectify this fire safety risk. [31268/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. B. O'Keeffe):** The question of installing fire doors in existing houses adapted by the installation of lifts in order to meet the needs of people with disabilities will be considered in the context of the next review of part B, fire safety, of the building regulations. Local authorities have an overall role in ensuring local authority dwellings meet the needs of tenants and safety is an important consideration in this regard. In cases where remedial or improvement works are being undertaken, these will generally seek to enhance fire and other safety aspects. My Department will consider submissions from local authorities on such matters and will support appropriate remedial measures as required.

**Mr. Crowe:** I welcome the Minister of State's announcement of a review of the policy but can he indicate when that review will take place? A standardised system is lacking among local authorities and I am seeking to have such a system introduced. A man in whose home a lift was installed because of difficulties he had with mobility recently asked me what he should do in the event of a fire. He would not take the lift because he was warned that the electricity supply would probably be interrupted. There are no fire doors beside the lift in that man's house, so he would literally be trapped. If a fire door was installed, he would at least have some time to escape a fire. For many years, chair lifts were the main form of lift but other types are now being installed inside the house itself.

I contacted the fire services, which are aware of the situation and the dangers involved, but was told they do not get involved in local domestic matters, although they would certainly look for



[Mr. Crowe.]

fire doors in respect of apartment or office accommodation.

People have enough to worry about with regard to poor mobility, so I ask the Minister of State to prioritise the matter. An accident is waiting to happen. Significant amounts of money are already being spent on disabled persons grants and other grants and, if local authorities were obliged to install fire doors, the additional expense would not be huge. Addressing the issue may require thinking outside the box but that should not be impossible.

**Mr. B. O’Keeffe:** Deputy Crowe is correct that the current building regulations do not require the installation of fire doors in ordinary one and two storey houses. Most doors can contain smoke to a certain level and, when combined with a smoke alarm, will provide a degree of fire safety. However, even where fire alarms are installed, 30% are not working. We are trying to send a message to people not only with regard to the necessity of installing fire alarms but also to ensure the alarm batteries are not dead.

In themselves, fire doors can cause significant problems for children and people with impaired mobility because they are heavy and difficult to open. Self-closing doors have the potential to cause injuries by shutting on people. Where fire doors are required, such as in nursing homes, they can give rise to a number of problems for residents. In many cases, doors are held open by magnetic devices and only close when a fire alarm is triggered. We will consider the issue in the context of ongoing review of the building regulations, the first stage of which has been completed.

**Mr. Crowe:** The matter was drawn to my attention by someone who had personal experience of it. I am not trying to scaremonger but concerns exist which need to be properly addressed. I am aware of the weight of fire doors but lighter options could be considered. I am also aware of the cost factor involved but safety should be a priority. The last thing we want is to cause families to worry about their loved ones in the event of a fire.

### Other Questions.

#### Housing Policy.

114. **Caoimhghín Ó Caoláin** asked the Minister for the Environment, Heritage and Local Government if he fully supports the National Economic and Social Council’s recommendation that there should be a net increase of 73,000 dwellings; and whether these will be included in the National Development Plan 2007-2013.

[31008/06]

**Mr. N. Ahern:** Priorities for investment in housing under the National Development Plan 2007-2013 will take account of a number of factors, including the key policy challenges highlighted by the NESC report, the results of the 2005 housing needs assessment and the policy framework set out in the document, Housing Policy Framework — Building Sustainable Communities, which was launched in December 2005.

Under Towards 2016, the Government is committed to providing investment for an expanded range of housing options to households which cannot afford to provide for their accommodation needs. In the period 2007-09, this will include the commencement or acquisition of an additional 4,000 new housing units through a combination of local authority, voluntary and co-operative housing and long-term contractual arrangements under the rental accommodation scheme for new supply. The total number of new commencements and acquisitions over the period will be 27,000 units. Additional households will benefit from full implementation of the rental accommodation scheme, which will involve contractual arrangements with landlords for existing properties transferring from rent supplement.

The Government’s overall strategy is to increase housing supply to meet demand and to improve affordability, particularly for first-time buyers. We will continue to support investment in infrastructure to deliver high levels of housing and improve affordability and we are putting a greater focus on building active and successful communities through quality housing and the provision social and affordable housing.

**Mr. Crowe:** I take it from the Minister of State’s reply that he supports the call by NESC for a net increase of 73,000 housing units. Does he accept that we are not meeting current demand? Housing stock is being sold without being replaced, despite the fact that demand is not being met. When we demolish local authority social housing units, should we not build replacements?

Does the Minister of State agree that a crisis exists with regard to local authority housing? Housing lists are getting longer and prices are spiralling out of control. The Government can huff and puff as much as it likes but the reality is that young people and families earning the average industrial wage cannot afford to buy houses in Dublin and other cities.

Will the Minister of State commit to strengthening Part V of the Planning and Development Act 2000 so it is restored to its original form or does he propose to allow social exclusion to continue? Does he want to repeat the mistakes of the past or permit a situation in which people are forced abroad because they cannot afford to buy their own houses?

**Mr. N. Ahern:** I do not know what the Deputy means when he accuses us of demolishing homes without replacing them.

**Mr. Crowe:** In St. Michael's estate, for example, only 60% are being replaced. That is one estate and there are a number of such estates in Dublin. The Minister should be aware of that fact.

**Mr. N. Ahern:** We are spending huge money on social housing. The overall housing budget this year is €2 billion and, of that, €1.4 billion is being spent on social housing. There is huge investment.

**Mr. Crowe:** There are 43,000 families on the waiting list.

**Mr. N. Ahern:** The output last year of local authority housing was the highest for approximately 20 years. The waiting list did come down. I know how many are on it, although it is important to note that over 40% of what are called families on the social housing waiting list are single people. Huge amounts of money are being spent on new building, remedial works and regeneration schemes. With regard to St. Michael's and such estates, much of what we are doing is focused on quality. We do not want to build vast estates, as happened in the 1960s and 1970s, which are fine when handing over the keys but which create huge anti-social problems for the future.

In places such as St. Michael's and Fatima, it is better to have an integrated mixed development of private, social and affordable housing. That is the way forward—

**Mr. Crowe:** That leads to shortages in housing stock.

**Mr. N. Ahern:** —rather than having huge estates for one class of society. There are no plans to change Part V. It is delivering.

**Mr. Gilmore:** Only 1%.

**Mr. N. Ahern:** There is also the affordable homes partnership. In the Deputy's constituency, it has delivered a couple of hundred homes through land swaps. We announced another such swap a few days ago under which we will get more than 200 houses, many of them in west and south-west Dublin, at good prices of €180,000 to €220,000. We are providing many affordable homes; 500 such homes have been provided on three land swaps. Many of the people on social housing lists who have jobs as a result of the improved economy are opting for those homes and are succeeding in getting into the market.

There has been much progress, although I accept there are over 40,000 families on the waiting list. If we can continue to increase the investment we are making in this area, we will meet

the needs of more of those families over the next couple of years.

### Greenhouse Gas Emissions.

115. **Dr. Twomey** asked the Minister for the Environment, Heritage and Local Government the further action he intends to take to prevent climate change; and if he will make a statement on the matter. [30972/06]

179. **Mr. Crawford** asked the Minister for the Environment, Heritage and Local Government his assessment of how far off Ireland's Kyoto obligations we will be in 2008 to 2012; the fines Ireland is expected to face as a result; and if he will make a statement on the matter. [30933/06]

209. **Mr. Crawford** asked the Minister for the Environment, Heritage and Local Government his view on the finding of the Environmental Protection Agency that Ireland is 23% above its 1990 levels of greenhouse gas emissions; and if he will make a statement on the matter. [30932/06]

220. **Mr. Ring** asked the Minister for the Environment, Heritage and Local Government the further action he will take to reduce the emission of CO<sub>2</sub> and other greenhouse gases; and if he will make a statement on the matter. [30974/06]

341. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government his future plans for compliance with the Kyoto Protocol; if he is satisfied with the progress to date; if he will take new initiatives to address the issue; and if he will make a statement on the matter. [31241/06]

**Mr. Roche:** I propose to take Questions Nos. 115, 179, 209, 220 and 341 together.

Since the publication of the national climate change strategy in 2000, the Government has put in place a variety of measures which, collectively, will deliver an average 8 million tonne reduction in greenhouse gas emissions during the period 2008-12. That is our compliance period for the Kyoto Protocol and it is the period during which we will be assessed.

A number of measures have been taken. We have strengthened the energy requirements in the building regulations and over the key period that will lead to a reduction of approximately 300,000 tonnes of CO<sub>2</sub> per year. Regulations require all new cars for sale to be labelled with fuel economy and CO<sub>2</sub> emissions information. That is making a positive contribution. The renewable energy directive to which we are committed will achieve a 1.3 million tonne CO<sub>2</sub> reduction annually. Excise relief of over €200 million between 2006 and 2010 will bring emissions reductions of 250,000 tonnes annually, equivalent to taking 76,000 cars off the road.

[Mr. Roche.]

The reform of the Common Agricultural Policy will have the biggest single impact. Less greenhouse gas emissions arise from fewer and younger animals. The reduction under those changes will be approximately 2.4 million tonnes of CO<sub>2</sub> per annum. The Government's forestry programme will also contribute to the removal of over 2 million tonnes of CO<sub>2</sub> per annum.

There are three strands to the Government's approach. The first is measures to reduce emissions throughout the economy. Most Deputies accept that there is no single silver bullet. A variety of changes will achieve the impact. Second is the emissions reductions in the installations participating in the EU emissions trading scheme. Third, where it arises, there is the purchase of credits for carbon reductions elsewhere in the world, which is an option specifically provided for in the Kyoto Protocol.

I recently launched a report on the implementation of the climate change strategy, entitled, Ireland's Pathway to Kyoto Compliance. The report provided the basis for a period of public consultation up to the end of last month. The responses to this open consultation will inform the identification of future policies.

In addition, progress will also be achieved by the range of new measures identified in the Green Paper on energy published last Sunday. These are significant. The greener homes renewable energy grants scheme, for example, has been remarkably successful and has a tremendous take-up. It will deliver an approximate 200,000 tonne reduction in emissions. There are new ambitious targets for renewable energy use of 15% by 2010 and 30% by 2020, which will more than double the savings in that regard. We intend to more than double the use of biofuels by 2010 from 2% to 5.75%, which will have significant emissions benefits.

The establishment of a task force on bio-energy will help to develop an integrated national policy in this area, taking into account the various policy strands arising under different Departments. That will be in place by the end of 2006. There is an action plan on energy efficiency to reduce energy consumption by 20% by 2020. This is the Power of One scheme which was launched last week. I believe it will have a significant impact. An increase in the use of combined heat and power to 350 MW by 2010 with grants for 30% of the installation costs will also have an impact. There is a commitment to co-firing peat-fired power stations with 30% biomass by 2015. This will not only have the effect of cutting emissions but will also reduce our dependence on imported fuels.

Significant changes have already been introduced and more are on the way. I am confident that with these changes we are well on target to meet our Kyoto figures.

**Mr. O'Dowd:** We are well off target. The Government commitment to the Kyoto Agree-

ment states that we should be ten points lower than where we are at present. In other words, we are ten points adrift. We are far above the carbon dioxide emissions that we should permit. I attended a lecture recently at the Dundalk Institute of Technology given by Lawrence Staudt, who is the head of the renewable energy department. He said that Ireland has the highest level of greenhouse gas emissions *per capita* of any country in Europe. That is a shameful statistic.

The Minister has fine talk but there is no action. The spatial strategy is not working. Thousands more people are spending longer periods commuting to work in Dublin by driving from Wexford, Portlaoise and even Galway. The Government's policy is not working; it does not have a proper transport policy. The EPA has stated that emissions caused by transport, that is, cars, lorries and so forth, are far higher than they ought to be. The Government has failed to meet its commitments under Kyoto or to implement a proper transport policy. We are causing more pollution *per capita* than any other country in Europe. The spatial strategy is not working.

Will the Minister insist to each local authority — this has been implemented in Fingal County Council — that a specific amount of renewable energy be used in house construction, whether that is 10%, 15% or 20%? I will not argue about the percentage but the principle must be established. There must be a reduction in CO<sub>2</sub> emissions from homes, particularly given the heat loss caused by many modern technologies. I accept that the building regulations are being changed but the Minister is not insisting on a percentage of renewable energy to be used in every home.

A number of Members of the House travelled to the UK to see a competition held by the UK Government to produce a low energy, low cost home. Will the Minister introduce such a scheme? Will he put the technology industries head-to-head with each other? Will he put the cement industry head-to-head with the timber frame housing construction industry, tell them to come up with the best house between them, one which is neutral in terms of energy or has the lowest possible emissions, and say it will build it? Will the Government take this on board in its social and affordable housing plans and build such houses — say 10,000 of cement construction and 10,000 of the other? Whatever the figure, we should opt for whichever is the best. It is not acceptable for the Government to sit back and do nothing about it.

**Mr. Roche:** Deputy O'Dowd's comments are, to put it mildly, predicated on a misreading of the situation. He said the Government has no coherent transport policy. On a *per capita* basis, Transport 21 is the most ambitious public transport policy in Europe.

**Mr. O'Dowd:** It is not working. The Minister should tell that to people travelling from Drogheda, Dundalk and Navan every day.

**Mr. Roche:** I listened carefully to the Deputy so he should let me finish the point. When his party was in power, investment in public transport averaged approximately €1 million per year. It is bizarre——

**Mr. Cuffe:** That was then; this is now.

**Mr. Roche:** This is now and we are delivering. In our worst year we delivered a multiple of what Deputy O'Dowd's party did in its best year.

**Mr. Cuffe:** That is ancient history.

**Mr. Roche:** It is not ancient history. One is talking about the past ten years and the extraordinary ramp up of improvement. If the Deputy wishes, I can go through all the transport issues but that is not the question. It is simply mendacious for the Deputy to suggest it is ancient history. That is nonsense. It is rubbish, as the Deputy knows from the way in which he is talking.

Let us deal with the facts. Deputy O'Dowd has again misrepresented precisely where we are in terms of the Kyoto Protocol. Europe as a whole must be at 8% below the 1990 level. We have to be at the 1990 level plus 13%. At present we are at 23%. That is ten percentage points ahead before the end of the indicative period, which is 2012. To suggest, therefore, in 2006 that we have somehow failed to attain a 2012 target is simply nonsense. The Deputy had some good suggestions, for example, the construction of model houses, which I would be prepared to consider. I have made it very clear time and again — we have exchanged views in this House and elsewhere — that a whole menu of policies are necessary to achieve the targets.

Looking at what has been done, we had to bring our emissions down to an average 63 million tonnes over the indicative period. We have actually come down by over 8 million over the period. We have a 7 million tonnes target to meet. I have outlined the policy changes that have been indicated which will significantly cut into that, producing savings cumulatively of more than half that distance to target amount. That has been made clear in last week's publication, the Green Paper on Energy, in which there are significant and exciting proposals for biofuels, for example, to which I am very committed. Not only are they low in emissions but they have the benefit of giving us energy security and a variety of other benefits about which Deputies know. In Ireland's Pathway to Kyoto Compliance, there are commitments to further changes. There have been very significant changes in this period.

Deputies should remember that the changes have been carried out in the most successful and

rapidly growing economy in Europe. We could have expected dramatic increases. We have decoupled economic growth from the growth of emissions, something in which we can all take some pride. I reject the hypothesis put forward by Deputy O'Dowd.

**Mr. Gilmore:** I have three supplementary questions. Will the Government produce a revised national climate change strategy and, if so, when will it be published? What is the current estimate of the amount, in tonnage terms, by which this country will exceed the Kyoto target at 2012 and what will that cost the taxpayer annually?

**Mr. Roche:** I have already made it clear that the consultation period in Ireland's Pathway to Kyoto Compliance concluded at the end of last month and I intend to act on that. The distance to target as of this moment is roughly 7.2 million. If one nets out the figures I have already identified for the Deputy, one is talking about 3.5 million. The figure which the Deputy quoted, that is, approximately €1 billion in fines, look very odd in that regard.

**Mr. Gilmore:** The Minister should answer the question.

**Mr. Roche:** I have just answered the question. The Deputy asked three questions, the first being, what is happening? As I said, we have already published Ireland's Pathway to Kyoto Compliance.

**Mr. Gilmore:** Will the Minister produce a revised climate change strategy?

**Mr. Roche:** I already said the consultation period——

**Mr. Gilmore:** Is the answer "yes" or "no"?

**Mr. Roche:** I am surprised the Deputy, as a spokesperson for a serious party on the environment, does not seem to know that we have published Ireland's Pathway to Kyoto Compliance.

**Mr. Gilmore:** I know that. There is no need for the Minister to patronise. Will he publish a strategy?

**Mr. Roche:** We have already published that.

**Mr. Gilmore:** The Minister has not. He published a consultation paper.

**Mr. Roche:** That is not the energy strategy. The measures which come out of that consultation will be incorporated in a new policy document.

**Mr. Gilmore:** When will it be published?

**Mr. Roche:** It will be published as soon as may be. The consultation period ended fewer than seven days ago.

**Mr. Gilmore:** Will it take months or years?

**Mr. Roche:** Let me explain this. It will take a little time but it will be published.

**Mr. Gilmore:** What is a little time?

**Mr. Roche:** It will take as long as it takes.

**Mr. Gilmore:** How long will it take? That is my question. What is the Minister's target?

**Mr. Roche:** This is not some star chamber.

**Mr. Gilmore:** What is the Minister's target date?

**Mr. Roche:** As I said, as soon as may be. I actually do not know——

**Mr. Gilmore:** What has the Minister told his Department?

**Mr. Roche:** I told my Department to get on with the job.

**Mr. Gilmore:** The Minister must have given it a target date.

**Mr. Roche:** I did not. I told it——

**Mr. Gilmore:** The Minister should have done so.

**Mr. Roche:** That is the Deputy's view. I am never slow in reaching targets.

**Mr. Gilmore:** What is the target?

**Mr. Roche:** The Deputy does not want me to deal with the facts.

**Mr. Gilmore:** I just want the answer.

**Mr. Roche:** Every time the Deputy speaks about this issue, he issues a degree of extraordinary confusion on it or simply an incapacity to grasp it.

**Mr. Gilmore:** The Minister does not have a target then.

**Mr. Roche:** The Deputy has said time and again that it will cost thousands of millions——

**Mr. Gilmore:** We will not get a new climate change strategy in the lifetime of this Government.

**Mr. Roche:** ——but the Deputy is wrong and has always been so.

**Mr. Gilmore:** There will be no new climate change strategy in the remaining——

**Mr. Roche:** The Deputy asked me a third question which he does not want me to answer.

**Mr. Gilmore:** ——lifetime of this Government.

**An Leas-Cheann Comhairle:** Allow the Minister to speak.

**Mr. Roche:** The Deputy asked me a third question which he does not want me to answer because he is on the record as saying time and again that it will cost us thousands of millions in fines to reach the target.

**Mr. Gilmore:** I did not.

**Mr. Roche:** The Deputy did. He said on one occasion that it would cost €1 billion.

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

**Mr. Roche:** The Deputy also gives high double digit figures for the cost of a tonne which he knows are wrong. As the Deputy knows, the figure fluctuates.

**Mr. Gilmore:** What is the current estimate?

**Mr. Roche:** It has been as low as 8 million.

**Mr. Gilmore:** What is it now? Is it 22 million?

**Mr. Roche:** The estimate is approximately 15 million. The figure has gone up and down as the Deputy knows. It fluctuates. The estimated figure is approximately 15 million. If one takes 3 million and multiplies it by that, one is talking about a lot less. The mechanism provides specifically——

*(Interruptions).*

**Mr. Roche:** If one multiplies 3 million by 15 million, one gets 45 million. That would be the figure in 2012 if nothing happened between now and then. However, one should look at what we propose to do in respect of biofuels, for example. As Deputy Cuffe knows, when one doubles the amount of biofuels from 2% to 5.7% not only does one cut significantly the cost of fuel but one also significantly cuts emissions. If one doubles the renewables from 15% in 2010 to 30%, one will do that. The Deputy said that and I agree with him. That is why we are doing that.

**Mr. McCormack:** The Minister mentioned a reduction of 8 million tonnes. Is that a Government aspiration or is it the factual position? He also seemed to take credit for fewer greenhouse gases being emitted by the agriculture sector. There are fewer livestock in the country now. This problem is being solved in another manner rather than by any steps the Government is tak-

ing. The Minister need not take any credit for that. Is the Minister considering the nuclear option here or the importation of energy generated from a nuclear plant outside the State? What steps has the Government taken to reduce CO<sub>2</sub> emissions from homes and is grant aid available for this purpose?

**Mr. Roche:** The figure of 8 million tonnes is the achievement to date. That calculation comes from various EPA reports. Deputy McCormack is quite right in saying that changes in agricultural practice are having a major impact on emissions. One must realise that changes in agriculture have, to a large extent, been driven for example by the huge take-up in REPS.

**Mr. McCormack:** Economic factors.

**Mr. Roche:** The recently adopted nitrates package will also have a significant impact, as will the decoupling of payments. All of those factors will result in change. One could say these are determined by external factors but they are Government policy.

A grant package for housing was announced in the 2006 budget — the greener homes initiative of which the take-up has been significant. I understand that in excess of 8,500 applications for this grant have been made. As Deputy McCormack is aware, the grants are for solar panels, geothermal heating and conversion to wood chip, which is doubly beneficial as we have indigenous sources of production. Such a take-up would generate a significant improvement in emissions. I outlined the tonnage earlier.

The Deputy's other question related to the savings from changing buildings. Roughly speaking, one is talking about 300,000 tonnes of CO<sub>2</sub> per year from the changes in the new, better building standards. As I stated, a variety of issues is involved.

Deputy McCormack may have missed this on Sunday as there were other excitements that took people away from the Sunday newspapers, but it was announced that the prohibition on the building of a nuclear power station will continue to be the law of the land. As the Minister for Communications, Marine and Natural Resources stated on Sunday, it is unlikely that any political party in the country would move away from that position.

**Mr. McCormack:** The Minister did not answer the question on the nuclear option.

**Mr. Roche:** I just answered it. Perhaps there is something wrong with the acoustics. The Deputy may not have heard me but I stated it is already a fact that the legal prohibition will continue as long as this Government is in power.

**Mr. Cuffe:** Does the Minister accept that he has become the Minister for urban sprawl? Does he

accept that the results of his policies are increasing our greenhouse gas emissions? Is the Minister aware that the European Environment Agency is set to use Ireland as an example of bad planning, whether it be urban sprawl, greenhouse gas emissions or children being driven to school rather than walking there? Does he accept that the UK has for many years now insisted on condensing boilers in every new home and in every refurbished home, yet the Minister is still not insisting on it here?

The Minister might find the wider issue of planning to be too much for him to handle in the short time available to him, but given that we are building at least 90,000 new homes a year, instead of putting it on the long finger, could he at least improve the building regulations now so that when it comes to 2012 he can look back and say houses are using less energy and greenhouse gas emissions are down? Why is the Minister not doing this now? Why is he not leading instead of following on climate change?

**Mr. O'Dowd:** I appreciate the time was short for this question and I am sorry we did not have more time to discuss it. The issue for me is that the Government has failed. Ten years ago I could get to the Seanad from Drogheda within the hour, now it is taking an hour and a half. Thousands of people are getting up earlier every day to get to work because of the traffic queues. There is not enough public transport for everybody. People do not have other options. There are no park and ride facilities outside our cities. The public transport system is inadequate. As Minister with responsibility for the environment, will the Minister take it upon himself to insist that Departments do an inventory of CO<sub>2</sub> emissions and come back to him with a plan to reduce them within a 12 month period?

**Mr. Roche:** A Cabinet sub-committee exists which examines environment, energy, transport and agriculture. It is a sensible point to environmentally test a whole series of public policies.

I do not accept Deputy Cuffe's point about urban sprawl. We have a rapidly growing population. People like to live in individual households. Notwithstanding that the EEA appears to have some prescriptive remedy as to how people live——

**Mr. Cuffe:** Does the Minister believe in a planning free-for-all?

**An Leas-Cheann Comhairle:** Order.

**Mr. Roche:** I want to make a point about the EEA. The EEA appears to suggest a prescriptive form of housing which I do not accept. Frankly, Deputy Cuffe's party does not accept it either. I do not believe people in Ireland want to live in multi-storey blocks on top of each other.

**Mr. Cuffe:** Whatever you are having yourself.

*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 Healy — the need for the location of an emergency ambulance service in the town of Carrick-on-Suir, County Tipperary; (2) Deputy Connaughton — the matter of the backlog of applications submitted by elderly people for funding under the housing for the elderly scheme; (3) Deputy Connolly — to discuss the opening of the new six-bay treatment unit at Monaghan General Hospital; (4) Deputy Pat Breen — that the Minister reconsider his decision to seek to implement the 18-month transitional bilateral agreement at Shannon; (5) Deputy Breeda Moynihan-Cronin — the need for the Minister to address the ongoing delay in the provision of an extension to Kenmare Community Hospital, County Kerry; (6) Deputy Ferris — the Son-Rise Programme for autistic children; (7) Deputy Crawford — that the Minister advise the Dáil on the personal involvement she has had with the management and staff of Monaghan General Hospital; (8) Deputy Lynch — the matter of orthodontic services in the Cork-Kerry region; (9) Deputy Durkan — the issue of the sudden cessation of telephone and broadband services and the likely negative impact this has on the economy; (10) Deputy Gormley — the need for the Minister to introduce legislation to ensure that a proper local post office network is maintained; (11) Deputy O'Shea — the need to upgrade Waterford Institute of Technology to university status; (12) Deputy Broughan — that the Minister address the serious regulatory failure that has occurred in the telecoms sector.

The matters raised by Deputies Healy, Connaughton, Moynihan-Cronin and Pat Breen have been selected for discussion.

### Civil Law (Miscellaneous Provisions) Bill 2006: Second Stage (Resumed).

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

**Minister of State at the Department of Justice, Equality and Law Reform (Mr. Fahey):** Part 10 of the Bill amends the Succession Act 1965. Section 70 amends section 3(1) of the Act by deleting the words "in good faith". The amendment arises from a recommendation of the Law Reform Commission in its 2003 report on land law and conveyancing law. The report states that the requirement that a purchaser act in good faith in the context of the Succession Act contradicts many of the provisions of the Act and goes further than is necessary in placing an excessive

burden on the purchaser. The amendment seeks to implement the recommendation of the report by deleting the term "in good faith" from the definition of "purchaser".

Section 71 of the Bill amends section 5 of the Succession Act, which deals with the situation where two persons die, or are presumed by law to die, simultaneously. The term to describe the deceased persons in these circumstances is "*commorientes*". There can be a difficulty where the *commorientes*, immediately before their death, held property as joint tenants. This would happen, for instance, where a husband and wife who owned their house as joint tenants were killed in the same car crash. Normally, where one of the joint tenants dies, the property goes directly to the other joint tenant or joint tenants and, crucially, does not form part of the estate of the deceased. Where both die simultaneously, however, that cannot happen. There is uncertainty at present in the law as to what then should happen to the joint property. The Bill solves this by adding a new subsection (2) to section 5 of the Succession Act to provide that, where two or more people immediately prior to their deaths held property as joint tenants and they died or were deemed to have died simultaneously, the joint tenancy will on their deaths be deemed to have become a tenancy in common in equal shares. Subsection (3) provides that the equal share will form part of the estate of the deceased in each case.

I can inform the House that provisions are also being developed on a range of other matters that include provisions for anonymity of certain participants in civil proceedings; the order of precedence of judges; a possible increase in the numbers of judges; visitation of wards of court; and banking arrangements for the collection of fines. It is the intention that these too will be included in the Bill on Committee Stage. Apart from those that I have specifically mentioned, there is also the possibility that other matters suitable for inclusion in this Bill will come on stream as it proceeds through the House, and I can assure Deputies that they will be kept informed as to what other material may be brought forward by way of appropriate amendments.

In conclusion, I remind the House of the Government's commitment to quality regulation. This Bill epitomises that commitment, tackling as it does a wide range of areas where change in the law is necessary or desirable in the interests of improving how the law operates and of removing unnecessary obstacles. I commend the Bill to the House.

**Mr. J. O'Keefe:** In many ways, the Civil Law (Miscellaneous Provisions) Bill 2006 is more noteworthy for what is not in it than for what is in it. I say this in the context of the remark by the Tánaiste and Minister for Justice, Equality and Law Reform concerning his intentions to change the Bill he had just circulated. In part-

icular, I am referring to his threat to include a provision to close casino clubs. While I should have known better, I found it extraordinary that the Tánaiste would carry on in this fashion, namely, to circulate a Bill but, in short order, shoot from the hip and indicate that he would close casino clubs apparently without consultation or due consideration.

I accept that the Gaming and Lotteries Act 1956, which is coincidentally 50 years old, needs a comprehensive review, but if the above is the type of review we can expect from the Government, particularly the Tánaiste, all I can say is "God help us". At the time, we investigated the Tánaiste's proposal to close casino clubs and I am unsure about whether he was ever in one. I did not have great knowledge of them, but I went to the trouble of going to one.

**Mr. Fahey:** Is the Deputy telling the House that he spent time in a casino?

**Mr. Howlin:** Did the Deputy win any money?

**Mr. J. O'Keeffe:** In light of the Tánaiste's prognostication, I was concerned by the iniquitous and awful proceedings I would find in the club, but to my great surprise, I found a well run establishment in which ordinary, decent people seemed to be having ordinary, decent fun. There was no drink and anyone who had notions of lap dancers or the like would have been disappointed. The people were not in the process of exposing themselves to significant losses of funds. On the other side of the coin, 800 people work in these casino clubs where thousands of people find enjoyment, but the Tánaiste did not seem to care a jot that his threat to close them would put those people out of work and on the dole.

In light of the Tánaiste's reputation on other issues, we should not have been concerned. He backed off as soon as public pressure emerged, sensible people started raising sensible points and a number of investors with a Fianna Fáil orientation brought the matter to the attention of their representatives. It was another U-turn. We saw the old characteristic in that the rottweiler of serious intent turned out to be the poodle of U-turns. This is not surprising as it is the Tánaiste's regular routine. For example, this week in the Dáil saw a rottweiler standing guard over the sleaze in Fianna Fáil turn out to be a poodle accepting the outcome.

This is a regular occurrence as far as the Tánaiste is concerned, which was highlighted in an excellent article by Fionnan Sheahan of the *Irish Independent*, who went to the trouble of rooting up some of the Tánaiste's more interesting U-turns. The article referred to the casino club U-turn and the current controversy, but it also referred to the Tánaiste's conduct in respect of the leadership of his party. The article mentions that at the time of the Supreme Court decision on the child sex issue, the Tánaiste, who

saw no need to pass emergency legislation because there was no gaping black hole, put a Bill through the House in seven days with the cooperation of the Opposition. He needed to withdraw his outrageous and infamous remarks about my friend and colleague, Deputy Bruton, who he compared to the Nazi, Joseph Goebbels. He did something similar in the case of his constituency colleague, Deputy Gormley. The list goes on. I will not bother to refer to cafe bars and other such matters.

**Mr. Howlin:** Leaking Garda files.

**Mr. J. O'Keeffe:** I am sick to death of dealing with off-the-cuff, top-of-the-head proposals for legislation, responding to them and then finding that they are ill considered, have not been consulted on and, in many instances, will undergo U-turns.

I wish to tentatively suggest a matter for consideration that should be touched on by this legislation. There are a number of references in the Bill to the Gaming and Lotteries Act, which is 50 years old. I have no problem with the proposals on the increases in respect of slot machines, which seem to make sense, but should we not examine the gaping hole that is the lack of regulation of on-line gambling in the process of examining the 1956 Act? I am not prescribing an immediate solution, but we should examine whether the issue of on-line gambling must be addressed. We should determine whether changes in the law are necessary.

I should declare an interest in that I go to Paddy Power and other bookmakers, racecourses and dog tracks, put a few euro on the animals of my choice and often lose. I am not an innocent in these matters, but neither am I a prude. Gambling within reason can be enjoyable, but I have considerable concerns about the significant growth of on-line gambling across the world. In recent days, the US closed its markets to non-US on-line gambling websites. I am not concerned that the decision of the US Congress caused shares in a number of the companies involved to fall by almost 60% as I do not hold any of those shares. Rather, my concern is that the US closure is likely to result in more aggressive marketing of those websites in other parts of the world, including Ireland.

I have no problem with gambling and betting if the market is properly regulated, but there is a gaping hole in the regulation of on-line gambling websites. Technically, one could say that on-line gambling is illegal under the 1956 Act because the Tánaiste has always said that what is not declared to be legal must be assumed to be illegal, but such is not the platform from which to deal with the issue. As far back as 2000, a Government report on gambling called for new legislation to ensure that gambling should be "enforceable in both on-line and off-line environments". It stated: "providers of such on-line services should be able



[Mr. J. O’Keeffe.]

to guarantee that national law in this area is capable of being complied with”. However, this does not appear to be the case. On-line gambling is not illegal in many jurisdictions and services can be accessed in Ireland. The matter requires a cross-Border approach if it is to be dealt with.

Usually, I am concerned by the down side of the problem of addiction to gambling — in a recent *Sunday Independent* article, it was cited as a prime factor in marital breakdowns. If we are to examine the Gaming and Lotteries Act, we should not shoot from the hip like the Tánaiste or engage in U-turns. Let us examine issues of serious concern currently that will be of even greater concern in the years ahead.

In the main, I am happy with many of the provisions in the Bill. I am happy with the establishment of the legal services ombudsman. As somebody who practised for many years  
4 o'clock as a solicitor, I suppose I should declare an interest. When one thinks of professions that are thought to be somewhat disreputable, solicitors and politicians are sometimes included in the public mind in that regard and being in both professions, I am perhaps subject to a double whammy. I am declaring an interest.

Let me make a few points about the legal profession and the legal services ombudsman. In the main, the day of self-regulation is over for all professions. Self-regulation is largely not the case at this stage as far as the legal profession is concerned. The changes that have taken place have resulted in self-regulation not being the correct description of the way matters are managed any longer as far as lawyers are concerned. For instance, the disciplinary body is not answerable to the Law Society; it is answerable to the President of the High Court.

Not alone must there be independent regulation, but there also must be the perception of it so people have confidence that there is independent regulation of all professions, not just solicitors and, of course, barristers. That is the way forward in the case of all professions and, indeed, businesses for the future. Where independent regulation is possible, that is the approach we must follow.

I support the establishment of the legal services ombudsman. The fact it is not greatly different from the present independent adjudicator is not really the point, but it sounds more independent and some of the powers probably will make it more independent.

I want to raise two issues in this regard. There is a good provision in the Bill by which the ombudsman will be able to make a report to the Minister on the admissions policies of the respective legal professions. The admissions policy of the professions in the old days was quite restrictive but, as far as I can see, it is now very open. The numbers have ballooned. In my profession, the Law Society is spreading its wings and open-

ing a new front shortly in the real capital of Ireland, Cork, to accommodate the training of solicitors. The numbers have grown enormously and I believe the same applies in the case of the Bar.

The ombudsman will also make a report on the performance of its functions in annual reports and these must be laid before each House of the Oireachtas. However, there is a difference here, which perhaps the Minister might explain in his closing remarks. One report, that is the annual report, must be laid before the Houses within two months of the Minister’s receipt of it, whereas the other, the report on admission policies, must be laid before the Houses as soon as practicable. I wonder why there is a distinction. Bearing in mind the problems that the worthy Inspector of Prisons encountered in getting his reports published and the delays in getting them published, I would much prefer an obligation on the Minister to lay the reports before the Houses within a specified period. This is another change that should be made.

On regulation of the professions, as I stated there is much reference at present to the self-regulation of the Law Society. In fact, that is not correct and perhaps it is no harm that we use this occasion to highlight the fact that the old days of self-regulation are already to a large degree gone. This Bill will highlight that even further but, more importantly, will remove the perception of self-regulation.

A quite important issue is membership of the complaints committee, which from now on will have a majority of non-solicitors. I cannot understand why the Bill specifically provides that even though the majority will be non-solicitors, the chairman must be a solicitor. That provision should not be in the Bill. Why should the chairman of the complaints committee be a solicitor? As a solicitor, I contend there may be a case for having it so in that complex points may be argued before the complaints committee and it might be useful to have somebody there with legal knowledge, but I do not want the Bill to provide that the chairman must be a solicitor. That is not appropriate.

The High Court solicitors’ disciplinary tribunal is already independent of the Law Society and it has been made clear in the Bill that it operates under the aegis of the President of the High Court.

One other issue I wish to raise about my profession was highlighted by the misconduct of some members of the profession in their charges in Residential Institutions Redress Board cases. At the time, I was greatly concerned to hear on “Prime Time”, on Joe Duffy’s radio show and elsewhere that some solicitors had let down the profession in that regard. I am glad the matter was tackled immediately by the Law Society. From the point of view of perspective, it is no harm to point out for the sake of balance that even though it turned out that 12 firms of solici-

tors had been referred by the Law Society to the disciplinary tribunal, 99.5% of the solicitors who represented Residential Institutions Redress Board clients were not so involved. It is no harm to point out that while there were some bad apples who are presently being dealt with, on which matter I will not comment further, 99.5% were not bad apples. That is also important to bear in mind.

The Bill contains a mishmash of various other measures, most of which I agree with. There is provision for the court to allow certain evidence to be given by video link in civil matters. That is a progression of which I am very much in favour. Currently, there is provision in the Prisons Bill for pre-trial video linking and giving of evidence in criminal matters. The Minister should take the bull by the horns on this issue at this stage and we should as far as possible provide for at least the availability in all cases, civil and criminal, of video links. Video linking will be of benefit in years to come. It has enormous advantages. Provided it can be done in a way where the accused is not disadvantaged, it should be used to the maximum possible extent. It is of particular relevance in the context of the continuing debate on child protection cases. It is particularly important in the light of the Criminal Law (Sexual Offences) Act 2006 because, as has been mentioned in the debates on that Act, there is the appalling spectre of alleged child abusers cross-examining their alleged victims. It is an issue on which much more attention must be focussed in the future. I referred to the issues relating to the gaming and lotteries legislation and I will be interested if the Minister gives a considered response.

The Minister of State outlined a mish-mash of other issues covered by the legislation, which I can support in the main. For example, the proposed amendment to landlord and tenant law makes a great deal of sense. Once upon a time, lessors exploited lessees and various restrictions were put in place. In particular, if a business letting was in place for more than five years, it meant the lessee was entitled to an automatic renewal for 35 years. The inevitable consequence, however, was the law of the market applied and any solicitor worth his salt advised his business client to let his premises for no more than four years and 11 months. One could not contract out of it until the most recent change relating to office premises.

This demonstrates that when a Government interferes with the market allegedly for the benefit of lessees, damage is caused. The result was tenants could not obtain a lease for more than four years and 11 months and they were evicted, even though they could not contract out of it. The proposed amendment is sensible because it provides flexibility. People should be permitted to avail of independent legal advice, as provided for in the legislation.

When I studied law, rent restrictions legislation was in place and it was intended to favour tenants because rents could not be increased and so on. However, the consequence of the legislation was that nobody wanted to let to tenants. Whatever protections are put in place, we must always be cognisant of the law of the market. If restrictions upset the market, the consequence is the people who are supposed to be protected will end up losing and this is what happened in regard to business tenancies. I heartily approve of this amendment.

The amendments to the Juries Act 1976, bankruptcy law and succession legislation, as it relates to joint owners who are deemed to die simultaneously, make absolute sense. I have experience of the current legislation creating difficulties and problems.

This is a relatively unexceptional Bill, which I largely support. I have highlighted two issues outside the scope of the Bill: the U-turn of the Minister for Justice, Equality and Law Reform regarding casino clubs, which is par for the course for him, and the need for a serious examination of gaming and lotteries legislation given that it is 50 years old. I am very concerned about on-line gambling and constructive and sensible proposals should be brought forward at both domestic and EU level. Apart from that, I support the Bill.

**Mr. Howlin:** I am happy to have an opportunity to contribute to the debate. I agree with my Fine Gael colleague that this is very much a McDowell Bill. I was asked by a colleague what the legislation is about and I replied it is about everything and anything. For good measure, the Minister of State said it is not only about everything and anything, it is about more than that. In the best tradition of the Minister for Justice, Equality and Law Reform, any Bill passing through the House is seen as a vehicle to which anything can be bolted virtually on any Stage. That is not a good way of making law but the double irony regarding this legislation is that its component parts make reasonable sense and it is not controversial, but the Statute Law (Restatement) Act is in place.

It was intended to consolidate legislation so that practitioners have ready access to current law but through e-government initiatives, every citizen should have similar access. However, as soon as the law is tidied up, the Minister adds bits and bobs in new legislation. It is difficult to know where anybody stands at any given moment because new provisions are being added to both civil and criminal legislation.

This is overarching legislation and a variety of provisions must be addressed, with more to be introduced. The main issue covered, which is important, is the reform of the process of overview of the legal profession, which I will deal with later. Deputy Jim O'Keeffe referred to the Gaming and Lotteries Act 1956. One of the characteristics of the Minister for Justice, Equality and Law Reform is good thoughts that occur to him

[Mr. Howlin.]

can be expounded as legislation and, therefore, should be taken seriously on that basis. Unfortunately, he has probably surpassed the Minister for Communications, Marine and Natural Resources as a kite flyer who throws ideas in the air and checks how the wind blows. Those that crash crash and those that proceed proceed.

We had the tortuous experience recently of dealing with criminal justice legislation. One never felt that ideas were firmly thought out by the Minister. While I am a great believer in engaging with Members to test ideas, the Minister should have tested them rigorously before contacting the Parliamentary Counsel, bringing memoranda to Government and securing parliamentary time, which is a scarce resource. When his ideas were tested, they were clearly seen to be impractical. That is all too often a feature of legislation introduced by him. He is not great at taking advice and he believes his view should prevail. Occasionally, he is entirely outmanoeuvred, as we witnessed this week, when his own views are of no relevance at all. Perhaps his kite flying days are over because I cannot imagine anyone inside or outside the Cabinet taking his proposals with great seriousness because his moral authority has evaporated. That may not be a bad thing but important work must be done by the Minister for Justice, Equality and Law Reform of the day and he must have authority in this regard.

Deputy Jim O'Keeffe mentioned the fiasco that surrounded the recent sexual offences legislation. The Minister's view was clearly that no immediate legislation was required but the force of public opinion required him to do a volte-face. We discovered during the debate on the legislation he had no ideas because his view of the solution had been resoundingly rejected by his Cabinet colleagues. His Department was basically in the hands of others and a Cabinet sub-committee created legislation which was foisted on him. Uniquely, it was introduced with the suggestion that it was not good law and, also uniquely, immediately on enactment a committee was created to review it. That was certainly a first in my time in the House.

That is the attitude with which I approach the Bill. A strong case was made by Deputy Jim O'Keeffe with regard to the Gaming and Lotteries Act. I do not know how his attention was drawn to casinos because, unlike Deputy O'Keeffe, I do not have experience in this area as I have never set foot inside a casino. I do not enjoy gambling as I am not a gambler by nature.

**Dr. Twomey:** The Deputy gambles every five years.

**Mr. Howlin:** As my dear friend and colleague, Deputy Michael D. Higgins, says, that is not a gamble, it is testing the love of the people.

**Mr. Fahey:** The Deputy will certainly take a big gamble in eight months.

**Mr. Howlin:** I am not sure we will last eight months. I have a feeling the love of the people will be tested a little sooner than that, given the events of the past few days. God speed the day.

**Mr. Fahey:** We will see. I hope it does not come too quickly considering the bounce the Opposition have given him.

**Mr. Howlin:** We will see. As I said, I do not gamble but we must all reapply for our jobs so, to that extent, it is a gamble.

The net point is that we need a comprehensive review of the Gaming and Lotteries Act, given the minor amendments to a variety of Acts that are contained in the Bill. It is a modest proposal. We need to do some fundamental thinking in this regard. Rather than rush to legislation, we should have a dialogue within the Houses on these matters. I say this to engage the opinions of outside consultants, bodies and others.

We have established Oireachtas committees. While they are busy and will not thank me for suggesting that we increase the agenda of work in the coming months, they constitute a forum where fundamental issues of importance can be debated and ideas can be balanced in a way that is different from simply presenting cooked legislative proposals about which people have already made up their minds. I suggest the committees as a vehicle that might be used to examine important but dated legislation with regard to how gaming and lotteries are regulated in this jurisdiction.

A germane point was made by Deputy Jim O'Keeffe when he referred, in McDowell-esque fashion, to the United States Congress grafting a prohibition on on-line gambling on to a transport Bill or a ports Bill. I am not sure that even the Department of Justice, Equality and Law Reform would get away with that. It would run foul of the longest of Long Titles in terms of our proposals.

The effects in this area are somewhat invisible in that we do not have a high street shop for on-line gambling. A major chunk of gambling is done on-line and it is easy for those with an addiction to access the Internet 24 hours a day, seven days a week. Moreover, although I am not an expert in this regard, the credit facilities available on some of these schemes could pose real social threats, which merit examination, particularly if the competition is set to increase here on foot of the tightening or extinction of the regime in the United States, which was a very big market.

**Mr. J. O'Keeffe:** The American approach was attached to a Bill aimed at improving port security.

**Mr. Howlin:** I knew it was a ports Bill of some description. I do not believe we would get away

with adding justice amendments to a ports Bill in this jurisdiction, although some might try. I admit I have tried a few daring amendments in my time so I cannot be too critical.

I want to deal with the main proposal of the Bill, namely, the reform of the overview process of the legal profession, which is extremely important and timely. It is clear the legal profession is an important component in our democratic structure. Many people now seek the vindication of civil and social rights through the courts. Disputes that in the past were settled outside the precincts of courts of law are regularly dealt with by them. While I accept the point made by Deputy Jim O'Keeffe, there has been a large increase in the number of members of both branches of the legal profession, solicitors and barristers, operating and putting up their plaques for business.

I am genuinely concerned. I do not know whether colleagues in the House have the same experience as I have with regard to the volume of complaints about the legal profession and how citizens have been treated by individual lawyers. It seems to be a phenomenon throughout the country because I hear such complaints not only as a constituency Deputy but as a spokesman on justice for my party. There is real frustration not only at delays but concerning serious difficulties that accrue on foot of bad legal advice and inertia in regard to the processing of documentation, all of which can be very costly in a variety of situations. Although I make no judgment on it, I heard of a case at my Enniscorthy clinic just this week where people were crushed by what they perceived as a huge injustice done to them by the legal profession. As a Legislature, we must respond to this.

The wind of change has blown through public administration generally, which has caused us to have independent oversight of a variety of professions in recent times, not least our own. We have established the Standards in Public Office Commission to act as a port of call for those who feel that the conduct of Members of the Houses is not up to scratch. Similarly, that wind of change has eventually reached other institutions such as the Garda Síochána, and the Garda ombudsman commission will hopefully open for formal business and the receipt of formal complaints next year.

The accepted position is that it is no longer possible for any profession to regulate itself. Where it is not impossible, it is no longer acceptable because not only must one's case be weighed by somebody who does not have a vested interest, but that must be seen to be the reality. This is why we must move in the direction signalled by the Bill.

The proposal before us is for a legal services ombudsman, whose job it will be to oversee the handling by the two legal representative bodies, the Law Society and the Bar Council, of complaints by clients of solicitors and barristers. In

particular, the job of the ombudsman will be to review cases where clients are not satisfied with the handling of their complaints by the professional bodies. Given my experience, I believe this will become a very busy body. The ombudsman will have a significant workload, if my representative's antennae are anything to judge by.

It is not a pure body that will independently consider complaints. Rather, it is an oversight body that will consider how the disciplinary boards of the two professional bodies deal with complaints. As such, it does not go as far as I would like. I realise there is major reluctance to take that extra step. Often, it takes some event to force us to do so. For example, a report of the Morris tribunal would push us the way of the Garda Ombudsman Commission. There was institutional resistance, particularly from the Department of Justice, Equality and Law Reform and the former Minister, when I proposed an independent ombudsman six years ago for the Garda. There is an institutional resistance to fundamental change, and we much prefer incremental change.

The two tasks of this new legal services ombudsman will be to see how complaints are handled by the professional bodies and their disciplinary committees, and to audit the review and selection of complaints by dipping into individual files annually. It will consider how these are handled, and this is a good proposal. We will see how it works. I do not think there is currently an accurate public measure of the level of discontent that exists among people who have been badly served by members of the legal profession. There is a well of discontent that must be noted and addressed.

The debate on whether professional bodies should be in the business of dealing with complaints concerning their members at all is fundamental. We would probably have a variety of different views within this House on the issue. I fully accept the point made by Deputy Jim O'Keeffe that although these are seen to be under the umbrella of the professional bodies, they are at arm's length in terms of disciplinary committees that are extant. Perception is reality, however, and there must be a clear difference.

Anybody who goes through a procedure and feels the decision or outcome is not suitable will look at who made the decision. Unless it is clear the decision was taken at arm's length from an institution, without any vested interest or interest at all, we lessen the confidence the public has in these institutions. I make a general point of asking whether professional bodies should be involved in these matters, or if there should be a stand-alone statutory legal services ombudsman that deals *ab initio* with complaints. An appeals system can exist thereafter, perhaps through the courts. I propose this for another day, and we will see how this works.

Another key job of a legal services ombudsman will be to report annually on the adequacy of the

[Mr. Howlin.]

admissions policy of both professions. In historic terms this was a bone of contention. Like many professions, not least our own profession of politics, there seems to be a family tradition of people going into law. That has changed in recent times. It would be good to ensure that somebody examines the admissions policy to guarantee that not only are all strata and shades of society represented in the legal profession, as they should be in every profession, but that there are no direct or indirect barriers, either visible or invisible, to the full participation of all strata of society. This is particularly true in our changing society. I welcome the provision.

I will comment on how the power of this commission will be exercised. Section 27 of the Bill deals with the power to issue directions or make recommendations following investigation. According to the section:

the Legal Services Ombudsman may, by a statement in writing—

(a) if not satisfied that the Barristers' Professional Conduct Tribunal has adequately investigated the related complaint, direct it to re-investigate, in accordance with the Disciplinary Code.

I am not sure that is the best thing. I know it is not the only provision, as the next section provides that the ombudsman can recommend that the Bar Council can take any other action, which the ombudsman may specify. However, the first port of call is to send an issue back to the tribunal that the ombudsman believes did not handle it well in the first place. Maybe that is the best course of action, but I state that with some degree of concern. Once it has been dealt with and if it is adjudged to be dealt with inadequately, I am unsure as to whether it should be sent back to be considered by the same people. We will tease the issues out in more detail on Committee Stage. The solicitor's profession is dealt with in the same section.

Section 54 of the Bill enables the Law Society to direct a solicitor to pay a client up to €3,000 as compensation for loss suffered as a result of inadequate legal services. That is a low threshold. I know there is a provision in the Bill subsequently for the Minister to review that threshold biannually. The Minister could state that is without any prejudice to a person's legal rights to have remedies if that person was swindled. Clearly a citizen would go to the courts to have that put right.

Even where somebody is badly dealt with and has suffered delay or annoyance that may have gone on for years, a compensation of €3,000 strikes me as being a fairly modest threshold to be included in the Bill in current times. I have some experience of legal fees of late, having myself had occasion to traipse before a variety of courts, on the business of a representative rather

than on personal business. I was exposed to the rather shocking level of moneys that lawyers of all shades—

**Dr. Twomey:** Did the Deputy get a whip around?

**Mr. Howlin:** Is the Deputy suggesting I could have had a dig-out? As the decision of the Supreme Court was to charge the Oireachtas, I suppose I received a dig-out of a kind.

**Mr. J. O'Keefe:** It was a legitimate dig-out.

**Mr. Howlin:** I sincerely hope so. The order of the Supreme Court lends legitimacy to it. Legal fees are very high. Even with normal transactions, one of the big difficulties is that many people of regular income cannot vindicate rights in the courts. Access to the courts is now too expensive. In a civil matter, for example, people looking to vindicate their rights can often be bullied. I have dealt with cases where people of material rather than moral substance have bullied others of lesser financial wherewithal into accepting situations they should not, and would not if they had the financial wherewithal to resist. In a republic we should always be mindful of the right of the citizen to have access to legal vindication of rights. This should even be so in civil matters, where others can intimidate by delay, obfuscation and by using the courts as a battering ram against people. Where people are badly done by, the threshold provided for in section 54 is modest enough. It is an issue we might consider on Committee Stage.

The other miscellaneous provisions do a number of things that have been indicated in the Minister of State's speech. It would be a tour of virtually every civil statute if I was to go through them all. They are all listed in a variety of sections, and each section virtually deals with a different legal enactment. We were told in the final paragraph of the Minister of State's speech that more are to come. They will not only come on Committee Stage but there will undoubtedly be a few bright ideas to be grafted on Report Stage.

That is not a good thing. Perhaps the previous Minister for Justice, Equality and Law Reform was no different, but I do not like the notion that the Department or the current Minister, in seeing space on the parliamentary bandwagon, sees the clock ticking. In this case there are not really five Stages to a Bill, and not everything has to be debated on Second Stage. If the train is moving at all, an amendment can be thrown in right up to Report Stage that will change fundamental law.

As far as I can discern, there is nothing particularly controversial about this Bill, although I have asked for advice on it. We will have a chance to look in detail at particular points on Committee Stage. By and large I support this Bill.

Section 51, which deals with video conferencing in civil proceedings. I am repeating this point because all of us serving on the child protection sub-committee are focused on the process of evidence taking and its presentation in cases involving violence, particularly sexual violence or the abuse of children. There is no simple solution to this. There is concern about how to balance the constitutional right of defendants to confront the accuser, confront the evidence and question those giving evidence, with the vulnerability of victims. There are concerns also about the number of assault, rape and sexual abuse cases that are never prosecuted or, in many cases, never even reported for fear of the process. We must get the process right or certainly improve it if we are going to attack that clear deficiency in our criminal law. We will have to examine that matter which largely refers to the criminal law, although section 51 deals with civil proceedings. It is sensible to provide for the possibility of taking evidence in civil matters by a video or television link.

There is, however, a downside to all of this. On the last occasion I was my party's spokesperson for justice, we had a great debate about the taking of evidence by way of questioning suspects in Garda stations and recording all such interviews. It has taken a decade subsequent to the enactment of legislation for that equipment to be made generally available. Quite often the physical infrastructure required to implement good ideas is slow to follow. The Courts Service has done a great job since it was instituted. It is one of the success stories among recent State agencies in that it has reformed the physical nature of most of our courts. I am sure Deputy Twomey will re-echo my call for a new courthouse in Wexford, which is desperately needed. The Courts Service, with which I am in regular contact, is currently looking for a site in that area. Perhaps the next time the Minister is in touch with the chief executive of the Courts Service he might mention the fact that Wexford has been a priority for a new courthouse for a little while. We could do with a new court building there as a matter of urgency. When these facilities are in place they should be equipped with all the capabilities, such as video-conferencing, that we expect in a modern court of law, as well as proper facilities for witnesses and the bereaved during inquests. In modern buildings such facilities are now provided as a matter of routine.

I will not go through every sub-clause of the proposals that deal with everything from inheritance and statutory declarations to amendments to the Gaming and Lotteries Act. Some of the proposals have been recommended by various notable people. Clearly, I will not go through them all now. By and large, I have no difficulty with these amendments. As regards miscellaneous Bills of this sort, we must have a consolidated law which is accessible. The process for doing so must be available so that we can see new

amendments to statute law readily to hand, not only for lawyers but also the general citizenry.

**Mr. Cuffe:** The Green Party welcomes this Bill which is long overdue. It is about time that it saw the light of day. It is modernising legislation which, for the most part, empowers the consumer. Some of the most vulnerable in society feel they have not been adequately represented by the legal profession. I have met with victims of Irish solicitors. The tales they told me of their concerns about what legal professionals did with their land, moneys and lives make for harrowing listening. The appointment of a legal services ombudsman marks an important step forward because many of these individuals feel they did not receive satisfaction from the Law Society. They also feel the Bar Council was unable to deal with the substance of their concerns and, therefore, this Bill can only be a good thing.

In recent times, we have seen many examples of possible overcharging. There have been several high profile cases concerning victims of abuse whereby clients were concerned about the actions of their solicitors who sought compensation from the Residential Institutions Redress Board. These concerns about abuse survivors being doubly charged resulted in 12 firms of which I am aware being investigated by the tribunal appointed by the High Court. The amounts by which the survivors were allegedly overcharged may be as high as €10,000. It is not small change, as the Taoiseach and others know only too well. This despicable abuse of authority on the part of the solicitors involved must be severely sanctioned. Transparency and independent scrutiny are the keys to instilling public confidence in areas such as legal services, health services and the Garda Síochána. In the words of the Minister for Justice, Equality and Law Reform himself, legal services must achieve the highest standards of professional integrity for the protection of their clients.

In broad terms, the legislation goes along with what the legal costs working group recommended. The group's three main recommendations are dealt with in the substance of this legislation. I look forward to seeing the law operating in practice. Within a few short months we will know whether it is working as intended by getting to the heart of the malpractice that has been brought to my attention in several cases around the country.

I wish to dwell for a moment on section 55 which deals with amendments to section 14 of the Gaming and Lotteries Act 1956. Contained within the small print of this section is a massive hike in the stakes that can be gambled in slot machines. At one fell swoop it allows a sixpenny bet to go up to 50 cent, which is more than a 15-fold increase. It also allows a ten shilling maximum prize to rise to €30. It is a matter of real concern if we allow these stakes to be raised, whether by way of regulation or legislation. Slot

[Mr. Cuffe.]

machines and other gambling equipment that lie in the shadowy streets of Dublin and other towns around the country represent a dangerous draw, particularly for our young people. I am concerned about the age limit of 16 that will allow children to access gambling machines.

In the past, we have spoken about gateway drugs with regard to narcotics or types of alcohol but there is also such a thing as gateway gambling. I am worried that if we increase the stakes that can be gambled from a few pence to several euro, it will act as a greater draw to bring people into the shadowy world of gambling. It must be remembered these establishments operate in the shadows of our capital and elsewhere. Their owners are rarely in the public eye. Some of them live in the Isle of Man and some have been linked to some of the more shady land deals that occurred in County Dublin ten or 15 years ago. The victims of these slot machines are often children. Slot machines act as a gateway to bring people into gambling more serious sums on horses and card games at a later time. I am not convinced that enough safeguards are in place to make sure children are of an appropriate age to use these machines. I am not convinced we have enough transparency or visibility of what goes on in these places. Those who operate these companies and amusement arcades should publicly declare their income and their profit from these machines. It is crucial we see exactly what sums are being generated in the shadows. We should not allow, whether in this legislation or elsewhere, the sums that can be wagered to increase dramatically. I hope the Minister will look carefully at the changes he is proposing in this section and ensure children's vulnerabilities are not exposed through changes in the law.

**Aengus Ó Snodaigh:** In general I also welcome the Civil Law (Miscellaneous Provisions) Bill 2006. Sadly, whether the Garda, the medical or the legal professions, we all know only too well the dangers of leaving any profession to its own devices. The dangers of allowing professions to operate without independent and transparent systems to ensure the highest standards and accountability for the public are inherent. At the extreme, the absence of independent mechanisms to review, to receive and to rule on complaints can risk lives and ruin lives. For example, the Irish Medical Organisation should have struck Dr. Neary off the register much sooner. I will not comment on the ability of the IMO's assessors but the fact that Dr. Neary chose the three members of the IMO who assessed him speaks volumes for the need for complaints bodies to be independent of the sectoral organisation of which the subject of a complaint is a member.

The seeming inability of the Garda complaints board to find against members of the force and its frequent refusal to even investigate complaints never surprised me in the past because the board

was never fully independent. As far as I am concerned the Garda Ombudsman Commission cannot take over quickly enough. However, if the Garda Ombudsman Commission is to be effective in rooting out Garda corruption and restoring community confidence in the Garda, the Minister must make legislative and resourcing provisions to give the Garda Ombudsman Commission powers at least equivalent to those of Nuala O'Loan, the PSNI ombudsman.

A recent and well known example specific to the legal profession, which illustrates the need for an effective complaints body, was the despicable double charging of victims of child sexual abuse by certain members of that profession. There are many other lesser known, yet equally grave, examples. Cosúil leis an Teachta Howlin, aithním go bhfuil níos mó gearán faoi dlíodóirí ag teacht chuig mo oifig. Tá siad ag teacht chun cinn, diadh ar ndiadh. Níl sé i gceist agam dul tríd gach uile gearán atá i mo oifig faoi láthair. Níl sé i gceist agam am a chaitheamh leo siúd atá ag déanamh gearán díreach toisc gur theip orthu. Tá daoine eile ann, áfach, a theip orthu toisc gur loic dlíodóir nó abhcóide orthu. Níl mé ag rá go bhfuil saineolas agam ar gach chuid den chóras dlí, nó ar an chóras dlí ina iomlán, ach cosúil lena lán daoine aithním nuair atá an córas tar éis loiceadh ar duine, nuair atá bob buailte ar duine, nuair nach bhfuil caite go maith nó go gairmiúil le duine, nó nuair nach bhfuil treoracha an chliant comhlíonta ag an dlíodóir nó an abhcóide.

My office is receiving an increasing number of complaints and requests for assistance regarding improper, unethical or incompetent conduct by members of the legal profession. This year alone I have received six major complaints from people who have run out of options in seeking justice and this is only the tip of the iceberg. Other Deputies will obviously also have received the same number if not more complaints from people who are looking for help and do not know where to turn or who are reluctant to seek help. Most of these complaints have involved a substantial loss of property or assets in questionable circumstances, sometimes to the benefit of the solicitors involved or an unfair imposition of financial penalties or exorbitant legal fees due to the incompetence or disregard of their legal representative. Some members of the legal profession are profiting from the trust and the vulnerability of people in need of assistance and this is creating great hardship and distress for the individuals involved. Some people have been pursuing justice and recompense for years at great financial and emotional cost. Many have been denied access to legal recourse to pursue complaints or to appeal against unethical solicitors due to an inability to find a solicitor willing to take on their case and an inability to get civil legal aid. FLAC is generally not in a position to handle this type of case due to under-resourcing or the means test.

I am directing my criticisms only at those solicitors and barristers who are abusing. The vast

majority are upstanding and helpful in every way but there are those who give a bad name to the legal profession. Hopefully, through this Bill, the legal services ombudsman will be able to address and right the wrongs in terms of clients of solicitors and barristers. Many people have sought recourse through the Law Library or the Bar Council or whatever way to vindicate their rights. The introduction of an independent body to hold legal professionals accountable through this Bill, in the form of a legal services ombudsman, is welcome and overdue. I will table a number of small amendments with the aim of improving the relevant provisions of the Bill to ensure the effectiveness and crucially the independence of the proposed ombudsman.

Section 5 outlines the eligibility criteria for appointment to the position of ombudsman. Sinn Féin will table an amendment to ensure that not only will the current members of the Bar Council or the Law Society be ineligible for the position but also recent members of both bodies. Section 11 governs the appointment of the staff in the office of the legal services ombudsman. It provides that prior to seeking the consent of the Minister and the Minister for Finance to appoint new staff members, the legal services ombudsman must first consult the Bar Council and the Law Society. *Ní thuigim in aon chur cén fáth go bhfuil sé sin ann. I find this provision bizarre.* The Garda Ombudsman Commission established under Acht An Garda Síochána does not and should not have to consult with the Garda before appointing its own staff. I fail to see the reason the legal services ombudsman should be any different. Perhaps the Minister is only half-hearted in his desire to introduce this particular ombudsman which will monitor the activities of his former colleagues in his personal profession. Hopefully, I am incorrect in that.

Section 11, as drafted, can only serve to reduce the potential for public confidence in the ombudsman if allowed to stand. Section 14 makes provision for the legal services ombudsman to produce annual reports on the admission policies of the Law Society and Bar Council. These reports are to contain the numbers admitted to practise and how this matches for demand for services. Sinn Féin has long been of the opinion that the Judiciary and the legal profession are not representative of society. It has long been disproportionately made up of people from wealthy backgrounds. In the interest of justice it is imperative that this situation be reversed. Therefore, it is crucial that the legal professions begin to include a fair representation of people from working class backgrounds. With this in mind, Sinn Féin will table amendments to section 14 in order that the legal services ombudsman will report a breakdown of the numbers admitted under a number of headings, including socio-economic background, gender, ethnicity etc., with a view to establishing quotas if necessary. We will

also seek a number of standard amendments in order to increase the democratic accountability of the ombudsman. These will apply to sections 9, 13 and 14.

On the question of gaming and lotteries, dealt with in sections 55 and 56, I do not see a need for these other than the practicalities. They are logical in that we have changed the monetary situation from pounds and pence to euros and cents. However, these changes will do nothing to address the multifaceted problems in society with regard to gambling. We need to address these problems in legislation and to be more severe on those abusing the situation. Everybody here knows of places which have abused the Gambling and Lotteries Acts over the years. While there is not supposed to be any payout, if somebody goes up to the hatch he will get his payout. This happens throughout the country and needs to be addressed if we intend to raise the stakes. Even though the payouts are few in number, some people spend 24 hours or longer in some of these centres pumping in their income for the week. This must be addressed.

The main part of this Bill deals with the legal services ombudsman. It is intended the ombudsman will address the issue of those members of the legal profession who have abused the privileged relationship between themselves and their clients. Sometimes they dress up straightforward cases in complexities to create a mystery, to make their profession a mystery or to make legal proceedings inaccessible to those taking cases. This creates uncertainty among clients and sometimes clouds the true intent of such barristers and solicitors.

Some of the cases I have come across in my office involve solicitors in Dublin advising clients not to make complaints against gardaí who have abused or assaulted them because that might hinder their cases. What type of advice is that from a solicitor? If the law is broken, solicitors should encourage their clients to take cases against the gardaí in question. Another case involved a farming family in Tipperary who were forced to sell off a large part of their land to pay legal costs having been improperly advised and following the mishandling of their case by the solicitor. The family was also forced to drop a case against the solicitor for fear of further losses and on account of their inability to access legal representation. They could not find anybody who would take a case against the solicitor, which smacks of the legal profession protecting itself.

Another member of the same family, who chose to continue to pursue justice, was forced to sell another portion of the land to pay legal costs and penalties after a serious breach of trust and the mishandling of that case by a solicitor. Most of his remaining land was taken by the same solicitor in a technically legal, but ethically questionable, land grab. The same individual tried unsuccessfully to get somebody to take a case against this solicitor, but was told he could represent him-



[Aengus Ó Snodaigh.]

self in court. What type of advice is it when our system recommends someone who is not legally qualified or competent to take a case to the High Court?

The most common complaints I receive about solicitors have to do with conveyancing and with solicitors obtaining land or assets through unethical dealings. Often they cloud the issue or delay proceedings to such an extent that people lose the asset they set out to acquire. Another complaint is of funds being removed by solicitors with access to people's bank accounts. I could list many more examples and be specific, but I do not have the authority of the people who came to my office to name and shame.

This new ombudsman facility will, hopefully, address this type of case so that we can stand up proudly and say that through this House we have set up a mechanism which addresses the concerns of people such as those who come to my office, one which helps break down the mystique and mystery being created around legal proceedings so that all people will have access to the legal profession.

Den chuid is mó, fáiltím roimh an Bhille um an Dlí Sibhialta (Forálacha Ilghnéitheacha) 2006. Má ghlacann an tAire leis na leasuithe a chuirfimid chun cinn ar Chéim an Choiste, ní bheidh aon fhadhb agam tacú leis an Bhille seo. Ritheann sé liom nach dtacaím go rialta le Billí ón Aire, Teachta McDowell — go fíorannamh, chun an fhírinne a rá. Caithfidh go raibh tionchar maith agam air sa chás seo. Is trua nach mbíonn an tionchar céanna agam ar an reachtaíocht a chuireann sé chun cinn de shíor. Den chuid is mó, bím go hiomlán ina coinne.

Tá súil agam go n-éireoidh linn an Bille seo a rith tríd an Dáil, go mbeidh sé ina Acht roimh i bhfad, agus gur féidir leo siúd atá thíos leis an chóras dlí agus cirt i gcás dlíodóirí, abhcóidí agus a leithéidí in ann teacht ar chúiteamh nó faoiseamh do na coireanna atá déanta orthu thar na blianta.

**Mr. O'Connor:** I welcome the opportunity to contribute on the Civil Law (Miscellaneous Provisions) Bill 2006. I note from the explanatory memorandum that the Bill covers a range of issues, including legal services, an ombudsman, the courts and court officers, solicitors, gaming and lotteries, landlords and tenants, statutory declarations, juries, bankruptcy and succession.

I have listened carefully to some of the contributions. It is a pity this debate has not received much attention. It is clearly a slow news day and the people who were in the Gallery in such numbers this morning, for whatever reason, are obviously exhausted. Normal business is resuming and perhaps that is good.

When I was reading through documents relating to this Bill I was trying to figure out how I could talk about issues in my constituency. I was heartened when I heard the Ceann Comhairle allow Deputy Howlin speak about the Wexford

courthouse in which Deputy Twomey also had an interest. I presume that means I can talk for at least a minute about Tallaght and the need for a new courthouse there. We have a very good courthouse, but it needs to be developed. Many other issues also need attention.

The Minister of State, Deputy Fahey, mentioned that the Bill reflects the breadth of the functions of the Minister for Justice, Equality and Law Reform. In any debate I could talk for a long time about the functions of the Minister. I do not read cuttings on my activities but one was brought to my attention at the weekend. The *Sunday Mail* made the point that at a time when there was much other news, the only press releases I was issuing dealt with the need for a new Garda station and more gardaí in Tallaght. I am happy to emphasise that. The House has heard me speak previously about the need for a new Garda station in Tallaght west. Every time I see the Minister, not only do I talk to him about more gardaí being needed for Tallaght but I also raise the issue of more facilities for the Tallaght area.

I take this opportunity — this is relevant in the context of this Bill — to talk about the need for the Minister to respond to the issues being brought to the attention of all Members. Anti-social behaviour is an issue that crosses the desks of all Members. I listened to Deputy Ó Snodaigh refer to the many people who come to his office to talk about all sorts of issues. I hold eight clinics every week in my constituency and they are always packed with people who come to me about all sorts of issues, including justice issues which cross my desk on a regular basis. People want action on the issue of anti-social behaviour problems. I am a strong believer that it is time anti-social orders were used and some colleagues opposite are also in favour of them.

A former speaker referred to working class areas. I come from a working class background. I was born in the inner city, I lived in Crumlin and now I live in Tallaght in Dublin South-West. As Deputy Ó Snodaigh stated, certain professions are not well represented in some areas. That is the case in my constituency and in many other constituencies. I look forward to the time when the addresses of High Court judges and other professional people will reflect the new Ireland which is developing and growing. I am sensitive about referring to Tallaght in front of colleagues, but it is the third largest population centre in the country, second only to Dublin and Limerick. I represent not only Tallaght but also Greenhills, Templeogue, Firhouse and Brittas, and there are justice issues in all those areas.

I note that other speakers have referred to the legal services ombudsman. I listened carefully to the Minister of State's contribution. The legal services ombudsman will oversee the handling by the Law Society and the Bar Council of complaints by clients of solicitors and barristers. The key functions of the legal services ombudsman include a form of review, in particular of cases of

clients of solicitors and barristers who are dissatisfied with the handling of a complaint made to the Law Society or Bar Council, and a more general oversight role for those complaints procedures by examining a selection of complaints files each year taken on a random basis. I note there are very few barristers living in my constituency.

These changes include a requirement, in section 13 of the Bill, for the ombudsman to report to the Minister within two years of being appointed on the effectiveness of the office and the adequacy of functions. The ombudsman will also, under section 14 of the Bill, oversee the admission policies of the legal professions and will be required to report annually to the Minister and the Oireachtas on the adequacy of numbers admitted to practice. In section 18 of the Bill the costs of the office of the ombudsman will be funded entirely by a levy on the Law Society and the Bar Council, calculated *pro-rata*, based on the numbers of practising solicitors and barristers.

The ombudsman has power under section 27 of the Bill to direct the Law Society or the Bar Council to reinvestigate a complaint if not satisfied that the original complaint was adequately investigated, and under section 28 such directions are enforceable by the High Court. The ombudsman also has power under section 31 to review the procedures of the relevant professional bodies for dealing with complaints, to examine both random samples of complaints and complaints relating to specific matters as well as making recommendations for improvements to those procedures.

It is important that the public is provided with adequate and transparent means for dealing with these issues. I recall a former Taoiseach, Garret FitzGerald, making a point about the work of public representatives at a function some time ago. He stated that many cases crossing the desks of TDs in particular would not need to be raised if the system was working. We must appreciate the need to support measures in that regard.

The provisions in Part 4 of the Bill amend the law in two further areas concerning the legal profession. Both of these changes arise out of recommendations in the June 2004 report of the regulatory review task force chaired by Mr. Joe Brosnan, a former Secretary of the Department of Justice, Equality and Law Reform. The task force conducted a thorough review of the Law Society's organisation and practices. Most of the recommendations of that report are being or have been implemented by the Law Society and do not need legislative change; those that do are dealt with in the Bill.

I will be careful about using the word "cherry-pick" as it seems to be a phrase of the week. I do not have a legal background but I am a member of the Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights. Under the chairmanship of Deputy Ardagh and the strong all-party support from members such as Deputies Howlin and Jim O'Keeffe, this commit-

tee has undertaken a significant amount of work. It has impressed hugely in its work on some of the special tasks it has been delegated.

I had planned to avoid reading the newspapers this morning but I decided to have a quick read of them. I note that Deputy Ardagh, the Chairman of the committee, was in Brussels yesterday. He made what is acknowledged as a fine speech relating to issues of interest to many. Recent days have seen many other items in the news and I hope that what he said will not be lost. The newspapers may have returned to normal by tomorrow and will deal with normal issues, as they should. This should be the focus.

Part 5 of the Bill amends the Gaming and Lotteries Act 1956. Section 55 inserts new values of 50 cent as the maximum stake and €30 as the maximum prize for gaming machines. The current maximum stake and prize values are sixpence and ten shillings respectively in old money; the euro equivalents are three cent and 63 cent respectively. By any measure, these values are undoubtedly out of date.

Views differ with regard to gaming and lotteries. The Minister of State has been dealing with issues relating to new gaming clubs and there are mixed views on the subject. All Members were made aware through their constituency offices of the different views on that issue. One must be careful what one says about these matters. I note that Deputies Twomey and Deasy are in the Chamber and their presence reminds me that there are gaming places in counties Wexford and Waterford and elsewhere. There is a small one in the Square in Tallaght. There are differing views on how they should be regulated. The Government's approach in this regard is reasonable and this is acknowledged in the general acceptance of the Bill by colleagues.

The Minister of State, Deputy Brian Lenihan, has a particular understanding of many of these issues. One must always tread carefully and listen to people's views. I am a big fan of the Minister of State and if I wish to put on the record my appreciation of the Minister of State, I will do so.

**Mr. B. Lenihan:** I will confine myself to official utterances.

**Mr. O'Connor:** Whether it is in Castleknock, Tallaght or elsewhere there will always be different views on gaming and lotteries and we should reflect that. What is being done in this case should satisfy people.

Other Deputies made reference to Part 7, which amends the Statutory Declarations Act 1938. More experienced colleagues might be able to give me advice on this matter. I am sure many Acts still exist that are rather dated. It is only when we go through business such as this that we understand that considerable work remains to be done to amend legislation. This does not even take into account the many changes that happen on a daily basis. If one were to listen to Dáil

[Mr. O'Connor.]

debates every day one would come up with all sorts of new ideas as to how to amend legislation.

I note section 59 takes account of the fact that increasingly foreign nationals who are here to do business or as workers need to transact legal or other business involving the making of statutory declarations. The current requirements of that Act are that the person making the declaration must either be personally known to the witness before whom the declaration is being made or is identified to the witness by someone personally known. This naturally creates difficulties where the person seeking to make the declaration is a foreign national who knows very few people in the State, and whose network of acquaintances here may be such that none of them is personally known to a peace commissioner or other person qualified under the Act to be a witness to a declaration. The solution is to amend section 2 of the Statutory Declarations Act to allow for additional means of identification of a person making a statutory declaration. I know most foreign nationals here carry a passport or other form of national identification from their country.

Unlike many of my colleagues I never sat at my school desk saying I wanted to become a Deputy. I was always quite normal and became involved in politics through community endeavour. However, I was made a peace commissioner in 1979 by a Deputy who, I suspect, never believed I wanted to be anything else, which was fair enough. Over the years I still get many calls, including this week. It does not just happen in Tallaght. When people leading a clean life and never brought to the attention of the Garda go to a station, they are not known to the gardaí and may need to find somebody else who can identify them and get a form signed. We need to reconsider such matters. Many local authority and college forms need to be authorised. I sometimes have difficulty trying to determine the best way to deal with a matter.

I know there is a debate on whether people need to be present, who should be responsible and how to identify people. I am known by a few people in my area and still I always carry my ID as a matter of routine. There will always be somebody who does not know me or will wonder who I am.

**Mr. Deasy:** That is hard to believe.

**Dr. Twomey:** There is someone in the Garda reserve who might know the Deputy.

**Mr. O'Connor:** Last Sunday afternoon I brought my little granddaughter to the Tallaght Adventure World in Killinarden. A man asked me if he knew me and suggested that my face was familiar.

**Mr. Deasy:** He thought the Deputy used to play football.

**Mr. O'Connor:** He came back and said: "I know who you are. You're that TD man who gets houses."

**Dr. Twomey:** He thought the Deputy was the Minister of State, Deputy Conor Lenihan.

**Mr. O'Connor:** I am not asking Deputies to believe that, but that is what he said. I am making a serious point and do not mean to be flippant. There is an issue with identification and with who is entitled to make declarations. We should make it as easy as possible for people. I accept there should be a process, which needs to be right. There is always an issue about whether people are swearing a declaration or an affidavit. People wonder whether they can just go to their friendly local PC — I am not the only one in Tallaght — or whether they need to go to a commissioner for oaths or their local solicitor. It is good that the amendment in the Bill, especially in the case of non-Irish nationals, will allow the declarant to be identified by suitable documents, including a passport, etc. We need to reconsider the issue and make it easier for people to make declarations while at the same time ensuring they are who they say they are.

I always carry my ID. While I have not got the new Houses of the Oireachtas one, I presume it is coming. I tried to buy a new phone recently and produced my Houses of the Oireachtas ID, which was not acceptable as a normal form of ID. I want to let Deputies know there is no point in bringing their Houses of the Oireachtas ID to some places as they will not recognise it. While I will not name the company, it has a nice shop-front in Grafton Street.

It is important for us to take interest in this kind of legislation that will not get headlines or draw huge crowds into the Gallery. However, it concerns Government working. It is good that there is a certain consensus in the House, apart from the usual dotting of is and crossing of ts that we always get in political circles. It is good to see the level of support for the Bill and I wish the Minister of State well. I hope he can put it to bed as quickly as possible, so we can deal with the other issues, which come under the remit of the Tánaiste. I know he is working hard in this regard. I will keep tabling questions about Garda numbers in Tallaght and a new Garda station for Tallaght. I will keep the pressure on in that regard. If we have only 300 days to go, I will keep working for them.

**Dr. Twomey:** I am shocked and horrified at Deputy O'Connor buying a mobile phone in Grafton Street. What is wrong with The Square in Tallaght?

**Mr. O'Connor:** I did not say I bought one. I said I visited that shop.

**Dr. Twomey:** I welcome Deputy Howlin's call for a new courthouse for County Wexford,

because the facilities there are inappropriate. Considering that the Tánaiste has told us that millions of euro are sloshing around in the Government coffers, I hope that in his new role as Tánaiste he will be able to accelerate the building programme for Garda stations not only in County Wexford, but across the country. Since he has taken his 30 pieces of silver not to hang out the Taoiseach he might also be able to fill those Garda stations with real gardaí, which would be most welcome throughout the country and not just in County Wexford.

A constituent asked me to speak on one section of this Bill. However, some of the other topics raised here in the past hour have also intrigued and interested me greatly. I will first deal with the issue of self-regulation as opposed to having regulation by a body with a majority of lay people. The legal profession seems to favour having lay majority governance of its profession, which is quite interesting as the Department of Health and Children is making moves to having a lay majority on the medical council as opposed to allowing it to be self-regulated. During the course of this debate I have heard that a lay majority governing the legal profession has made no difference to the huge number of complaints about that small number of every profession who abuse their position. Many Deputies have told of how solicitors and barristers have abused their position in society to defraud their clients.

That goes to show there will be no difference between self-regulation and lay majorities on professional bodies unless there is effective enforcement and procedures are put in place which properly address complaints and correct wrongdoing. That is as important as the “self-regulation bad”, “lay majority good” type of thinking. Responsibility for enforcement needs to be clearly assigned when, for example, a rogue solicitor or barrister is encountered. There is no point in trying to sue the solicitor or barrister in question because the people who are most often ripped off and deprived of justice are those who are least able to protect themselves.

This issue is particularly interesting to me in the context of the forthcoming medical practitioners Bill. Proper systems must be introduced for making and addressing complaints and for assigning responsibility. It will be useless for the legal system ombudsman to appear at the Committee on Justice, Equality, Defence and Women’s Rights once a year and rehearse a litany of barristers and solicitors who have defrauded others or otherwise abused the trust put in them by society unless there is a means of correcting their wrongdoing. I would support proposals to give authority to the ombudsman in order to stop such abuse.

I have listened to discussions in other fora about the Medical Council and the concerns expressed about the medical profession. I realise that the role of the various medical organisations is not always well understood. People often refer to the Irish Medical Organisation, the Irish

Hospitals Consultants Association, the Royal College of Surgeons in Ireland and the Medical Council as if all four bodies are exactly the same, whereas the Irish Medical Organisation and the Irish Hospitals Consultants Association are trade unions, the Medical Council is a regulatory body and the Royal College of Surgeons in Ireland sets standards in surgery. Unless one is a member of the profession, the differences between the bodies tend to be overlooked. For that reason, it is important that the ombudsman is readily identifiable to all the citizens of this country.

An earlier speaker claimed the Irish Medical Organisation sent three consultants to Our Lady of Lourdes Hospital in order to bail out Dr. Neary. In fact, the consultants were sent by the Irish Hospitals Consultants Association which, as a trade union, had no role to play in the regulation of doctors in this country. When a complaint was made to the Medical Council, it took the appropriate action, although an unfortunate delay occurred before it did so. That is why the impression was given that the response was not as effective as it should have been. In the case of health care patients and clients of legal professionals, similar problems will continue to arise unless identifiable representative organisations are available for people to contact when they have concerns. The argument about self-regulation versus lay majorities is a red herring until legislation is in place to protect those at risk. I am not my party’s spokesman for justice, so I am not fully *au fait* with whether this Bill will provide the necessary protection but that should be its primary focus.

As a barrister and former Attorney General, the Minister for Justice, Equality and Law Reform should be absolutely certain he is protecting people from the small minority of rogues who operate within the legal profession. I hope that is crystal clear to him because it should not be a case of a complaint being acknowledged and then left to hang in the air. Like every other Deputy, I have been contacted by people who have had bad experiences with solicitors and, when I read their testimony, I begin to suspect that there may be a case to answer. However, I am not legally trained and, of course, there are two sides to every story. The reality of the case may differ from the version presented to me but, until an effective system is in place, the suspicion remains that the legal profession serves its own. It is up to the Minister to introduce clear rules, just as it is up to the Minister for Health and Children, if she ever brings the medical practitioners Bill before the House, to do the same.

The Minister of State, Deputy Brian Lenihan, also has responsibilities in the Department of Health and Children, so I want to remind him of my doubts in respect of whether the medical practitioners Bill in its current form will be of benefit to patients. The Minister for Health and Children has come out with all guns blazing, thinking she will do well by patients simply by ensuring a lay majority. As we can see in the case

[Dr. Twomey.]

of the legal profession, a lay majority makes no difference to clients who receive a raw deal where there is no backup in terms of appropriate complaints legislation. The same issue will arise with the medical practitioners Bill. I have seen no proposals from the Department that would give me confidence in the ability of the Minister.

I will now turn to Part 6 of the Civil Law (Miscellaneous Provisions) Bill. I rarely get the opportunity to raise issues regarding individual constituents because I usually deal with issues pertaining to the health system at the national level. I refer to a letter sent to me by one of my constituents, which states:

We now have a thriving restaurant business that employs more than twenty-five full-time staff. Under current legislation for commercial retail lease agreements, if a tenant remains at a premises for over five years, they can then seek and be granted a longer thirty-year lease and the landlord has very little power to stop this. Hence, for this reason our landlord does not wish to renew our lease and our restaurant will close in early December of this year.

I ask the Minister of State whether he can ensure, on behalf of my constituent, that the Bill is enacted before Christmas recess or at least indicate if that is an achievable objective. The Members of these Houses may focus on issues of national importance but such issues are at their most relevant when they concern individuals. I am sure my constituent is not the only person to face this problem and the possibility arises, once people become aware of this legislation, that the safe option of terminating lease agreements will be taken, rather than seek other ways around restrictive legislation.

This is about balance between the tenant and the landlord. Tenants are ordinary, hard working people who are trying to do their best. Landlords are not always what they are perceived to be, somebody trying to squeeze the last euro out of the tenant. They are often simply families who own a premises and who wish to have a degree of autonomy over what happens with the premises. They do not want to lease the premises for 30 years. In this case, the tenant is running into difficulty because the lease will be enforced and the tenancy terminated by Christmas.

The Minister should do his best to put this legislation through Committee Stage and bring it back to the Dáil for Report Stage as quickly as possible so we can inform the people involved. One might wonder what difference this will make but this relates to the livelihoods of at least 25 people in a town in County Wexford. It is a successful business operating in a competitive environment. Perhaps the Minister will give us a time-frame for when he expects this legislation to be enacted.

What makes the Dáil relevant to our society is whether we act promptly when issues are raised and bring legislation through the House in an

appropriate manner and timeframe. In his opening statement the Minister of State, Deputy Fahey, made it clear that the rule of law is universally regarded as one of the foundation elements of any properly organised society. He spoke about the importance of law and its role in society.

There appears to be serious problems throughout the legal profession in its interaction with clients and individuals. It is most important that the Minister for Justice, Equality and Law Reform, who understands the law and who should know what he is talking about given that he is a former Attorney General, puts the ordinary individual in society first. He must ensure, and not just give lip service to the concept, that the process that will be available to clients after this Bill is passed is one that will make a difference. It would be interesting to be able to come to the House and not have to listen to Deputies talk about how people were defrauded by a small minority of barristers and solicitors. It would be good if we could prove that this legislation made that difference and that the legal services ombudsman and the procedures available to people work.

There is no point talking about legal aid or getting a solicitor or barrister. It is next to impossible to get a barrister to sue another barrister and it is quite difficult to get a solicitor to take a case against another solicitor. People protect themselves within the profession and they do not like to be seen to sue another member of the same profession. The medical profession is the same, as is any other profession. They do not wish to be seen to be turning on other members.

If the passing of this legislation means that the Government must extend the State solicitor's services to provide a unit to implement the recommendations of the ombudsman, so be it. We must ensure it is useful. When the medical practitioners Bill is brought before the House, I will be seeking assurances that the provisions of the legislation are there to protect citizens and are not simply lip service to fulfil the spin of Ministers.

**Mr. Deasy:** I thank my colleague, Deputy Gerard Murphy, for giving way to allow me speak on the Bill. I welcome the Bill. Most speakers have focused on the provisions to create a legal services ombudsman. I believe members of the legal profession will welcome this. They understand that self-regulation of their profession is damaging them and they need this new procedure.

Deputy Twomey mentioned the relevance of legislation. He referred to the Minister of State, Deputy Fahey's speech and his comment that the rule of law is universally regarded as one of the foundation elements of a properly organised society. What I will say in my contribution will go some way towards proving that what we do in this House is, in some cases, wasting society's time.

Some of the legislation we pass is utterly useless and the time we spend putting it together is a complete waste.

I can offer an example. I have figures, which have not previously been published, to demonstrate what I mean. The first legislation taken on by the Minister for Justice, Equality and Law Reform on taking office was one he inherited from his predecessor, Deputy O'Donoghue, the Criminal Justice (Public Order) Act 2003. This Act essentially provided for two courses of action, closure orders and exemption orders. A closure order could be sought when an application was made by the Garda to a court asking that a premises be shut down if that premises was continually a source of trouble. The Act also permitted exclusion orders for where an individual was constantly causing trouble in a particular area. The order would exclude that person from the premises or location.

Three years after the Bill was enacted I secured the relevant numbers from the Department of Justice, Equality and Law Reform, after asking for them for about a year. Five closure orders have been made nationally. With regard to exclusion orders, the figure is the big goose egg of zero. It was absolutely worthless legislation. It was the first legislation from the current Minister and, frankly, it is not worth the paper on which it is written.

At the time I called it Mickey Mouse legislation, but in retrospect, I probably did a disservice to the memory of Mickey Mouse by characterising it in that way. Mr. Mouse would probably have written better legislation than the Bill we faced three years ago. I and other members of the Opposition, as well as some members of the Government parties, tried to tell Ministers that they had missed the point. The point was the use of alcohol and drugs. It was not about passing measures such as that Act but about dealing with the situation on the ground.

I am trying to tie this issue to the headlines we see in the newspapers every day. There was another headline in today's *Irish Examiner*. According to that newspaper the amount of cocaine, crack and ecstasy being used in Cork and Kerry has increased fourfold in the past eight years. The war on drugs is being lost. When the head of the Garda inspectorate, who is the former chief of the Boston police department, intimates, even though she qualified her statement, that there is a possibility the gardaí could be armed at some point in the future, it is an indication that the war has been badly lost in this area.

What can we do about it with regard to legislation? Time and again over the past four years we have heard Ministers talking about the action that would be taken, be it tightening up of the measures dealing with mandatory sentences for people carrying a certain amount of drugs or mandatory sentences for carrying a firearm.

They have all been fudges, particularly the last Criminal Justice Bill. It made out that it was pro-

viding for a mandatory minimum sentence for the carrying of an illegal firearm when judges would probably sidestep that very easily just as they have the Criminal Justice Act 1997 when it comes to mandatory sentencing for drugs.

Recently, I had a very interesting conversation with a senior garda. I asked him about the situation on the ground. He said it was fairly quiet apart from drugs. It was a very curious statement. He essentially said the situation in regard to drugs was completely off the scale, although generally he was able to deal with the levels of crime. It reminded me of a comment made by the former mayor of Washington DC, Marion Barry. He said the levels of crime in Washington DC were not that bad if one did not count the killings.

If this House is to be relevant — I have given an example of complete irrelevance — one must look at one area, namely, the Judiciary. In the past four years absolutely no attempt has been made to enforce a minimum sentence in the area of drugs and everything surrounding them. There have been fudges all the way. The problem is that our tolerance of the level of crime and drug use on the streets has increased. Our standards have dropped in regard to what we are able to take and are willing to put up with.

**Mr. B. Lenihan:** I appreciate the Deputy's concern about the issues but this is an amending civil law Bill. There is no connection with crime.

**Mr. Deasy:** The Minister of State is in the Department of Justice, Equality and Law Reform. This is pertinent.

**Mr. B. Lenihan:** I am a Deputy and I am making a point. The Deputy's contribution has not yet touched on the Bill.

**Mr. Deasy:** Deputy Twomey and others mentioned Garda numbers, on which I wish to touch. I am not sure why the Minister of State did not intervene when they were speaking. The Minister of State will be happy to know that, in the Dublin area, the number of people served by each garda is approximately 300. The figure is 370 in the Limerick area, 407 in the Cork area, 445 in the Galway area and 492 in the Waterford-Kilkenny division. There is a significant difference in the number of gardaí serving people. I have asked the Secretary General of the Department to respond to me in regard to this issue. I again ask the Department to come back to me with a response as to what it is going to do with the additional number of gardaí, if they ever come on stream.

I wish to raise one other issue, namely, the joint policing committees on which we are about to sit. I represent the city and county of Waterford. I have been told the first meeting of the city policing committee will take place next Monday and I will be a member of that committee. However, I will be precluded from sitting on the county Waterford policing committee because

[Mr. Deasy.]

one cannot sit on both committees in a constituency. If that is the case, what is the reason for it? It is ridiculous if it is enforced.

**Mr. B. Lenihan:** Before the dual mandate was abolished, there were instances of Deputies sitting on two councils.

**Mr. Deasy:** Will the Minister of State check if it is the case and come back to me?

**Mr. B. Lenihan:** They sat on city and county borough councils and not just urban and county councils.

**Mr. Deasy:** That is what I was told. If possible, I would like the Minister of State to come back to me on that matter.

**Ms C. Murphy:** I welcome the legislation, although I would have preferred if its Title referred to the ombudsman rather miscellaneous provisions. It difficult for somebody trying to research law if many different items are included in miscellaneous provisions Bills. I would not have expected to see bankruptcy and gaming included in this Bill, which is primarily concerned with the establishment of the legal services ombudsman. It does not make the Bill clear and coherent.

I have seen the work the Ombudsman has done in areas such as complaints about local authorities. It is an office which can be very effective if people's complaints have not been resolved by the relevant organisation, so I welcome the establishment of the legal services ombudsman from that point of view. Complaints must be made to the professional bodies before they can be considered by the legal services ombudsman. It will be widely welcomed that there will be some element of independence from the professional bodies because there was a feeling that the professions were judging themselves.

I note a levy will be applied on practising barristers and solicitors and I presume the introduction of the ombudsman will be financially neutral on the State. The levy will be paid to the Minister who must pursue those who do not pay. I am curious about how the Minister will pursue those debts. Will it be done through the State's legal offices? Will it place an additional obligation on them? The extent of the levy will be judged on the costs in the preceding year. The first year will be important from that point of view in that it does not tend to be a typical year as one is setting up an office and requires equipment and so on. One obviously would not have a typical case load with which to compare. There must be a little latitude in estimating the cost. If this office is successful, the case load will increase but one is likely not to have sufficient resources which will result in a backlog. It is important to allow a little latitude so that does not occur.

A timeframe for making complaints is listed, that is, within six months of the professional body concluding the case. I would like that six-month timeframe extended. There is no limit for deliberations such as those which apply to An Bord Pleanála. I accept there may be complex, legal issues but one criticism of the legal profession is the time it takes to do things, so I would like to see a time limit.

In the first year, publicising the office will be an issue as will acquiring an office, equipment and so on. It would be unfortunate if there was a backlog and an inadequate number of staff. As I said, an issue which is the cause of complaint is the unacceptably long time it takes to finalise matters. That is why I would like a time limit because it would give some certainty to people.

The publication of an annual report and the fact the ombudsman may be required to appear before the Committee of Public Accounts is useful in terms of increasing public awareness of the role of this office.

While the Bill covers complaints which have gone through the professional bodies without reaching a satisfactory conclusion, many of the complaints about the civil process relate to delays in the courts, which is not covered by this legislation. For example, there is a minimum 18-month delay in Naas Circuit Court in hearing matters of separation and divorce. That backlog is growing rather than declining. Naas is not an exception, although there is a serious problem there with delays. The number of judges and support staff, who are as important, is clearly deficient given that the cases which go to court for hearing tend to be those in which people cannot reach agreement. The result of protracted problems for the two parties and of unresolved disputes often damages the children involved. There is a human price which is often paid later in life by many people. It is becoming obvious that additional judges need to be appointed.

I would like to see judges being designated, in particular for civil matters which can understandably play second fiddle when criminal cases are involved and there might be a loss of liberty.

I welcome the fact that the ombudsman can review specific matters which are the subject of complaint. A good example of that is the issue of management companies. I have come across numerous people who have told me that when they have inquired of solicitors the implications of signing up with a management company, they have been told it is a fairly standard clause. They have been most dissatisfied with that kind of advice, and understandably so.

While the buyer should beware, there is a significant dependence, especially with first-time buyers, on solicitors to give the best advice. While in theory buyers have the option to choose a solicitor, I have met many people who have told me a solicitor was recommended by the developer. Sometimes there can be a cosy relationship there

that may well end up as the subject of a complaint in the future.

It is only over time that we will see the value of this kind of work where particular issues are examined in a cohesive way rather than by means of individual complaints, although I would fully expect the complaints of individuals to get priority attention.

Sections 40 to 42, inclusive, deal with pension provisions for judges. I can see the value of that. However, this is an issue that requires some consideration when a judge has been appointed because clearly there are different implications if somebody is appointed who is in his or her mid-60s as opposed to somebody being appointed in his or her mid-40s.

Section 51 refers to evidence being given from a remote location by video-conferencing. That is a welcome provision in civil law. I am very much in favour of using whatever technology is available to become more efficient, use people's time better and possibly also reduce their need to travel. It would also make cases more efficient because one would not time them on the availability of people travelling.

Section 54 provides for €3,000 as the maximum sum allowed as compensation for a loss suffered as a result of providing inadequate legal services. I would consider €3,000 to be on the modest side and given that it is a maximum figure it is only likely to be increased in line with inflation. I question whether it is an adequate sum in the first instance. If somebody goes to the trouble of approaching professional bodies and proceeds from there to the ombudsman, clearly a great deal of effort is required and it is unlikely to be over a matter of little importance. This matter should be re-examined. I would not be surprised to see amendments being tabled on this issue.

Part 5 deals with the Gaming and Lotteries Act. While I was surprised to discover this was included, I do not have a problem with the changes proposed. In most cases the limits that are put in place are there to protect vulnerable people. The value of money has clearly changed over time.

The same is true for local authorities which can impose by-laws that can exclude, for example, gaming arcades from their areas. Very often that is done with the same purpose in mind. However, the nature of gaming and gambling has changed and it is no longer subject to geographical limits as people are connected to the Internet and everything from poker to horseracing, dog racing and everything one can conceivably think of is offered as a means of gambling, even elections. It goes right across the spectrum.

It is obvious that there are vulnerable people to whom we do not appear to offer significant protection. There is no doubt there is a need for some measure of regulation of this aspect of the industry. We hear about young people putting substantial sums through on-line gambling accounts and there is a danger that this practice

will become compulsive for some people. We must ensure this danger is taken into account. I question why this aspect of the matter was picked out as one of the more important issues when there is something much more substantial that needs to be addressed.

**Mr. G. Murphy:** The Civil Law (Miscellaneous Provisions) Bill is adequately named because we are dealing with many miscellaneous items in the Bill. The main section relates to the creation of a legal services ombudsman but we are also amending various Courts Acts, Courts Officers Acts, Solicitors Acts, the Gaming and Lotteries Act, the Statutory Declarations Act, the Juries Act, the Bankruptcy Act and the Succession Act. From past experience I am sure that before the Minister is finished with the Bill many additional topics will be dealt with and amendments made to it. It has been difficult for members of the Opposition to deal with this approach to Bills coming from the Department of Justice, Equality and Law Reform. Bills change constantly from the date of publication to the date of final report and, while we have to accept that is the style of the current Minister, it does not make for a good legislative process.

Having said that, I believe the central and most important element of the Bill is the creation of a legal services ombudsman. In a growing economy an effective and efficient solicitors service is absolutely essential. The tradition in this country has been the direct opposite. Businessmen and the public are fed up with the delays and inefficiencies in this sector. Their method of doing business is aloof and it would appear that, up to now, solicitors have had a vested interest in keeping it that way.

In a growing economy delays cost an enormous amount of money. Whether clients are businessmen or individuals they suffer and these delays add greatly to the cost of doing business. This is not acceptable in a country where it is absolutely vital that we keep our competitive edge. It is not acceptable if one profession is constantly adding to general business costs. This appears to be endemic in the profession because the legal profession in local authorities, State enterprises and State boards also appear to be the main reason public service transactions are continually delayed. In a modern society this antiquated attitude to dealing with clients is no longer acceptable and no matter what changes we make they will have little or no effect unless there is a fundamental change in attitude by the profession as a whole.

The entire system of training solicitors must be examined. They must be made to realise that the service they provide is slowing down the process of completing transactions. The ineffectiveness of the profession not only adds a cost to business and individuals but it also greatly adds to the stress of people's daily lives.



[Mr. G. Murphy.]

The Minister, Deputy McDowell, stated that the establishment of the ombudsman together with the new measures on legal costs will transform the provision of legal services. He stressed that it is essential to ensure that the legal system and the legal profession continue to meet the requirements of our modern dynamic society. While we welcome this change, the Tánaiste is starting from the wrong base. If he believes the legal profession has served society well, he is wrong. Its antiquated systems, arrogance and refusal to move with the modern world have cost our society dearly.

As with much of the legislation introduced by the Tánaiste, the intention of this Bill is correct, but the implementation leaves much to be desired. There must be a more fundamental shake-up of the legal system for the legal profession to realise that it is operating in the 21st century. There must be a fundamental change of attitude and the profession's members must realise that they are providing a service to the community.

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

**Mr. G. Murphy:** They are servants of the community and their businesses must be geared towards a demanding public that regards customer care and transparency as the norm. It is no longer enough to have a good solicitor who knows his or her law well. The solicitor's knowledge must be transferred efficiently and quickly to the matter being dealt with, not left gathering dust on shelves until clients demand action. There is more to running a solicitor's business than the law element. Perhaps it should be a requirement that each solicitor's practice has a person who has the ability and qualifications to ensure that the administration of the office is effectively carried out.

In 2005, the Competition Authority called for an ombudsman. Its primary report highlighted the conflict of interest facing representatives of bodies of the legal profession in representing their members and the public's interest. The authority also emphasised that the current complex and opaque set of rules in the legal profession must be replaced by an independent, transparent and accountable system. Last year, only one complaint against a barrister was upheld by the Bar Council's disciplinary body and only two of the five solicitors referred to the High Court were struck off the roll of solicitors, while two people were ordered not to practice as sole solicitors.

No solicitor should be allowed to act in a solitary capacity unless he or she has the services of a professionally qualified administrator to deal with office administration. Many problems arise from the ineffective passing of advice through the administrative system rather than the advice of solicitors itself.

The whole affair is a joke as far as the public is concerned. Delays, mistakes and inefficiencies that cause clients strain and trauma and cost a great deal of money are only punishable by fines of between €250 and €5,000. Last year, the total amount paid by negligent solicitors was €22,600. I or any economist analysing the situation would be able to show that the inefficiencies in the legal system have cost individuals and the business community tens of millions of euro in that period.

A central demand of the Victims of the Legal Profession, an organisation formed in 2001, was the establishment of an ombudsman. The organisation helped to highlight the appalling levels of distress arising from unprofessional and, in certain cases, unethical conduct in the legal profession. The main complaints were about the processing of wills and property, which could be delayed by years. However, it is important to remember that the proposed ombudsman will only supervise bodies that examine their own members.

In this context, the English position is interesting. The Legal Services Ombudsman is independent of the legal profession and investigates the handling of complaints by the professional bodies. Recently, the English ombudsman spoke on this issue. While welcoming of the UK Government's White Paper on the Future of Legal Services: Putting the Customer First, the ombudsman declared her dissatisfaction with the fact that only 33% of the Law Society cases received by her and 12% of Bar Council cases were adequately dealt with in a way that would restore consumer confidence and relieve any perceived public concern about lawyers investigating complaints about fellow lawyers. Thus, there remains the possibility that, in Ireland as in England, an ombudsman alone might not suffice in resolving the major issue we are facing. Further reform will be required to remove complaints handling from the remit of the professional bodies.

It remains to be seen what effect the ombudsman's establishment will have, but it is only the beginning. If the law profession does not heed the wake-up call, more reforms must be urgently introduced. We cannot allow one profession to stifle progress. It must realise that the days of its privileged position are coming to an end. Its operations must become efficient and transparent, but it is obvious to the rest of the community that the profession has a long way to go to achieve this end. Its past dominance of this country's political life has allowed it to slow the reform process, but those days are gone. Politicians must respond to the consumer, who is demanding action. If the legal profession does not voluntarily respond, the Oireachtas must force it to reform in a consumer friendly way.

The central part of the Bill is the most important, but it does not go far enough. In general, law professionals do not realise how far behind they are and how the public regards them,

namely, as problems and obstructions to people trying to do their daily business. Unless this situation changes, urgent action must be taken.

The Bill addresses other matters. Part 3 deals with courts and court officers, including a welcome amendment to section 65 of the Courts of Justice Act 1936 in respect of the setting of fees. Part 4 and its provision regarding the Solicitors Act 1954 is particularly welcome because it will allow lay people to get involved in the Law Society of Ireland. While a solicitor must be the chairperson of a committee, the Bill will abolish the requirement for two thirds of that committee to be composed of solicitors.

The portion of the Bill pertaining to gaming and lotteries is no longer contentious. Having seen the opposition to the issues tabled by the Tánaiste for public consideration, he has withdrawn the controversial aspects. From the Opposition's point of view, the other parts of the Bill are generally acceptable, but while the establishment of the ombudsman will be welcome, it will not do the job required of it.

**Mr. F. McGrath:** When we are dealing with civil law or other justice-related matters, it is important that we get the balance right. Above all, competence, independence, quality and true public service must be important elements running through this legislation. We need a Bill and a vision for this country that is based on honesty and equality. These core principles in any democracy should be built into all pieces of legislation, and particularly into this Bill.

Once known as the land of saints and scholars, Ireland today is better known as the land of scandals and tribunals. Politics, banking, the church, business, the law, and the Garda have all suffered from an erosion of public confidence in the wake of astonishing scandals. Moreover, Ireland has undergone rapid social, economic and political change over the past decade, which has had a profound impact on our value system. For example, the decline in authority and influence experienced by the churches in recent years has forced many people to seek ethical or moral guidance from other sources.

Ireland at the beginning of the 21st century is a fairly prosperous country, which we all enjoy, yet this creates a dilemma of its own. Difficult decisions about the distribution of resources raise 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, churches, medical and legal professions and business leaders have all had their credibility seriously tainted by damaging scandals. I mention these because it is an important part of the debate since we are dealing with justice issues and civil law.

This Bill makes provision for a number of changes to various elements of mainly non-criminal areas of law. Section 1 sets out the Short Title and provides that the Minister for Justice,

Equality and Law Reform may make orders commencing its various provisions. Section 2 of the Bill provides for the collective citations of various provisions of the Bill with Acts already on the Statute Book.

The purpose of Part 2 is to establish on a statutory basis the office of the legal services ombudsman to oversee the handling of complaints by the Bar Council and Law Society, review the procedures for same and report annually on the adequacy of the admissions policies of both professions.

Section 4 provides for the establishment of the office of legal services ombudsman. Section 5 stipulates that the legal services ombudsman shall be appointed by the Government, the person appointed shall be suitably qualified and the classes of person not eligible for appointment as ombudsman. These are the details of the legislation.

Section 4 is an important element because we need people we can trust and respect. In today's world one cannot demand, buy or pay for trust or respect. If one wants the trust of the people, one must go out there and earn it. This applies to politicians, journalists, electricians and plasterers, and to any other person but particularly to those to whom this Bill refers, the legal profession. The debate yesterday was a wake-up call and a reality check for us all, and I relate this to the broader debate in today's legislation.

The primary functions and powers of the legal services ombudsman are provided in section 9. These are to ensure that complaints by clients of barristers and solicitors to the professional bodies are dealt with fairly, effectively and efficiently, to assess the adequacy of the admissions policies of the legal professions and to improve public understanding of issues relating to complaints. Section 10 stipulates that the ombudsman shall be independent in the performance of the functions of the office. It is important that the Bill stresses the independence of the ombudsman in dealing with these types of issues. I again use the words trust and integrity, which are relevant to the debate in this House over the past number of days. There must be independence and efficiency, and also recognition of the public's understanding on up-to-date situations.

When one digs further into the Bill, one sees that a complaint may be made to the ombudsman concerning the handling by the Bar Council or the Law Society of a complaint against a barrister or solicitor. A complaint may also be made to the legal services ombudsman about a decision of the Law Society to make or refuse a grant from the Law Society's compensation fund. Complaints to the legal services ombudsman must be made within six months of the determination of the related complaint by the relevant body. Provision is also made for the circumstances in which a person is not entitled to make a complaint.

Regarding due process for the Bar Council or the Law Society, I also challenge them on their

[Mr. F. McGrath.]

integrity and objective professionalism. Recently, there have been leaks from these groups and they have now become an issue. Leaks from the legal profession or from any profession within the tribunals are not acceptable, particularly if they are directly connected with people in the legal profession.

It is also not acceptable for leaks to come from senior officials in the Department of Justice, Equality and Law Reform or from the Minister for Justice, Equality and Law Reform. I refer to the Frank Connolly case. There was much high moral ground reaction during the week regarding the leaks from the tribunal, but there was not a word about the family of Frank Connolly when he was totally discredited in the House last year by the Minister for Justice, Equality and Law Reform. I raise this matter because I am speaking about respect for the rights of individuals, justice and due process. These are fundamental matters on which we cannot sit on the fence. This is not acceptable practice in any democratic state. This is particularly relevant to section 24.

Before I go into that, I want to mention sections 22 and 23, which enable the ombudsman to establish procedures to be followed on the receipt, resolution and investigation of complaints. Such procedures shall be published. Section 24 provides that the ombudsman shall ensure that investigations are conducted in private. I urge Deputies to look carefully at section 24 and apply it to themselves, in their offices as Members of the Oireachtas or in other professions, whether as teachers, gardaí or lawyers. These are professional and ethical issues to which all Members of this House should pay attention. We need to protect privacy, but at the same time get the balance right so that it is not a matter of hiding behind privacy to cover up issues of public interest.

We must have these standards in politics. It is not acceptable that a Deputy and former Minister of State, when chairman of the then Eastern Health Board in 1991, gave a multi-million euro contract to a company and then got his house done up by the same company. There was a clear conflict of interest and a serious issue to be challenged. That particular contract was considerable and the issue involved more than a few cans of paint to which many referred in the past few days in the House. It is not acceptable and it is out of order.

Section 26 renders it an offence to obstruct the ombudsman in the performance of his or her functions. I welcome that provision because we cannot have a situation where any person in this State obstructs the ombudsman in the performance of his or her duties.

I commend the work of the existing Ombudsmen and also commend the work of the people who work directly in the interests of public service in this State, whether they are civil servants, gardaí, teachers, nurses or doctors. When

we speak about them, it is important to note that there are people out there doing their jobs every day. They earn the respect and support of the public. We should commend them and thank them for their effort and for their service to the State. I particularly mention that in the context of section 26.

Section 28 provides that the ombudsman shall send a written statement on the results of the investigation, any direction given or recommendation made to the complainant, the relevant professional body and the barrister or solicitor concerned. Section 28 is strong because it involves a written statement, which gives it important teeth.

Section 32 provides that the Bar Council and Law Society keep complete records of matters related to their investigation of complaints and, on request, make them available to the ombudsman. It is essential that records are kept well. In the past, we have had experiences of records not being kept. When I sit on the Joint Committee on Justice, Equality and Law Reform's Sub-Committee on the Barron Report, I find it appalling to hear the victims' families and the survivors of the Dublin and Monaghan bombings talking about missing files from different Departments and all sorts of documents going missing, and that we cannot get at the truth. Section 32 provides that complete records will be kept and the section will be used to strengthen the ombudsman's teeth during his or her investigations.

Sections 55 and 56 amend the Gaming and Lotteries Act 1956 to insert new values of 50 cent as the maximum stake and €30 as the maximum prize in gaming machines. Provision is also made for the Minister to vary the stake and prize amounts in future. It is important that the Minister should have such discretion. I call for professionalism, competence and decency in this regard. We should be cognisant of people who are addicted to gambling and this problem should be monitored closely. In addition, our young people must be protected when it comes to such outlets. A close eye must also be kept on gangsters who have indirect connections to casinos and clubs. A soft line should not be taken against organised crime. It is a fact of life which must be addressed.

It is unacceptable that housing estates and flat complexes in Dublin are controlled and run by gangs. For example, women in my constituency have the bottle and courage to clean their stairwells following constant attacks and intimidation but everybody turns a blind eye. It is unacceptable that women should have to put up with this nightmare. These working people deserve our support and our justice system must be strong enough to stand up and defend them. I raised this issue with the Minister for Justice, Equality and Law Reform on the ground in my constituency. It is also unacceptable that young men can get high on cocaine before murdering people such as Donna Cleary in Coolock. People involved in the importation of drugs should hang

their heads in shame and they should all be locked up.

I challenge the Judiciary. What cloud cuckoo land are judges living in when it comes to handing out sentences to these people? They should wake up and smell the coffee. These people are dangerous and they should be put away for once and for all. They are ruining communities in Dublin and they are moving into other cities. We should stand in solidarity with the people of Cork and Limerick and give them our support, not turn our backs on them.

I wish everybody involved in the Northern Ireland peace talks well. Today was historic and there is absolutely no reason all the parties should fail to get their act together. The November deadline should be met and those involved should sit around the table and accept each other on an equal basis. They should treat each other with respect and address serious justice and human rights issues. I commend those involved in the talks because they are at a historic crossroads. They have an opportunity to work together on the island, whether they are Catholic, Protestant or non-religious.

Sections 40 to 42, inclusive, arise from the enactment of the Pensions (Amendment) Bill 2002, which reduced the qualifying period for pensions for public servants from five to two years with effect from 2 June 2002. The 2002 provisions were enacted on an administrative basis by the Department of Finance in respect of members of the Judiciary. Accordingly, the amendment will not lead to additional costs. I welcome this important development.

We must keep our eye on the ball when it comes to the justice system, which should always be based on truth, due process and human rights. It is essential that these core principles are observed and flow through every Bill introduced in the House. Sadly, in modern Ireland, this is no longer the case. We have good legislation but it must be implemented in a professional and objective way. It is also sad that there is a complete lack of respect for democracy, human rights and justice, examples of which I highlighted earlier.

This is important legislation, to which we should all pay close attention. I hope it will be a major step in the right direction in improving standards and the rights of our citizens. They submit their taxes to the Exchequer every week and they bear the costs of legislation. They deserve our support, and laws that do not look after or prioritise the needs of our citizens go nowhere.

**Mr. Connolly:** I welcome the opportunity to contribute. When I first saw the Bill on the Government's legislative programme, I thought it had very little to do with me but then I recalled my own experiences and those of people who have attended my clinics. My experience of solicitors is generally positive. The Bill provides for the setting up of an office of legal services ombudsman, a development that is long overdue but wel-

come. The only recourse an individual has currently is to pursue a complaint through the Law Society or the Bar Council. Nobody I know who has taken a case to either body has won. Generally, the circle closes and Joe Bloggs is excluded even when he has a genuine complaint. It is sad that such a comment applies to one of the alleged noble professions.

I recollect one case involving a constituent who visited my clinic, which illustrates clearly why an ombudsman is needed. The individual and his wife were thrifty and they had decided to buy a site and build a house. When buying the site, they did more than most people do by ensuring the surveyor they employed was bonded so that if there was a problem with the work, they had a fall-back. They were able to take out an insurance policy to that effect. The house was eventually built and, following a short period, cracks began to appear in the block work. A number of the cracks were between two and three inches wide and one could place a closed fist in them. The house is dangerous and the walls are falling apart.

They contacted their surveyor and solicitor to establish who was at fault and against whom they could lodge a claim. It appeared that the surveyor was at fault because he had not adequately checked the laying of the foundation. He visited the site one day, dug his heel in the ground and said it looked okay. He left and presumed everything would be okay but that was not the case. The foundation was laid on a bog and if it had been dug 18 inches deeper, it would have been very solid. The building resembled a doll's house and it was built by a hard working, house proud couple. Other surveyors visited the house and the bonded surveyor put up his hands and accepted 100% liability.

There was no contest. The surveyor felt the project could go ahead and he offered an apology. It was not the builder's fault as he built the house immaculately. The foundation was faulty and everything went wrong from there on.

The insurance cover was for £250,000, which is a lot of money. In 1999 it was more than was needed to buy a site and build a house. However, there was a rider in the insurance policy which meant that the legal fees would have to be taken from the £250,000. One would presume, in an uncontested case where the surveyor accepted he was 100% to blame, that the legal fees would be low, perhaps £15,000 for both legal teams. In that event, the client would at worst be left with £235,000 to rebuild his dream house. However, the system in place at present left this man with £80,000 to rebuild his house because 68% of the claim was used to pay legal fees.

This result has had a serious psychological effect on the man, his wife and their young child. These effects pass through a family. One does not have a situation where a husband suffers while a wife does not, and *vice versa*; the consequences will pass on to a child to some extent. The man was left with just £80,000. He has tried to argue

[Mr. Connolly.]

that this is not right but every sharp practice in the book has been used to fatten the claim. He has tried the Legal Aid Board and the Bar Council and he will next be referred to the Taxing Master, but the lawyers involved are so good at what they do, they can easily demonstrate that they carried out work on the case. When one has a milking cow, one can keep milking until the cow falls down, if one likes. That is what happened in this case.

The man was told he could reopen the case but the solicitor would have to retain junior and senior counsel to begin the process, and would then have to find experts in the area to ensure that one surveyor would agree with another surveyor, despite the straightforward nature of the case. It was this man's experience that prompted me to speak on the Bill.

The ombudsman's function will be to act in a supervisory or oversight capacity in regard to the response of the Law Society and Bar Council to complaints by clients of solicitors and barristers. The situation is a shambles. It is a self-governing system which is not working. All it takes is the occasional bad apple to tinge the whole barrel. Perhaps the entire system is wrong, which allows opportunities to arise. The legal affairs ombudsman will make a major contribution to the development of fair, effective, quality, user-friendly legal services.

I have no doubt this office will become a reality but when it does so, will the ombudsman have retrospective powers? If so, how far back will those powers go? Will there be a statute of limitations after a certain number of years or will it be an open book? Will the ombudsman have to wait for a file to build up? I have no doubt that as soon as the office is open, the ombudsman will be flooded with applications.

The legal professions are a major element in the proper functioning of our society. From time to time, we all find it necessary to avail of their services. However, if a poor person who has done nothing wrong tries to defend himself in court, the judge is generally dismissive of any attempt to explain. That is not good enough. Judges have come through the legal system, which they want to uphold and protect. I am not sure this is always of benefit to the individual. House conveyancing is another area where one does not necessarily need a solicitor as it can be dealt with by members of the public on a one-off basis.

The law plays a fundamental role in way we structure our lives. Legal practitioners such as barristers and solicitors are the key players in this regard. We are in the midst of a type of global restructuring of both legal and professional services, which will have a major implication for the legal profession. Technology is pushing this trend. One can now sit in a law office in Dublin and instantaneously link with lawyers in Beijing and investment bankers in Singapore with regard to a project in Cape Town. That may not be the

norm but such instances arise. New technology allows people to work easily across distances and develop different models. However, we live in a dangerous world, filled with opportunity. The world is becoming a smaller place — a global village — and the number of people doing deals in advertising, the purchase of property and the purchase of business across the globe is increasing.

The only time the ordinary Joe Soap deals with a solicitor is when he is at his most vulnerable, such as when buying a house, making a will or following a bad accident. These are generally one-off events, not of the type one would discuss with a neighbour. The solicitor is privileged in that it is old hat for him or her but it is a new, nerve-racking experience for the Joe Soap. However, irrespective of the price of a house, the solicitor is in a privileged position and can charge a percentage of the house price with a minimum door-latch opener charge for starters. This is the type of sharp practice we are up against and which is rife in the legal profession. There is no shortage of sharks swimming in the water of legal malpractice and abuse.

A classic example of sharp practice came before us recently with regard to double charging by a solicitor during a redress board case. It was only because the media became aware of the case that the individual involved won. While my recollection may not be completely accurate, I understand a settlement was made without the solicitor admitting he had double-charged. This type of practice cannot be allowed to continue.

I agree with Deputy Cuffe that many people have been hard done by at the hands of unscrupulous members of the legal profession — I do not paint them all with the same brush — particularly in regard to the work of the Residential Institutions Redress Board. It was bad enough for those involved to have suffered what they did but when the State accepted it owed them compensation, the legal profession saw them as a soft target to be milked. The lawyers were paid once but that was not enough; they made sure they would be paid a second time. The representation of these individuals left much to be desired and the despicable abuse of their position has brought the legal profession into disrepute.

An aggrieved complainant to the Law Society or Bar Council, who may be dissatisfied with the way these bodies dealt with a matter, can resort to the ombudsman to investigate the grievance. This type of office has already been functioning in other jurisdictions. Experience has shown that an ombudsman and associated team has dealt efficiently and fairly with all complaints. It is reassuring that if it is working in other jurisdictions, I do not see why we cannot introduce the same template here and work with the same type of vigour.

Thus far the office has been fair, independent and proactive in providing a service to complainants, individual lawyers and professional bodies. In serving an increasingly diverse society, the

ombudsman will be required to recognise, respect and value diversity in striving to serve the interests of people from all sections of society.

The legal services ombudsman would act in the manner of an advocate for the client's or consumer's interest in the regulatory framework attaching to the legal profession. Complaints about professional bodies would have to be investigated efficiently and effectively by the ombudsman's office. There has been talk here about an ombudsman and an ombudsman's team, but I have no doubt there will be no scarcity of work for the ombudsman and associated team.

The ombudsman's office will have to ensure impartial investigation and redress where appropriate. Its aim will have to be the application of best practice in the handling of complaints by the legal professional bodies, with a view to raising the standards of services for consumers.

The ombudsman's office effectively would be involved in the shaping of the future regulation of legal services in this country. Clients may be deeply frustrated or aggrieved because they may feel the professional body did not investigate a complaint properly, or perhaps at all. This is one of the difficulties.

On investigating a complaint, one is hit with the potential cost. It is almost a case of allowing sleeping dogs lie. The first action a solicitor will take in investigating a major complaint is to bring in barristers, perhaps a couple of senior counsels and a junior counsel.

**Mr. Durkan:** Then the trouble begins.

**Mr. Connolly:** If one is looking for a professional opinion, or to challenge a professional opinion, it may be that nobody will provide it in this country. A person may have to search across the world. This is not unusual. These are the types of obstacles put in people's way. The matter becomes a cost issue. Common sense is left out the back of a solicitor's door on the street. These are instances where if a complaint is to be made, an ombudsman will ensure that people are not robbed to take an action.

I believe the word ombudsman means a defender of humankind. I take it the proposed ombudsman will be a free service to people who have a legitimate complaint. My understanding is that it will be the last recourse for people who have paid their bills, etc.

Section 27 of the Bill indicates that if the ombudsman decides the client's complaint is justified, it will be able to direct the professional body to reconsider some or all aspects of it. The ombudsman may decide the professional body caused the client unnecessary distress or inconvenience due to the handling of the complaint, or perhaps that the client suffered some loss as a result.

Unnecessary distress is being caused to people, no less so than to the people I referred to earlier. They are going through this case for approxi-

mately six or seven years. That is a major amount of time from anybody's life. Not alone will these people be further pinned to the ground, but it is likely they will never receive a penny for the distress the legal system has caused them with regard to their home. Will there be any form of recompense for people who have been put through the wringer and whose lives have been destroyed? We should consider these issues. In such cases, the ombudsman should be empowered to direct the body to reconsider its decision.

Sections 55 and 56 of the Bill amend the Gaming and Lotteries Act 1956 to insert new values of 50 cent and €30 euro as maximum stakes for gaming machines. I do not know the situation or whether the people framing this legislation have gone out or undercover in some of these gaming arcades and seen that one can play for fun. Did they know that the 2p signs on the machines are 20 cent or 20 euro, and that one can go in nominally to win €2, but that amount could in reality be €200?

This is happening and there is no point in stating differently. Is there anybody to examine the issue, or perhaps have a chat with the people pumping the money into these machines? People pumping money into machines like this can often ill-afford it.

**Acting Chairman (Mr. Kirk):** The Deputy has approximately 40 seconds to conclude.

**Mr. Connolly:** It might not be a bad 40 seconds if people would listen.

**Mr. Durkan:** The Deputy could say a lot in 40 seconds.

**Mr. Connolly:** There are people who are highly addicted to this type of gaming. If limits are increased a hundred-fold, does that mean the shop will take the next step and bump limits up again? There is a culture of operating in an illegal manner. It could be viewed that this House is effectively stating that it will legalise what we know certain businesses have been doing illegally for a number of years. The culture of people who own these businesses is that they will continue to provide the services on an illegal basis.

**Acting Chairman:** Deputy Durkan has 20 minutes in total but he will only have approximately three minutes to speak before the debate is adjourned tonight.

**Mr. Durkan:** The Chair is about to cut me off before I get started, which is very sad.

Updating legislation in the legal area is very important and must be undertaken on an ongoing basis. It is not uncommon to have to refer to Acts that are two centuries old. Incidentally, some of these Acts have stood the test of time well. When we go to amend them we find ourselves in slight difficulty. I do not propose to go into the minut-

[Mr. Durkan.]

iae of the particular Acts in question this evening. Nevertheless, I can think of one or two examples in my time in this House where Acts that were on the Statute Book for at least a century were amended, but subsequently they did not seem to stand the test of time as well. There are issues in that which we must deal with again.

In the short time available to me tonight I wish to indicate that the setting up of a legal services ombudsman is important. It is an important service and change in the legislation. It is significant in terms of protecting the public and the profession itself. The tendency to overly rely on self-regulation is beginning to wane and it is not as satisfactory as one would have liked. For some unknown reason, as time goes by, we have evidence of cases where the self-regulation system did not work to the benefit of the consumer.

The consumer is the person on whom all of us in this Parliament rely. They elect us to the House and are affected by the legislation we pass. If it comes to pass, as in the number of cases referred to by my colleague, that the legislation was not sufficiently watertight to ensure the protection of the individual, the issue should be examined. The provision is a good one. It updates legislation and will be of considerable benefit.

I do not know if I have sufficient time now to speak about what was once known as free legal aid, but I intend to speak about it when I have the opportunity. Free legal aid was a concept that came about when people who could not afford the cost of the legal system had an opportunity to avail of a free service. It was generally provided by law students. They learned much themselves and it was beneficial and educational to them. It was also very good for the community at large. That has been put on a statutory footing for several years now, and although it exists to some extent, it is not there to the extent that was originally intended.

Debate adjourned.

### Private Members' Business.

#### Public Expenditure: Motion (Resumed).

The following motion was moved by Deputy Burton on Tuesday, 3 October 2006:

That Dáil Éireann:

- notes with serious concern the Report of the Comptroller and Auditor General for 2005 provides continuing evidence of shocking waste and overspending on a range of public projects as well as the ongoing recurrence of serious tax evasion;

- deplores the continuing incompetence, mismanagement and failure to ensure that taxpayers get value for money, highlighted in the successive reports of the Comptroller and Auditor General;
- condemns the failure of the Government to take any action to ensure better value for money since the 2004 report was published at this time last year; and
- calls on the Government to implement the proposals for reform of public expenditure management set out in “The Buck Stops Here”, published by Fine Gael and the Labour Party to overhaul the system of public expenditure management, including the need for:
  - clear lines of accountability for Ministers in the discharge of their duties;
  - enhanced capacity in the Civil Service in terms of professional skills and training in the management of major projects;
  - a major overhaul of the expenditure evaluation process;
  - the establishment of a gateway system for major capital projects;
  - clear transparency when Ministers intervene to fast-track projects;
  - the establishment of a public buying office to manage public procurement;
  - steps to ensure that public bodies are accountable to the Dáil through Ministers;
  - reform of the Estimates process to make it more timely and enhance Dáil scrutiny of public expenditure before it takes place, including the establishment within the Dáil of an Estimates Commissioner; and
  - reform of the entire budgetary process to sharpen the focus of spending on strategic priorities, value for money, delivery at the front line and to ensure tax reliefs represent good use of taxpayer money.

Debate resumed on amendment No. 1:

To delete all words after “Dáil Éireann” and substitute the following:

- “— notes the Annual Report of the Comptroller and Auditor General on the 2005 Appropriation Accounts and that in line with normal procedure it will now be passed for scrutiny to the Committee of Public Accounts;
- acknowledges the need to pursue best practice in the management of public expenditure to ensure value for money for the taxpayer, and in this regard commends the initiatives taken by Government in recent years to promote more efficient and effective management of expenditure including:
  - the introduction in 2004 of rolling multi-annual capital envelopes for better management and control of public capital programmes and projects;
  - the publication in February 2005 of new guidelines for the appraisal and management of capital expenditure proposals in the public sector;
  - the additional value for money measures in relation to major projects and ICT projects and consultancies announced in October 2005;
  - the introduction this year of new arrangements for value for money policy reviews in place of expenditure reviews;
  - the establishment of a central expenditure evaluation unit in the Department of Finance to promote best practice in evaluation and ensure compliance by Departments and agencies with value for money requirements;
  - recent reforms to the procurement of public construction contracts and reform and modernisation of the system for employing construction related consultants;
  - the introduction of the national public procurement policy framework for implementation by public bodies, in particular the development of corporate procurement plans that set targets for achieving savings and broad value for money objectives; and
- reforms to the Estimates and budget process announced in budget 2006;
- notes the measures taken to improve tax compliance; and

- acknowledges the major improvements in public services since 1997 arising from the very significant level of resources allocated by Government over that period.”
- (Minister for Finance).

**Mr. Curran:** I wish to share time with Deputies O'Connor and Fleming.

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

**Mr. Curran:** I am supporting the amendment and my initial comments will be specifically about the motion tabled by the Fine Gael and Labour Party Members. They have endeavoured to use the annual report of the Comptroller and Auditor General in an opportunistic manner. They know well that it is an annual report, yet in many ways they are trying to use it as a battering ram with which to knock the Government.

**Mr. Durkan:** That is what it is.

**Mr. Curran:** I am surprised that some of the Members who signed the motion are current and former members of the Committee of Public Accounts.

**Mr. Durkan:** That is correct.

**Mr. Curran:** They should know that committee's procedures.

**Mr. Durkan:** That is why we signed it.

**Mr. Curran:** Some of the others who signed the motion may not have studied the Comptroller and Auditor General's report and probably will not comment on it one way or another. However, the motion as tabled by Fine Gael and Labour is grossly inaccurate, particularly when it refers to “the ongoing recurrence of serious tax evasion”. The motion also refers to value for money as though the Government is not responding in that regard. Members of the Committee of Public Accounts will realise that does not relate to the committee's procedures. Every year, issues arise that are highlighted in the annual report of the Comptroller and Auditor General. Each and every one of those matters comes before the committee to be scrutinised in full. That is both correct and appropriate.

During 2005, the year covered by the Comptroller and Auditor General's report, total expenditure by the State was in the region of €45 billion, yet the amount referred to in the report is a small fraction of that. By and large, the vast majority of programmes and projects delivered as a result of Exchequer expenditure are well implemented by Accounting Officers, Secretaries General and other senior civil servants. Only a small minority of cases come to the attention of the Comptroller and Auditor General and are



[Mr. Curran.]

brought before the Committee of Public Accounts. The manner in which the motion is worded, however, would make many Accounting Officers feel that the vast majority of their work is not competent or good, yet nothing could be further from the truth. In the vast majority of cases, we find that expenditure is carried out in an efficient and practical manner.

The Comptroller and Auditor General's report should be put in context for those who want to use the motion for their own ends without examining it. It is an annual report which highlights issues on a year by year basis, but not necessarily the same issues. The motion suggests that nothing ever happens as a result of this annual report, but members of the Committee of Public Accounts know that is not true by a long way. It is worth mentioning the procedures in place. After the report is published, various Accounting Officers from Departments eventually appear the following year at the Committee of Public Accounts to discuss the issues that were highlighted. Irrespective of who is contributing to its proceedings, the committee is viewed as fair and balanced. It is always chaired by a member of the Opposition. It does not allow for substitutes and its membership is balanced between Government and Opposition, which adds to the impartiality, independence and fairness with which the committee scrutinises not just the report of the Comptroller and Auditor General, but also the relevant Accounting Officers who appear before it.

Bringing in Accounting Officers and scrutinising accounts on their own is not sufficient, however. It is not enough just to say that we interview and interrogate witnesses; we go much further than that by making specific recommendations. Many of the recommendations and suggestions are made informally when representatives of various Departments appear before us. Those recommendations would be made to Secretaries General or other staff. Informally, many such recommendations are implemented quickly.

More importantly, the Committee of Public Accounts produces formal reports based on its hearings and submits such reports directly to the Minister for Finance. The reports indicate a summary of what we have found at meetings of the committee, but we specifically bring forward findings and recommendations, which are brought directly to the attention of the Minister for Finance. While the Minister has a number of choices, he has to respond. The practical reality is that the vast majority of the committee's practical suggestions are accepted by the Minister for Finance and the relevant changes are made. I defy Members on either side of the House to say otherwise. If the chairman of the Committee of Public Accounts, Deputy Noonan, was here tonight, I am sure he would agree.

One might ask where all of this is going but the practical reality is that, year after year, the issues coming before the committee are not the same because changes and improvements take place. If one believed everything in the motion, one would not expect to see such changes, yet we do see them.

I wish to refer specifically to one or two issues that were raised in the debate last night, including Thornton Hall. There was much debate on that matter because it is in the Comptroller and Auditor General's report, although it is not specifically mentioned in the motion. That issue will come before the Committee of Public Accounts in the next three or four weeks. It may be premature to comment on it here but since there has been so much comment already, it would be remiss of me to let the occasion pass without acknowledging that €30 million was spent. In his report, the Comptroller and Auditor General said that in his opinion it might have been possible — he did not say it was possible — to achieve better value for money if the purchase of the Thornton Hall site had been done in a different manner. The manner he suggested was if one went out blindly without notifying anybody of what one was doing and one bought the site. Those on the Opposition side were hopping up and down saying that is what the Minister should have done. The question is, however, if it had been their call, would they have bought the site on the blind? Would they have failed to tell the public and kept it a secret? Is that what they would have done?

The challenge the Minister threw out is a very viable one. In recent years, we have all seen auctioneers and valuers put certain values on properties, particularly when they go to auction. Invariably, however, we read reports afterwards which show their values were completely wrong. In this case, the Comptroller and Auditor General said that, in his opinion, it might have been possible to buy the site for a cheaper price. The Minister put an interesting challenge last night and I have yet to hear anybody accept it. He asked whether a similar, suitable site in as close proximity to the city centre could have been found more cheaply. I have not seen anybody yet stand up and say "Yes, it could". That challenge still stands.

The question is historic in that we have purchased the site. However, is anybody realistically saying that if the Thornton Hall site went on the market today, it would achieve a lower figure than we spent on it? I do not believe so. It is premature to comment on some of those issues because they will come before the Committee of Public Accounts in due course. Those who jump on the bandwagon and take one or two lines from the Comptroller and Auditor General's report without an in-depth analysis or putting it into context, are not dealing with the issue fairly or

properly. The questions that both the Minister and myself have put deserve a response.

The motion condemns the Government for not taking action to ensure better value for money since the 2004 report was published. That is not right, however, because we have seen changes on issues that have come before the Committee of Public Accounts. Members should think back to a couple of years ago. The single biggest issue in my short time as a member of the Committee of Public Accounts was expenditure on roads, which were always over budget and behind schedule. Now the issue of over expenditure and late completion of road projects never appears in the Comptroller and Auditor General's reports nor does it appear in this report. We need to put the report in context. We are making changes and they are delivering results. Recently when opening the Fermoy bypass the Minister for Transport, Deputy Cullen, explained that an increasing trend in the delivery of major infrastructure projects was that they were coming in ahead of time and within budget. Specifically last night he mentioned some of the projects that came in on time and ahead of budget: the Cavan bypass, the Enniscorthy-Clonroche realignment, Ashbourne, the M50 bypass, the Ballyshannon-Bundoran bypass and the Edgeworthstown relief road. Those who watched the Ryder Cup would acknowledge the improvements to the Naas Road from Rathcoole to Naas. All of these projects have come in on time or ahead of time and probably most came in under budget. A few years ago Members would have been objecting and complaining about issues raised in the report of the Comptroller and Auditor General. It is specifically that type of tone in the Opposition motion to which I object. I do not trivialise the matters raised by the Comptroller and Auditor General, they are very real and have to be dealt with. The impression being put forward is that the matters being raised by him are not being dealt with and that it is more of the same year on year. Nothing could be further from the truth. My colleagues on the Opposition, particularly those who are members of the Committee of Public Accounts or have served on that committee, should recognise that. They should stand up here and say they are not recurring problems. We can go through a whole range of them but the issues raised by the Committee of Public Accounts this year are not necessarily the same as those of last year. Changes have been made and are being made. By the very nature of public expenditure, when one is spending €45 billion or €50 billion there will always be areas where improvements can be made. We should acknowledge the vast areas where money has been spent well and specifically target the problem areas. To try to put one brush stroke through it and say there are the same problems year in year out and that it is a complete waste of money is not addressing the issue.

**Mr. O'Connor:** I congratulate the Leas-Cheann Comhairle on this important day for him. He has been not only a great servant of the Dáil but a great friend to those of us who are relatively new. He was one of the first people to greet me when I came to the Dáil so I wish to acknowledge that and say congratulations and well done.

I said today in another debate that it seemed to have been a quiet day in the Dáil, a slow news day I suppose. I was able to speak about many local issues in my constituency. I spoke about Tallaght and all the other areas in my constituency which Deputies Catherine Murphy and James Breen know all about. I made the point that the Visitors Gallery was empty and there were not many people around. I am pleased to see renewed interest in Dáil business this evening and that the Visitors Gallery is almost full of young people.

**Mr. J. Breen:** From Tallaght.

**Mr. O'Connor:** That is good because it is important that people take the opportunity to hear what is going on in the Dáil. It is a pity that, because of the nature of the business of Dáil Deputies, there are not a great number of us present but people are working in their offices. It is good that young people in particular see the operation of the Dáil and the great work that is done.

I am sensitive to the fact I am surrounded by people who are experts so far as this business is concerned. I acknowledge, as is traditional on these occasions, the work of Deputies Burton and Bruton. That I am supporting the Government amendment does not mean I do not appreciate their efforts. Deputy Curran set out the stall very well and has made a fine contribution, as I would expect from a colleague who is a member of the Committee of Public Accounts. I will be followed by the chairman of the Joint Committee on Finance and the Public Service. They are the experts. As my colleagues opposite know there is not much I could say about Tallaght, Firhouse, Templeogue, Greenhills and Brittas on this motion but it is important business and it is important to deal with these issues and show the public there is confidence in the system.

I listened carefully to my colleague, the Minister for Finance, Deputy Cowen, last night and to the Minister for Transport, Deputy Cullen, as they set out the Government's position and defended it as they saw it. It is important for them to do that. We are all entitled to our politics and to make our political points but at the same time it is important that the public maintain confidence in the system. Since Deputy Cowen became Minister for Finance he has grasped the problems presented to him. He sees the need to give good value for money so far as projects are concerned. It is important to stress to him on a

[Mr. O'Connor.]

regular basis the need for transparency in contracts. There is no question but that we should continue to do that. The work of the central expenditure evaluation unit should be applauded. I ask the Minister of State at the Department of Education and Science, Deputy de Valera, to convey to the Minister that there is much support in the House, on all sides, for this unit. The Minister made the point that it has a key role in promoting best practice in regard to appraisal and evaluation generally and in ensuring compliance by Departments and agencies with the capital appraisal guidelines and other requirements under the enhanced value for money framework which the Minister has put in place. It is important to note that the unit will review the annual reports from the Departments to the Department of Finance in regard to compliance with capital appraisal and value for money requirements. The objective is that deficiencies in Departments and agencies with regard to project management and value for money are identified and generally to facilitate more systematic engagement between the Departments and agencies to take any necessary corrective action.

As colleagues are aware I do not get out of Tallaght that much but I travel into town on the nice new Luas quite often. I also use the roads and every now and again I travel down the country. It is important to recognise the progress made under the remit of the Minister for Transport, Deputy Cullen, in road development. Deputy Curran said there have been many improvements in the manner in which contracts are delivered and it is important to acknowledge that. As I travel around the country, though not as much as other Members, I am aware of the improvements and, clearly, value for money projects are being delivered. That is something we should applaud. I am glad to have had the opportunity to contribute to the debate and I am happy to concede to my colleague, Deputy Fleming.

**Mr. Fleming:** I thank Deputy O'Connor from Tallaght for his introduction. I wish to make a number of observations on the motion tabled by Fine Gael and the Labour Party and the amendment tabled by the Government. The motion shows a clear focus of difference between Fianna Fáil and the Progressive Democrats in Government versus the proposals of Fine Gael and the Labour Party, which will attempt to be in Government after the next general election. It is a view I have been hearing and believing during the past year or so and it is becoming more evident by the particular wording of the motion which reads:

That Dáil Éireann:

— notes with serious concern the Report of the Comptroller and Audi-

tor General for 2005 provides continuing evidence of shocking waste and overspending on a range of public projects...

If we analyse that part of the motion and no more we will see the difference between the parties on the Government side and the Opposition. The Opposition is saying the spending on a large amount of public projects in recent years has been a shocking waste. I fundamentally disagree. Most of the major projects are not only essential but in most cases are long overdue. The construction industry, which when we came to Government employed approximately 70,000 to 80,000 people, now employs up to 250,000 and has been a powerhouse generating economic activity through its involvement in the construction of significant public projects.

The Fine Gael Party appears to have a deep-seated hostility towards the construction industry and people working in it. We saw this when Fine Gael was in Government and cut back on major projects. It is interesting that when driving to work this morning I heard a review of a book being launched today. The book, *On a Wing and a Prayer*, is about Knock Airport and the late Monsignor Horan. It describes how he got on with the job with the support of the then Fianna Fáil Taoiseach, but as soon as Fine Gael and the Labour Party got into government, they blocked and stopped the project. The late Jim Mitchell, at the time, used to refer to the "foggy, boggy mountain", but in latter years he said that if ever he was in charge of a Department and needed someone to sort it out, he would choose Monsignor Horan. After many years of opposing what Monsignor Horan was doing, Jim Mitchell found and publicly admitted that the man had a vision way beyond what Fine Gael was capable of. Ultimately, Jim Mitchell saw the worth of Monsignor Horan. Knock Airport is an example of a constructed project that delivers improvements in terms of tourism and regional facilities. It is an example of what Fianna Fáil does in government and of what Fine Gael and Labour would prevent if they were back in government.

I have listened time and again to Fine Gael complaints about overspending on a range of public projects. We all know it is expensive to build major public projects. I concede that the original estimate for projects that take ten to 12 years from their original conception to their completion and opening is inevitably woefully below the final estimated cost. No system anywhere in the world could project costs ten or 12 years ahead, but that is the length of most of these construction projects. A good motorway project takes at least eight years in the design, planning, oral hearing and public consultation stages. The construction period will then be about two years.

I see the hand of Fine Gael behind this motion, particularly with regard to the claim of overspending.

**Mr. McHugh:** Surely it was the Labour Party that formulated the motion.

**Mr. Fleming:** I see the hand of the Fine Gael Party in it, especially with regard to the reference to overspending on public projects such as the port tunnel. The logic of that is that the Fine Gael Party would oppose the completion of the port tunnel because it costs a lot. The logic of the motion put forward by the Opposition is that it would oppose the widening of the Naas dual carriageway because of the significant cost involved. It is not just because it costs so much that Fine Gael is opposed to it, but because the party has a deep-seated hostility to the construction industry and the hundreds of thousands of decent people who earn their wages from it. They are the people I represent.

It is safe to say that construction is the biggest industry in my constituency. Fine Gael continually knocks all large projects. Its gripe is generally that the original estimate was woefully inadequate, but it ends up attacking the project saying it cost too much. The Fine Gael approach to projects with a significant cost is to abandon such projects and not allow them go ahead. I want to give a message to the hundreds of thousands of people in the construction industry. If they vote the Government out of a job next May or June, they will be voting themselves out of a job shortly thereafter because when Fine Gael and the Labour Party get into government, they will decide the cost of motorways to Cork, Limerick or Galway or the cost of bypasses of Ennis or wherever is too much and they will put a halt to those projects. That will lead to thousands of people losing their jobs in the construction industry.

I would be far happier if Fine Gael discussed the positive contribution being made. Perhaps then it could raise the issue of the need to get more accurate estimates before starting a job. It has gone about the issue the opposite way. It implies the original estimate is set in stone and if the final project costs more, it is a waste of Government money.

**Mr. Bruton:** Will the Deputy allow a comment? I see he will not. I rest my case.

**Mr. Fleming:** The motion condemns the fact that a Minister can intervene to fast-track projects. Where is this heading? The problem with every major capital project is that it takes so long to complete, yet here we have Fine Gael and the Labour Party criticising the concept of a Minister intervening to fast-track a project. In an underhand way they say the process should be more open, but they are opposed in principle to Mini-

sters fast-tracking projects. Some officials unhappy with the fast-tracking of projects would be happy with the Fine Gael-Labour Party approach because it means they would never be disturbed by a Minister. However, I am happy to say that on this side of the House we have Ministers who will, when necessary, get the finger out and help to fast-track projects. This, however, has been portrayed as something negative by Fine Gael and the Labour Party.

We need to concentrate on better management of the public finances. The new National Development Finance Agency, NDFA, specifically deals with the financing and contractual arrangements for public private partnerships. This day last week four schools in my constituency, two in Portlaoise and two in Offaly, went to an EU tendering process through the NDFA which has the skills to deal with this process. We need to centralise business skills in the public service as we are doing with the NDFA and its influence should be extended beyond PPP projects into other major construction projects.

The Opposition spoke about reforming the Estimates process. The Minister announced this in his speech last year and progress is being made. It is a two-way street and the Opposition must also participate in the process. The Committee of Public Accounts produced a report last year by the leader of the Labour Party, Deputy Pat Rabbitte, which showed a paltry amount of time was given to the Estimates by each of the Oireachtas committees. It is clear that despite the Minister making himself available for hours on end and the Opposition getting the opportunity to tease out the Estimates on a departmental basis, it failed to bother with it or even to turn up in most cases.

We need more detailed assessment of the Estimates process in the House, but pointing the finger at the Government in this regard —

**Mr. Bruton:** I think the Deputy is implying that at the committee of which he is Chairman, the Opposition does not turn up to deal with the Estimates. If he checks the record, that will not stand up to scrutiny. The other point he has been making during the course of this debate has little connection with reality.

**An Leas-Cheann Comhairle:** Allow the Deputy to proceed without interruption.

**Mr. Fleming:** I will clarify that. I take the Deputy's point, but if he had listened closely, I referred to the report produced by Deputy Rabbitte which specifically stated that the Oireachtas Committee on Finance and the Public Service spent more time dealing with the finance Estimates than any other committee in respect of departmental Estimates. I am talking about the other committees across the board. Our committee was the only one that made a genuine attempt

[Mr. Fleming.]

to examine the Estimates. No other committee did the same.

The first thing the Opposition should do is talk to its spokesperson in terms of paying more attention to the Estimates process, rather than coming in with a motion that suggests that it is in some way the Government's fault that Opposition spokespersons across the board do not give the time they should to the Estimates process. That would be a major help.

I am pleased the Opposition is putting the focus back on economic issues. The approaching general election and the real debate will focus on those issues over the next eight or nine months and I am happy to debate them. I intend no disrespect to the Office of the Comptroller and Auditor General but he is not infallible. Some members of the Committee of Public Accounts have by their actions shown that they believe he is infallible. They have an inferiority complex when it comes to dealing with the Office of the Comptroller and Auditor General. I am not referring to Deputy Burton—

**Ms Burton:** On a point of order, is the Deputy attacking the Office of the Comptroller and Auditor General because he has produced an independent report? He is a public servant—

**An Leas-Cheann Comhairle:** That is not a point of order.

**Mr. Fleming:** I am about to conclude. He is an independent officer and, like everybody in this land, he is not infallible.

**Ms Burton:** —who has specific constitutional responsibility. Just because he is saying things which are uncomfortable for Government does not mean his office should be attacked.

**An Leas-Cheann Comhairle:** Please allow Deputy Fleming to conclude.

**Mr. Fleming:** Like everybody else, he is not infallible, and he accepts that. However, some people in this House quote his document as if he is infallible, without entering into rational debate and teasing out the details. I look forward to such a debate taking place at the Committee of Public Accounts meetings on Thursday mornings from now until the next general election.

**Mr. Boyle:** I wish to share time with Deputies Ó Caoláin, McHugh, Catherine Murphy, James Breen, Finian McGrath and Connolly.

My party and I will support the motion on the report of the Comptroller and Auditor General. It is predictable that the members of the Government parties have chosen to argue that Members have no right to raise this report and that the issues will be dealt with in the Committee of Public Accounts. As a member of that committee, with Deputies Fleming and Burton, I accept this argument to some extent.

The terms of reference of the Committee of Public Accounts specifically preclude the debating of policy issues. This House should have an open debate every year on the report of the Comptroller and Auditor General so that those issues can be discussed in a way they cannot be discussed in the Committee of Public Accounts.

This year's litany of over-expenditure is linked to flawed policy making. This is evident in the way the Minister for Justice, Equality and Law Reform, now Tánaiste, and his Department has handled the purchase of Thornton Hall. It is also evident with reference to the national coastline survey. The Department of Education and Science, as represented by the Minister for State, has allowed people to walk away with payments which are more than their entitlements. These are justifiable questions that must be asked in the public interest.

The new Tánaiste must answer questions. He talks about a smaller State and about the interests of the taxpayer but in office he has shown himself to be far too willing to spend taxpayers' money recklessly. The issue of Thornton Hall will be one of the main considerations of the work of the Committee of Public Accounts this year.

It is unfortunate that this debate in its political context must be made with the political Minister of each Department. The structure of the Committee of Public Accounts allows members of the committee to ask questions of the Accounting Officers, the Secretary General of each Department. This provides information on the efficiency of the administration of the Departments. However, Members of this House need to challenge Ministers on how public money is being expended. This year's report of the Comptroller and Auditor General represents a litany of such mistakes which is an unfortunate characteristic of the Government.

Deputy Fleming concluded his contribution by berating the Opposition for not contributing in a proper manner to the Estimates process. That is unfortunate because Deputy Fleming is a very valued member of the Committee of Public Accounts and is generally a very effective Chairman of the Select Committee on Finance and the Public Service. He must not have read the recommendations of the report of the Committee of Public Accounts which dealt with the way in which the Estimates are structured and the ineffective manner in which the Legislature examines the expenditure of public moneys on a year to year basis. The initial report produced by Deputy Rabbitte when he was a member of the Committee of Public Accounts referred to the Estimates procedure for the Department of Health and Children and the expenditure of €13 billion being dealt with in a session lasting 90 minutes or so. When we account for that type of expenditure to the people we represent, they will not take seriously the work of this Legislature or its committees. They will not regard it as an effective job in monitoring how public money is raised and expended.

The motion refers to recommendations made by the two parties supporting the motion and there is much that is worthy of consideration in the report they produced. The remedy of mis-spent public fund moneys is not the wherewithal of any one political party or any combination of political parties and that is certainly the case in the combination of political parties making up the Government.

I commend the limited opportunity offered to Members to discuss this report. I challenge the Government to get its act together and ensure that in the future this House has a full and open debate on the report of the Comptroller and Auditor General.

**Caoimhghín Ó Caoláin:** Like all other Deputies, I welcome the report of the Comptroller and Auditor General. These reports are very important because misuse of public moneys undermines public confidence in Government, in the public sector and in the tax system. However, for these reports to be of real value, those responsible for the financial misuse and irregularities highlighted need to be held accountable and the findings need to prompt changes in order to achieve best practice and value for money in public spending.

This latest report highlights a number of very serious cases of questionable financial management. I welcome in particular the light it sheds on the Thornton Hall fiasco. As my colleague, party spokesperson on justice, Deputy Ó Snodaigh, has pointed out, the section of the report on the purchase of the site for the proposed super prison at Thornton Hall is a vindication of my party's position. The report is damning regarding the purchase of this site.

The report found that the price paid for the site at Thornton Hall is likely to have been at least twice the market price at the time for well positioned agricultural land with development potential in the target area. The Comptroller and Auditor General describes the State's negotiating position as weak. He concludes that there was no real competition to obtain the lowest possible price and that the procurement process "did not position the State to acquire the land at the lowest cost economically achievable." The report further states:

The committee did not record the basis on which scores were awarded to individual sites under the various criteria. The marks awarded by the site selection committee appear to be inconsistent.

The report also found that the manner in which the Office of Public Works contracted with CBRE for the provision of professional services for the site selection and procurement did not comply with the rules for procurement of professional services in a number of respects. Deputy Ó Snodaigh yesterday challenged the Minister for Justice, Equality and Law Reform in this House regarding the inconsistencies between the Mini-

ster's assertion that the purchase of the Thornton Hall prison site for €199,000 per acre was good value and that of the Comptroller and Auditor General's report which concludes very clearly that it was not.

The Minister has not satisfactorily accounted for this blatant wastage of public money. As I previously stated this evening, the Comptroller and Auditor General's report is only of value if those responsible, the Minister, Deputy McDowell, in this case, are made to account for the financial mismanagement in question.

The report also examined a number of issues related to the Department of Health and Children. The Comptroller and Auditor General found that the discretionary medical card scheme is not operated in a uniform way across the health service. The Comptroller and Auditor General raised concerns that payments continue to be made to doctors on the basis of the 75,000 estimate, which now appears to be too high. An examination of the nursing home subvention scheme found huge discrepancies in how subventions are given in different HSE regions. Once again these issues highlight inequities at the heart of the health system.

I urge the Comptroller and Auditor General to undertake a more comprehensive review of public private partnerships in all Departments. In 2004, the Comptroller and Auditor General published a value for money report into the use of public private partnerships for the construction of a number of schools, and the maintenance and running of the school buildings over a 25-year contract period. That report raised concerns regarding the ultimate cost of those PPPs to the State and suggested the costs and benefits of adopting the PPP approach should be assessed relative to the performance of a comparable group of schools procured conventionally. There is a need now before the Government takes us any further down the PPP road to carry out a thorough evaluation of the true cost to the State and, therefore, the taxpayer of the range of PPPs embarked upon to date. From the experience in other states there is every reason to suspect that PPPs will prove to have been the biggest misuse and waste of public money ever. I look forward to the Comptroller and Auditor General undertaking that further review.

**Mr. McHugh:** The report of the Comptroller and Auditor General is a guaranteed source of annual dispute and disagreement between Government and Opposition. An objective analysis of the report would show that the extreme and polarised positions adopted by both Government and Opposition in pursuance of, on the one hand, defence and, on the other hand, criticism are unwarranted. The Minister for Finance was anxious to point out that in 2005, the year to which this report relates, gross expenditure by central Government on public services amounted to approximately €45 billion. Although he did not say it, I presume the reason he offered this infor-

[Mr. McHugh.]

mation was to stress that when dealing in such a large sum, waste will occur. While I accept that not every system and process can be perfect, I do not accept that there is an acceptable level of waste. The Government and Departments should at all times strive to eliminate waste. There should be an obligation on the relevant Minister to address every instance of waste and show that measures have been put in place to prevent a recurrence.

The Opposition does not do itself justice in this process either. Attempts are continually made to portray the annual report of the Comptroller and Auditor General as some sort of shocking report carried out to expose some new disgraceful wastage. It is nothing of the sort. The Comptroller and Auditor General has a statutory requirement to report annually in his audit of departmental appropriation accounts. One example from this report illustrates the problem we have with big bureaucratic structures within which one person does not know what is the other's role and may even be unsure of his or her own role. The HSE is one such example. The illustration in the report shows that the HSE does not know the number of persons who hold discretionary medical cards, even though it pays GPs supposedly based on the number of medical cardholders in the individual practices. Doctors are paid on the basis of 75,000 cards, while HSE estimates put the number holding cards at 45,000 a difference of 30,000. While the bureaucratic HSE cannot establish the true number, it continues to pay for the 30,000 it believes do not exist.

**Ms C. Murphy:** This is a unique time in Irish society; it is a time of plenty, although it may not be very well spread around. While it might be obvious it is worth reminding ourselves that the national coffers are not in the ownership of any Government. The Government is merely their custodian, which is why those funds should not be squandered.

The report of the Comptroller and Auditor General highlights the area of integrated ticketing among others. The Dublin Transport Initiative commenced its work in the early 1990s. European funds were sought because traffic congestion in Dublin was costing the State a fortune. The DTI recommended bus lanes, Luas lines, increased rail services, etc. It also recommended integrated ticketing. While there may be an excuse for the time taken to provide bus lanes or lay the Luas lines, there is no excuse for the time lag in introducing integrated ticketing. It would have been possible to drain the Shannon in the time it has taken to introduce the system. The first procrastination took place in the late 1990s and a report was prepared for the then Minister for Public Enterprise, now Senator O'Rourke, in 1999. We have had a succession of reports but still no integrated ticketing. In 2006 the simple card that would allow a passenger to move between the various modes of public trans-

port in the same way as in any other capital city is still awaited. There is no justification for a continued delay.

The motion refers to a public buying office. There are examples of such an office in other countries. For example the British local authorities are served by a new procurement system, which saved £3 billion on a £27 billion spend, which shows how such a system can work. In a recent publication by TASC, we were told that the public bodies operating at national, regional and local level are more numerous than ever before, so much so that the title of the publication is Outsourcing Government. It is only when we face a downturn that these will be rationalised and we will discover the waste of taxpayers' money.

**Mr. J. Breen:** Every year the annual report of the Comptroller and Auditor General has highlighted the continued waste of taxpayers' money due to the implementation of projects, some of which are merely ego-driven whims of Ministers. Far too often these projects have resulted in seemingly never-ending overspends in taxpayers' money. However, action to reform the measures that allow such waste have either not been taken or on occasions have moved along at a snail's pace. It is not surprising that the public is fast losing whatever faith it has left in the Government.

At a time when our economy is idealised as a role model for many countries and when tax collection continues to surpass projected forecasts it is shameful that mismanagement and inefficiency result in the continued waste of public money. Instead of Ministers speaking in the Dáil to account for wasting taxpayers' money or explaining their actions in their Departments or the actions of semi-State bodies within their remit, we find Ministers hiding behind the Ceann Comhairle's office, refusing to answer reasonable questions, totally flying in the face of the Government's so-called ideal of openness and transparency.

It is incumbent on the Government to install a system whereby the input or intervention of any Minister in any project is clear at all times. Ministers should be answerable to the Dáil on any question regarding their intervention. Equally, it is our duty to change the process whereby a preliminary report on a project bears little relation to the final project, following a bartering process by individuals each promoting their own agenda. Definitive guidelines as to what any capital project entails and realistic pricing policies are urgently required. Eddie Hobbs, rather than any Minister, would appear to have more influence on the pricing policies for Government projects. Having been ridiculed over the difference in costs of projects from preliminary report stage to the real cost on completion, the Government has now gone to the other extreme. The trend has now developed whereby initial estimates are overstated and timeframes are exaggerated so that on

completion, a project can be announced as being below budget and ahead of time. The appointment of an estimates commissioner is immediately required to put an end to this charade.

**Mr. F. McGrath:** I welcome the opportunity to speak to this very important motion regarding the waste and overspending of taxpayers' money. I will focus on two major projects on the north side of Dublin. The site of the proposed prison at Thornton Hall cost €30 million for a farm that is worth €15 million. Where is the Tánaiste going in this regard? Where is the bright boy in the class, when he squanders €15 million? We can all imagine what we could do with €15 million to address the shortage of beds in wards, speech therapy services, and home help and care services for the elderly.

On 26 January 2005 the Department of Finance sanctioned funds to purchase Thornton Hall, stating that the sanction was conveyed on the condition that all procurement guidelines had been strictly followed. As the report of the Comptroller and Auditor General clearly highlights that all procurement guidelines were not strictly followed, the logical deduction is that Thornton Hall was bought without financial sanction. The Tánaiste should wake up and smell the coffee. He is out of touch and is wasting public funds.

Another project in my constituency is the Dublin Port tunnel, which was supposed to cost €300 million and up to now has cost approximately €900 million, three times the price. It is finally estimated to cost €1.2 billion when completed. Tell that to the 261 families whose homes have been damaged, the 117 in Marino who are awaiting compensation and the taxpayers who want value for money and proper accountability. This motion is about overspending, incompetence, mismanagement and the failure to ensure that taxpayers' money is spent wisely, and I urge all Deputies to support it.

**Mr. Connolly:** The report of the Comptroller and Auditor General provides a catalogue of the worst examples of financial mismanagement and the squandering of taxpayers' money. Given that there were similar reports in 2003 and 2004, it is not that we had a bad year in 2005 and I do not doubt the same story will be told in respect of 2006. If similar situations arose in the private sector, we would not be returning the following year to find out whether anything had changed. What has happened to the people who squandered millions of euro? Did they get a pat on the back or a bonus?

Does anybody believe the Comptroller and Auditor General has gotten to the bottom of every incident of wasted public money? I doubt it. We are only at the tip of the iceberg on these matters. Some public servants merely stand back and observe the daily waste of money because there is no incentive for them to do anything about it. However, if we were to offer them a percentage of the potential savings, they would

step up to the mark. At present, they believe they would only be banging their heads against a wall were they to point out the ways in which money could be saved. Despite the waste that occurred in the health sector, large bonuses continue to be paid. We should take account of the situation obtaining in the private sector.

**Mr. Wall:** I wish to share time with Deputies O'Sullivan, Jim O'Keefe and Connaughton.

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

**Mr. Wall:** I wish to discuss the report's findings on nursing home subvention payments. Currently, 104 cases are before the High Court in respect of these payments. People feel they were forced to apply for subventions because of the shortage of public beds. Each HSE area uses a different method to meet the demand for nursing home subventions. I raised this matter on a number of occasions and have sought the assistance of the Labour Party spokespersons for health and older persons, Deputies McManus and Ryan, respectively, in doing so.

I am disappointed that the report did not highlight the problems which have arisen with regard to assessment of the principal residence. The subvention guidelines state that a claimant's home can be assessed if the value of the house is more than €500,000 in Dublin or €300,000 elsewhere. However, account should be taken of the occupant of the house when an application is made for subvention. That discrepancy will have to be addressed through guidelines. Under the current regime, the house will not be assessed if it is occupied by the claimant's spouse, a child under 21 years of age, a person in full-time education or someone in receipt of disability benefit, blind person's pension, invalidity pension or old age non-contributory pension. A person unfortunate enough to be in receipt of long-term unemployment assistance or a carer's allowance or who earns a small income faces the possibility that the house will be sold over his or her head. We have argued for change on this issue and will continue to do so.

The assessment of dependency does not reflect the charges imposed by nursing home owners. While the assessment provides for three different rates, owners pay little heed to them. There is little logic to the matter. If the assessment is to be made on a financial basis, it should be able to take account of the problems encountered by the people who apply for subvention. I hope we get another opportunity to discuss this serious issue.

**Ms O'Sullivan:** I will begin by addressing the same issue as my colleague, Deputy Wall. The criticisms made in this report with regard to nursing home subventions require urgent action. A family may qualify for sufficient subvention to fill the gap between a pension and the cost of a nursing home in one HSE area, while failing to do so



[Ms O'Sullivan.]

in another area. In my own area of the mid-west, there is a shortage of public beds and families are put to the pin of their collars to meet the gap. Elderly people are put under all sorts of pressure and, in many cases, the money has gradually dwindled even after the family home has been sold. According to the report, the system is totally inequitable. That urgently needs to be corrected because I would not be surprised if a case was taken to the Equality Authority on grounds of age discrimination.

While the Comptroller and Auditor General has to pass judgment on mistakes made in the past, it is up to the Government to learn from them. For that reason, Fine Gael and the Labour Party have proposed a clear line of responsibility with regard to the spending of taxpayers' money so that we can, for example, spend it on building schools and providing for children in the education system. I raise that example because, in terms of the percentage of GDP spent on education, we are currently 29th out of 30 OECD countries.

Other speakers referred to the €29.9 million spent on Thornton Hall for a prison site which, it appears, could have been purchased for much less if the Government had acted differently when it acquired the land. We must learn from that and ensure we do not waste money in that way.

Under the system of funding from the Department of Justice, Equality and Law Reform, there is not enough money to appoint the number of probation officers and so forth required to implement the Children Act and to make families responsible for young offenders. There is not enough money for youth encounter programmes, which are also under the auspices of that Department. These programmes offer an opportunity to address young offenders at an early stage and put them on the correct path. Those areas are starved of funding yet we waste €29.9 million on a site for a prison that could have been bought more cheaply.

Lessons must be learned across the Departments about acquiring land for public purposes. In the education sector, for example, land is bought for building schools long after the need for it has been identified. That is the wrong way to approach it. We must have new systems whereby the Department of Education and Science acquires land for schools when it knows there will be a growth in population. It must work with local authorities in this regard and ensure it acquires the land well in advance of when the need arises. Rather than simply identifying a site, it should acquire the land.

I am glad the Minister of State, Deputy Parlon, is present given that he is responsible for the Office of Public Works. The Department of Education and Science is seeking a site in my constituency for a gaelscoil. Everybody knows how urgently the Department needs the site and how

long the school has been waiting for it so the Department will pay a great deal more for it than if it had bought a site five or six years ago. It was known at that stage that a site would be needed. A similar situation occurred in Laytown. Local representatives there have told me the Department could have got a site more cheaply if it had moved earlier. Now, however, all the landowners know the Department urgently needs a site for a school so the prices have increased.

Lessons must be learned from the report of the Comptroller and Auditor General. I commend the proposals from the Labour Party and Fine Gael regarding what they will do in government about public spending.

**Mr. J. O'Keeffe:** It is clear the Tánaiste and Minister for Justice, Equality and Law Reform has serious issues to address and answers to give regarding property matters. Before I discuss Thornton Hall, it is clear he will have issues to address tomorrow morning with regard to the house purchased by the Taoiseach, his knowledge of the background to that and the fact that the vendor of that house was apparently one of the attendees at the dinner in Manchester.

**An Ceann Comhairle:** There is no provision tomorrow morning for anything other than the Order of Business under Standing Order 26.

**Mr. J. O'Keeffe:** There should be.

**An Ceann Comhairle:** Perhaps there should be but it is a matter for the House to change the Standing Order.

**Mr. J. O'Keeffe:** The Taoiseach should come to the House as well. It is time for full disclosure on these matters. We are sick of prevarication and obfuscation.

**Mr. Parlon:** People are sick of the Opposition raising issues.

**Mr. J. O'Keeffe:** The Tánaiste and Minister for Justice, Equality and Law Reform has a role on this issue. I just mention it.

**Mr. Connaughton:** It is no harm to mention it.

**Mr. Parlon:** Keep throwing the mud.

**Mr. Connaughton:** The Progressive Democrats will have a lot to answer for before this is all over.

**Mr. Parlon:** Does the Deputy want to put that on the record?

**Mr. Connaughton:** It is on the record and the Deputy can put it anywhere he wishes.

**Mr. Parlon:** We heard your leader throwing some as well.

**Mr. J. O’Keeffe:** There are issues to be addressed by the Tánaiste regarding the Taoiseach’s house. He must also address the issue of Thornton Hall. Serious questions on this matter have not been answered. It is clear that the value of agricultural land in that area was approximately €25,000 per acre. I have a list of eight properties in the area which were sold for an average price of €25,000 per acre. A 238 acre site nearby, at Grange Farm, Kilbride, was sold by public auction, the best indicator of market value, for €26,000 per acre in the months following the purchase of Thornton Hall. How can anybody justify the payment of €200,000 per acre for a farm of 150 acres? I have long claimed that this was the dearest farm in Europe.

The only part of value in the farm was an extra five acres which was included in the original verbal arrangement — the original verbal arrangement was 155 acres for €29.9 million. Somehow the only five acres that had zoning was excluded in the deal that was finally done. That was the only part of value but no explanation has ever been given for the change. This deal was crazy from every point of view. It was an outrageous blunder on the part of the Minister.

The circumstances of the deal and the manner in which it was arrived at have never been properly explained. How did the Minister become aware of this farm? Why was it not made available in response to the original advertisements? Why did it not comply with the criteria laid down by the public servants who were dealing with the matter? Why was there a litany of errors, as described by the Comptroller and Auditor General, in the purchase of the farm? Why did the Prison Service end up negotiating with a single party with no effective degree of competition, as pointed out by the Comptroller and Auditor General?

Why were no comprehensive site surveys carried out on the farm before the purchase was completed? The deal was completed in seven days. Why was there no comprehensive costing of the work that would be necessary after acquisition to enable the site to be used for a prison? This was, in poker terms, a bum deal. The Minister has not explained why he was party to such a deal. He has not explained how it began, how it was conducted or how it concluded.

Regardless of how long this Government lasts, and it looks as if it will not be long, this is an issue that will not go away. This must be explained, particularly by the Progressive Democrats. The Progressive Democrats have suggested that they have an interest in the taxpayer and in value for money. How could anybody suggest that buying a farm worth €25,000 per acre by paying €200,000 per acre from taxpayers’ money gives the slightest consideration to the taxpayer? This will be a millstone around the necks of the Progressive Democrats. It will be remembered in the election,

regardless of whether it is held next week, next month or next year.

**Mr. Connaughton:** We are lucky to have Mr. John Purcell as Comptroller and Auditor General. I had the pleasure of being a member of the Committee of Public Accounts for a number of years. Regardless of who is in government, it is vital that this watchdog organ of the State is given all the power necessary to carry out its balanced and forensic investigations. Any Government worth its salt should take note of this report.

It is true that every year the same sins seem to be committed. I sincerely hope the new Fine Gael-Labour Party Government will stop that. Contrary to what Deputy Fleming said, Fine Gael and the Labour Party are far from wanting to stop progress in the economy. However, we want to ensure that if a road is built from A to B and it is done through good management and in the best and most efficient manner, there will be money to build one from C to D. That is the issue.

Several major roads are being built. We were told in 2000 that the Galway-Dublin road would be ready this year but it will not be ready for another four years. What about the two feeder roads, the N17 and the N18? Not only will they not be completed until seven or eight years later but they will cost millions more euro than if they had been built on schedule. The electorate will decide this issue at the next general election. People will agree they have never had it so good but they will ask if they got added value for the amount of money in the economy and what could have been done with it.

Thornton Hall has been mentioned by many Members. In farming terms this could be compared to a man who wants to buy a €1,000 cow. He will surely get a €1,000 cow from the first man who has one to sell. However, that might not mean the cow is worth €1,000. What obviously happened in the Department was that somebody got it into his or her head that €30 million should be paid for a site for a prison. The deal was done with the first person who could be found who would sell land for that value. Many people would sell their land for €30 million. That is the bottom line. CBRE, the property consultants, said its fee would be €184,000 but when the deal was done, it was €256,500 plus €53,000 VAT.

In regard to medical cards, I refer to something that happened a couple of years ago as well. Several doctors got paid for medical card recipients who had been dead for years. Some of the former health boards did not check that and it has happened again three or four years later.

I would like to go into many aspects of this report. The buck must stop with somebody. I sincerely hope a real difference will be made by the Fine Gael-Labour Government, which will get its

[Mr. Connaughton.]

opportunity next May and every member of the electorate will thank us.

**Minister of State at the Department of Finance (Mr. Parlon):** In the course of this debate the Opposition spokespersons have repeatedly singled out a small number of individual cases of concern in regard to alleged waste of public expenditure. They have sought to use these particular cases and the Comptroller and Auditor General's report to exaggerate the extent of waste of public expenditure, to suggest indifference on the part of the Government to the issue of wasteful expenditure and to undermine the Government's achievements in regard to public expenditure. I want to completely refute any claims that the Government does not take the issue of waste and the achievement of value for money for the taxpayer seriously.

As stated by the Minister for Finance in his contribution, the Government welcomes the Comptroller and Auditor General's report on the 2005 Appropriation Accounts as a valuable contribution to the ongoing process of minimising waste and ensuring better value for money for taxpayers. Issues in the report will be formally addressed in detail when, in accordance with normal procedures, the Committee of Public Accounts considers the report and the Minister for Finance responds by way of formal minute to the issues raised.

As regards the main cases cited by the Opposition Deputies, the issue of Thornton Hall is a matter for the Tánaiste and Minister for Justice, Equality and Law Reform. The Comptroller and Auditor General states in regard to the site that "a well-managed, third party approach might have allowed the Prison Service to procure suitable land at a much lower price than was paid for the land at Thornton". It is a pity Deputy Connaughton cannot wait to hear this because it is important in terms of clarifying the fairy tale notion he had about how this site was bought.

In this context, as indicated by the Tánaiste and Minister for Justice, Equality and Law Reform and his Department, a "third party approach" means that a site would be acquired in secret through a third party. No one would be told that the State was involved or that land was being sought for the most significant penal development in the history of the State. There would have been no public advertisement.

The Accounting Officer of the Department of Justice, Equality and Law Reform has already gone on record stating that in the light of the nature of this particular project and to ensure proper accountability, a deliberate and principled decision was taken not to use a third party approach. There are strategic, moral and practical reasons for that decision. The best practice for public procurement requires an open and trans-

parent process that provides all suitable vendors with the opportunity to participate. Without an advertisement inviting parties to express an interest in making land available for a prison site, it would not have been possible to confirm that all suitable available sites had been considered nor would it have been possible to show that the final selection was on the basis of objective criteria rather than the subject of influence or corruption. The OPW fully accepted the reasonableness of the Department's decision to disclose its interest and the proposed end use.

The Accounting Officer also points out that initial explorations using a third party approach did not identify a wide range of potentially suitable sites. The most suitable sites would not have come to notice without a public advertisement. In any event, because of the size of the project and the need to carry out surveys, it is doubtful that a sale could have been closed without the vendor becoming aware that the State was the purchaser.

To deliberately mislead the vendor as to the identity of the purchaser and the intended purpose of the site would be in breach of the State's duty to act in good faith. This would be particularly so where local opposition might be aggravated and the vendor forced to leave the area. Land in the greater Dublin area zoned for agricultural use has been selling for prices up to €800,000 an acre. The Department of Justice, Equality and Law Reform is not aware of any suitable site closer to Dublin being sold for less than the €200,000 an acre paid for Thornton.

I emphatically reject the Opposition motion which is without any real substance and I strongly commend the Government's amendment to it.

**Ms McManus:** I wish to share time with Deputy Burton.

I welcome this important debate. The work of the Comptroller and Auditor General is vital for ensuring good governance as it provides a reality check, particularly for a Government whose hallmark is profligacy and waste. It also shows the gulf that can open between ministerial rhetoric and ministerial practice and nowhere is that gulf more evident than in the area of health.

When the Minister, Deputy Harney, took office she insisted inexplicably on rushing legislation through the House to establish the Health Service Executive by 1 January 2005. There was no proper planning, preparation or even a chief executive officer in place. However, the Minister blithely promised this new structure would provide "better outcomes for patients and better value for taxpayers' money". We have seen neither. We promised:

The lines of responsibility and accountability are clear in this legislation, the clearest they will ever have been in health administration in this country. That will make a real difference

to the quality of health services provided for our people.

Two years on, the Minister for Health and Children cannot even tell us how many people are employed in the health service. What we have is bad value for money and almost zero accountability. The Minister presided over a messy, inarticulate transformation of our most important public service. Any regional local accountability which existed prior to the establishment of the HSE has disappeared. Media access is limited and local decision making has been greatly eroded. Parliamentary questions are now diverted from the Minister to the Health Service Executive. An answer eventually makes its way back to a Deputy's office in the form of a private letter and there is no public record ensuring a further lack of accountability. I have waited for as long as four months for a response to a question and other Deputies have waited even longer.

Were it not for the annual Comptroller and Auditor General's reports, the full extent of the waste and disregard for providing taxpayers with value for money may never be exposed. Mr. Purcell said he feels his annual report needs to be brought to public attention "in the interests of transparency and accountability". His oversight role is particularly important in a health service which is so deficient in these safeguards.

The saga of the HSE computer system, PPARS, which does not work despite having more than €150 million spent on it is just the latest but also perhaps the most stark example of the extraordinarily cavalier approach of this Government to taxpayers' money. In the past week we have discovered that the Minister and the Health Service Executive are commissioning yet another review of PPARS. The previous review was carried out when Professor Drumm called a halt to its development in November 2005. We have now been told that a further review is required which will conveniently extend beyond the date of the next general election. I smell a rat. We do not know who will carry out this review and how much it will cost but we know that in terms of the timeframe, it will let this Government off the hook. I call on the Minister for Health and Children to prove me wrong by ensuring this review is carried out within three instead of nine months, although frankly at the rate skeletons are tumbling out of the cupboard, we do not have a guarantee the Government will last three months.

In regard to the nursing home repayments, had the previous Minister for Health and Children, Deputy Martin, been doing his job properly and reading the brief, this problem would have been identified much earlier and taxpayers would not now be faced with such a massive repayments bill.

In terms of medical cards for people aged over 70, if there had been any kind of cost benefit analysis, any kind of constructive negotiations with the doctors or an actual study of the number of recipients, perhaps the cost would not have

jumped from an estimated €19 million to an estimated additional annual cost of €51 million.

This year, the Comptroller and Auditor General's report highlights further issues surrounding the way public funds are spent in health. There is an overspend with regard to discretionary medical cards. These are medical cards that are given to individuals that are over the income guidelines for a medical card but who, by reason of illness, may face large medical bills. The main problem with the discretionary medical card is that they are not being administered in a uniform way across the country, thereby creating further geographical inequalities.

The definition of a discretionary medical card has never been agreed. A lack of clarity around these cards means that the total figures from the HSE and the Department of Health and Children vary significantly, resulting in doctors being paid in excess of what they are due. This has been highlighted in the current report, which states:

The remuneration of doctors for medical cards assumes the existence of 75,000 discretionary cards. The figures provided by the HSE regions suggest the real figure may be far lower, perhaps as low as 45,600. The figure recorded on the Primary Care Reimbursement Service (PCRS) database is lower still at 36,000. The Accounting Officer has indicated that the ongoing validation exercise in all HSE regions is likely to reveal that the figure is between 65,000 and 68,000.

Despite the expenditure of €10.046 million in 2005 in respect of 75,000 cards, it now emerges that the number of actual cards is much lower. It is worth remembering that this Government promised 200,000 medical cards but did not deliver them. Then there was a new promise of 200,000 GP-only cards and less than 30,000 have materialised. I suppose this is one way that the Government makes up its losses. It wastes money in one area and saves money by reneging on promises made to low income families who cannot afford to go to their family doctor.

The record on the publication of reports by the Minister for Health and Children is also a matter of concern. For example, the post mortem inquiry into the removal and retention of organs from children who died began in 2000 and continued until December 2005. The cost was originally estimated to be in the order of €1.9 million. The final cost of the inquiry and report came to almost €14 million. That is around seven times over budget and ultimately the report did not satisfy those who were most directly concerned.

I have asked the Minister for Health and Children many times about the following issue but the replies have not been satisfactory. A report into alleged abuse at the Brothers of Charity home in Kilcornan, County Galway, that first commenced in 1999 remains unpublished. We are now in the extraordinary position that seven years later we are waiting for a review of the original inquiry. The individuals concerned are people with intel-

[Ms McManus.]

lectual disability — the most vulnerable in society who are entitled to see justice but have been blocked from getting it. Likewise, the Leas Cross report has not been published even though we have made it very clear to the Minister that she has the power to do so.

Ministers are custodians of taxpayers' money. When reports are commissioned, it should not be unusual that they are produced on time and on budget. This Government has failed to meet this test among others, as has been exposed by the Comptroller and Auditor General. I do not believe the Government is capable of doing any better. It is not capable of reforming itself. What is required is a fresh start and that can only come by way of a general election.

**Ms Burton:** I apologise for leaving earlier but our colleague, the Leas-Cheann Comhairle, was celebrating 45 years in the Dáil with colleagues from the Labour Party. He and his father have 66 years of unbroken service to this House between them, which is a record. I apologise to the Minister of State, Deputy Parlon, for missing his reply to the debate as a result.

The heart of the Comptroller and Auditor General's reports for each of the last four years during the life of this Government is a catalogue of waste, failure and things gone wrong. This will be the last report before the next general election. That is not to say that things do not go wrong in management structures or that people do not make plans that turn out to be more expensive or conditions change that make the item either more necessary or less relevant, but the difficulty here it is that when the Comptroller and Auditor General reports, there is nobody at Government level who is responsible. It becomes the responsibility of civil servants, although in a management context they are really the line managers carrying out the orders of the Government of the day. Unlike in many other jurisdictions, nobody in the Government ever seems to take responsibility — except for successes. No one ever takes responsibility for failure, for things that do not happen or for things that run over budget.

I listened to the Minister of State's colleague, the Minister for Transport, Deputy Cullen, speak last night on integrated ticketing. The poor Minister is ten years or more in a State car and I am not sure he understands what public transport is like. He does not appear to appreciate that on the north-west side of Dublin there is no Luas. He was boasting about ticket integration between the Luas and some train users which was introduced by Connex but he did not seem to appreciate — perhaps because he is unfamiliar with the geography of the north-west side of Dublin — that we only have a train and some buses. The train is so overcrowded it is popularly known locally as "The Calcutta Express". We have a bus lane which, along with other bus lanes in Dublin city, cost €100 million but it is only an aggravation to

motorists because, by and large, there are no buses in the bus lanes in the greater Dublin area.

Reference was also made to Thornton Hall. This project is driven by a narrow Progressive Democrats ideology which wants a super-prison on the outskirts of Dublin so that down the road, in the unlikely event that the Progressive Democrats Party is able to cling to power even after this week's events, it can be privatised. It really is difficult to read year after year this catalogue of waste and find that no one other than civil servants are ever held responsible. The only head that rolled in regard to the fiascoes in the Department of Health and Children was not that of the then Minister, the commissioner of nearly 200 consultancy reports, but the Secretary General of the Department, who was moved.

If there is to be a change — we are offering a change to the people at the next election — it will include a proper structure of accountability on the spending of the people's own tax money so that as far as possible there is value for money, accountability and, if and when things go wrong, the buck will stop at some point. In Government, the buck should stop with the Minister or the Taoiseach of the day as he or she is the person who is responsible.

The other important element in the Comptroller and Auditor General's report is the chapter on the Revenue Commissioners. Like the Department of Social and Family Affairs, the Revenue Commissioners have reformed over the past 15 years. They are unrecognisable as the Revenue Commissioners of 1990 when it was commonly claimed that there was no pot of gold in terms of tax avoidance and evasion. Time and again, we have proven that the Minister for Finance has been the beneficiary. This report shows that the single premium insurance inquiries have yielded €398 million to date and will conservatively yield another €100 million. When I raised this matter with the Minister two years ago, he said "oh fiddle dee dee, there is no money". How time has proven him wrong.

The construction industry boom has been accompanied by a level of tax evasion and avoidance in that industry while an ordinary taxpayer, such as a young person who is probably single, earning €32,000 at work in the greater Dublin area or counties Kildare or Meath who gets a bit of overtime pay or a bonus payment, must pay tax at 42%.

**An Ceann Comhairle:** The Deputy's time has concluded.

**Ms Burton:** This year, the Comptroller and Auditor General stated that the number of tax compliance audits of businesses has fallen from 16,000 to 14,000. It is time for people to look for a change of Government and to change the faces here so that people are given value for their hard-earned money. They must ensure that the Government takes responsibility.

**An Ceann Comhairle:** The Deputy should give way. We have gone over time. Amendment put.

The Dáil divided: Tá, 67; Níl, 59.

Tá

Ahern, Noel.  
 Andrews, Barry.  
 Ardagh, Seán.  
 Blaney, Niall.  
 Brady, Johnny.  
 Brady, Martin.  
 Browne, John.  
 Callanan, Joe.  
 Callely, Ivor.  
 Carey, Pat.  
 Carty, John.  
 Cassidy, Donie.  
 Collins, Michael.  
 Cooper-Flynn, Beverley.  
 Cregan, John.  
 Cullen, Martin.  
 Curran, John.  
 de Valera, Síle.  
 Dempsey, Tony.  
 Dennehy, John.  
 Devins, Jimmy.  
 Ellis, John.  
 Finneran, Michael.  
 Fitzpatrick, Dermot.  
 Fleming, Seán.  
 Fox, Mildred.  
 Gallagher, Pat The Cope.  
 Glennon, Jim.  
 Grealish, Noel.  
 Hanafin, Mary.  
 Haughey, Seán.  
 Hoctor, Máire.  
 Jacob, Joe.  
 Kelleher, Billy.

Kelly, Peter.  
 Killeen, Tony.  
 Kirk, Seamus.  
 Kitt, Tom.  
 Lenihan, Brian.  
 Lenihan, Conor.  
 McDowell, Michael.  
 McEllistram, Thomas.  
 Moloney, John.  
 Moynihan, Donal.  
 Moynihan, Michael.  
 Mulcahy, Michael.  
 Nolan, M. J.  
 Ó Cuív, Eamon.  
 Ó Fearghaíl, Seán.  
 O'Connor, Charlie.  
 O'Donnell, Liz.  
 O'Donoghue, John.  
 O'Donovan, Denis.  
 O'Flynn, Noel.  
 O'Keefe, Batt.  
 O'Keefe, Ned.  
 O'Malley, Fiona.  
 Parlon, Tom.  
 Sexton, Mae.  
 Smith, Brendan.  
 Smith, Michael.  
 Treacy, Noel.  
 Wallace, Dan.  
 Wallace, Mary.  
 Walsh, Joe.  
 Wilkinson, Ollie.  
 Woods, Michael.

Níl

Boyle, Dan.  
 Breen, James.  
 Breen, Pat.  
 Broughan, Thomas P.  
 Bruton, Richard.  
 Burton, Joan.  
 Connaughton, Paul.  
 Connolly, Paudge.  
 Crawford, Seymour.  
 Crowe, Seán.  
 Cuffe, Ciarán.  
 Deasy, John.  
 Deenihan, Jimmy.  
 Durkan, Bernard J.  
 English, Damien.  
 Enright, Olwyn.  
 Ferris, Martin.  
 Gogarty, Paul.  
 Gormley, John.  
 Gregory, Tony.  
 Hayes, Tom.  
 Healy, Seamus.  
 Higgins, Joe.  
 Higgins, Michael D.  
 Howlin, Brendan.  
 Kehoe, Paul.  
 Kenny, Enda.  
 Lynch, Kathleen.  
 McCormack, Pádraic.  
 McEntee, Shane.

McGrath, Finian.  
 McGrath, Paul.  
 McHugh, Paddy.  
 McManus, Liz.  
 Mitchell, Olivia.  
 Moynihan-Cronin, Breeda.  
 Murphy, Catherine.  
 Murphy, Gerard.  
 Naughten, Denis.  
 Neville, Dan.  
 Noonan, Michael.  
 Ó Caoláin, Caoimhghín.  
 Ó Snodaigh, Aengus.  
 O'Keefe, Jim.  
 O'Shea, Brian.  
 O'Sullivan, Jan.  
 Pattison, Seamus.  
 Penrose, Willie.  
 Perry, John.  
 Ring, Michael.  
 Ryan, Eamon.  
 Ryan, Seán.  
 Sherlock, Joe.  
 Shortall, Róisín.  
 Stagg, Emmet.  
 Stanton, David.  
 Twomey, Liam.  
 Upton, Mary.  
 Wall, Jack.

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

Amendment declared carried.

Motion, as amended, put and declared carried.

## Adjournment Debate.

### Ambulance Service.

**Mr. Healy:** I thank the Ceann Comhairle for allowing me raise this important issue on the Adjournment. The issue is the urgent need for the location of an emergency ambulance service in the town of Carrick-on-Suir, County Tipperary, as the lives of heart attack and road traffic accident patients are being put at risk because the existing emergency ambulance service operating out of Clonmel and Waterford cannot meet the required normal response times for ambulance services.

This is an issue that has been going on for quite a number of years. I have raised it on many occasions in the House, as have other public representatives, both locally and nationally. It is time this nettle was grasped and a proper ambulance service was put in place for the people of Carrick-on-Suir.

Carrick-on-Suir, which is in the south-east corner of south Tipperary equidistant from Clonmel and Waterford, has no emergency ambulance. With a population of 5,000, the town is a progressive one that continues to expand with a number of large housing developments having come on stream in the town and the surrounding area in recent times. The hinterland has a population of approximately 10,000 people. There is a need, therefore, for an ambulance service in the town. It is the only major town in south Tipperary without such a service. Tipperary town, Cashel and Clonmel have ambulance services. Despite the best efforts of ambulance staff based at South Tipperary General Hospital, Clonmel, and Waterford Regional Hospital, they cannot meet standard response times for emergencies. As a result, the lives of road accident victims and those who suffer cardiac arrest have been, and are being, put in jeopardy because of the deficiency in the ambulance service. They are the first responders and they do an excellent job but they cannot be expected to do the job of an emergency team, which comprises trained emergency medical technicians and nurses and uses various equipment carried by an emergency ambulance vehicle.

The Caredoc service is available but it does not provide emergency cover and while it is a good service, it cannot meet the need for emergency services and quick responses to emergencies. I hope the Minister of State will not say a study or an appraisal will be undertaken when he replies because we have been hearing this for years.

**Mr. B. Lenihan:** It is on the way.

**Mr. Healy:** That is only a device to put the issue on the long finger again. I hope the Minister of State will acknowledge the need for an emergency ambulance service in Carrick-on-Suir and he will make a start to providing that service. St.

Brigid's Hospital in the town is the ideal location for such a service while a number of health centres are located in the grounds of the hospital. HSE officials in south Tipperary know well that the current emergency ambulance service cannot meet standard response times when travelling to Carrick-on-Suir. No study or appraisal is needed because the departmental officials are also aware of that. I ask the Minister of State to make a start by agreeing this is an important issue and to provide an ambulance service in Carrick-on-Suir.

**Minister of State at the Department of Health and Children (Mr. B. Lenihan):** I thank the Deputy for raising this matter, which I am taking on behalf of my colleague, the Minister for Health and Children.

Under the Health Act 2004, the Health Service Executive has responsibility for the provision of ambulance services. The HSE has advised that services for the Carrick-on-Suir area are provided from the ambulance base in Waterford with a backup service provided from the ambulance base in Clonmel. Funding has been provided in the HSE capital plan 2006 for the upgrade of the ambulance base in Waterford. The pre-hospital emergency care council, which is responsible for the development of professional and performance standards for the ambulance service, is undertaking a spatial analysis in conjunction with the HSE national ambulance office. The results of this analysis will be used to identify the optimum location for ambulance bases and deployment arrangements to meet the identified demands and minimise response times for emergency calls. The analysis commenced in the north-west region and it will be extended by the HSE to cover all regions, including south Tipperary. The HSE is reviewing ambulance demands, activity and response times, with a view to providing the best service for the people of south Tipperary and Carrick-on-Suir. Decisions on the future location on ambulance bases for the region will also be informed by the current reorganisation of acute hospital services in south Tipperary. The elimination of on-call arrangements as a means of providing emergency ambulance cover, is designed to facilitate improvements in response times. The HSE has advised that the provision of additional funding in recent years has facilitated the total elimination of on-call arrangements in a number of areas, including south Tipperary.

### Housing Aid for the Elderly.

**Mr. Connaughton:** I thank the Ceann Comhairle for the opportunity to raise this matter, which is irritating. The Health Service Executive, western region, for some unexplained reason has not approved applications under the housing for the elderly scheme over the past two years. What is going on is an absolute disgrace. I do not know whether there is a problem at HSE level or whether the HSE is not getting sufficient money

from the Government. I wish to place on record the standard letter which has been sent five times over the past two years to every constituent on behalf of whom I make representations:

I am writing to acknowledge receipt of your letter dated 28 August 2006 on behalf of [a named person]... The Special Housing Aid for the Elderly Scheme has proven to be an extremely popular service over recent years and we have been able to assist many elderly people in essential maintenance work in their homes. Consequently, there is a year round significant demand for assistance for various works to be carried out. This inevitably places periodic pressures on our capacity to respond to each application, as we would normally wish. However, we are endeavouring to respond to all applicants as early as possible and therefore, we will be contacting [a named person] again, regarding her application.

Over two years, five such letters have been sent. What is the Government doing to the elderly? I have two copies of these letters, one of which was sent to a 79 year old woman. To expect a 79 year old to wait two years for a letter of approval is similar to asking a person aged 50 to wait ten or 20 years. If the Government and the HSE would like to scrap the scheme, they should come out and say so and should not leave hundreds of vulnerable people all over Ireland waiting for a reply regarding home improvements. If this is the best we can do as a caring society given the money at our disposal throughout the economy, we might as well pack up our camp and walk away.

Is it Government and HSE policy to scrap the scheme altogether? If so, the Minister of State should come out and say that and allow some other body, such as the local authority, to do something about it.

9 o'clock However, the Government should not try this racket with so many vulnerable people. Is the Minister of State aware that this has been a wonderful scheme for many years under all Governments? No magic is involved. A few thousand euro is invested and supplemented by a few hundred euro by the elderly people themselves to carry out essential repairs. They can then live out the rest of their days in reasonable dignity where they want to live. For every €1 million euro invested in this scheme, people are being given the opportunity to stay at home and they do not have to move to nursing homes. Could there be anything more simple or straightforward than that? The HSE and the Government have ensured elderly people have been left in the dark over the past two years.

I hope, following this debate, that a fuse will be lit and that at least a small amount of decency will be shown. Those involved will say that as they are investing money, they need to see improvements in the next couple of months or they will pull out of the scheme altogether. The Government should at least let people know

where they stand. If this is a yardstick by which we determine the attitude to the elderly in this country, God help them.

**Mr. B. Lenihan:** I am taking the reply on behalf of the Minister for Health and Children, Deputy Harney. I thank the Deputy for raising the question as it provides the Department with an opportunity to outline the current situation with regard to the housing aid for the elderly scheme. The scheme is administered by the Health Service Executive on behalf of the Department of the Environment, Heritage and Local Government. The primary aim of the scheme is to provide financial assistance to older people who reside alone and who, from their own resources, are not in a position to carry out urgent necessary repairs to their own homes. Basically, as the Deputy is aware, aid is made available for repairs to make a dwelling suitable for the older person by providing a warm, safe, secure and healthy environment for the lifetime of the older person, thereby enabling older people to continue living in their own homes for as long as possible. The type of works envisaged in the scheme includes the replacement of windows and doors, roof repairs, provision of heating and sanitary facilities and necessary electrical works.

Applications for the scheme are assessed by HSE personnel. While the means of the applicant and spouse or partner may be considered, eligibility for this scheme is not based on means only and a number of guidelines apply. The applicant must be aged 65 years or over, live on their own or with another older person or a person with a disability, live in unfit or unsanitary conditions and have no able bodied person available to carry out essential repairs. In addition, the housing aid scheme applies to privately owned accommodation only.

Due to the nature of the group who apply, their individual circumstances and the extent of their need, considerable latitude is taken in applying the guidelines. The works that may receive grant aid may be undertaken by private contractors engaged by the applicant or by voluntary organisations working in conjunction with HSE staff.

The budget received by the HSE from the Department of the Environment, Heritage and Local Government has increased substantially year on year in recent years. In 2006 the task force on special housing aid for the elderly in the Department allocated a total of €17.02 million for the operation of the scheme by the different HSE regions. This has allowed the HSE to increase the number of grants being made available under the scheme.

#### **Hospitals Building Programme.**

**Ms B. Moynihan-Cronin:** I thank the Ceann Comhairle for the opportunity to raise this important matter, namely, the delay in the provision of the long-awaited 14-bed extension to



[Ms B. Moynihan-Cronin.]

Kenmare community hospital. I have raised the issue on a regular basis in the past ten years but nobody seems to listen to me or the exasperated people of Kenmare. However, I will continue to raise it until somebody listens and the funding is provided, and the people of Kenmare get the decent hospital they deserve.

The delay is unbelievable. A press release from the former Southern Health Board, dated 3 June 2000, states that at a meeting of the board members on Tuesday, 2 May 2000 the members adopted the national development plan for the Southern Health Board area for the next six years and that the plan covered capital investment for the board. The press release stated that the funding allocated was on a priority basis whereby the urgent needs of each board area was taken into account. Among the developments was the extension to Kenmare community hospital. The Southern Health Board stated the project was urgent in 2000 so what is its status now?

A group from Kenmare met the Minister, Deputy Harney, on 20 June this year. At that meeting she stated she was hopeful that Kenmare community hospital would be included in the Estimates in the autumn. It is autumn and the Minister is preparing the health Estimate. Will a commitment be made that the extension to Kenmare community hospital is included in that Estimate? The Minister also stated at the meeting that she would keep in contact with the Health Service Executive on the matter. What communication has taken place between the Minister and the HSE since 20 June in this regard? The representative group from Kenmare which met the Minister has heard nothing.

The provision of the 14-bed extension to Kenmare hospital is urgently required and was deemed urgent by the Southern Health Board in 2000. The population of Kenmare has risen by 30% since 1996 and is still increasing. Many retired and elderly people have settled in Kenmare and the surrounding areas and there is huge demand for additional beds in the hospital. The hospital services cover a very wide area, including Sneem, Castlecove, Lauragh, Tuosist, Kilgarvan, Blackwater and the Black Valley.

The Minister of State, Deputy Tim O'Malley, replied to me during an Adjournment debate on 21 February last, stating that the project would not commence in 2006 because of competing demands for capital funding but that the project would be reviewed. I understand the Minister of State, Deputy Brian Lenihan, will read a prepared script in reply in this debate — there is little he can do about it. However, while he may not be able to answer my questions tonight, he could have the decency to come back to me in the coming days or weeks to tell me whether the project is included in the health Estimate for 2006 and to explain what communication has taken place with the HSE since the meeting with the Minister on 20 June. I look forward to a positive

report from the Minister that the project will be included in the Estimate for this year.

**Mr. B. Lenihan:** I thank the Deputy for raising the matter. I deliver this reply on behalf of the Minister for Health and Children, Deputy Harney. It is the policy of the Minister and the Department to maintain older people in dignity and independence at home in accordance with their wishes, and at the same time to provide high quality residential care for older people when living at home is no longer possible.

The Government's commitment to the development of a comprehensive range of services for older people has been clearly demonstrated by the significantly increased resources made available in recent years. From 1997 to 2005, additional spending on health care services was in excess of €302 million. In the budget package announced for 2006, additional revenue funding of €150 million in full-year costs was allocated, that is, €110 million in 2006 and a further €40 million on an annual basis for services for older people.

The prioritisation of all health capital developments is now a matter for the Health Service Executive under the Health Act 2004. The HSE has advised that the provision of a 14-bed extension to Kenmare community hospital has been considered for inclusion in its multi-annual capital programme for the period 2006 to 2010. The Kenmare project involves the replanning of the existing accommodation and the addition of new accommodation to provide an integrated 40-bed hospital to meet present day standards of care. The HSE has completed a draft accommodation brief for the enlargement of the hospital.

The HSE has confirmed that this project was not included in its 2006 capital programme. This was due to competing demands for capital funding, including other significant capital projects in the Kerry area, of which I am sure the Deputy is aware, which require investment in 2006. However, the HSE has advised that the capital programme will be reviewed and reprioritised on a rolling annual basis. Depending on available resources and the progress of other projects, proposed developments such as the extension to Kenmare community hospital will be reconsidered by the HSE for inclusion in its revised future capital programme.

**Ms B. Moynihan-Cronin:** That is the same answer I received in February.

**Mr. B. Lenihan:** The answer is clear.

### State Airports.

**Mr. P. Breen:** I wish to say at the outset how shocked I was recently when the Minister of State's colleague, the Minister for Transport, revealed to me by way of a parliamentary question response that he intended to proceed with the dismantling of the current bilateral agreement at next month's European Council meeting.

This is despite the failure of the EU and the US to sign an open skies agreement. The proposed 18-month bilateral transition period was negotiated by the Minister in the context of open skies being introduced at the end of that period, that is, approximately April 2008. This agreement was the only transitional arrangement in the proposed EU-US agreement and was negotiated squarely in the context of open skies. It proposes to replace the current one for one arrangement with a one-for-three Shannon to Dublin ratio.

Now we learn that the Minister proposes to go it alone with the dismantling of the bilateral, although open skies remains far away. This is an astonishing unilateral action proposed by the Minister, which I am sure is contrary to the provisions of the Treaty of Rome. The Minister will recall that the European Court of Justice decided almost four years ago that the nationality clauses in bilateral aviation agreements were inconsistent with EU member states' obligations under the Treaty of Rome. The Minister, in effect, is now proposing to renegotiate the bilateral outside the EU. I hope he will change his mind and, if not, I hope he fails.

I should say at this point that Shannon is not afraid of open skies. We are afraid of the actions of a Minister for Transport who is intent on introducing an economic liberal agenda that takes no account of the regional economic disparities or the special place Shannon Airport has as an economic driver for the west.

The Minister will say that he negotiated the transition agreement in the context of assurances from Aer Lingus to maintain the current level of transatlantic traffic of approximately 400,000 passengers a year between Shannon and New York. On further probing, the Minister revealed that this was a verbal assurance only. As such, I believe it has little or no value.

The response from Mr. Dermot Mannion, when I repeatedly asked him for some indication of his long-term plans for the airport, was short. I pointed out that Aer Lingus, as the then national airline, operated fewer direct transatlantic services than its American competitors. I also pointed out that Aer Lingus was continually expanding its direct European services from Cork and Dublin, with no plans expected for expanding its Shannon services.

In a recent interview in "Cara" magazine, Mr. Mannion failed to mention Shannon Airport in the context of the development of new services. He also pointed out in that interview his intention to make Dublin a major hub for western Europe.

Unfortunately, his response to me was much shorter on detail than that contained in "Cara" magazine. He stated simply:

I apologise if previous correspondence has not been responded to. Aer Lingus remains committed to our Shannon operation and, as I am sure you are aware, I am a frequent visitor to Shannon to meet with staff and discuss their concerns.

It seems then that the airport is a thorn in the side of Aer Lingus and the Government. The Minister's continued commitment to Aer Lingus, despite it now being a private company, is commendable. Aer Lingus has made no secret of its dislike of the bilateral agreement and has made it clear that its continued existence would affect shareholder value.

I am very concerned about the future of Shannon Airport in the context of the west. I question the Government's policy to make Shannon a self-sustaining airport based on an accountant's slash and burn technique. Shannon does not have to be self-sustaining. The Dukes Sorensen report indicated that Shannon Airport could lose up to half its transatlantic passengers in an open skies environment. It recommended the introduction of a public service obligation levy to buoy up Shannon.

The Minister for Transport has ignored the calls for an economic impact study to be done on the effects of open skies on Shannon. He could have negotiated a longer lead-in period in order for the infrastructure and marketing to be put in place prior to open skies. Instead he is now rushing out to Brussels to prematurely dismantle what little protection the airport enjoys. He promised an economic and tourism development plan for the airport in a blaze of publicity last summer, but we have heard nothing since.

Shannon is an international airport serving an economically marginalised part of the country. Its existence is good for international business, the west, domestic business and tourism. Expecting it to compete with the likes of Dublin on an equal footing does not make sense.

I had the pleasure of visiting Doonbeg golf club in west Clare last Sunday. An employer of over 205 people, it is a €175 million complex. Its existence is a tribute to the project backers, the locals who first mooted the idea and to Shannon Development, which first promoted it. It was put there because Shannon Airport is a stone's throw away and because it has direct airline services to the US.

I ask the Minister of State to implore his colleague, the Minister for Transport, to do us a big favour by remembering the Government's national spatial strategy, its obligations under the national development plan and its commitment to the people of the west.

**Minister of State at the Department of Transport (Mr. Gallagher):** I thank Deputy Pat Breen

[Mr. Gallagher.]

for raising this matter on the Adjournment and thereby giving me the opportunity to outline the current situation.

Transitional arrangements for Shannon were agreed with the US authorities in November last year in the context of the impending implementation of the EU and US open skies agreement. This provided that the 1:1 Shannon stop requirement would change to 1:3 for the period November 2006 to the end of March 2008, after which the Shannon stopover requirement would end. During the transition period, Irish airlines would have access to three additional US destinations. Ireland was the only European country to secure transitional arrangements in the proposed EU and US agreement.

The transitional arrangements were intended to allow time for a smooth transition to full open skies, which would allow the Shannon Airport Authority to explore and exploit the opportunities arising from the agreement while allowing Irish airlines access to additional destinations in the US.

A number of reports — the Brattle report for the European Commission, the report of the tourism policy review group to the Minister of Arts, Sport and Tourism, and the Air Transport Users Council of the Chambers of Commerce of Ireland report into open skies — all support moving to open skies with the US, and they emphasise the significant benefits to Ireland when this happens.

In the context of the agreement on transitional arrangements, Aer Lingus confirmed that subject to market conditions and in the context of a level playing field between the airline and its competitors, it would maintain the current level of transatlantic capacity. Following the very positive approach by our European colleagues and the US authorities to providing for an orderly change to the Shannon stopover arrangements, it is very disappointing that the EU and US open skies deal still has not been finalised due to difficulties about relaxing US ownership and control restrictions for airlines. It is understood that more time is required on the US side to take account of the concerns of Congress, which can only now be properly addressed following the US mid-term elections.

The Minister has publicly stated his commitment to the view that the liberalisation of air transport services between Ireland and the US will deliver major benefits for Irish business and tourism. The conclusion of an open skies agreement would have particular benefits for Ireland compared to the 15 of 25 EU member states that already have open skies agreements with the US. These member states already enjoy an advantage

in unrestricted access to route rights for the development of air services to and from the US.

In this context, the Minister informed Government last month that he proposed to continue to pursue all possible avenues through contacts with the European Commission, ministerial colleagues in other member states and the US to provide for the entry into force at the earliest possible date of the EU and US open skies agreement, including the transitional arrangements relating to Ireland already agreed between the EU and the US. He also proposed that, to the extent that agreement at the level of the European Union is not achievable within a reasonable timeframe, to seek to implement, in accordance with the applicable community law, the essential elements of the transitional arrangements by way of an amendment to the Ireland-US bilateral air services agreement. Finally, he proposed to issue a letter to Aer Lingus setting out these intentions.

The prospectus relating to the sale of shares in the company reflects this commitment. Specifically, it states:

The Minister for Transport has assured the company that he remains confident that an EU-US open skies agreement can be reached within a reasonable timeframe, and that he intends to pursue the earliest possible implementation of the transitional agreement. The Minister for Transport has confirmed to Aer Lingus that, in the event that an EU-US agreement is not achievable within a reasonable timeframe, he intends to seek to implement, in accordance with applicable Community law, the essential elements of the transitional agreement by way of an amendment to the Ireland-United States bilateral treaty.

In announcing the agreement reached with the US authorities on a transitional arrangement for Shannon Airport in the context of the proposed EU-US open skies agreement, the Minister gave an undertaking to prepare, in consultation with the Minister for Arts, Sport and Tourism and the Minister for Enterprise, Trade and Employment, a tourism and economic development plan for Shannon and the west of Ireland. The draft plan is nearing completion.

Under the aegis of the Mid-West Regional Authority, an open skies liaison group has been established to work with the Departments to ensure that Shannon Airport and the west receive adequate investment and compensatory measures when open skies is finally approved.

An official from the Department of Transport attended meetings of that open skies liaison group in an information-sharing capacity. The group recently presented its report and key recommendations.

The Dáil adjourned at 9.20 p.m. until 10.30 a.m. on Thursday, 5 October 2006.

## Written Answers.

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

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*Questions Nos. 1 to 12, inclusive, answered orally.*

*Questions Nos. 13 to 108, inclusive, resubmitted.*

*Questions Nos. 109 to 115, inclusive, answered orally.*

### **Greenhouse Gas Emissions.**

116. **Mr. Broughan** asked the Minister for the Environment, Heritage and Local Government his Department's strategy, including timetables, to ensure that Ireland can fulfil our EU National Emissions Ceiling Directive commitments to limit specific air pollutants, particularly Nitrogen Oxides, by 2010, in view of the high level of cars on Irish roads. [30889/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. B. O'Keeffe):** The Environmental Protection Agency's most recent report on Air Quality in Ireland, published in July 2006, concludes that air quality is generally good throughout the country and complies with current EU air quality standards for all pollutants, including nitrogen oxides.

The EU Directive on National Emission Ceilings specifies challenging aggregate national ceilings for four transboundary pollutants, including Nox, which must be achieved by 2010. The National Programme on transboundary pollutants, which the Government approved in 2005, provides for the progressive reduction of these emissions through a usage of in policies and measures in different sectors. These include:

- improved effectiveness of pollution abatement technologies in road vehicles, as a result of the progressive reduction of the sulphur content of both petrol and diesels;

- emission reductions in the power generation sector arising from implementation of the 2001 Large Combustion Plants Directive;
- replacement of old, high emitting oil-fired power plants with new state-of-the-art plants; and
- ongoing implementation of integrated pollution and prevention control licensing for existing industrial plant.

There has been a downward trend in these transboundary pollutants since 2001 and this is projected to continue to the 2010 target-year, although it is clear that the nitrogen oxides ceiling presents Ireland with a particular challenge given increasing vehicle numbers and use of road transport.

Work is underway in my Department to complete a review of the National Programme, including any necessary updating or revision, by the end of 2006. A significant part of the work involves updating the emission projections up to 2010 for all sectors and the underlying policies and measures.

In addition to the range of policies and measures in the Programme published in 2005, further progress towards meeting the 2010 ceilings will be achieved through measures that have subsequently been announced. These include:

- the promotion of greater energy efficiency and the recent increase in the target for electricity generated from renewable sources;
- ongoing improvement in the environmental performance of road vehicles, due to the adoption of more-stringent EURO standards for motor cars and vans; and
- greater efficiency of road usage through the Government investment in the Transport 21 programme.

### Water Quality.

117. **Mr. Gilmore** asked the Minister for the Environment, Heritage and Local Government his Department's strategy, including timetables, to ensure that Ireland can fulfil our Water Framework Directive commitment that all water bodies in the State should be of good status by the 2015 deadline, in view of the fact that the status of almost a third of our rivers falls short of this. [30888/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** To date, all implementation deadlines set by the Water Framework Directive have been achieved on time by Ireland. In fact, by any objective standard, there has been remarkable progress over the lifetime of this Government in relation to the protection and improvement of water quality. This includes:

- an increase in waste water treatment capacity since 2000 equivalent to the needs of a population of 3.1 million;
- an increase from 20% to 90% between 1997 and 2005 in the level of compliance with the relevant EU Directive on waste water treatment;
- an increase from 67% to 70% in the length of unpolluted river channel between 1997 and 2003: this represents a reversal of a downward decline that had persisted for decades;
- more Blue Flag beaches than ever: in 2006, 81 Blue Flags were awarded to Irish bathing areas: this is the highest number ever, and compares with 70 in 1997; and
- the rapid progress being made in the elimination of substandard drinking water supplies in the group scheme sector.

The achievement of improvements in water quality will continue to be supported by ongoing investment under the Water Services Investment Programme and by implementation of the Nitrates Action Programme.

My Department provides 100% funding for river basin management projects to support implementation of the Water Framework Directive and has committed over €68 million for this purpose. INTERREG funding is also available in relation to cross-border projects. The river basin management plans which are being developed, for adoption by 2009, will set out the specific environmental objectives to be achieved together with a programme of measures to deliver those objectives by the deadline of 2015. I am satisfied with the progress made so far in implementing the Directive and I expect that we will continue to see significant improvements in the quality of our fresh and coastal water resources, which will be reflected in EPA Water Quality Reports over the coming years.

### Local Authority Housing.

118. **Aengus Ó Snodaigh** asked the Minister for the Environment, Heritage and Local Government if he will conduct a State wide survey of local authorities to assess the level of funding that they require to carry out necessary repairs to local authority dwellings. [31014/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** It is intended to commence an audit of the social housing stock next year, including an assessment of energy efficient measures. The outcome of this audit will determine future direction in this area.

My Department has recently requested local authorities to assess their housing stock to determine the number of local authority dwellings without central heating facilities.

### Private Rented Accommodation.

119. **Mr. G. Mitchell** asked the Minister for the Environment, Heritage and Local Government the measures which have been put in place to police the new action programme to promote the improvement of standards in private rented accommodation; and if he will make a statement on the matter. [30952/06]

145. **Mr. Connaughton** asked the Minister for the Environment, Heritage and Local Government if he agrees with Threshold that existing minimum standards for the private rented sector are primitive and outdated; and if he will make a statement on the matter. [30954/06]

185. **Mr. McCormack** asked the Minister for the Environment, Heritage and Local Government the steps he intends to take to improve on the rate of inspection of rented properties which came to just 6,815 out of a total of 150,000 in 2005; and if he will make a statement on the matter. [30956/06]

207. **Mr. McCormack** asked the Minister for the Environment, Heritage and Local Government his views on the statement by the Chairperson of Threshold (details supplied) who says that diners who can afford to eat in a restaurant are better protected by quality standards and inspections than a family on low income living in a rented home; and if he will make a statement on the matter. [30955/06]

210. **Mr. Connaughton** asked the Minister for the Environment, Heritage and Local Government his views on the findings of Threshold that show that appeals for help from tenants living in unfit accommodation doubled last year, from 386 in 2004 to 785 in 2005; and if he will make a statement on the matter. [30953/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I propose to take Questions Nos. 119, 145, 185, 207 and 210 together.

Despite a significant expansion in the availability of good quality rental accommodation in recent years, there is still a proportion of sub-standard units as well as some which are seriously deficient.

The new Partnership agreement, Towards 2016, includes a commitment that the minimum standards regulations for the private rented sector will be updated and effectively enforced. I took the opportunity when launching Threshold's 2005 Annual Report in mid September to announce a comprehensive Action Programme to address the standards issue involving a combination of improved resourcing, co-ordination, planning and prioritisation.

An important element of the Action Programme will be a general review of the content of the existing standards regulations which will commence later this year with a view to updating them. This will be carried out in consultation with the Private Residential Tenancies Board (PRTB), local authorities and other relevant interests.

There is also a clear need to increase the number of inspections of private rented accommodation undertaken by housing authorities. In that regard housing authorities are being asked to prioritise action to improve enforcement of the regulations through a planned and strategic approach. Increased funding is also being provided. Interim payments in respect of 2006 totalling €1m were recently distributed and a further payment in respect of 2006 will be made in early 2007 based on 2006 inspection levels. Future funding will be related to the level of enforcement performance by housing authorities as evidenced by their returns for the Department's Housing Statistics Bulletin.

In addition the Centre for Housing Research (CHR) will undertake a study of measures to promote improvement in private rented accommodation standards and develop good practice guidelines to assist housing authorities in their functions relating to the private rented sector. A concerted effort is required in this area and I am committed to ensuring that the necessary improvements are achieved.

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

120. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the number of families currently in receipt of rent support in lieu of local authority housing; the number of families on the various local authority housing lists; the number of such houses being provided annually; when he expects house building in the sector to match the total number on the housing list; and if he will make a statement on the matter. [31018/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** Recent information provided by the Department of Social and Family Affairs indicates that there are some 60,000 households currently in receipt of rent supplement. Over half of those, about 32,000, have been on rent supplement for 18 months or more. This cohort is provisionally assessed as in need of long-term housing. According to the results of the March 2005 Statutory Assessment of social housing needs, some 32% of this group have applied for local authority housing.

The needs assessment indicated that there were 43,684 households on local authority waiting lists compared with 48,413 in March 2002 — a decrease of almost 10%. The decrease in the number on housing waiting lists has resulted from the positive impact of the Government's investment in the provision of social and affordable housing. A breakdown of the 2005 assessment by local authority is available on my Department's website.

In 2005 local authorities started 6,273 local authority houses and completed over 5,127. Further details are also available on my Department's website.

Last June I informed local authorities of their financial allocations for their local authority housing programmes. I have urged them to accelerate progress on the implementation of their programmes in order to commence construction and secure completion on as many social housing schemes as possible in 2006. The total allocation for 2006 is €942 million. This should allow for the completion of over 5,000 housing units in the year.

The Government have committed in the social partnership agreement, Towards 2016, to higher levels of output to meet assessed need as part of a comprehensive programme of social housing investment. This includes an additional 4,000 new housing units over the period 2007 to 2009 through a combination of local authority and voluntary and co-operative housing and, private rented accommodation using long-term contractual arrangements.

The impetus for the delivery of affordable housing will also be maintained with over 17,000 units to be delivered from the various affordable schemes between 2007 and 2009. Overall, the needs of 60,000 households will be met through the various social and affordable housing schemes in this period.

#### **Regional Development.**

121. **Ms Lynch** asked the Minister for the Environment, Heritage and Local Government the timeframe for the delivery of the recently announced Atlantic Gateway development; and if he will make a statement on the matter. [30899/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I launched the Atlantic Gateways Initiative in Galway on 14 September as an important development in the continuing implementation of the National Spatial Strategy.

The report explores how the four gateways can become an increasingly interconnected and developed network of co-operating and complementary cities. This can, in turn, enhance the development potential of all four gateways and invigorate development in the hub towns and the wider urban and rural catchment areas. Also, the Atlantic Gateways Initiative is a viable and tangible project to promote the concept of balanced regional development as a fundamental bedrock of future development and investment, which is a central theme of the forthcoming new NDP.

The development potential of the Atlantic Gateways was identified in the National Spatial Strategy, published in 2002. The NSS indicates that complementing the economic performance of Dublin and the East in a national context will depend on expanding the critical mass of gateway cities and combining the powers of attraction of these cities. The Atlantic Gateways Initiative aims to identify how Cork, Galway, Limerick and Waterford can collaboratively create a critical mass for future economic development as a counter-balance to Dublin and the East.

The initiative was jointly directed by my Department and Shannon Development in co-operation with the relevant regional authorities and private sector participants. The report contains a number of recommended short, medium and longer-term actions to support the initiative running from now up to 2020. These actions are inter-dependent and centre around developing the connectivity between the cities through improved transport links, developing critical mass through the implementation of the development frameworks and mobilising and maintaining public and private sector input.

A key cog in these actions will be the early creation of an Atlantic Gateway Forum to drive and co-ordinate the initiative. The Forum will seek to harness public and private input and will be structured into two interconnected consultative and implementation panels.

#### **Planning Issues.**

122. **Mr. Costello** asked the Minister for the Environment, Heritage and Local Government if he will repeal those sections of the Planning and Development Act, 2002, which allow developers to buy their way out of their Part V commitments, following the assertion of the Affordable Homes Partnership chairperson that moneys collected by local authorities in lieu of setting aside 20 per cent of their developments for affordable housing was doing little to meet the needs of couples trying to buy their first home; and if he will make a statement on the matter. [30894/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** The Planning and Development (Amendment) Act 2002 was introduced following a review of Part V of the Planning and Development Act 2000 to ensure that it was meeting its objectives in relation to the provision of social and affordable housing. Complaints had been received that the provisions of Part V were inflexible and overly bureaucratic and that they were not achieving the desired results of improving the supply of social and affordable housing. The review was based on maintaining the principle of community gain while allowing greater flexibility in meeting it. It was carried out internally in the Department and a wide range of interests (voluntary and social housing as well as the construction industry) was consulted as part of the review.

The main outcome of the review was the need for greater flexibility for all stakeholders including local authorities, voluntary housing providers and home builders. The 2002 Act therefore introduced a range of flexible options for compliance with Part V. Difficulties experienced on small sites and high value sites led to the conclusion that there should be an option for off-site provision or commuted payments. There can be advantages in accepting off-site provision or a financial contribution, for example, in cases where just one of two social or affordable units would be provided in a very expensive location. Funds received by way of financial contributions are reinvested in the provision of social and affordable housing.

The reported comment of the Chairperson of the Affordable Homes Partnership concerning financial contributions simply reiterates my own preferred position that local authorities should prioritise the provision of housing units as opposed to financial compensation, which should only be taken in very exceptional circumstances. He has not requested any amendment to this aspect of the legislation.

I am satisfied that Part V is operating effectively and that the changes made in the 2002 Act have and will continue to contribute to the overall delivery of both social and affordable housing. I have no plans to repeal the provisions of the Act.

#### **Waste Management.**

123. **Mr. Perry** asked the Minister for the Environment, Heritage and Local Government his view on the possibility of the export of household waste from here to countries outside the EU; and if he will make a statement on the matter. [30979/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Waste Shipment Regulation (EEC) No. 259/93 of 1 February 1993 sets out the controls applicable to shipments of waste within, into, and exported out

of the European Union and has direct application in Ireland. All shipments of waste must follow various procedures and control regimes, which are determined by the type of waste shipped and the type of treatment that will be applied to the waste at its destination. Thus, different levels of control apply depending on the risk posed by the waste and its treatment in terms of recovery (e.g. recycling) or disposal (e.g. landfill or incineration).

Shipments of all waste destined for disposal, and shipments of hazardous and semi-hazardous waste destined for recovery, are subject to the requirement of prior written notification and consent.

As regards shipments of waste from Ireland for disposal to destinations outside the EU very strict controls apply. All exports of waste for disposal are, under article 14 of the Regulation, prohibited except those to EFTA countries, which are also parties to the Basel Convention. However, such shipments may also be prohibited if the EFTA country of destination prohibits the import of such waste.

All exports of waste from Ireland for recovery outside the EU are, under article 16, also prohibited except exports to non-ACP countries and certain other countries which the OECD Decision of 30 March 1992 on the control of transfrontier movements of wastes destined for recovery operations applies: for example, segregated materials such as plastic or paper may be shipped as green waste and without prior notification and consent from the competent authority of destination. Exports of waste for recovery outside the EU are also permitted to other countries not covered by the OECD Decision which are Parties to the Basel Convention and where such countries have written to the EU indicating what level of control they require and which types of waste they will accept. All exports of waste to African, Caribbean or Pacific States are also prohibited under article 18.

Enforcement of the Waste Shipment Regulation is a matter for the local authorities concerned, who are the designated competent authorities for exports of waste from the State.

#### **Planning Issues.**

124. **Ms McManus** asked the Minister for the Environment, Heritage and Local Government if he will set up a task force within his Department to examine the possible regulation of the planning status of adult entertainment venues and shops and if such regulation can be achieved through the planning code; and if he will make a statement on the matter. [30901/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** A number of issues have arisen recently in relation to the regulation of entertainment and other late night venues such as licensed premises, adult entertain-

ment venues and casinos. Careful consideration is needed of whether the planning code is an appropriate mechanism to regulate these activities either alone or in conjunction with other regulatory regimes.

Entertainment venues and shops, adult or otherwise, are already potentially subject to a wide range of different regulatory requirements, a number of which may come within the remit of my colleague, the Tánaiste and Minister for Justice, Equality and Law Reform, such as alcohol and dance hall licensing. The importation and sale of pornography are addressed by the criminal and customs codes. The interaction of these codes with the planning code needs also to be considered.

I therefore intend to propose to the Tánaiste the establishment of a task force to examine issues involved in the location of entertainment and other late night venues and to make recommendations on how they should best be regulated. In advance of the considerations of such a task force, local authorities should use those powers currently available to them under the planning code when considering applications for late night and other venues to ensure that they are not inappropriately located, for example in quiet residential areas.

#### **Waste Management.**

125. **Mr. Sherlock** asked the Minister for the Environment, Heritage and Local Government if he will amend the legislation governing the plastic bag levy in order to allow for a substantial increase in the levy in order to reverse the trend whereby the use of plastic bags is increasing. [30909/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The 15 cent levy on plastic bags, as provided for in the Waste Management (Environmental Levy) (Plastic Bag) Regulations 2001, has led to a dramatic reduction in use of plastic bags with a consequent positive environmental benefit. Plastic shopping bags accounted for 5% of litter arisings prior to the introduction of the levy, but for just 0.22% of litter arisings in 2004.

There has been an upward trend in receipts remitted by the Revenue Commissioners since the levy was introduced, but this must be interpreted with caution. Firstly, these figures are not a precise measure of the number of bags supplied in a given period — each year's figure will also include levies recovered in respect of earlier periods on account of retailers filing late returns and the recoupment of levies due following Revenue audit findings. Secondly, the increase in income is also likely to be due in part to increased enforcement by local authorities and audit activity by the Revenue Commissioners. Enforcement efforts have been stepped up and a special network of local authority officers has been



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established to monitor and co-ordinate the enforcement drive.

I have previously indicated that I am anxious to ensure that the levy's positive effect on our environment is maintained. To that end, I have decided that the levy will be increased to 22c with effect from 1 January of next year – this is the maximum level that can be set under the existing legislative provisions. While I would like to increase the levy sooner, I must give both the Revenue Commissioners and retailers time to adjust their systems. The proposed change represents a substantial 47% increase on the original levy and I am confident that it will have the desired effect in discouraging use of plastic shopping bags. I will monitor the implementation of the new levy carefully; if it becomes apparent that further increases are required I will bring forward the necessary legislative changes to the Waste Management Act.

#### Planning Issues.

126. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government his views on issuing planning guidelines to planning authorities on best practice for the sustainable development of corner or backyard sites, in view of the fact that in some local authority areas, such as Dún Laoghaire Rathdown, 20% of all new housing is concentrated in such sites; and if he will make a statement on the matter. [31083/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** There has been a growing trend in urban areas towards the development of sites adjacent to existing residences. This is understandable given that such development perhaps allows people to reside in the communities in which they were reared and, also, reflects the increased value of such sites. It is also attractive in terms of allowing access to existing community infrastructure, such as schools, and transport links.

Residential Density Guidelines for Planning Authorities were issued in 1999 and contain guidance on the issue of infill in urban areas. However, taking account of experiences to date with the 1999 guidelines, the rapidly changing demographics and settlement patterns, the need for more compact urban development (particularly within the Greater Dublin Area) and the on-going policy of delivering sustainable communities towards enhancing quality of life, it is proposed to prepare new planning guidelines on residential development and, also, design standards for apartments. A design guidance booklet to illustrate how the policies might be implemented will accompany the residential development guidelines.

As part of the existing guidelines, the issue of infill in urban areas will be subject to review as part of the preparation of the new guidelines.

#### Waste Management.

127. **Ms O'Sullivan** asked the Minister for the Environment, Heritage and Local Government if he will initiate a review of the eight regional development plans in order to examine the waste management facilities and proposals in each RDP following his own assertion that the need for incineration has been over estimated; and if he will instruct those carrying out any such reviews to consider alternatives to municipal incineration. [30908/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Under the Waste Management Acts statutory responsibility for waste management planning rests with the relevant local authorities, typically acting in regional groupings. My Department's National Overview of Waste Management Plans (July 2004) identified significant progress in regard to the implementation of these plans. Subsequently, these plans have been reviewed by the local authorities concerned and these reviews included significant public consultation.

Not all waste can be recycled and successive Government policy documents have recognised the key role which thermal treatment with energy recovery must play in an integrated approach to waste management. I am satisfied that the regional waste management plans properly reflect this having regard to the needs of the individual regions and the range of available technologies.

#### Tribunals of Inquiry.

128. **Mr. Kenny** asked the Minister for the Environment, Heritage and Local Government the files which have been requested from his Department by the Mahon Tribunal; and if he will make a statement on the matter. [28206/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Tribunal of Inquiry into Certain Planning Matters and Payments is empowered by relevant Oireachtas resolutions to carry out such preliminary investigations in private, as it thinks fit. My Department has co-operated with all requests by the Tribunal to make files available. However, it would not be appropriate to disclose details of material provided in this way to the Tribunal, on a strictly private and confidential basis, in the course of its investigations.

#### Energy Conservation.

129. **Mr. Eamon Ryan** asked the Minister for the Environment, Heritage and Local Government the amount of water which was used in buildings owned or leased by his Department in

the last year for which figures are available; if he will provide the details of any water audits undertaken; the current or future conservation plans; and if he will make a statement on the matter. [31090/06]

154. **Mr. Eamon Ryan** asked the Minister for the Environment, Heritage and Local Government the amount of energy which was used in buildings owned or leased by his Department in the last year for which figures are available; the energy source and suppliers used; the details of energy audits undertaken; current or future conservation plans; and if he will make a statement on the matter. [31089/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 129 and 154 together.

In accordance with its Environmental Policy Statement, my Department is fully committed to the effective management of our consumption of water and energy resources. This is a critical element of our ongoing accreditation to ISO 14001:1996 which we achieved for our headquarters offices in 2003. We are working towards achieving this certification for all our offices. In the meantime a number of objectives guide our activities across the Department, including a reduction in the quantity of consumable resources used by the Department.

As non-domestic water users, water meters are being installed in all of my Department's offices in accordance with the Government's Water Pricing Framework. This will enable the Department to monitor water usage throughout the Department's various offices. In the meantime, my Department is taking measures to eliminate wastage including through the installation of more efficient water dispensers. As regards energy usage, the Department's policy is to use a number of energy saving devices such as energy efficient lights, powersave function on electrical office equipment and photocopiers with duplex facilities. Energy consumption in my Department's headquarters decreased from 982,000kWh in 2003 to 948,635kWh in 2005, representing a reduction of 3.4%.

We are also liaising with the Office of Public Works, who provide maintenance services to the Department, to implement other effective measures to reduce energy and water consumption.

The Department had been committed to obtaining its electricity from renewable sources for some time and following a tender process, under the auspices of the Office of Public Works, a contract is now in place with Energia for the supply of electricity from renewable sources to the Department's main offices.

Under the Government's decentralisation programme the bulk of my Department's Dublin based operations are being decentralised to four locations in the South East. The Department is

liaising with OPW to ensure that best practice in building management guides the planning and design of the Department's new offices including provision for minimisation of waste, energy conservation, renewable energy sources and water conservation measures.

#### **Electronic Voting.**

130. **Mr. Coveney** asked the Minister for the Environment, Heritage and Local Government his views on whether the Nedap or Powervote system will be used in an election here in the future; if so, when this election will be held; and if he will make a statement on the matter. [30942/06]

155. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the cost to date, including storage, research, promotion, public relations or other associated costs in respect of e-voting; if it is intended to continue with the process of storage and re-examination indefinitely; if offers have been received from other jurisdictions for the technology; if thought has gone into possible alternative use; if provision has or can be made whereby such expenditure will not in the future become the responsibility of the State; and if he will make a statement on the matter. [31019/06]

156. **Dr. Upton** asked the Minister for the Environment, Heritage and Local Government his plans in relation to electronic voting and the existing electronic voting equipment in view of the second report of the Commission on Electronic Voting; and if he will make a statement on the matter. [30918/06]

214. **Mr. G. Murphy** asked the Minister for the Environment, Heritage and Local Government the costs to date of the storage of electronic voting machines; and if he will make a statement on the matter. [30940/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Question Nos. 130, 155, 156 and 214 together.

The Commission on Electronic Voting concluded in its Second Report on the Secrecy, Accuracy and Testing of the Chosen Electronic Voting System, which was published on 4 July 2006, that it can recommend the voting and counting equipment for use at elections in Ireland, subject to further work it has recommended. The Commission made it clear that many of its recommendations involve only relatively minor modifications or additions to the system. While the software of the voting machine was considered by the Commission to be of adequate quality requiring only minor modifications and further analysis to confirm its reliability, it was unable to recommend the election management software. In the

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context of its comparison of the electronic and manual voting systems, the Commission concluded that, subject to its recommendations being implemented, the chosen system has the potential to deliver greater accuracy than the paper system and can provide similarly high levels of secrecy.

In response to the report, the Government has established a Cabinet Committee, which I chair and which includes the Tánaiste and the Minister for Communications, Marine and Natural Resources, to consider the report and other assessment work in detail; report to the Government on the full implications of the Commission recommendations; consider the composition of a peer review group (drawn from international electoral reform bodies and the IT industry) to supervise any software redesign work; report to the Government on confidence building measures; and identify any other improvements that might be built into the system. The work of the Cabinet Committee is under way.

The total cost incurred to date in the development and roll-out of the electronic voting and counting system is some €51.3 million. In addition, information provided by returning officers to my Department indicates that the total annual storage cost for the electronic voting machines and ancillary equipment is some €696,000. Arrangements are now being made to centralise storage of the e-voting machines.

The timing of the further use of the system is dependent on the ongoing work of the Cabinet Committee on Electronic Voting, the associated decisions arising in this regard, and the dates at which future polls may be held.

My Department has had no approach from other jurisdictions in relation to the e-voting technology.

### **Waste Management.**

131. **Ms Shortall** asked the Minister for the Environment, Heritage and Local Government his views on levying businesses on non-reusable or non-recyclable packaging; the plans he has to impose such a levy; and if he will make a statement on the matter. [30915/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Article 9 of European Parliament and Council Directive 94/62/EC on packaging and packaging waste provides that packaging may not be placed on the market within the European Union unless it satisfies the provisions of the Directive. Annex II of the Directive explicitly provides that packaging shall be designed, produced and placed on the market in such a way as to permit its reuse or recovery, including recycling and composting.

Under article 18 of the Directive, Member States are prohibited from impeding the placing on the market of packaging which satisfies these essential requirements. The essential require-

ments of packaging are transposed into national law under the combined provisions of article 24 and the Third Schedule of the Waste Management (Packaging) Regulations 2003, as amended, which provides that a person may not supply packaging or packaged products to the Irish market unless the packaging concerned complies with essential requirements as to its nature and composition.

The regulations impose obligations in relation to the recycling of backdoor waste on all producers participating in the placing of packaging on the Irish market. In addition, major producers i.e. those who have an annual turnover in excess of €1 million and who place more than 25 tonnes of packaging on the Irish market, have additional responsibilities with regard to the recovery of packaging waste from their customers. Major producers are required to take steps individually to recover their packaging waste (i.e. self-compliance) or alternatively to contribute to, and participate in, compliance schemes set up to recover packaging waste.

Repak Limited was established by Irish industry in 1997 to promote, co-ordinate and finance the collection and recovery of packaging waste with a view to achieving Ireland's packaging waste recovery and recycling targets under the Directive and is the only such approved compliance scheme in Ireland. Repak membership income is used to subsidise the collection of packaging waste from both the household and commercial sectors.

While Repak's primary role is to support the recycling of packaging waste, the fee structure applicable to its members – which is related to the type and amount of packaging placed on the market – reflects the polluter pays principle and directly incentivises the minimisation and reuse of packaging by producers. In addition, article 4(5) of the regulations expressly provides that account shall not be taken of packaging destined for reuse for the purpose of determining whether or not a producer is a major producer – this similarly provides a direct incentive for producers to introduce systems to promote the reuse of packaging.

Ireland has enjoyed considerable success in recent years in meeting targets for the recovery and recycling of this significant waste stream. Data from the Environmental Protection Agency shows that the 25% target for 2001 set under Directive 94/62/EC on packaging and packaging waste was achieved and also that, with 56% recovery of packaging waste in 2004, Ireland has exceeded the 2005 recovery target of 50% set under the Directive. In the light of the comprehensive regulatory regime in place for packaging waste, which promotes prevention, reuse and recycling in accordance with the waste management hierarchy, and the success achieved to date in meeting and exceeding targets for recovering and recycling packaging waste, a further levy on

packaging waste is not currently under consideration.

### Register of Electors.

132. **Mr. J. O’Keeffe** asked the Minister for the Environment, Heritage and Local Government the progress to date of the campaign to update the electoral register; and if he will make a statement on the matter. [30944/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** In law, the preparation of the Register of Electors is a matter for each local registration authority. It is their duty to ensure, as far as possible and with the cooperation of the public, the accuracy and comprehensiveness of the Register.

In April 2006, I announced a package of measures to assist local authorities in their work on preparing the 2007/8 Register, which included the use of Census enumerators or other temporary personnel to support local authorities in preparing the next Register. The CSO contacted census enumerators seeking expressions of interest in the work; lists of enumerators expressing such an interest in each city and county council area were made available to local authorities. This cleared the way for recruitment and deployment, as appropriate, by local authorities of additional temporary staff for the registration campaign.

In addition, my Department worked with a group of local authority managers and senior officials to put in place an enhanced programme for improving the next Register. Detailed procedures for the carrying out of registration fieldwork were finalised and issued to local authorities in early July. New supplies of the electoral registration (RFA) forms were distributed to all local authorities in June (significantly earlier than in previous years).

I also committed to providing additional ring-fenced financial resources to support local authorities’ own spending in respect of the register campaign and have advised authorities that a contribution of some €6 million can be made available in this regard. An initial allocation of some €3 million was made available in July to local authorities for registration work.

As regards publicity and awareness, a two-stage approach has been developed, involving information notices followed by an intensive media campaign. Information notices were published in the national press on 19–21 August, urging co-operation with local register campaigns. In addition, a national publicity and awareness campaign involving TV, radio, press and outdoor advertising commenced on 11 September and will run until 25 November (the closing date for submitting corrections to the Draft Register).

An online register search facility is now available through local authority websites. A link from the Department’s website ([www.environ.ie](http://www.environ.ie)) to the relevant search facility has also been provided.

New arrangements for the deletion of names of deceased persons from the Register are now in place: the new system allows for the efficient and timely deletion of the names of deceased persons from the Register using the Death Event Publication Service which has been developed by Reach in association with the General Register Office.

New guidance for local authorities on Preparing and Maintaining the Register of Electors was made available to authorities in electronic format on 31 May. Printed copies of the guidance were subsequently sent to all local authorities, returning officers and relevant Government Departments. In the final version of the guidance, the importance of local authorities cross-checking the Register with other databases available to them is stressed.

The measures I announced in April are important supports for action by local authorities to improve the accuracy and comprehensiveness of the Register in their areas.

### Electoral Divisions.

133. **Ms Lynch** asked the Minister for the Environment, Heritage and Local Government the grounds upon which he has decided not to review the election boundaries following the indication of the preliminary census figures that a sizeable proportion of the population live in constituencies which are under represented; and if he will make a statement on the matter. [30900/06]

204. **Mr. M. Higgins** asked the Minister for the Environment, Heritage and Local Government the way in which he will ensure that Article 16.2.3 of the Irish Constitution’s requirement for equality of representation is not breached without undertaking a review of constituency boundaries; and if he will make a statement on the matter. [30896/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 133 and 204 together.

Following the publication by the Central Statistics Office of the Preliminary Report on Census 2006, I sought the advice of the Attorney General in relation to census results and constituency boundaries.

The Attorney has advised that constituencies can only be revised on the basis of the final Census figures. The preliminary figures cannot constitutionally be used to revise constituencies. The Electoral Act 1997 provides for the establishment of Constituency Commission upon the publication of the Census Report which contains the final figures. The Act also sets out the considerations to which a Commission must have regard in observing the relevant provisions of the Constitution.

I intend to establish such a Commission to review and report on Dáil and European con-

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stituenancies as soon as the relevant Census Report is published. Under the Act, the Commission will be required to report to the Ceann Comhairle as soon as may be and, in any event, within 6 months of its establishment; the reports will then be laid before each House of the Oireachtas.

It is not the normal practice to publish legal advice and I have no plans to do so on this occasion.

#### Local Electoral Areas.

134. **Mr. McEntee** asked the Minister for the Environment, Heritage and Local Government if, in view of population changes, he will review local authority boundaries; and if he will make a statement on the matter. [30976/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The current local electoral areas of each county council derive from the Electoral Area Boundary Committee Reports of 1998. The 2004 local elections took place on the basis of the existing local electoral areas. The next local elections are due to take place in 2009. Consideration can be given to reviewing local electoral areas in light of the final 2006 Census results when they become available and other relevant factors.

Local authorities, as part of the local government modernisation programme, have extensive capacity to innovate and adapt to changing circumstances and local demands, including those of economic and population growth. I intend to keep the position under review with the aim of ensuring good accessible service delivery for all communities and population centres.

#### Public Procurement Policy.

135. **Mr. Kehoe** asked the Minister for the Environment, Heritage and Local Government the progress in his Department since the publication of the Quigley Report; if he has reviewed and consolidated internal advice, if he will publish such advice; the revised procedures which have been put in place; and if he will make a statement on the matter. [30988/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Substantial progress has been made by my Department in implementing the recommendations regarding procurement contained in the Quigley Report. Procurement guidelines and practices in the Department have been reviewed and a set of consolidated guidelines was circulated to all staff. In addition, revised procedures have been put in place to strengthen monitoring and control of procurement and briefing sessions have been held for staff engaged in procurement. Reference material on procurement has been published on the Departments Intranet and is readily available to all staff.

Additional resources have also been allocated to the Departments Organisation Unit, which coordinates advice and monitoring in relation to the Department's procurement activities, and to the Department's Internal Audit Unit which is responsible, *inter alia*, for assisting line management in the Department in evaluating internal control systems for which they are responsible. 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

#### Social and Affordable Housing.

136. **Mr. Stanton** asked the Minister for the Environment, Heritage and Local Government the action he will take to ensure that all local authorities build an adequate amount of social or affordable housing; and if he will make a statement on the matter. [31004/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** In December 2005, the Government launched a new Housing Policy Framework: Building Sustainable Communities which outlines key principles underpinning housing policy and investment over the coming years. Substantial increased investment in social and affordable housing is outlined in the framework amounting to close to €4 billion in Exchequer capital spending over the period 2006 to 2008. The Government have committed in the social partnership agreement, Towards 2016, to further additional investment in social housing with 27,000 new units to be started or acquired over the period 2007 to 2009. It is envisaged that these new units will be delivered through a combination of local authority social housing, voluntary and co-operative sector social housing and long-term contracts for new supply under the Rental Accommodation Scheme.

Further households will benefit from the full implementation of the Rental Accommodation Scheme involving contractual arrangements with landlords for existing properties transferring from rent supplement. Over the same period it is expected that some 17,000 units of affordable housing will be delivered. As a result of the various social and affordable housing measures the needs of some 60,000 new households will be met over the period 2007-2009.

The main strategy for delivery of the Government's social and affordable housing programme is through the local authority 5-year Action Plans for social and affordable housing. The Action Plans, now at their midway stage are currently being reviewed. The reviews are focussing on examining how targets have been met in the first two years of the plan and on incorporating any adjustments required for the remaining years of the plan, in light of outcomes including expected

2006 outputs, and the results of the recent Housing Needs Assessment.

An Action Plan Working Group is currently being formed to carry out national analysis of local reviews. As well as examining outcomes to date the Group will make consider any actions required to improve delivery and monitoring of Action Plans. This will ensure that the action plan process continues to provide local authorities with a framework for the integrated and cohesive planning and delivery of social and affordable housing measures, based on their relevant housing strategy, over the coming years.

### House Prices.

137. **Mr. McGinley** asked the Minister for the Environment, Heritage and Local Government the action he intends to take to make housing more affordable for first time buyers; and if he will make a statement on the matter. [30945/06]

180. **Mr. Morgan** asked the Minister for the Environment, Heritage and Local Government his views on the fact that house prices increased nationally by 11.4% for the first quarter of 2006; and the plans he has to control the rise of future house prices. [31005/06]

201. **Mr. Coveney** asked the Minister for the Environment, Heritage and Local Government if he intends to take action on foot of the Halifax report which finds that key public sector workers here for example nurses, fire fighters, secondary and primary school teachers and Gardaí are unable to afford to purchase the average house in four out of five of Ireland's largest cities that is Dublin, Cork, Galway and Waterford, as earnings growth continues to lag well behind house price growth; and if he will make a statement on the matter. [30957/06]

218. **Mr. Gilmore** asked the Minister for the Environment, Heritage and Local Government the initiatives he intends to put in place to ensure that key workers can buy homes in the areas where they work, following the recent survey (details supplied) which revealed that workers such as teachers, nurses and Gardaí cannot afford to buy in the Country's main cities. [30887/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I propose to take Questions Nos. 137, 180, 201 and 218 together.

Increasing house prices and mortgage interest rates mean that a greater proportion of disposable income is now needed to meet mortgage payments. Despite this affordability both nationally and in Dublin remains within the affordability limits now typically applied by lending institutions in deciding mortgage applications.

Over 45% of new house loans were taken out by first time-buyers last year. First time buyers

pay at least 13% below the average price for a new house and significantly less for second hand houses. In fact 90% of the houses bought by first time buyers were below €350,000 nationally and 75% were below €350,000 in the Dublin area. My Department's affordability index reflects the position at the end of March this year for a couple on a combined income of just under €76,000, based on the average industrial and non-industrial wage. The mortgage outgoings of such a couple represent about 29% of their disposable income. This ratio would in fact be lower if account is taken of the longer loan periods which are now on offer from the lending institutions.

I am aware of recent research findings which suggest that the average mortgage is around 15 times the average public service income. This is simply not true. The data used in the research is based on the average price for second hand houses. The use of averages in this way is misleading as they include the price paid for highly sought after areas as well as houses with development land. The results therefore do not truly reflect the price paid by the average first time buyer.

More than half a million new homes have been provided since 1997. Almost 81,000 houses were built in 2005 compared to less than 31,000 ten years ago. In the first eight months of 2006, 58,613 houses and apartments were completed nationally. This represents an increase of 22.8% on the corresponding period in 2005. The increases in housing output have helped to restrain house price increases despite continued high demand. We are currently providing new homes at a much faster rate than other countries in the European Union.

My Department will continue to monitor developments in the housing market including trends in house prices. There is some recent evidence that growth rates are stabilising. The Government will also continue to focus on maintaining overall housing supply at a level consistent with the continuing strong demand through a range of instruments including investment in infrastructure, streamlining of planning and more effective use of land.

A number of measures to assist those who cannot access affordable housing without assistance have been put in place. These include the shared ownership scheme, the affordable housing scheme and affordable housing under Part V of the Planning and Development Acts 2000 – 2006. Eligibility and subsidy levels under the various schemes were increased in January 2006. In addition, the delivery of affordable housing in the Greater Dublin area, where affordability pressures are most acute, is being co-ordinated and accelerated by the Affordable Homes Partnership, which has made considerable progress since it was established by the Government just over a year ago.

The partnership agreement Towards 2016 has set an ambitious target of delivering some 17,000

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affordable homes over the period 2007 to 2009. This represents a significant increase on the rate of output of affordable housing over the past three years and will make an important contribution to addressing affordability problems and to meeting the desire of buyers to live in the area in which they work. Investment of some €4 billion will be made under the various schemes over the next three years.

#### Architectural Heritage.

138. **Mr. Naughten** asked the Minister for the Environment, Heritage and Local Government if he will review the current funding for architectural protection grants; and if he will make a statement on the matter. [31022/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** A reallocation of expenditures within my Department's Built Heritage Programme 2006 was recently carried out. This allowed me to announce the following further funding for certain initiatives within my Departments' Built Heritage Capital Programme:

Heritage Council €1,650,000;

Waterford City Walls €260,000; and

Local Authority Conservation Grants Scheme €1,067,000.

The additional €1,650,000 for the Heritage Council will go towards their Buildings at Risk Grant Scheme for the conservation of valuable heritage properties throughout the country, with a particular emphasis on smaller projects.

I was also in a position to respond favourably to the requests for additional funding from local authorities for their Conservation Grants schemes. The scheme, which is administered by local authorities, enables them to give grants towards the conservation of structures that are on the Record of Protected Structures (RPS). This additional €1,067,000 will complement the allocation of €6 million made earlier this year to this scheme.

In addition, under the Urban and Village Renewal Operational Programme 2000-2006, my Department administers a scheme of EU co-financed grants for the restoration and conservation of buildings of significant architectural heritage merit and which are in public ownership or open to the public generally. Closing date for the receipt of applications for 2006 in the South and East region was 23 October 2005, and in the Border Midlands West region was 19 December 2005. The grants for 2006 have since been allocated. As no further applications can be taken for the 2000-2006 scheme, my Department is in course of drawing up a replacement scheme. I also look forward to reviewing expenditure on built heritage in the context of the 2007 estimates and the National Development Plan 2007-2013.

#### Building Regulations.

139. **Mr. McEntee** asked the Minister for the Environment, Heritage and Local Government if heat recovery ventilation systems will be included in the Building Control Regulations; and if he will make a statement on the matter. [30975/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I have no immediate plans to amend the Building Regulations to require the installation of heat recovery ventilation systems in new dwellings. However, this option may be considered in the context of a future review of the building code.

#### Legislative Programme.

140. **Mr. Neville** asked the Minister for the Environment, Heritage and Local Government if he will report to the Houses of the Oireachtas on his Department's legislative programme; and if he will make a statement on the matter. [30965/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** My Department's legislative proposals are included in the Government Legislation Programme Autumn Session 2006, copies of which have been sent to each member of the Oireachtas.

#### Planning Issues.

141. **Ms O'Sullivan** asked the Minister for the Environment, Heritage and Local Government if he will review planning legislation and guidelines to ensure that adequate facilities and infrastructure are always included in any residential development; and if he will make a statement on the matter. [30907/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Planning and Development Act 2000 gives planning authorities a range of powers to ensure the sustainable development of their administrative areas through the local development plan and when considering specific planning applications.

The main instrument for the sustainable development of the local area is the city or county development plan, which has to be renewed every 6 years. I recently published a public consultation draft of Development Plan Guidelines. The Guidelines, *inter alia*, highlight the requirements regarding recreation and amenities under the Planning and Development Act 2000 that local authorities must have regard to in preparing their development plans. These include objectives for:

- the provision or facilitation of the provision of infrastructure;
- the preservation, improvement and extension of amenities and recreational amenities; and

- the provision of public open space and recreation space including space/places for children to play.

I also intend to review the Residential Density Guidelines (1999) and to publish new guidelines in early 2007. The current Guidelines address issues such as the criteria to be taken into account when providing for higher density development, including the provision of social and community facilities, pedestrian and cycle linkages and the needs to address the needs of children and elderly people. The new Guidelines will continue to develop these important linkages and will also focus on the need to place a greater emphasis on the quality of open space including spaces suitable for children's play, informal kickabout and passive amenity.

Finally, a new Housing Policy Framework: Building Sustainable Communities was approved by the Government and published in December 2005. Further work is continuing on a more detailed statement to be published before the end of the year, which will include guidance on how residential development can be more effectively linked to the provision of physical infrastructure such as transport, social infrastructure such as schools and amenities such as sporting and community facilities.

In short, I believe that local authorities have all the tools necessary for them to ensure the adequate and appropriate provision of facilities and infrastructure in residential developments within their areas and work is continuing to ensure that the most up-to-date guidance is available to assist them in that.

#### **Social and Affordable Housing.**

142. **Ms O. Mitchell** asked the Minister for the Environment, Heritage and Local Government his plans to instigate changes to the implementation of Part V of the Planning and Development Act 2000; and if he will make a statement on the matter. [30949/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** Part V of the Planning and Development Acts 2000-2006 is a key measure in providing social and affordable housing. While Part V has been operational in all planning authorities for some years now, it is only in the last year or so that output has begun to gather momentum as evidenced by the statistics. Whilst its implementation is a matter for individual authorities, it is closely monitored by my Department to ensure it is operating as intended.

Changes designed to ensure greater flexibility for all stakeholders in the implementation of Part V were introduced in 2002 following a review of its operation. I am satisfied that the provisions are now operating effectively and that the changes made have contributed to the overall delivery of social and affordable housing. Accord-

ingly, I have no plans to institute further changes but will continue to keep its operation under review.

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

143. **Aengus Ó Snodaigh** asked the Minister for the Environment, Heritage and Local Government if he has received representations from local authorities who have not got adequate funding to carry out necessary repairs to local authority dwellings; and if so, the number of same. [31013/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** Local authority housing construction and improvement works programmes, including planned maintenance and remedial works, are discussed with each local authority as part of the preparation and review of their Housing Action Plans. Arising out of this authorities may seek Exchequer support for improvement works under a number of schemes. Local authorities may also apply, on approval by the Department, Internal Capital Receipts from the sale of local authority houses to the undertaking of improvement works.

#### **Greenhouse Gas Emissions.**

144. **Mr. McGinley** asked the Minister for the Environment, Heritage and Local Government his assessment of the environmental impact of so-called sports utility vehicles and similar vehicles; his views on whether steps should be taken to curb their use; and if he will make a statement on the matter. [30946/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** As stated in reply to Question No. 49 of 29 November 2005, statistics for emissions of carbon dioxide from specific categories of motor vehicles are not available, as emissions are calculated on the basis of fuel sold, rather than vehicle type. Emissions from the transport sector in 2004 totalled 12.58 million tonnes of CO<sub>2</sub> equivalent, equivalent to 18% of total national emissions in 2004. Road transport accounted for 96% of transport emissions. Different treatment already exists for private motor vehicles on the basis of engine size through differentiated vehicle registration and motor tax rates. In addition, 50% relief on vehicle registration tax is currently available for both hybrid-electric and flexible fuel vehicles.

While engine size is related to both fuel consumption and CO<sub>2</sub> emissions, the size of a vehicle's engine is not an accurate proxy for the CO<sub>2</sub> emissions from that vehicle and certain technologies provide a greater CO<sub>2</sub> efficiency for a given engine size. I am therefore currently examining the potential to more closely align motor tax rates with the rated CO<sub>2</sub> emissions for given vehicle types. It is not yet possible to iden-



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tify the specific changes to motor tax rates which might result from this approach. Any changes to the current system of vehicle registration tax are a matter for the Minister for Finance to decide in the context of the Budget.

*Question No. 145 answered with Question No. 119.*

#### **Social and Affordable Housing.**

146. **Ms Enright** asked the Minister for the Environment, Heritage and Local Government if recent statistics showing record population and labour force growth have led to a revision in the levels of expected demand for housing; if his Department has put in place plans for increased housing output, particularly social and affordable housing output; and if he will make a statement on the matter. [30961/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** My Department will have regard to the recently published preliminary Census data, as well as the further reports on foot of the Census of Population 2006, to be prepared by the Central Statistics Offices over the coming year and half, when reviewing examining the potential implications of the preliminary data for the National Spatial Strategy, the Regional Planning Guidelines and City and County Development Plans and associated Housing Strategies. This examination will assist in ensuring more effective infrastructural investment, and sustainable and balanced regional development over the coming years and will inform investment in social and affordable housing programmes.

#### **Departmental Reports.**

147. **Mr. Deasy** asked the Minister for the Environment, Heritage and Local Government the findings and recommendations of the action plan on speech writing carried out for his Department by a company (details supplied) in 2002; the cost of this review, in relation to same; and if he will make a statement on the matter. [30983/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** In 2001, my Department initiated a process of reviewing the speech writing function in the Department. This process was organised and managed by my Department with the assistance of a communications company. A report was subsequently prepared which contained a number of recommendations in relation to refreshing the approach to speech writing in the Department. The recommendations were made in three areas, namely: Efficiency of the Process; Content and Style; Feedback, Training and Development. The majority of the recommendations were sub-

sequently implemented in the Department. The cost of the review was €21,145.

#### **Water and Sewerage Schemes.**

148. **Dr. Cowley** asked the Minister for the Environment, Heritage and Local Government if the polluter pays problem faced by the residents of Achill Sound in relation to the long awaited sewerage scheme will be resolved; if the local contribution will be revised; when this scheme will begin; and if he will make a statement on the matter. [31081/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I refer to the reply to Question No. 316 of 28 September 2006.

149. **Mr. Boyle** asked the Minister for the Environment, Heritage and Local Government his views on reports by the National Federation of Group Water Schemes, that areas in several counties suffered water rationing in summer 2006; that the Dublin area requires €600 million water pipe or desalination plant and that much needed housing developments are being delayed due to lack of water supply capacity; and his further views on whether the universal charging element of the EU Water Framework Directive should be implemented as soon as possible. [31085/06]

161. **Mr. Boyle** asked the Minister for the Environment, Heritage and Local Government his views on using the building regulations to have all new homes fitted with water meters in anticipation of the implementation of the universal water metering and charging required under the EU Water Framework Directive (details supplied) which must to be implemented by 2010 at the latest; if he envisages all domestic buildings being retrofitted; and if his Department has conducted a cost-benefit analysis of meters being installed at construction phase as opposed to retrofitted. [31084/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 149 and 161 together.

I am satisfied that Ireland's policies in relation to water services, including the exemption of householders from water charges, are consistent with the EU Water Framework Directive. Therefore the issue of metering new homes generally or retrofitting existing homes does not arise now or by 2010. The charging policies of the Water Framework Directive are being implemented in Ireland in relation to all non-domestic sectors. Local authorities are required to recover the cost of providing water services from the users of these services, by means of a meter based volumetric charge.

My Department is aware that local authorities may in particular circumstances meter domestic water usage and that some authorities may require the installation of a water meter as a con-

dition of a grant of planning permission. I understand that this is for the purpose of assisting water management and conservation measures. It is not connected to domestic water charges since there is a statutory prohibition on the charging of households for domestic water services. I understand that, while a presentation at a conference of the National Federation of Group Water Schemes referred to the potential effects at the time of the prolonged dry period this summer, no formal report or statement has been issued by the Federation.

My Department has provided €2.55m to Dublin City Council for the Dublin Water (Long Term Sources) Development Study under the Water Services Investment Programme 2005 — 2007. I understand that the Study Report will shortly be presented to the Council's Strategic Policy Committee. Any resulting proposals for funding under the Water Services Investment Programme will have to be carefully justified in terms of size and cost. The current phase of the Programme, covering the period 2005 to 2007, which details already approved water supply infrastructure schemes nationally, is available in the Oireachtas Library.

My Department operates a number of measures to ensure that necessary housing development is not delayed due to water supply constraints, particularly the Serviced Land Initiative (under which some 85,000 housing sites have already been made available), and schemes to provide a further 100,000 are in progress. My Department also maintains close contact with local authorities to ensure timely provision of necessary water services infrastructure to meeting housing and other development needs.

#### **Social and Affordable Housing.**

150. **Mr. Costello** asked the Minister for the Environment, Heritage and Local Government if he will set down national guidelines to local authorities in respect of the application of Part V of the Planning and Development Act, 2000, and the other legislative provisions for social and affordable housing in view of the fact that delivery of the required and expected volumes of social and affordable housing has not happened. [30893/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** My Department has issued comprehensive guidelines to assist local authorities in the implementation of Part V of the Planning and Development Act, 2000 on a number of occasions since December, 2000. Guidelines have also been issued in relation to social housing and the various affordable schemes.

Housing Action Plans for the period 2004 – 2008, which set out targets and timescales for delivery of all social and affordable housing, have been reviewed and agreed between my Department and local authorities. The Plans are

designed to ensure the continued momentum in the delivery of social and affordable housing output. All schemes are kept under review to ensure that they meet the agreed targets set out in the Action Plans. In addition, a number of schemes are being examined to ensure that delivery is achieved in a targeted and efficient and effective manner.

151. **Ms B. Moynihan-Cronin** asked the Minister for the Environment, Heritage and Local Government the measures in place to ensure that in land swap arrangements in relation to affordable housing provisions represent value for the State in terms of the volume and quality of affordable houses provided; and if he will make a statement on the matter. [30903/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Land exchanges under the Affordable Housing Initiative are subject to a public tendering process which involves a range of rigorous assessments and evaluations. In advance of tendering each site, a feasibility report is prepared in order to examine the options available for leveraging the site for the Initiative and recommend the most appropriate course. In the event that the feasibility report confirms the appropriateness of the land exchange option, a pre-tender valuation is obtained and the site is publicly advertised.

Bids received are assessed in terms of value, the number of affordable homes involved and their location, the timeframe for delivery and the design quality of the development. As part of the evaluation process, the value of each bid, taking account of professional valuation advice, is assessed against the pre-tender valuation of the site. In addition to the design quality of the development being a criterion within the assessment process, all affordable homes provided through land exchanges are required to be covered by Homebond or a similar guarantee scheme. Furthermore, as the homes are sold directly by the selected bidder in a similar manner to that which applies to private sales, each affordable purchaser is in a position to have their home inspected and snagged in the normal way before completing the purchase transaction.

#### **Public Procurement Policy.**

152. **Mr. Noonan** asked the Minister for the Environment, Heritage and Local Government if his Department has plans to adopt a green procurement policy to encourage the growth of hybrid vehicles, renewable heating technology, recycled goods and so on; and if he will make a statement on the matter. [30963/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The National Public Procurement Policy Unit of the Department of Finance, which has responsibility for public procurement policy, maintains the website

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*www.etenders.gov.ie*. The website is a centralised portal containing comprehensive information on all aspects of public procurement including the EU Handbook on Environmental Public Procurement which was published in October 2004 by the European Commission and has the aim of explaining to public purchasers how to integrate environmental considerations into their purchasing practices for goods and services. My Department works with the National Public Procurement Policy Unit to provide up to date information on green procurement to users of the website.

A separate action plan on green public procurement, envisaged as part of the implementation of the EU environmental technologies action plan, is currently being prepared by my Department. Green procurement is also promoted by my Department through the inclusion of environmental criteria in the specifications for goods and services purchased for use by the Department itself. In this regard my Department has recently ordered 25 new vehicles capable of running on biofuel products for use by the National Parks and Wildlife Service.

My Department will be supporting and participating in a one day workshop on green public procurement to be held in Dublin on 8 November 2006. The workshop is being organised by the European Commission, in co-operation with ICLEI (Sustainable Local Government) and is aimed at purchasers and policy makers from the public and private sector. Further information on this event can be found on the website: <http://www.iclei-europe.org/gppworkshops>.

#### Waste Management.

153. **Mr. Perry** asked the Minister for the Environment, Heritage and Local Government if he proposes to direct waste contractors that waste be transported by order to specific named waste facilities including incinerators; and if he will make a statement on the matter. [30980/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Section 34 of the Waste Management Act 1996 provides that any person other than a local authority who wishes to collect waste commercially must do so in accordance with a waste collection permit granted by the relevant local authority. A local authority can attach conditions to a waste collection permit including requirements in relation to the location to which waste may be delivered for recovery or disposal. My Department has no function in this regard.

I have recently published a consultation paper on the possible regulation of the waste sector. Submissions have been invited on whether there is a need for a regulator for the sector, on what model of regulator might be most appropriate and on what powers any such regulator should be

given. Among the possible powers discussed in the paper is the power to determine waste movements. Submissions in response to the consultation paper are being taken until 6 October, and I will then consider what policy proposals to take forward.

*Question No. 154 answered with Question No. 129.*

*Questions Nos. 155 and 156 answered with Question No. 130.*

157. **Mr. Pattison** asked the Minister for the Environment, Heritage and Local Government his goals, including timescales and volumes, in respect of waste reduction and waste prevention; his strategy in achieving these goals; and if he will make a statement on the matter. [30890/06]

167. **Mr. Sargent** asked the Minister for the Environment, Heritage and Local Government if he intends introducing legislation to reduce waste production in the current Dáil session. [31091/06]

205. **Mr. Allen** asked the Minister for the Environment, Heritage and Local Government the action he intends to take to tackle the increase in waste generation here, as highlighted in the Environmental Protection Agency's Environment in Focus 2006 report which shows a 64 per cent increase in municipal waste generation since 1995; and if he will make a statement on the matter. [30938/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 157, 167 and 205 together.

A coherent, integrated approach to waste management has been put in place through my Department's policy statements Changing Our Ways, Delivering Change, and Taking Stock and Moving Forward. The Government's approach is based on the internationally recognised waste management hierarchy of prevention/ minimisation, significantly increased levels of recycling, energy recovery and, finally, utilising landfill as the last resort for residual waste that cannot otherwise be recovered.

A key priority currently is the development and roll out of a National Waste Prevention Programme. A Core Prevention Team was established in 2004 in the Environmental Protection Agency (EPA) to develop and drive the Programme. The Core Prevention Team is in the process of developing baseline studies as part of the initial phase of the Programme. The initial budget for the National Waste Prevention Programme is €2m.

A key component of the waste management system in Ireland has been the development of producer responsibility initiatives. The longest-standing of these, in relation to packaging waste,

has been very successful. Repak, the industry based body charged with responsibility for packaging waste recycling, is currently working on a six year strategy that will be based on the principle of waste prevention and will identify initiatives aimed at promoting prevention and minimisation in the area of packaging. More recently, successful producer responsibility initiatives have also been introduced in relation to farm plastics and waste electrical and electronic equipment. I recently made regulations for a further producer responsibility initiative in relation to an EU Directive on end-of-life vehicles. These initiatives are based on the promotion of waste prevention and minimisation objectives. Work is also underway in developing producer responsibility initiatives for waste tyres and for newsprint.

Waste prevention and minimisation has also been actively promoted in the Race Against Waste campaign. The media campaign has focused on the prevention of waste and the need to reduce, reuse and recycle and aims to turn awareness on waste issues into action to reduce the amount of waste being sent to landfill. The campaign has also worked closely with Environmental Awareness Officers in all of the local authorities, who work locally with householders, schools, businesses and community groups. It has encouraged communities to minimise, recycle and compost their waste through the national Tidy Towns competition's Race Against Waste module.

In addition, waste prevention targets for biodegradable waste were recently set out in the National Strategy on Biodegradable Waste. The projections of biodegradable waste arising in future years in the Strategy are based on an expectation that the waste prevention initiatives outlined above will yield benefits in reducing the quantity of biodegradable municipal waste which would be generated in their absence. These targets are: 3% reduction factor in projected Biodegradable Municipal Waste (BMW) generation each year from 2005 to 2007; 4% reduction factor in projected BMW generation in the period 2008 to 2010; 5% reduction factor in projected BMW generation from 2011 to 2013; and a 6% reduction factor in projected BMW generation in the period 2014 to 2016.

I have no immediate plans to introduce further legislation in this area. My Department is currently participating in discussions at EU level on a new Waste Framework Directive which will include provisions on waste prevention. It is likely that legislation will be required to transpose the new waste framework directive into Irish law following agreement being reached by Member States and its coming into effect.

### **Environmental Policy.**

158. **Mr. Gogarty** asked the Minister for the Environment, Heritage and Local Government if he will report on the outcome of the consider-

ation that his Department and the Environmental Protection Agency gave to the European Court of Justice ruling (details supplied). [31087/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** My Department's consideration of the implications of this judgment has been overtaken by the publication by the European Commission in December 2005 of a proposal for a Directive of the European Parliament and of the Council on waste which includes text to deal with this case. The Commission proposal is to exclude unexcavated contaminated soil from the scope of the Directive where already covered by other Community legislation. This proposed directive is currently under negotiation and my Department is actively involved in this process.

### **Planning Issues.**

159. **Mr. English** asked the Minister for the Environment, Heritage and Local Government if he will introduce legislation to allow local authorities to consider educational needs in assessing planning applications for new housing developments; and if he will make a statement on the matter. [30977/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Section 10 of the Planning and Development Act 2000 provides that a development plan must contain objectives for the provision, or facilitation of the provision of services for the community including in particular, schools, crèches and other education and child care facilities.

Under the provisions of section 11(3)(c) of the 2000 Act planning authorities are required when proceeding the review of their development plans, to be pro-active in consulting service and infrastructure providers, including education, to ascertain their long-term plans for the provision of such services in the area.

In this context, local authorities are required to circulate draft development plans and to consult with the Department of Education and Science at relevant stages of the process. This can provide the Department with an opportunity to suggest the reservation of land for educational use.

Section 8 of the Planning and Development Amendment Act, 2002 provides that a local area plan must be consistent with the objectives of the development plan and may include (a) objectives for the zoning of land for the use solely or primarily of particular areas for particular purposes, and (b) such other objectives, in such detail as may be determined by the planning authority, for the proper planning and sustainable development of the area to which it applies, including detail on community facilities and amenities.

In zoning land in a development plan to provide for the creation of new residential communities it would be normal practice for local

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authorities to specify the provision of schools and other community facilities as uses to be permitted within such zonings and to accompany this with an objective to secure the provision of these facilities. Where a more detailed local area plan is prepared for such an area it is normal practice for such a plan to identify specifically the location of the various facilities, including schools, needed to support such communities, essentially reserving the sites for various facilities including sites for schools.

Also, where a Strategic Development Zone has been designated by Government, the planning authority is required to prepare a planning scheme which, inter alia, provides for an integrated approach to the provision on essential community infrastructure, such as schools and child care facilities.

My Department has and will continue to consult and co-operate with the Department of Education and Science, and other relevant Departments and planning authorities, to ensure that the planning process facilitates the strategic provision of educational facilities that support sustainable communities.

#### **Nuclear Safety.**

160. **Mr. Wall** asked the Minister for the Environment, Heritage and Local Government if the Task Force on Emergency Planning and the Office of Emergency Planning have decided to issue the leaflet Safeguarding Ireland from Nuclear Accidents to every household in the State; and if their decision is positive will he agree that at the same time a leaflet should be delivered in relation to the safe disposal of redundant iodine tablets distributed to each house in the State in 2002. [30924/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** My Department's Leaflet Safeguarding Ireland from Nuclear Accidents has recently been widely distributed to libraries and Citizens Information Centres. It is also available on the websites of both my Department — *www.environ.ie* and the Radiological Protection Institute of Ireland, — *www.rpii.ie*. The question of its wider distribution is being considered in the context of a communications strategy currently being developed under the auspices of the Task Force on Emergency Planning and the Office of Emergency Planning. The objective of the communications strategy is to ensure that the public is informed to best effect in relation to emergency planning matters in general.

Matters relating to the distribution, administering and efficacy of iodine tablets in the event of a nuclear accident or emergency are the responsibility of the Minister for Health and Children, as are matters relating to their safe disposal upon expiry. Further information on iodine tab-

lets is available on the website of the Department of Health and Children — *www.dohc.ie*

*Question No. 161 answered with Question No. 149.*

#### **Environmental Policy.**

162. **Mr. Broughan** asked the Minister for the Environment, Heritage and Local Government if he is planning to introduce energy usage certificates for new houses by the end of 2006; and if he will make a statement on the matter. [26645/06]

216. **Mr. Rabbitte** asked the Minister for the Environment, Heritage and Local Government the progress which has been made to date to recruit, train and register the estimated 2000 energy rating assessors required to carry out inspections as set down in the EU Energy Performance Building Directive; and when the register of energy rating assessors is due to be operational. [30913/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 162 and 216 together.

I refer to the reply to Question No. 1511 of 27 September 2006. It is estimated that up to 2,000 building professionals, mainly in the private sector, will require training as Building Energy Rating (BER) assessors, on a phased basis by 2009, for the BER certification of both new and existing buildings — as required under the Energy Performance of Buildings Directive (EPBD).

BERs will be initially required for new dwellings commencing on or after 1 January 2007. To avoid disruption of the house-building programme, there will be a transitional exemption from BER of new dwellings for which planning permission was applied for on or before 30 June 2006, provided the new dwellings involved are substantially completed by 30 June 2008.

BER certificates will be issued by registered assessors who have successfully completed a training programme that: (a) meets the requirements of a Training Specification to be published this week and as proposed in the EPBD Action Plan; and (b) has been validated by a national accreditation body e.g. Further Education and Training Awards Council (FETAC) or Higher Education and Training Awards Council (HETAC).

I understand that a number of educational and professional bodies plan to initiate training programmes. For building professionals with relevant previous experience, the courses will be of short duration and should generally not exceed 1 week.

#### **Recycling Policy.**

163. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government if there needs to be stronger representation from consumer bodies on the recently established

WEEE Monitoring Group in view of recent review of visible environmental charges for WEEE products found that they were too high and recommended that they be reduced. [31082/06]

229. **Dr. Twomey** asked the Minister for the Environment, Heritage and Local Government the amount raised by WEEE contributions on electrical items in the first year of the WEEE charge; the cost of dealing with waste electrical and electronic items in that year; and if he will make a statement on the matter. [30959/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 163 and 229 together.

The EU Directive on Waste Electrical and Electronic Equipment (WEEE) allows producers to show the cost of recovering and recycling “historic” waste i.e. waste arising from electric and electronic products put on the market before 13 August 2005. These costs are referred to as Environmental Management Costs – or EMCs. They are not imposed by, or remitted to, the Government, but are paid by producers to the two collective compliance schemes operating in Ireland, WEEE Ireland and the European Recycling Platform. As schemes are operating under the responsibility of the producers, detailed information on the revenue collected and expenditure incurred to date is not at this stage available in my Department.

The collective schemes are established on a not-for-profit basis and income collected from the operation of EMCs must be used for the environmentally sound management of household WEEE. The collective schemes are also required to submit financial accounts to the Minister; the first such accounts covering the period from the commencement of the scheme in August 2005 to end 2006 are due to be submitted not later than 31 March 2007.

Following a thorough review of the initial EMCs the WEEE Register Society Limited, the industry-based national WEEE registration body, announced reductions for most categories of electrical and electronic equipment in July last and these were implemented with effect from 1 August 2006. A further review of the EMCs applying to fridges and fridge-freezers has now been completed by the WEEE Register and these were implemented with effect from 1 October 2006. These reductions are welcome and result from the WEEE scheme’s remarkable success. In the first 12 months of operation, 27,700 tonnes of household WEEE was collected. This represents approximately 2.3 million electrical and elec-

tronic products. This contrasts to the 5,510 tonnes of this waste type which was recovered in 2004 and indicates widespread public support for the scheme. Consequently, economies of scale exist in the recycling industry that were absent twelve months ago. This has encouraged the establishment of three new WEEE recycling and treatment facilities since August 2005. The lower costs associated in treating WEEE in proximity to where it arises has been a driver in reducing the costs incurred by producers when fulfilling their obligations. This also demonstrates the independence and effectiveness of the current monitoring arrangements.

It is a matter for the WEEE Register, which has an independent Committee of Management, to validate any future revisions. Neither my Department nor the WEEE Monitoring Group has any function in this regard. The WEEE Monitoring Group is made up of representatives from the relevant public and industry sectors. Its remit is to advise me and provide strategic guidance on the implementation and operation of the WEEE Regulations. I have no proposals to expand the membership of the Group.

#### **Consultancy Contracts.**

164. **Mr. P. McGrath** asked the Minister for the Environment, Heritage and Local Government his Department procedures for initiating consultancies; if he will list all his Department’s consultancies since he took office; the estimated and actual cost of same; and if he will make a statement on the matter. [30986/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** My Department has regard to the appropriate Department of Finance guidelines on engaging consultants. In addition, the Department’s internal guidelines require all general contracts over €25,000 and all consultancy contracts, regardless of cost, to be reported to the Department’s Organisation Unit which undertakes a process audit of the procurement prior to award of contract.

Proposals for use of consultancy services by my Department are set out in Divisional business plans, which are reviewed and endorsed by my Department’s management team at the beginning of each year. The resulting programme of proposed consultancy expenditure for has been approved by me, and I am consulted on significant new consultancy proposals on a continuing basis.

A list of consultancies undertaken by my Department since I took office is set out in the table below. In relation to legal advice for which different procurement arrangements apply, I refer to Question No. 1010 of 25 April 2006.

Consultancy	Consultant	Original contract amount	Fee Paid to date	Year of Engagement
Study on EN 1991 Eurocode 1 Action on Structures 1-2 Actions exposed to fire.	BRE — Building Research Establishment – UK	€ 23,340	€ 23,339	2004
Audit on the Implementation of the ERM Report	Environmental Resources Management Ireland Ltd	8,501	8,501	2004
Expert Review of National Emergency Plan for Nuclear Accidents	Environmental Resources Management Ireland Ltd	60,500	42,350	2004
Professional engineering consultancy for bridge at Coronation Planation	Gerard Higgins	6,110	6,110	2004
Professional engineering consultancy for replacement bridges at Knocksink	Gerard Higgins	4,996	4,996	2004
Professional engineering services on building works at Muckross Farm	Jennings O'Donovan & Partners	11,693	11,693	2004
ISDI data holdings and needs scoping study	Local Government Computer Services Board	30,000	30,000	2004
Glenveagh National Park tea rooms review of services	M H Consultancy	6,200	6,200	2004
Study on spatial trends and related issues in rural areas	National Institute For Regional & Spatial Analysis (NIRSA) At NUI Maynooth	42,250	42,250	2004
Consulting engineering services on pathworks at Diamond Hill, Connemara National Park, Co Galway	P.J. Tobin & Co. Ltd	88,352	88,352	2004
Review of the potential for e-m interference with Met Éireann telecommunication equipment	Aegis Systems Ltd, 30 Anyards Road, Cobham, Surrey KT11 2la, UK	11,844	9,789	2005
Preparation of Ireland's National Reports for May 2006 Peer review meeting of the IAEA's Joint Convention	AMEC NNC Ltd	6,366	6,366	2005
Media Support for the Official Launch of Burren life project	Anne Jones	424	424	2005
Tree survey at Coole Park	Arborist Associates Ltd.	7,941	7,941	2005
Preparation of discussion document re Lough Ree	Atkins	7,500	7,500	2005
Design of bookmark	Bennis Design	250	250	2005
Publicity campaign for draft register of electors — 2006/2007	Bloom Advertising	148,158	155,696	2005
Management plan Old Head	C Huxley	6,000	4,200	2005
Safety assessment of underground bat roosts in Co Clare	Colin Bunce	500	500	2005
Gateways investment priorities study	Consortium – Fitzpatrick & Associates, Brady Shipman Martin Town Planning Consultants & International Centre For Local & Regional Development At NUI Maynooth	77,400	77,400	2005
Design of Glenveagh NP Booklet	Creative Inputs	3,025	3,025	2005
Report and surveys re Inch	David Buchanan	6,400	6,400	2005

Consultancy	Consultant	Original contract amount	Fee Paid to date	Year of Engagement
Develop an ICT Strategy for 2006 — 2009	Deloitte & Touche Management Consultants	€ 108,739	€ Nil to date	2006
An assessment of conservation status of turloughs in Ireland	Department of Botany, Trinity College	800,000	200,000	2005
Design of Glenveagh National Park Management Plan	Design Image	1,845	1,845	2005
Design of Wicklow National Park Management Plan	Design Image	1,845	1,845	2005
Consultancy Assignment for Construction Research	DKM Economic Consultants	80,000	78,045	2005
Expert report on tortoises for CITES licensing	Eddie O'Brien	200	200	2005
Clara Bog Visitor Centre Report	Fiona MacGowan	3,650	3,650	2005
Gateways Investment Priorities Study (Consultancy Ongoing)	Fitzpatrick & Associates	100,000	46,827	2005
Review of the implementation of the Government's homeless strategy	Fitzpatrick & Associates	74,536	74,536	2005
Botanical survey-wetlands North Midlands region	Gerry Tobin	8,100	Nil to date	2005
Consultancy in relation to construction of disabled access pier Killarney	Hickey Moynihan Design	7,261	7,261	2005
Review of boat safety operational procedures	John Roberts	986A	986	2005
Osprey Nesting	Lorcan O'Toole Wildlife Consultants	1,401	1,401	2005
Glenveagh National Park Tea Rooms review of services	M H Consultancy	8,400A	8,400	2005
Catering consultant advice re Tea Rooms in Glenveagh	MH Consultancy	19,600	15,600	2005
Garriskil bog site visit & report 4/5/05	Michael Doyle Forestry Consultant	1,331	1,331	2005
Report on rhododendron removal & timber valuation	Michael Doyle Forestry Consultant	2,759	2,759	2005
Visitor Survey Connemara National Park	NUIG	10,000	10,000	2005
Engineering service work at visitors centre at Coole Park, Gort, Galway	OG Engineering Consultants Ltd.	8,441	8,441	2005
Survey of Hares in Ireland 2005	Quercus (Queens University Belfast)	199,500	100,000	2005
Diagram support for the Review of the Framework for Co-ordinated Response to Major Emergencies in Ireland	Risk Management International Ltd.	9,680	9,680	2005
Security and risk assessment on the electronic voting and counting system	Rits	111,683	110,003	2005
Population Research Study (Consultancy Ongoing)	Roger Tym & Partners	30,250	30,250	2005
Botanical survey-wetlands North Midlands region	Rosaleen Dwyer and John Wann	15,720	13,820	2005
Botanical Survey-Woodlands North Midlands region	Saoirse O'Donoghue	8,265	Nil to date	2005
Study of Lesser Horseshoe bats at Moore Hall Co. Mayo	Sinead Biggane	10,950	Nil to date	2005



[Mr. Roche.]

Consultancy	Consultant	Original contract amount	Fee Paid to date	Year of Engagement
Research on exhibition at Coole Park Development/Management of the National Litter Pollution Monitoring System	Sinead McCoole	€ 2,000	€ 2,000	2005
ASI RMP Update (Cork)	TES Consulting Engineers	209,788	104,894	2005
Apartment Size Research Study (Consultancy Ongoing)	The Archaeology Company	35,607	35,607	2005
Research examining the regulation of lobbyists in those states that have formal regulation systems in place	Toal O'Muire	25,000	25,000	2005
ASI RMP Update (Kerry)	Trinity College Dublin In Collaboration With Dublin City University.	28,800	27,878	Λ2005
Ross Island Cave archaeological study, to facilitate bat works	University College Cork	106,210	53,105	2005
All Ireland Paper Mill Study	University College Galway	5,000	5,000	2005
Advice on the delivery of affordable housing in the greater Dublin area	Waste and Resources Action Programme Ltd	82,564	82,564	2005
Review & update of greenhouse gas emission projections in the Kyoto period 2008—2012	William Softe	1,500	1,500	2005
Organic farm management advice, Killarney National Park	ICF Consulting / Byrne Ó Cléirigh Consulting	185,000	185,000	2005-2006
Market research on Smoke Alarm ownership	IOFGA	794	794	2005-2006
Provision of consultancy for INEX 3	Lansdowne Market Research	6,500	8,500	2005-2006
Expert consultancy to assist a review of the major emergency response framework in Ireland	Operational Command Training Organisation Ltd. (OCTO)	50,585	50,585	2005-2006
Study on EN 1991 Eurocode – Wind Study (EN 1991 –1-4)	Operational Command Training Organisation Ltd. (OCTO)	32,900	57,752	2005-2006
Preparation of Local Authority Accounting Manual	BRE — Building Research Establishment – UK	75,000	7,500	2006
Construction research reports	Campbell Consulting & Accounting Services Ltd	8,500	11,858	2006
Monitoring of Archaeological Monuments Programme	DKM Economic Consultants	22,000	21,418	2006
Species Action Plan for Pearl Mussel	Dr. Dermot Harrington	24,000	Nil to date	2006
Conservation Assessment for Pearl Mussel and Nore Pearl Mussel	Dr. Evelyn Moorrens	15,000	7,500	2006
Monitoring of Archaeological Monuments Programme	Dr. Evelyn Moorrens	10,000	5,000	2006
Assessment of the medium to long-term implications of a nuclear incident on the health, environment and economy of Ireland.	Dr. Liam Downey	20,000	Nil to date	2006
Survey of repairs & maintenance	Environmental Resources Management Ireland Limited (ERM)	60,500	Nil to date	2006
	ESRI (Economic & Social Research Institute)	20,900	20,869	2006

Consultancy	Consultant	Original contract amount	Fee Paid to date	Year of Engagement
Review of Local Authority Capital Expenditure	Fitzpatrick Associates	€ 58,505	Nil to date	2006
Professional engineering consultancy for upgrade of green road, Glendalough	Gemma Therese Higgins	34,281	16,592	2006
Communications Advice on Emergency Planning	Grayling	4,840	4,840	2006
Professional Services at Killarney National Park	Hickey Moynihan Design	4,219	4,219	2006
Preparation of Farm Plan for NPWS Lands, Lusmagh, Co. Offaly	M Heffernan & J Staunton, Consultants	2,000	Nil to date	2006
Native Woodland Scheme, preparation of management plan: Clara Vale, Co Wicklow	Michael Doyle, Forestry Consultant	3,000	Nil to date	2006
Native Woodland Scheme, preparation of management plan: Rocks of Clorhane, Co Offaly	Michael Doyle, Forestry Consultant	2,000	Nil to date	2006
Native Woodland Scheme, preparation of management plan: Tomnafinogue, Co Wicklow	Michael Doyle, Forestry Consultant	2,000	Nil to date	2006
Botanical Survey – wetlands North Midlands Region	Natura Environmental Consultants	16,340	Nil to date	2006
Ratherroghan Conservation Study	Oxford Archaeology	24,974	Nil to date	2006
Contract to implement the Recommendations from the 'Invasive Species in Ireland' Report	Quercus Biodiversity and Conservation Biology	208,000	Nil to date	2006
Publicity campaign for draft register of electors — 2007/2008	Young Euro RSCG	999,460	52,753	2006
Comparative Analysis of EU ETS National Allocation plans for the period 2005 — 2008	ECOFYS	35,132	Nil	2006

### Farm Waste Management.

165. **Mr. Deenihan** asked the Minister for the Environment, Heritage and Local Government if he will extend the farm plastics collection scheme to County Kerry; and if he will make a statement on the matter. [30919/06]

186. **Mr. O'Dowd** asked the Minister for the Environment, Heritage and Local Government if he will include all counties in the next spring clean pilot project where local authorities organise special open days to allow farmers to bring their stockpiled farm plastic waste to designated facilities; and if he will make a statement on the matter. [30970/06]

343. **Mr. Naughten** asked the Minister for the Environment, Heritage and Local Government his plans to increase the level of recycling of farm plastics; and if he will make a statement on the matter. [31243/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 165, 186 and 343 together.

To address the issue of accumulated backlogs of farm plastic, designated facilities are being provided on a temporary, once-off basis by local authorities where farmers may deposit stockpiled farm film plastic and silage wrap. This arrangement operated on a pilot basis in the first instance in counties Galway, Clare, Mayo, Offaly and Waterford during June and July of this year. This service is free to the farmer and funding to assist the local authorities is being made available from my Department through the Environment Fund.

The collections were well supported by farmers in the counties participating in the pilot phase leading to large quantities of plastic being deposited at designated sites. A significant finding from the pilot scheme is that it is not possible to operate collections in a large number of counties at the same time due to capacity constraints on the part of recovery operators. Accordingly, it is necessary to roll out the scheme to other areas on a staggered basis. Arising from a comprehensive examination of the information available, I have recently announced that collections of waste silage / bale wrap will now be put in place by Leitrim, Roscommon, Carlow, Longford, North Tipperary and Wicklow County Councils. Announcements regarding further extensions of collections to other areas, including Kerry, will follow completion of collections in those counties taking part in the second phase of the scheme.

The local authority collections are being put in place on a once off basis to remove accumulated silage bale wrap and sheeting from farms. Under the Waste Management (Farm Plastics) Regulations 2001, producers — i.e. manufacturers and importers — of farm plastics (silage bale wrap

and sheeting) are required to take steps to recover farm plastics waste which they have placed on the market or alternatively to contribute to, and participate in, compliance schemes to recover the waste in question. The Irish Farm Film Producers Group (IFFPG) is currently the sole approved body in Ireland for the purposes of implementing a compliance scheme for the recovery of farm plastics waste.

Under the IFFPG scheme, producers apply a levy on the sale of farm plastics that in turn is transferred to the IFFPG for use in funding the collection and recovery of farm plastics waste. In spite of the successful operation of the scheme in recent years, it became apparent this year that the Scheme lacked sufficient resources to satisfy the demand that existed for collections of farm plastics. Therefore, following discussions with the IFFPG, farming organisations and local authorities, last May I announced amendments to the scheme to support improved services to farmers. Under the new arrangements, the scheme is being funded by a combination of the existing levies paid by the producer members of IFFPG who run the scheme and funding from weight based collection charges to be paid by farmers availing of the service. This will improve the operational efficiency of the scheme by incentivising the presentation of clean, dry plastic by farmers. IFFPG estimate that a typical farmer will incur a cost of €50 every second year arising from the introduction of this charge. The effect of the introduction of a charge will be to ensure that supply of collections of farm plastics to farmers can match the demand on an ongoing basis. Collections of film plastic and silage wrap are currently being provided nationwide by the (IFFPG) on this basis.

### Social and Affordable Housing.

166. **Caoimhghín Ó Caoláin** asked the Minister for the Environment, Heritage and Local Government the plans he has to reverse the dilution of Part V of the Planning and Development Act 2000, as the current get-out clauses for developers undermines the original purpose of the Act. [31007/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** A review of Part V of the Planning and Development Act 2000 was carried out to ensure that it was meeting its objectives in relation to social and affordable housing. Complaints had been received that the provisions of Part V were both inflexible and overly bureaucratic and that they were not achieving the desired results of improving the supply of social and affordable housing.

The changes introduced were designed to ensure greater flexibility for all stakeholders in the implementation of Part V. I am satisfied that

the provisions are operating effectively and that the changes made have contributed to the overall delivery of social and affordable housing. Accordingly, I have no plans to institute further changes but will continue to keep its operation under review.

*Question No. 167 answered with Question No. 157.*

#### **Planning Issues.**

168. **Mr. Noonan** asked the Minister for the Environment, Heritage and Local Government his views on whether the scope of development levies should be widened to allow developers provide for facilities such as education and healthcare for new communities; and if he will make a statement on the matter. [30964/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Under Section 48 of the Planning and Development Act 2000, planning authorities may levy development contributions in respect of public infrastructure and facilities provided by, or on behalf of the local authority that benefit development in the area, based on a scheme of contributions adopted for the area. Subject to this, the types of public infrastructure that can be funded by a development contribution scheme are further specified as the acquisition of land, the provision of open spaces, recreational and community facilities and amenities and landscaping works, the provision of roads, car parks, car parking places, sewers, waste water and water treatment facilities, drains and water mains, the provision of bus corridors and lanes, bus interchanges facilities (car parks for those facilities), infrastructure to facilitate public transport, cycle and pedestrian facilities, and traffic calming measures, the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, sewers, waste water and water facilities, drains or water mains, and ancillary matters.

As the provision of educational and healthcare facilities is not at present assigned to local authorities it is not currently possible, under the Planning and Development Act 2000, to apply development contributions towards the cost of such facilities. This issue is being considered by the Interdepartmental Committee, which I established in December 2005 to look at issues raised by different interests in relation to development contributions schemes. I will consider the report of the Committee in deciding in the first instance whether any additional guidance should be issued to planning authorities, in reviewing their schemes. In considering the wider issue of a possible expansion in the types of infrastructure for which development contributions can be used, it will be important that any increase in develop-

ment contributions charges should not have a detrimental effect on the affordability of new housing.

#### **Fire Safety.**

169. **Mr. Crowe** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the fact that there are currently no specific regulations regarding the installation of fire doors in houses that have been altered to suit people with disabilities by putting in lifts; and if he will make a statement on the matter. [31009/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The question of requiring the installation of fire doors in existing houses adapted by the installation of lifts, in order to meet the needs of people with disabilities, will be considered in the context of the next review of Part B (Fire Safety) of the Building Regulations.

#### **Alternative Energy Projects.**

170. **Mr. English** asked the Minister for the Environment, Heritage and Local Government if he intends to review the Wind Energy Development Guidelines; and if he will make a statement on the matter. [30978/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Wind Energy Development Guidelines, which I published on 29 June 2006, provide advice to planning authorities on catering for wind energy through the development plan process. The guidelines are also intended to ensure a consistency of approach throughout the country in the identification of suitable locations for wind energy development and the treatment of planning applications for wind energy developments. Under Section 28 of the Planning and Development Act 2000, the planning authorities and the An Bord Pleanála are required to have regard to any planning guidelines issued to planning authorities in the performance of their functions.

#### **Social and Affordable Housing.**

171. **Mr. M. Higgins** asked the Minister for the Environment, Heritage and Local Government the moneys collected to date by each local authority under Part V of the Planning and Development Act 2000; the acreage of land received by each local authority under Part V of the Act; the amount of funding spent by each local authority in the provision of social and affordable housing; the amount of the land received which has been used by each local authority to build social and affordable housing; the number of houses built by each local authority under Section V to date; and

[Mr. M. Higgins.]

the number of houses built in total in each local authority area since the enactment of the Planning and Development Act 2000. [30895/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** Information to end June 2006 on activity under Part V in each local authority area is on my Department's website at *www.environ.ie*. Information is also published in my Department's Housing Statistics Bulletins, copies of which are available in the Oireachtas Library. While the Bulletins include, inter alia, detailed information on housing activity, loans, social housing output and capital investment in housing, information as to the timescale for the development of lands received under Part V is not available in my Department.

#### **Water and Sewerage Schemes.**

172. **Mr. Naughten** asked the Minister for the Environment, Heritage and Local Government if the grant aid available for group sewerage schemes will be reviewed; and if he will make a statement on the matter. [31023/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** In June 2005 I approved funding for a pilot programme, proposed by the National Rural Water Monitoring Committee, to test a range of new, small-scale wastewater collection and treatment systems under Irish conditions. The pilot programme will also test a low cost, low maintenance system to collect, treat and dispose of effluent from existing septic tanks.

The objective of the pilot programme is to evaluate new approaches to meeting the wastewater collection and treatment needs of rural villages and to examine the potential role for group sewerage schemes in extending the collection systems to households outside the catchment of new or existing sewerage schemes. Construction of the pilot projects is currently in progress and monitoring of the performance of the new infrastructure by the National Rural Water Monitoring Committee will commence immediately after commissioning takes place. I will be asking the National Rural Water Monitoring to report on results as they become available. Overall assessment of the pilot programme will inform any review of the current group sewerage scheme grants.

#### **Housing Grants.**

173. **Mr. Penrose** asked the Minister for the Environment, Heritage and Local Government his views on the fact that elderly people who are vulnerable to radon gas levels in their homes which are above safe levels are in all likelihood

those not in a position, financially, to carry out remediation works to their home; his further views on introducing a radon remediation grant scheme for householders with elderly people and those dependent on social welfare eligible for grant aid; and if he will discuss the introduction of the grant scheme with the Department of Finance during the Estimates process. [30928/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Government, largely through the Radiological Protection Institute of Ireland (RPII), has, for many years now, committed significant resources to assessing the extent of the radon problem throughout the country and to highlighting public awareness of radon and the health risks associated with prolonged exposure to high radon concentrations. Householders, particularly those in high radon areas, are constantly encouraged to have their homes tested for radon and to undertake radon remediation works where necessary.

As stated in reply to previous Questions, most recently Questions Nos. 82 and 98 of 13 June 2006, increasing the awareness of the public is considered to be a more effective approach than the provision of State financial assistance schemes to householders for radon testing of their homes or for radon remediation works. Such schemes of assistance are not operated by the majority of EU Member States. It would be difficult for a demand led scheme of domestic radon grants to ensure appropriate and cost effective targeting of remedial action. Furthermore, such a scheme could require very significant public expenditure and administrative resources.

I should point out that the testing of houses for radon is a relatively straightforward, non-invasive and inexpensive (approximately €50) process, and that in many situations, relatively straightforward and inexpensive remediation measures, such as improved ventilation, can be effective in reducing radon concentration levels.

Government efforts and resources, together with those of the RPII, will continue to focus on highlighting public awareness of radon and on improving information to householders so as to enable and encourage them to address monitoring or remedial requirements effectively and economically.

#### **Planning Issues.**

174. **Dr. Cowley** asked the Minister for the Environment, Heritage and Local Government his views on whether local authorities have failed to implement the correct planning guidelines; his further views on whether planning permission for people sustaining rural areas should be introduced on a statutory basis; and if he will make a statement on the matter. [31080/06]

314. **Dr. Cowley** asked the Minister for the Environment, Heritage and Local Government if he will recommend that Mayo County Council should take example from Galway County Council and adopt the relaxation of stringent planning rules to those in Clár areas; his views on whether this is necessary in the future of these areas; and if he will make a statement on the matter. [31109/06]

321. **Dr. Cowley** asked the Minister for the Environment, Heritage and Local Government if his Department will revise the situation in County Mayo where the planning guidelines are failing as certain aspects are being enforced and others ignored by the planners; and if he will make a statement on the matter. [31115/06]

330. **Dr. Cowley** asked the Minister for the Environment, Heritage and Local Government his views on whether the planning guidelines in County Mayo should be amended in line with new agreed guidelines in County Galway; his further views on whether increased flexibility in relation to planning is necessary in Clár areas; and if he will make a statement on the matter. [31125/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 174, 314, 321 and 330 together.

The Guidelines for Planning Authorities on Sustainable Rural Housing, came into effect in April 2005. These Guidelines have a statutory basis as they were issued under Section 28 of the Planning and Development Act 2000 which requires planning authorities and An Bord Pleanála to have regard to the Guidelines in the performance of their planning functions.

These Guidelines provide that reasonable proposals on suitable sites in rural areas for persons who are part of, contribute to, or have links with the rural community should be accommodated. The Guidelines thus affirm a presumption in favour of quality one off housing for rural communities, provided proposals meet normal standards in relation to matters such as the proper waste water disposal and road safety. The Guidelines also classify rural areas for housing purposes, and specifically address those areas, such as Clár, suffering from de-population. Following the publication of the Guidelines, planning authorities were asked to review their development plans with a view to incorporating any changes necessary to ensure that development plan policies are consistent with the policies set out in the Guidelines.

My Department held two seminars last year for local authority planning officials on the implementation of the Guidelines. The seminars dealt with the overall objectives of the guidelines and

provided practical advice on the implementation of their core provisions, including preparation of development plan policies, providing better support and advice to applicants and more efficient and comprehensive consideration of planning applications.

My Department also held discussions on implementation of the Guidelines with the Planning Committee of the County and City Managers Association. These discussions were around the need to embed regard for the Guidelines, as required by section 28 of the Planning and Development Act 2000, in the performance by local authorities of their relevant functions i.e. in making or reviewing their development plans, in providing planning services to applicants or potential applicants and in deciding on planning applications. My Department will continue to monitor the implementation and effectiveness of the Guidelines.

Finally, I understand that the new agreed guidelines in Galway referred to in the Question is a design guidance booklet which outlines design types and standards which are acceptable in the context of rural housing. Other planning authorities offer similar guidance.

#### **Greenhouse Gas Emissions.**

175. **Mr. Neville** asked the Minister for the Environment, Heritage and Local Government the expected cost of the purchasing of carbon credits as envisaged by the upcoming Carbon Fund Bill; and if he will make a statement on the matter. [30966/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I refer to the reply to Question No. 114 of 4 May 2006. The Government has stated its intention to purchase up to a maximum of 3.607 million allowances per annum over the Kyoto Protocol commitment period 2008-2012. The Government will seek to minimise this purchasing requirement through the achievement of further emissions reductions in the economy. The ultimate cost to the Exchequer will therefore depend on the final purchasing requirement and the price of carbon when the allowances are actually purchased.

In the context of updating national projections of greenhouse gas emissions in the 2008-2012 period, independent consultants ICF Consulting with Byrne Ó Cléirigh have assessed the average price of carbon during the period to be €15 per allowance. At this price, the maximum purchasing requirement would cost €54.1m per annum over the five-year period. The price of carbon allowances in the EU Emissions Trading Scheme on 2 October 2006 was €12.95.

#### **Waste Disposal.**

176. **Ms C. Murphy** asked the Minister for the

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Environment, Heritage and Local Government if he will amend the legislation for licensing domestic waste collection in order that minimum standards of service are available to consumers; and if he will make a statement on the matter. [31020/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I have recently published a consultation paper on the possible regulation of the waste sector. Submissions have been invited on whether there is a need for a regulator for the sector, on what model of regulator might be most appropriate and on what powers any such regulator should be given. Among the possible powers discussed in the paper is the power to determine waste movements. Submissions in response to the consultation paper are being taken until 6 October, and I will then consider what policy proposals to take forward.

#### **Sustainable Development Strategy.**

177. **Mr. Bruton** asked the Minister for the Environment, Heritage and Local Government if his Department has made a proposal to the Department of An Taoiseach to establish an environmental pillar within the framework of social partnership; and if he will make a statement on the matter. [30948/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Comhar, the Sustainable Development Council, is the existing forum through which environmental organisations, together with the other Social Partners, engage in the promotion of sustainable development and the integration of the environment into other sectors.

Comhar was established in 1999 as the forum for national consultation and dialogue on all issues relating to sustainable development. Its 25 members are drawn from five pillars: the State sector, economic sectors, environmental NGOs, social/community NGOs and the professional/academic sector. Comhar is supported by a full-time Secretariat based in St. Andrew Street, Dublin 2.

#### **Recycling Policy.**

178. **Mr. Quinn** asked the Minister for the Environment, Heritage and Local Government the plans he has to encourage or compel local authorities whose recycling rates are below the national target, to extend their kerbside collection of dry recyclables. [30911/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Environmental Protection Agency's National Waste

Reports do not give breakdowns of recycling rates on a local authority basis. The recently published Third Report of the Joint Committee on the Environment and Local Government on Recycling of Household Waste in Ireland and Service Indicators in Local Authorities 2005 published last July by the Local Government Management Services Board, copies of which are available in the Oireachtas library, contain certain information on recycling activity in some or all city and county council areas. However, population and geographic variations between local authority areas make comparisons difficult.

Local authorities have regard to national recycling targets when adopting Regional Waste Management Plans. The Government's policy document on recycling Delivering Change acknowledged that local authorities' Plans generally provide for segregated collections for dry recyclables in all urban areas where it is economically feasible.

My Department is continuing to provide support to local authorities as part of an overall waste management policy that has seen dramatic improvements in waste management performance in recent years as evidenced by increases in national recycling rates to over 34%: doubling the number of bring banks over the period from 1998 to 2004, rising from 837 to 1,929; increasing the number of recycling centres substantially from 30 to 69 over the same period; an increase in the diversion of household waste from landfill from 37,000 tonnes in 1998 to almost 300,000 tonnes, in 2004; the roll-out of segregated collection of recyclables which grew from 70,000 households in 1998 to over 560,000 by 2003 and is continuing to rise; 56% of packaging waste (bottles, cans, cardboard etc) recycled in 2004, one year ahead of the 50% target required under EU Law, up from 15% in 1998; and the EPA estimate that 85.2% of construction and demolition waste was recycled in 2004.

*Question No. 179 answered with Question No. 115.*

*Question No. 180 answered with Question No. 137.*

#### **Greenhouse Gas Emissions.**

181. **Mr. Gormley** asked the Minister for the Environment, Heritage and Local Government if he will provide figures for the amount of greenhouse gases produced from the combustion of a tonne of domestic waste in the type of incinerators that he hopes to build here; the net amount of electricity that he hopes will be provided from the same amount of waste; and if he will make a statement on the matter. [31088/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** While the use of

thermal treatment of waste with energy recovery is recognised by Government policy as a key component of an integrated approach to waste management, the provision of such waste to energy plants is a matter for the relevant local authorities or the private sector. All such facilities are required to be licensed by the Environmental Protection Agency so as at a minimum to meet the requirements of the EU Incineration Directive. The emissions and thermal output from individual plants will be a function of their scale and the technology employed and will be governed by the waste licence. The Minister for the Environment, Heritage and Local Government is specifically precluded from exercising any power or control in relation to the performance by the EPA of its functions in particular circumstances.

#### **Carbon Dioxide Emissions.**

182. **Mr. G. Murphy** asked the Minister for the Environment, Heritage and Local Government if his Department intends to initiate a scheme of energy efficiency labelling for private motor vehicles; and if he will make a statement on the matter. [30939/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The National Climate Change Strategy proposed to implement a system of fuel economy labelling for new cars and the monitoring of carbon dioxide emissions rates for all newly registered cars. Since August 2001, regulations require all new passenger cars for sale to be individually labelled with fuel economy and carbon dioxide emissions information. A report on the implementation of the National Climate Change Strategy, Ireland's Pathway to Kyoto Compliance, which was published in July 2006 for public consultation, proposed that public awareness of the carbon dioxide emissions from each vehicle model might be increased through a redesign of the existing fuel economy label. I will consider final decisions in relation to this proposal in light of submissions received from the public consultation.

#### **Recycling Policy.**

183. **Mr. P. Breen** asked the Minister for the Environment, Heritage and Local Government the steps he intends to take to support a domestic recycling industry; and if he will make a statement on the matter. [30935/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** One of the main barriers to an improved and sustainable recycling performance is the lack of stable and economically attractive markets and outlets for recyclable materials and products manufactured from recycled products. The need for the establishment

of a Market Development Group, which would oversee the development of a Market Development Programme, was outlined in the Delivering Change policy statement and the Agreed Programme for Government.

The Market Development Group, established in July 2004, has an independent Chairperson and comprises representatives from the Environmental Protection Agency, Enterprise Ireland, the National Standards Authority of Ireland, the Irish Business and Employers Federation, the Irish Waste Management Association, the Small Firms Association, the Irish Small and Medium Enterprises Association, the City and County Managers' Association, the Clean Technology Centre, the Department of Enterprise, Trade and Employment, and the Department of the Environment, Heritage and Local Government. Enterprise Ireland provides secretariat to the Group.

The Programme which the Group is developing will identify new applications and markets for recyclable material and secondary recycled products. The Group has been asked to identify barriers to the use and marketing of recyclable material and to develop strategies to address these. The work of the Group is currently focusing on three priority waste streams: paper, plastic and compost. Among the key issues to be addressed are promoting stable demand for recovered materials, supporting the achievement of economies of scale in the production of products made from recycled materials and the need for more recycling infrastructure in Ireland to reduce reliance on overseas markets. The Market Development Programme is being finalised at present for publication later this year.

#### **Waste Management.**

184. **Mr. Stanton** asked the Minister for the Environment, Heritage and Local Government the plans he has to introduce a national waste waiver system through local authorities for low income households; and if he will make a statement on the matter. [31003/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Waste management services have traditionally been provided at a local level, with individual arrangements being locally determined and tailored to local circumstances. The present legal framework, as determined by the Oireachtas, reflects this. In accordance with section 52 of the Protection of the Environment Act 2003, the determination of waste management charges, and any associated waiver scheme, is a matter for the relevant local authority, where it acts as the service provider. Similarly, where a private operator provides the collection service, it is a matter for that operator to determine charges. I have asked local auth-



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orities to engage with commercial waste collectors to agree on arrangements to assist lower-income households by offering alternative payment methods to an annual lump-sum.

I have also recently published a consultation paper on the possible economic regulation of the waste sector. Submissions have been invited on whether there is a need for a regulator for the sector, on what model of regulator might be most appropriate and on what powers any such regulator should be given. Among the possible powers discussed in the paper is the power to impose a public service obligation which might facilitate the provision of a waste collection service to households where there is a geographical or financial barrier to service provision. When I have considered submissions in response to the consultation I will determine what policy proposals to take forward.

*Question No. 185 answered with Question No. 119.*

*Question No. 186 answered with Question No. 165.*

#### **Water and Sewerage Schemes.**

187. **Mr. Deenihan** asked the Minister for the Environment, Heritage and Local Government the position regarding a sewerage scheme (details supplied) in County Kerry; and if he will make a statement on the matter. [30920/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Stage 2 of the Castleisland Sewerage Scheme is included in my Department's Water Services Investment Programme 2005-2007 as a scheme to commence construction in 2007 at an estimated cost of €5.5m. Kerry County Council's Preliminary Report and Water Services Pricing Policy Report for the scheme are under examination in my Department and will be dealt with shortly. Approval of these reports will allow the Council to draw up the contract documents.

#### **Radon Gas Levels.**

188. **Mr. Stagg** asked the Minister for the Environment, Heritage and Local Government if he will launch a major initiative in areas prone to high radon levels which are known from the radon maps exercise with a view to testing homes in these areas in a concerted, co-ordinated manner in view of the statement from the RPI that they estimate that there are 91,000 homes in the State which have high levels of radon gas, and the fact that only 3,900 of these homes have been identified to date. [30922/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Government has, 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, the nationwide survey of radon in domestic dwellings carried out by the RPII in the 1990s enabled the RPII to identify and define high radon areas, i.e. areas where the RPII would estimate that more than 10% of the houses have radon concentrations levels above the National Reference Level of 200 Becquerels per cubic metre. These areas, as referred to in the Question, are identified in a map produced by the RPII which is available on the RPII's website [www.rpii.ie](http://www.rpii.ie).

Information to the public from the RPII, through press releases and radio and TV interviews, and published reports on radon, has regularly highlighted the risks associated with exposure to radon. Householders, particularly those in high radon areas, are constantly encouraged to have their homes tested for radon and to undertake radon remediation works where necessary. Other initiatives to further heighten public awareness of the radon issue include the RPII's annual National Radon Forum. The aim of these Fora, the first of which was held in 2002, is to provide the opportunity for those with an interest in radon to come together and discuss issues of mutual interest. These Fora are open to the public and, therefore, help to further raise public awareness of radon. The 5th Forum is scheduled for November 2006.

The RPII has published a booklet entitled *Understanding Radon — A Householder's Guide*, and has also produced and distributed an information poster on radon for display in libraries, medical centres, etc., advising people to have their homes checked for radon. In 2004, as part of a heightened radon awareness campaign, the RPII began a series of nationwide public information seminars, or roadshows, on the dangers of radon which are targeted at selected high radon areas. These involve the RPII meeting with local groups, including where possible, the local authority and/or the local chamber of commerce; presentations to schools; hand-outs in shopping centres, etc. over a 2 to 3 day period. So far, the RPII has held 7 of these seminars or roadshows in different locations throughout the country and more are planned.

Recent research commissioned by the RPII has found that 75% of the general population are aware of radon. In addition, over the past two years, there has been a significant increase in the number of radon measurements undertaken by householders compared with previous years. I believe that the continuous campaign advising on radon risk, radon testing and radon remediation

represents a proper provision of public information. Both the RPII and my Department will continue with this approach and urge householders, particularly those in high radon areas, both to have their homes tested for radon and to undertake, if necessary, the appropriate remediation works. Every effort will also be made to provide information to householders and employers so that they can carry out monitoring and remedial work effectively and economically should it be necessary.

#### **Environmental Policy.**

189. **Mr. Bruton** asked the Minister for the Environment, Heritage and Local Government the reason his Department refused to support an Office of Public Works proposal to use so-called green cement in public building projects; and if he will make a statement on the matter. [30947/06]

199. **Mr. O'Shea** asked the Minister for the Environment, Heritage and Local Government the representations made to his Department in relation to the Office of Public Works proposals on the use of green cement in public building projects; the main criticisms made by the cement manufacturers association to the proposal; his reasons for declining to support the proposal; the plans he has to reverse this decision in increase the use of green cement as part of the effort to meet our Kyoto commitments; and if he will make a statement on the matter. [30905/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 189 and 199 together.

My Department is committed to encouraging consideration of environmentally friendly products and processes in the construction industry generally and particularly in the local government sector for which it has overall responsibility. In line with this approach, and with the co-operation of the industry, my Department has already promoted major advances in the recycling of construction and demolition waste. In this context, my Department will write shortly to all local authorities spelling out the relevance of updated EU procurement directives, which enable environmentally friendly considerations to be taken into account when procuring public infrastructure.

The recent initiative by OPW on the specification of cements in buildings to be produced by them is welcome in this context. Concerns regarding this initiative were expressed to my Department by the Irish Cement Foundation, my Department's response was to advise that these concerns should be addressed directly to OPW.

The National Climate Change Strategy and the implementation of the EU Emissions Trading Scheme demonstrate the Government's commit-

ment to reducing Ireland's carbon emissions and my Department will work with all concerned to make progress in this vitally important area.

#### **Election Management System.**

190. **Mr. J. O'Keeffe** asked the Minister for the Environment, Heritage and Local Government his Department's policy on the election of 18 to 21 year olds to Dáil Éireann; and if he will make a statement on the matter. [30943/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The matter was considered by the Constitution Review Group in 1996 who recommended no change in the qualifying age for membership of Dáil Éireann. The All-Party Oireachtas Committee on the Constitution, in its Seventh Report on Parliament which was published in 2002, recommended that the minimum age of eligibility be reduced to eighteen years. While electoral law is subject to ongoing review, there are no current proposals to alter the existing arrangements.

#### **National Development Plan.**

191. **Mr. Hogan** asked the Minister for the Environment, Heritage and Local Government the action he intends to take on foot of the Environment in Focus 2006 report from the Environmental Protection Agency; and if he will make a statement on the matter. [30931/06]

197. **Ms Burton** asked the Minister for the Environment, Heritage and Local Government his views of the key findings of the EPA Environment in Focus Report, 2006; the measures his Department intends to include in formulating the latest National Development Plan, particularly in the area of environmental infrastructure, in response to the information contained in the report; and if he will make a statement on the matter. [30892/06]

224. **Mr. Hogan** asked the Minister for the Environment, Heritage and Local Government his assessment of the recently published Environment in Focus 2006 report from the Environmental Protection Agency; and if he will make a statement on the matter. [30930/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 191, 197 and 224 together.

I welcome the key findings of the EPA's Environment in Focus Report 2006 which, whilst highlighting the pressure points in our environment for the future, acknowledges that we are continuing to make steady progress in a wide range of environmental areas, including waste management, recycling, water and air quality. Without prejudice to final decisions on the National

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Development Plan 2007-2013, it can be anticipated the new NDP, like the current one, will make provision for major investment in environmental infrastructure to target the pressure points and challenges for the environment associated with the continued high levels of economic activity and population growth.

#### Water Services.

192. **Mr. Gormley** asked the Minister for the Environment, Heritage and Local Government his views on whether it is desirable to introduce a constitutional change to ensure that water cannot be privatised. [29600/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I assume that the question is referring to the provision of water services.

I consider that the optimum approach to water services provision is the existing arrangement with local authorities providing public water services and group water schemes, in partnership with local authorities, providing water services in rural areas outside the catchment area of public schemes. This approach is underpinned by the Water Services Bill currently before the Dáil.

A Constitutional amendment would not seem necessary or appropriate to support this approach because, *inter alia*, it could undermine water services delivery in rural areas, effectively preventing the group water scheme sector from providing water services.

#### Local Authority Grants.

193. **Mr. Crowe** asked the Minister for the Environment, Heritage and Local Government if he has completed his review of the disabled persons grant and when it will be published. [31010/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** The review of the Disabled Persons Grant scheme, which incorporates the conditions governing the Essential Repairs Grant scheme and the Special Housing Aid for the Elderly Scheme, was recently finalised within my Department.

Proposals for the future operation of the schemes are now being prepared by my Department, in consultation with other public agencies concerned, and I expect to be in a position to announce these shortly.

#### Nuclear Plants.

194. **Mr. S. Ryan** asked the Minister for the Environment, Heritage and Local Government the actions he proposes to take following the

announcement of the conclusion of the UK Energy Review on 11 July, 2006 which allows for the building of additional nuclear power plants in the UK, in view of his condemnation of the original decision. [30921/06]

217. **Mr. G. Mitchell** asked the Minister for the Environment, Heritage and Local Government if he has considered an alternative strategy to persuade the British authorities to shut Sellafield on foot of the July 2006 publication of the UK energy review which favours greater reliance on nuclear power; and if he will make a statement on the matter. [30960/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 194 and 217 together.

The United Kingdom Government published the report on the UK Energy Review on 11 July 2006. The report sets out the UK strategy for ensuring its energy future and makes clear that the UK Government believes that nuclear has a significant role to play in the future electricity generating mix.

The Green Paper on a European Energy Policy published by the European Commission in March recognises that each member State will have to meet its energy needs in accordance with choices based on its own national preferences and taking into account sustainability, competitiveness, energy efficiency and security of supply. This applies to Ireland which has a non-nuclear stance, and to all other Member States.

Ireland remains firmly opposed to the use of nuclear energy to generate electric power, on the grounds that it poses many risks to human health, the economy and the environment, as well as risks associated with waste and transport. While other countries are sovereign in relation to energy mix options, adverse environmental consequences have arisen for Ireland as a result of nuclear policy decisions and actions adopted by the UK in the past and any proposals by the UK to develop new nuclear capacity must be addressed in this context. In particular, the impact of UK nuclear policy decisions on the continued operation of the Sellafield reprocessing plant are of serious concern to the Government. Our concerns in this regard have been consistently articulated to the UK administration at Prime Minister, Ministerial and official level and by way of input to the consultation process undertaken by the UK as part of its Energy Review. I will be meeting the UK Secretary of State for Trade and Industry, Mr. Alistair Darling, shortly and I will again outline the Irish Government's significant concerns regarding the outcome of the UK Energy review.

Irish Government policy continues to reflect our firm view that the existence of Sellafield is an unacceptable threat to Ireland and that it should

be closed. We will continue to take every opportunity to make our views regarding Sellafield known to the UK Government at the highest levels. The Government will also continue to use every legal and diplomatic avenue open to it to secure the closure and safe decommissioning of the Sellafield Nuclear Plant.

### **Building Regulations.**

195. **Mr. Ferris** asked the Minister for the Environment, Heritage and Local Government the number of investigations carried out by local authorities into developments to ensure that all new buildings, public and private, must be accessible to people with disabilities in view of Building Regulations 2000; the actions which were taken as a result of same; the measures his Department will take to ensure compliance in future. [31012/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Under the Building Control Act 1990, the enforcement of the Building Regulations is primarily the responsibility of each local building control authority.

According to enforcement statistics furnished by local building control authorities to my Department, the authorities carried out more than 22,000 inspections of 18,000 buildings in 2005 in order to check compliance with various Parts of the Building Regulations, including Part M (Access for People with Disabilities). The authorities served 17 Enforcement Notices and instituted 44 summary prosecutions. 24 out of 37 authorities also sought the cooperation of builders to bring about compliance through the issue of warning or advisory letters.

A breakdown of enforcement action for each Part of the Regulations is not available in my Department. In some cases, building works may have failed to comply with several parts of the building code.

I consider that the priority should be to ensure that compliance with Part M is properly addressed at design rather than seeking to address disabled access problems at the construction stage — when practical and financial problems may inhibit achieving full compliance. Accordingly, the Building Control Bill 2005 provides for the introduction of a Disability Access Certificate (DAC) system, whereby the design of new non domestic buildings and the common areas of new apartment blocks must be certified as complying with Part M by the local building control authority. The introduction of the proposed DAC system will implement a core recommendation of the Report of the Commission on the Commission on the Status of People with Disabilities.

### **National Spatial Strategy.**

196. **Mr. Hayes** asked the Minister for the Environment, Heritage and Local Government the progress to date on the monitoring and implementation of the National Spatial Strategy; and if he will make a statement on the matter. [30982/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** At national level substantial progress is being made in implementing the National Spatial Strategy (NSS), which is having an increasing influence on policies and programmes across a range of Government Departments and agencies.

At regional level, a key policy bridge between national development priorities and local planning has been put in place with the adoption of Regional Planning Guidelines to provide a strategic framework for local planning.

At county and city level, strategic land use and planning frameworks for all the Gateways are almost complete.

The potential impact of the Strategy in terms of achieving more balanced regional development has been underscored by the Government's decision in July 2005 that the regional dimension of the next National Development Plan, now in preparation, will be broadly based on the NSS. The priorities of the NSS and regional planning guidelines have also been recognised in the Government's 10-year investment plan for transport, *Transport 21*.

To support the development of the NSS Gateways, my Department in conjunction with Forfás, commissioned a major report, which has now been completed and will be published this week. It addresses their potential for accelerated development in housing, commercial and employment terms and the key infrastructure priorities that will be necessary to facilitate such development. Similar work is also being undertaken in relation to the hubs identified in the NSS.

Also, I recently launched the Atlantic Gateways Initiative which aims to identify how Cork, Galway, Limerick and Waterford can collaboratively create a critical mass for future economic development as a counter-balance to Dublin and the East. The report, with recommended actions and timescales, explores how the four gateways can become an increasingly interconnected and developed network of co-operating and complementary cities. This can, in turn, enhance the development potential of all four gateways and invigorate development in the hub towns and the wider urban and rural catchment areas.

Draft Guidelines for Planning Authorities on Development Plans were published for public consultation last April. These Guidelines emphasise the importance within such plans of creating a clear strategic framework for the proper plan-

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ning and sustainable development of the relevant area consistent with the longer-term aims set out in the National Spatial Strategy and regional planning guidelines. Comments on the Draft Guidelines are currently being considered by my Department with a view to finalising the Guidelines in the near future.

My Department, in co-operation with other relevant Departments, is also pursuing measures to enhance co-operation on spatial planning and infrastructural investment across the island of Ireland, as endorsed by the British-Irish Intergovernmental Conference. As announced following a meeting of the Conference on 2 May, my Department, working in conjunction with the Department of Regional Development in Northern Ireland, is preparing a framework for collaborative action between the NSS and the Regional Development Strategy for Northern Ireland to assist in creating conditions that will facilitate enhanced competitiveness on the island.

*Question No. 197 answered with Question No. 191.*

#### **Public Procurement Policy.**

198. **Mr. Gogarty** asked the Minister for the Environment, Heritage and Local Government if he is satisfied that procurement procedures by his Department and by local authorities are in line with The Green Procurement Interpretative Communication of July 2001 of EU Directives (details supplied); and if he will make a statement on the matter. [31086/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Public Procurement Directives 2004/17/EC and 2004/18/EC adopted on 31 March 2004 supersede those referred to in the Question. The circumstances under which tender specifications and award criteria may take account of environmental considerations are set out in these Directives which were brought to the attention of local authorities by circular letter issued by my Department in August 2004. My Department will be writing to all local authorities shortly pointing out again that these Procurement Directives enable environmentally friendly considerations to be taken into account during procurement.

The EU Handbook on Green Procurement, published by the European Commission, is available to all staff in my Department involved in procurement. In addition, internal departmental guidelines require all general contracts over €25,000 and all consultancy contracts, regardless of cost, to be reported to my Department's Organisation Unit, which undertakes a process audit of the procurement prior to award of con-

tract; environmental considerations are part of this process audit.

*Question No. 199 answered with Question No. 189.*

#### **Water Quality.**

200. **Mr. O'Shea** asked the Minister for the Environment, Heritage and Local Government the remedial measures he will take in order to protect fresh and coastal water resources in view of the warnings from the Environmental Protection Agency following the publication of the EPA report, Water Quality in Ireland, 2005; if he is satisfied that the river basin districts established under the Water Framework Directive are operating to their fullest potential; and if he will make a statement on the matter. [30906/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I refer to the reply to Question No. 117 on today's Order Paper.

A comprehensive programme of activities is currently underway by my Department, the EPA, local authorities and other relevant bodies for full implementation of the Water Framework Directive. To date, all implementation deadlines set by the Directive have been achieved on time by Ireland. The River Basin Management Plans to be adopted by June-2009 will set out the environmental objectives to be achieved during the 6-year plan period together with the programme of measures which will be required to deliver on these objectives.

The implementation of the Water Framework Directive under the European Communities (Water Policy) Regulations 2003, requires a coordinated approach to water management in respect of whole river basins. This is being supported by river basin district projects, led by local authorities, together with a wide range of research and other projects funded under the National Development Plan. INTERREG funding is also being applied in relation to cross-border projects. My Department has committed 100% funding amounting to some €63 million for these activities and considers that the river basin management projects are working very effectively.

The achievement of improvements in water quality will be significantly supported by the ongoing investment under the Water Services Investment Programme and by implementation of the Nitrates Action Programme, which will be key elements within the overall programme of measures under the Water Framework Directive. Some €2 billion has been invested since 2000 on the provision of new and upgraded waste water services under my Department's Water Services Investment Programme. Significant funding is

also being provided by my colleague the Minister for Agriculture and Food under the Farm Waste Management Scheme to support investment by farmers to meet the requirements of the Nitrates Action Programme.

I am satisfied with the progress made so far in implementing the Water Framework Directive and I expect that we will see significant improvements in the quality of our fresh and coastal water resources, which will be reflected in EPA Water Quality Reports over the coming years.

*Question No. 201 answered with Question No. 137.*

### EU Directives.

202. **Ms McManus** asked the Minister for the Environment, Heritage and Local Government the details of which parts of the Aarhus Convention Agreement and its associated EU Directives 2003/4/EC and 2003/35/EC have been ratified or transposed into Irish law to date; if he will set out for each part of the Aarhus Convention Agreement and its associated EU Directives 2003/4/EC and 2003/35/EC which have been ratified or transposed into Irish law; the date on which this occurred; the legislative instrument used to do this; and if he will make a statement on the matter. [30902/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Ireland signed the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters on 25 June 1998. Progress towards ratification of the Convention is closely aligned with work at EU level. To date, the European Union has adopted two directives as part of the ratification process for the Convention. These deal with public access to environmental information (2003/4/EC) and public participation in certain environmental decision-making procedures (2003/35/EC). Ratification of the Convention will take place after these Directives have been transposed into Irish Law.

Work is continuing in my Department with regard to the transposition of these two Directives and will be completed as soon as possible. When the above work on transposition is completed, the instrument of ratification of the Aarhus Convention will be laid before the Dáil in accordance with the requirements of the Constitution.

### Social and Affordable Housing.

203. **Mr. Timmins** asked the Minister for the Environment, Heritage and Local Government the amount of moneys given by developers to local authorities in lieu of the provision of housing units under Part V of the Planning and

Development Acts since 2001; and if he will make a statement on the matter. [30968/06]

212. **Mr. Howlin** asked the Minister for the Environment, Heritage and Local Government the measures he will take to ensure that local authorities prioritise the provision of affordable and social housing over the taking of financial compensation from developers; if he will give more stringent directions to local authorities to ensure that this happens; and if he will make a statement on the matter. [30898/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I propose to answer Questions Nos. 203 and 212 together.

Under Part V of the Planning and Development Acts 2000-2006 planning authorities are required, in developing their housing strategies, to ensure that policies and objectives are in place that will counteract undue social segregation in housing developments between people of different social backgrounds. Furthermore, local authorities are statutorily obliged in their Part V negotiations to ensure that each agreement delivers the best possible result in terms of overall housing supply and social integration for their area.

Having regard to these statutory obligations, local authorities may decide that it is preferable to accept a monetary contribution. This is in lieu of a percentage of the land which is subject to the planning application and is not in lieu of housing units. All funds collected, local authorities have received some €38 million up to end June 2006, are ring fenced for housing capital purposes. It is estimated that the financial contributions received under Part V represent just 13% of the total yield from Part V.

The delivery of housing units is my preferred option when reaching agreement with developers and I have and will continue to press all authorities to vigorously pursue this option in their Part V negotiations.

*Question No. 204 answered with Question No. 133.*

*Question No. 205 answered with Question No. 157.*

### Departmental Strategy Statements.

206. **Mr. P. McGrath** asked the Minister for the Environment, Heritage and Local Government if he will publish his Department's business plans under all headings and divisions for 2006; and if he will make a statement on the matter. [30985/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** In accordance

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with the Performance Management framework for the Civil Service, business plans are prepared in my Department each year, which translate the goals and objectives set out in the Department's Statement of Strategy into a set of objectives for each business unit. In accordance with the Public Service Management Act 1997, the Department's Statement of Strategy and its Annual Reports (which report progress on the implementation of the objectives set out in the Statement of Strategy) are published, but it has not been the practice to publish business plans.

*Question No. 207 answered with Question No. 119.*

#### Departmental Agencies.

208. **Mr. Timmins** asked the Minister for the Environment, Heritage and Local Government the procedures in place and applied to payment to members of boards of agencies in relation to

taxation of payments to members of boards of agencies; the advice given by the Revenue Commissioners on this matter; the membership and payments to all members of boards of agencies under the aegis of his Department since 1997; and if he will make a statement on the matter.  
[30989/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The following table sets out the membership and payments (other than travel and subsistence expenses) made since 1997 to members of the state bodies/agencies currently under the aegis of my Department. The procedures for taxation of such payments are a matter for each of the bodies/agencies concerned subject to compliance with the Revenue Commissioners Statement of Practice SP — IT/1/04 Tax Treatment of Remuneration of Members of State and State Sponsored Committees and Boards which is available on the Revenue Commissioners website at [www.revenue.ie](http://www.revenue.ie).

Name of State body	Names of appointees to boards since 1997	Payments to appointee
Local Government Management Services Board	Jim Lillis Peter McCann Danny McElhinney Tony Boland Kevin Cullen Peter Greene Joe Allen Aidan Kinch	€ No fees payable.
Affordable Homes Partnership	Des Geraghty (Chairperson) Mary Lambkin Mary Higgins Maureen Lynott Mary Mooney Dublin City Manager*  Fingal County Manager* South Dublin County Manager* Dún Laoghaire-Rathdown County Manager* CEO of Partnership*	12,441.89 3,068.53 3,068.53 Nil 1,150.28 The appointees marked * are ex-officio and do not receive payment in respect of their Board membership
An Bord Pleanála	John O'Connor (Chairperson)  Brendan Aherne (Temporary Appointment) Margaret Byrne Lewis Clohessy Derek Maynard	No fees payable The chairperson and members are paid salaries as they are executive board members.

Name of State body	Names of appointees to boards since 1997	Payments to appointee
	Ken Mawhinney (Temporary Appointment) Michael Ward (Temporary Appointment) Rosalind Nixon Brian Hunt (Deputy Chairperson) Michael Wall Ann Quinn (Deputy Chairman) Donough Murphy Angela Tunney Mary Bryan Berna Grist Brian Swift Jane Doyle Karl Kent Tom O'Connor (Temporary Appointment)	€
Environmental Protection Agency (EPA)	Mary Kelly, Director General  Laura Burke Padraig Larkin Dara Lynott Larry Stapleton  <i>Former Directors</i> Declan Burns Ann Butler Gerry Carty Iain MacClean Liam McCoumiskey (Deceased) Marie Sherwood	No fees payable. The Director General and Directors are paid salaries as they are executive members of the agency.
*Radiological Protection Institute of Ireland (RPII)	F J Mulligan (Chairman) W Blunnie G Burke A Dowling J Fitzmaurice  L Malone D Muckian A Roche E Fitzgerald T Connellan Mary Coffee F J Turvey K Byrne S Darby Michael Hurley E Kennedy (Chairman) P Gilligan	31,955 17,459.00 25,797 21,112 25,797  25,796 21,905 25,797 8,541 25,797 926 21,819 24,871.00 15,215.00 7,959.00 1,978.00 1,272.00





Name of State body	Names of appointees to boards since 1997	Payments to appointee
	Mr. Noel Dillon Cllr. Maura Kilbride-Harkin Cllr. James Larkin (died 28/09/98 and replaced by Cllr. Dermot Ryan on 21/12/98) Cllr. Patrick Power (resigned June 99 and replaced by Cllr. Michael Leahy on 17/11/99) Sean Phillips Marie Reddan William G. Simpson (resigned October 2002)	€ Nil Nil Nil Nil Nil Nil Nil
Dublin Docklands Development Authority	Lar Bradshaw Lewis Glucksman Jim Lacey John McCarthy Mary Bergin Prof P J Drudy John Egan Sean Fitzpatrick Cyril Forbes Joan O'Connor John O'Connor Mary Moylan Declan McCourt Niamh O'Sullivan Angela Cavandish Donall Curtin	33,382.84 2,645.00 2,645.00 Nil 36,824.00 36,824.00 36,824.00 73,076.00 35,867.00 81,012.00 Nil Nil 44,188.00 44,188.00 44,188.00 44,188.00
Building Regulations Advisory Body (BRAB)	Patrick Morrissey Tom Carey Michael Collins Mirette Corboy Leo Crehan Eugene Farrell Patrick Forkan Rosaleen Gallagher Denise Germaine Brian Hendrick Brid Kelly Derek Maynard Jeanne Meldon John McCarthy Michael McCarthy Sean McCarthy Attracta McCay Niamh O'Doherty Krystyna Rawicz Nicholas Ryan Paul Kelly Professor Owen Lewis Maria Melia Ann Mills	19,678.47 Nil Nil Nil Nil Nil Nil Nil Nil Nil Nil Nil Nil Nil Nil Nil Nil Nil Nil 35,803.72 Nil Nil





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Name of State body	Names of appointees to boards since 1997	Payments to appointee
		€
	Des Cummins	Nil
	Jim Devlin	Nil
	Brendan Leahy	Nil
	Mary Kelly	Nil
	Terence O'Donnell	Nil
	Fergus Whelan	Nil
	Karin Dubsy	Nil
	Philip Geoghegan	Nil
	Jeanne Meldon	Nil
	Gráinne O'Leary	Nil
	Sadhbh O'Neill	Nil
	Jennifer Wann	Nil
	Anne Clune	Nil
	Josephine Henry	Nil
	Liz O'Brien	Nil
	Seán Regan	Nil
	Bernie Walsh	Nil
	T. Kieran Kennedy	Nil
	Richard Moles	Nil
	Máire Ní Chionna	Nil
	Aileen Payne	Nil
	Cllr. Jim Shortt	Nil
	Olga Carey	Nil
	Donal Buckley	Nil
	Sandra Kehoe	Nil
	Padraig Haugh	Nil
	Ruaidhrí Deasy	Nil
	Elaine Nevin	Nil
	Liz Cullen	Nil
	Pat Finnegan	Nil
	David Healy	Nil
	Emer Ó Siochrú	Nil
	Bernie Walsh	Nil
	Br. Kevin Codd	Nil
	Sharyn Long	Nil
	Josephine Henry	Nil
	Billy Murphy	Nil
	Richard Moles	Nil
	Rachel Kenny	Nil
	John Hammond	Nil
	James Pike	Nil
	Frank Convery	Nil
	Tony Larkin	Nil
	Tom O'Mahony	Nil
	Cllr. Therese Ridge	Nil
	Laura Burke	Nil
	Niamh Hunt	Nil
	Donal Buckley	Nil
	Paula Carey	Nil
	Emer Dunne	Nil

Name of State body	Names of appointees to boards since 1997	Payments to appointee
	Ruaidhrí Deasy Aoife Cassidy Pat Finnegan David Healy Richard Douthwaite Ornagh Darcy Matthew Seebach Caitriona Maguire Carmel Sheridan Emer Colleran	€ Nil Nil Nil Nil Nil Nil Nil Nil Nil
The Housing Finance Agency	James Hehir Finola Kennedy (Chair) Ciaran Murphy Daniel Hurley Finbarr Kennelly Fr. Patrick Cogan Terence Cosgrave Mari Hurley Maureen Lynott Nuala Fennell Patricia Robinson Patrick d'Arcy Thomas Corcoran Thomas Cullen Edward Coffey (Chair) Áine Stapleton Brenda McVeigh Jackie Maguire Larry Butler Lorcan Allen Maria Graham Mary Malcolm Michael Hayes Theresa White Thomas Reilly	Nil 24,941.00 Nil 16,205.00 16,205.00 44,774.00 Nil 968.00 44,774.00 7,871.00 16,205.00 16,128.00 Nil 16,205.00 42,820.00 Nil Nil Nil 2,736.00 25,851.00 Nil 25,851.00 28,569.00 Nil 25,851.00
National Building Agency	Terry Slowey Tom Corcoran Sean O'Leary Richard Howlin Jim Barrett Alison Boyle Cllr. Gus Byrne Des Dowling Margaret Doyle Cllr. Joe Behan Ann Mc Guinness John McCloskey Mary Nevin Sandra Nowlan Joan O'Connor	12,063.00 Nil Nil 67,640.00 Nil 26,718.00 28,968.00 Nil 45,072.00 10,319.00 Nil 30,816.00 30,816.00 33,070.00 45,072.00

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Name of State body	Names of appointees to boards since 1997	Payments to appointee
		€
	Matt O'Connor	47,322.00
	Cllr. Pat Leahy	13,754.00
	Gráinne Shaffrey	Nil
	Eddie Breen	Nil
	Michael D. Hayes	2,250.00
	Cllr. P. J. Kavanagh	2,250.00
	Bernie Lowe	2,250.00
	Tom Breen	13,334.00
	Peter Roche	13,334.00
	Vincent Toher	13,334.00
Private Rented Tenancies Board	Mr. Tom Dunne (Chairman)	26,046.00
	Ms. Anne Colley	18,619.00
	Mr. Pat Riney	13,181.00
	Ms. Marjorie Murphy	11,789.00
	Ms. Mary Heaslip	18,568.00
	Mr. Fintan Mc Namara	24,277.00
	Ms. Aideen Hayden	21,553.00
	Mr. Liam O'Donnell	13,786.00
	Mr. Tony Taaffe	20,860.00
	Dr. Bairbre Redmond	18,022.00
	Dr. Eoin O'Sullivan	25,514.00
	Ms. Dervla Quinn	27,018.00
	Mr. Jim Bridgeman	17,566.00
	Mr. Conn Murray	Nil
	Ms. Sheila McMahon	Nil
Rent Tribunal	Ms. Moya Quinlan (Chairperson)	20,061.00
	Ms. Mary Doyle	29,513.00
	Ms. Louise Maloney	24,679.00
	Mr Bill Stanbridge	20,964.00
	Mr. Kieran Buckley	9,685.00
	Ms. Moretta Kinsella	9,084.00
	Mr. Fred Devlin	3,393.00
	<i>Former Members</i>	
	Mr. Brendan Dillion	3,028.00
	Mr. Joseph McPeake	6,132.00
	Mr. Felix McKenna	688.00
	Mr. Val Stone	1,229.00
	Mr. Joseph Maguire	881.00
	Ms. Mary Devins	432.00
	Ms. Sheila O'Flynn	1,035.00
	Mr. Vincent Toher	347.00
	Mr. Patrick Riney	5,302.00
	Mr. John Leddin	1,249.00

\*The information in relation to the Heritage Council and the RPII is in respect of 2003 onwards as these bodies only came under my Department's aegis following the last change of Government.

Question No. 209 answered with Question No. 115.

Question No. 210 answered with Question No. 119.

#### Waste Management.

211. **Mr. Hayes** asked the Minister for the Environment, Heritage and Local Government his views on the demand from an incinerator

company (details supplied) that landfill tax be increased; and if he will make a statement on the matter. [30981/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** It is not intended in short term to increase the existing landfill levy of €15 per tonne. However, I have initiated a public consultation seeking the views of stakeholders and the general public in regard to the future regulation of the waste management sector. Views have been sought on a range of relevant issues including the determination of an appropriate waste charging structure. When I have considered the submissions in response to this consultation, I intend to take forward appropriate policy proposals.

*Question No. 212 answered with Question No. 203.*

### Greenhouse Gas Emissions.

213. **Mr. Ring** asked the Minister for the Environment, Heritage and Local Government the developments which have taken place since the introduction of the emissions trading scheme; and if he will make a statement on the matter. [30973/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I refer to the reply to Questions Nos. 78 and 101 of 13 June 2006. Following a public consultation by the Environmental Protection Agency, Ireland notified its National Allocation Plan for the 2008-2012 trading period to the European Commission on 13 July 2006. The notified Plan is available on the website of the Agency at [www.epa.ie](http://www.epa.ie). A decision on the Plan is expected before the end of the year.

*Question No. 214 answered with Question No. 130.*

### Building Regulations.

215. **Mr. O'Dowd** asked the Minister for the Environment, Heritage and Local Government his views on whether the practice of retrospective issuing of fire safety certificates for buildings is desirable; and if he will make a statement on the matter. [30969/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Building Control Act 1990 and the related Building Control Regulations 1997 provide for the issue of Fire Safety Certificates (FSC) for the designs of new non-domestic buildings and apartment blocks in advance of the commencement of work on the relevant building projects. However, projects have in the past started in advance of the seeking or granting of a FSC; and local building control authorities have adopted a pragmatic approach of granting FSC retrospectively provided the build-

ing complies with the fire safety requirements/building regulations.

The Building Regulations Advisory Body (BRAB) recommended reforms of the FSC system; and these reforms are set out in Part 2 of the Building Control Bill 2005 and the related Explanatory Memorandum.

The enforcement of the FSC system will be greatly strengthened by a number of proposed measures in the 2005 Bill, including:

- prohibition of the occupation, opening, or operation of a relevant new building without a FSC; and
- the power of the local building control authority to secure a High Court injunction to enforce the foregoing prohibition.

*Question No. 216 answered with Question No. 162.*

*Question No. 217 answered with Question No. 194.*

*Question No. 218 answered with Question No. 137.*

### Road Network.

219. **Mr. Kehoe** asked the Minister for the Environment, Heritage and Local Government the progress to date on value for money spot checks on projects in non-national roads section; and if he will make a statement on the matter. [30987/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** All specific non-national road projects, grant aided by my Department, must comply with eligibility criteria and conditions of grant schemes. Outputs and value for money are monitored on an ongoing basis by my Department based on returns submitted by local authorities and site visits.

*Question No. 220 answered with Question No. 115.*

### Nuclear Policy.

221. **Mr. Penrose** asked the Minister for the Environment, Heritage and Local Government if he has devised another strategy for pursuing the MOX case as previously promised in Dáil Éireann. [30925/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I refer to the reply to Priority Question No. 56 of 13 June 2006. The position remains unchanged.

### Recycling Policy.

222. **Mr. Rabbitte** asked the Minister for the Environment, Heritage and Local Government the types of plastics which are recyclable; which



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of these plastics are currently being collected for recycling for each local authority; which have not yet begun to be collected for recycling; his plans and timescales to ensure that all recyclable plastics are collected and recycled. [30914/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** In Ireland as in other countries, a diverse range of plastic materials are in use; these fall into different categories, including low density polyethylene (LDPE), polypropylene, polystyrene, polyvinyl chloride (PVC), high density polyethylene (HDPE) and polyethylene terephthalate (PET). Factors influencing the recycling of plastics include the market price for the polymer in question, transport costs, the value of the end product into which the material is recycled, availability of stable markets, the availability of clean recycled plastic materials, and the level of processing required to recycle the collected material. Data in relation to the amount of plastics collected by each local authority is not available in my Department; this is a matter for local authorities in the context of their regional waste management plans.

Significant progress has been made in recent years in recovering and recycling waste plastics. The EPA National Waste Report 2004 showed that 295,890 tonnes of plastic were managed of which 55,904 (18.9%) were recovered. 211,629 tonnes (71.5%) comprised plastic packaging of which 22.3% was recovered. The EPA's best estimate of the recovery rate for plastic packaging in 1998 was just 2.6%. It is a legal requirement that all packaging, including all plastic packaging, be designed, produced and placed on the market in such a way as to permit its reuse or recovery, including recycling. I am confident that Ireland will comfortably achieve the 2011 plastic packaging waste recovery target of 22.5% set by the European Union. A range of measures is being put in place to support the achievement of this target. For example, it is intended to continue to expand the network of bring facilities for all packaging waste including plastic as well as the availability of segregated collections for dry recyclables where economically feasible. The Dublin local authorities' plans for the introduction of

segregated collections of plastic bottles from households are at an advanced stage.

In addition, a Market Development Group was established in 2004 to identify market opportunities for materials recovered for recycling, including plastic materials and to develop a Market Development Programme. The Group will identify a range of initiatives to address these difficulties including measures to improve knowledge about the plastic waste stream; increase the quantity collected; develop recycling and reprocessing capacity; promote research; and promote uptake of recycled products. The Market Development Programme is currently being finalised and I expect that it will be published later this year.

**EU Directives.**

223. **Mr. Sargent** asked the Minister for the Environment, Heritage and Local Government the directive name, directive reference number and number of cases where Ireland has been formally cautioned under Article 226 of the Treaty of the European Community, issued a reasoned opinion under Article 226 of the treaty of the European Community, the Commission has declared its intention to go the European Court of Justice, taken to the European Court of Justice by the Commission, formally cautioned under Article 228 of the Treaty of the European Community, issued a reasoned opinion under Article 228 and issued with daily fines by the European Court of Justice in regard to environmental protection. [31092/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** In areas for which my Department has responsibility, the European Commission is currently in correspondence in respect of 34 cases relating to possible infringements of EU environmental legislation. There were 49 such cases in December 2005. This considerable improvement illustrates the positive outcomes from my intensive efforts to resolve issues in dialogue with the Commission and stakeholders. The cases are at various stages of proceedings as set out in the table below. Fines have not been ordered by the European Court of Justice in relation to any case taken against Ireland.

	Stage in Proceedings
Directive Number and General Reference	Article 226 Letter of Formal Notice Article 226 Reasoned Opinion Being Referred to the European Court of Justice Before the European Court of Justice for a hearing or awaiting judgement European Court of Justice Decision to be Implemented Article 228 Letter of Formal Notice
2004/ 26/EC on emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery	010000
2002/88/EC relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery	010000

	Stage in Proceedings
2004/42/CE on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products	010000
85/337/EEC on the assessment of the effects of certain public and private projects on the environment	310300
2000/35/EEC on public participation in certain plans and programmes relating to the environment	001000
2003/4/EC on public access to environmental information	001000
92/43/EEC on habitats	010101
79/409/EEC on wild birds	000101
75/442/EEC the waste directive	421010
75/439/EEC on the disposal of waste oils	100000
2004/12/EC on packaging and packaging waste	100000
91/271/EEC on urban waste water treatment	010100
91/676/EEC on nitrates	000001
76/464/EEC on dangerous substances in water	000001
80/778/EEC on the quality of drinking water for human consumption	100001
80/68/EC on groundwater	000100

*Question No. 224 answered with Question No. 191.*

#### **Noise Pollution.**

225. **Mr. Sherlock** asked the Minister for the Environment, Heritage and Local Government if he will introduce legislation to deal with noise pollution; and if he will make a statement on the matter. [30910/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I refer to the reply to Question No. 106 of 13 June 2006, which sets out the range of legislation on noise pollution which is already in place. Given these extensive controls on noise pollution from various sources, I have no plans to introduce further legislation in this area.

#### **Census of Population.**

226. **Mr. Allen** asked the Minister for the Environment, Heritage and Local Government if the evidence of urban sprawl found in the latest census figures particularly in the soaring populations of Fingal, Meath, Kildare and Louth are worse or better than he had predicted; the steps he plans to take to counter urban sprawl; and if he will make a statement on the matter. [30937/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I welcome the release by the Central Statistics Office of the preliminary results of the 2006 census which shows strong population growth on a national basis. This population growth augurs well for the sustainable development of the country. The National Spatial Strategy forecasted a continuing population growth. The Regional Planning Guidelines (RPGs) for the Greater Dublin Area

2004-2016 were prepared and adopted jointly by the Dublin and Mid-East Regional Authorities, and are in the second year of their 12-year life-span. These RPGs articulate the NSS vision for the Greater Dublin Area, and relevant city and county development plans translate the vision further to local level. The 2004 RPGs contained robust population projections, which were front-loaded in terms of population increase. These projections are currently being considered in the context of the 2006 Census to see if they need amendment.

The National Spatial Strategy calls for a more balanced spread of economic activity in Ireland, but recognises that we must support and enhance the competitiveness of the Greater Dublin Area so that it continues to perform at the international and national level as a driver of national development. The NSS also accepts that it is not sustainable that Dublin should continue to spread outwards into counties on its periphery and beyond. To address this, the RPGs for the Greater Dublin Area emphasise that it is necessary to consolidate the physical growth of the Dublin metropolitan area, the city and suburbs, while at the same time concentrating development in the hinterland into strategically placed, strong and dynamic urban centres.

The substantial investment in transport that was announced by Government in Transport 21 is in accordance with the general principles of NSS and it is envisaged that future residential and commercial developments will be concentrated as close as possible to the existing and forthcoming rapid transport systems. Also, Guidelines for Planning Authorities on Residential Density were published in 1999 and included a specific objective of more compact urban development by seeking to assist planning authorities in achieving high quality residential density of a suitable scale at appropriate locations, in conjunction with

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improved public transport systems. These guidelines are being reviewed by my Department with a view to publishing new guidelines next year and will take account of the changing population and settlement patterns and the need for building sustainable communities. They will also take account of the extensive experience built up since the introduction of the 1999 guidelines in the design, assessment and development of higher density proposals.

#### Planning Issues.

227. **Ms C. Murphy** asked the Minister for the Environment, Heritage and Local Government if he intends to track progress on the unfinished housing estates identified to him following the issue of circular letter PD/106 in early 2006; the dialogue he has had with the County and City Managers Association in relation to this issue; and if he will make a statement on the matter. [30929/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** My Department issued Circular Letter PD 1/06 in January of this year which required each planning authority to establish, as a priority, a policy on taking in charge of housing estates to be approved by the elected members. The circular also required that progress on the implementation of the policy would have to be reported on to the members on a regular basis and at least once annually. These arrangements were premised on the principle that local authorities themselves are best placed to monitor and implement action in this area. My Department's appropriate role is to assist and encourage good local authority performance. In that regard I have asked that the feasibility of including taking in charge of housing estates in the ongoing review of local authority service indicators be examined.

The issue of overall national guidance on management companies and taking in charge of residential estates is being considered by a Working Group, which includes representatives of local government nominated by the City and Country Managers Association. It is planned that, based on the outcome of the Group's work, national guidance will issue as part of expanded and revised Residential Density Guidelines, which in turn advance the Department's agenda Housing Policy Framework: Building Sustainable Communities, published last December.

#### Departmental Expenditure.

228. **Mr. Deasy** asked the Minister for the Environment, Heritage and Local Government if he will publish his Department's monthly report to him on financial expenditure and the bimonthly report to the Government since January 2006; if his Department is meeting its fin-

ancial and other targets; and if he will make a statement on the matter. [30984/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** My Department provides regular expenditure reports to the Department of Finance, including financial tables, that are used by that Department in the publication of monthly Exchequer statements on aggregate levels of receipts and expenditure. The Exchequer Statement for the period ended 30 September 2006, was published on 3 October. In addition, in accordance with the Public Service Management Act 1997, my Department's Statement of Strategy and its Annual Reports, which report progress on the implementation of the objectives set out in the Statement of Strategy, are published. The Annual Reports include summary financial accounts outlining the financial transactions of my Department for the year in question. Having regard to this, I do not propose to publish reports on ongoing financial activity levels relating to the range of programmes operated by my Department.

*Question No. 229 answered with Question No. 163.*

#### Local Authority Housing.

230. **Mr. Morgan** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the fact that there are more than 43,684 households across the State that are in need of local authority housing in view of the fact that local authority house completion figures were down 3.3% for the first quarter of 2006. [31006/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** The most recent assessment of need for social housing, undertaken by local authorities in March 2005, indicated that there were 43,684 households on local authority waiting lists compared with 48,413 in March 2002 — a decrease of almost 10%. The number of local authority house completions/acquisitions for the first 6 months of 2006 stands at 1,786, while the number of units in progress at the end of June was over 8,900. Further information relating to the number of local authority housing units started and completed in the 6 month period January to June, 2006 will be published shortly in the Department's Quarterly Housing Statistics Bulletin and on the Department's website at [www.environ.ie](http://www.environ.ie).

#### Election Expenditure.

231. **Mr. P. Breen** asked the Minister for the Environment, Heritage and Local Government his plans to change the spending limits for election candidates; if so, if he will explain what these

changes will be; and if he will make a statement on the matter. [30958/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Section 32 of the Electoral Act 1997, as amended, specifies the maximum amounts of expenditure which may be incurred on behalf of a candidate at a Dáil election. The amounts are €25,394.76 in a 3 seat constituency; €31,743.45 in a 4 seat constituency; and €38,092.14 in a 5 seat constituency. Section 3 of the Act provides that these amounts may be varied, by order of the Minister for the Environment, Heritage and Local Government, having regard to changes in the Consumer Price Index. Any such order must be laid before each House of the Oireachtas. No decision regarding an amending order has been made at this stage.

### Housing Policy.

232. **Ms Enright** asked the Minister for the Environment, Heritage and Local Government the progress to date of the implementation of the Law Reform Commission's review of the law regarding management companies; and if he will make a statement on the matter. [30962/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I refer to the reply to questions 1514, 1515, 1516, and 1551 of 27 September 2006. The Law Reform Commission is currently examining legal aspects generally regarding the management of multi-unit structures and its consultation paper is expected shortly. A final report will then be prepared following the consultation period and its recommendations will be considered by the Departments concerned, including the need for new measures to be taken in this area.

Arising from earlier work, the Law Reform Commission had recommended certain changes to company law to avoid problems for manage-

ment companies in relation to company law requirements. It is understood that proposals are being developed by the Minister for Enterprise, Trade and Employment for a Company Law Reform and Consolidation Bill which it is expected will include certain provisions relating to management companies.

### Tribunals of Inquiry.

233. **Mr. J. Higgins** asked the Minister for the Environment, Heritage and Local Government the costs to his Department to date accruing from the Mahon Tribunal. [30509/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** At end-September 2006, the overall cost of the Tribunal of Inquiry into Certain Planning Matters and Payments amounted to €58,401,332.

### Unemployment Levels.

234. **Ms Shortall** asked the Taoiseach the unemployment rate for Dublin City Council by district electoral division according to latest figures; and if he will make a statement on the matter. [31272/06]

**Minister of State at the Department of the Taoiseach (Mr. Kitt):** The exact information as requested by the Deputy is not available. Statistics on employment and unemployment are compiled, at a regional level, from the Quarterly National Household Survey. There are eight regions in the State; Border, Midland, West, Dublin, Mid-East, Mid-West, South-East and South-West. Sub-regional statistics, of the kind requested by the Deputy, are not available from the Quarterly National Household Survey. The latest available figures from the Quarterly National Household Survey relate to the second quarter (period March to May) of 2006, and shows the unemployment rate for the Dublin Region is 4.8%. I refer the Deputy to the detailed table below.

Persons aged 15 years and over in the Dublin Region classified by ILO Economic Status

Region (NUTS3)		In employment	Unemployed	In labour force	Unemployment rate	Participation rate
		'000	'000	'000	%	%
Dublin	Mar-May 2004	550.2	24.7	574.9	4.3	62.0
	Dec-Feb 2005	567.3	23.7	591.1	4.0	62.9
	Mar-May 2005	574.3	25.5	599.7	4.2	63.7
	Jun-Aug 2005	585.6	28.8	614.5	4.7	65.0
	Sep-Nov 2005	586.4	27.5	614.0	4.5	64.4
	Dec-Feb 2006	594.4	26.7	621.2	4.3	64.8
	Mar-May 2006	595.4	29.7	625.2	4.8	64.8
State	Mar-May 2004	1,836.2	84.2	1,920.3	4.4	60.0
	Dec-Feb 2005	1,908.3	82.1	1,990.5	4.1	61.0
	Mar-May 2005	1,929.2	85.6	2,014.8	4.2	61.5

[Mr. N. Ahern.]

Region (NUTS3)	In employment	Unemployed	In labour force	Unemployment rate	Participation rate
	'000	'000	'000	%	%
Jun-Aug 2005	1,989.8	96.7	2,086.5	4.6	63.2
Sep-Nov 2005	1,980.6	91.3	2,071.9	4.4	62.2
Dec-Feb 2006	1,998.1	88.2	2,086.3	4.2	62.2
Mar-May 2006	2,017.0	91.4	2,108.3	4.3	62.6

Source: Quarterly National Household Survey, Central Statistics Office.

The Live Register series gives a monthly breakdown of the number of people claiming Unemployment Assistance, Unemployment Benefit and other registrants as registered with the Department of Social and Family Affairs. Figures are published for each county and each Local

Social Welfare Office. The most recent information available is for August 2006 and the table below indicates the number of persons on the register in each of the Local Offices in the Dublin Region.

Persons on the Live Register in the Dublin Region classified by Sex, Age Group and Local Office of Registration

NUTS2 and NUTS3 Regions/ County/ Local Office	August 2005	July 2006	August 2006	Males			Females		
				Under 25 years	25 years & over	Total	Under 25 years	25 years & over	Total
Bishop Square	4,019	3,884	3,881	378	2,045	2,423	263	1,195	1,458
Cumberland Street	5,673	5,443	5,456	716	2,625	3,341	391	1,724	2,115
Navan Road	2,865	2,742	2,773	330	1,506	1,836	218	719	937
Blanchardstown	3,598	3,800	3,872	448	1,689	2,137	343	1,392	1,735
Thomas Street	2,399	2,261	2,252	248	1,299	1,547	145	560	705
Tara Street	1,280	1,265	1,273	113	691	804	83	386	469
Tallaght	3,558	3,733	3,782	606	1,728	2,334	358	1,090	1,448
Ballymun	1,557	1,590	1,588	283	763	1,046	158	384	542
Clondalkin	3,630	3,786	3,716	564	1,654	2,218	399	1,099	1,498
Rathfarnham	2,219	2,173	2,184	187	914	1,101	113	970	1,083
Kilbarrack	2,572	2,547	2,508	224	1,224	1,448	135	925	1,060
Dún Laoghaire	2,951	2,774	2,780	219	1,288	1,507	101	1,172	1,273
Balbriggan	1,375	1,462	1,465	132	643	775	91	599	690
Ballyfermot	1,330	1,312	1,298	218	635	853	133	312	445
Finglas	2,380	2,420	2,354	371	1,118	1,489	208	657	865
Coolock	2,505	2,490	2,502	336	1,179	1,515	220	767	987
Dublin total	43,911	43,682	43,684	5,373	21,001	26,374	3,359	13,951	17,310
State total	169,393	168,946	169,614	18,816	76,210	95,026	14,888	59,700	74,588

Source: Live Register Series, Central Statistics Office.

It should be noted that:—

(a) the Live Register is not a definitive measure of unemployment as it includes part-time workers, seasonal and casual workers entitled to Unemployment Assistance or Benefit. Statistics on unemployment are measured at regional level by the Quarterly National Household Survey.

(b) the exact area covered by each Local Office is not limited to the immediate locality of the particular office. For instance, in the

Tallaght Local Office there may be registered persons from the Blessington area.

#### Visa Applications.

235. **Mr. Haughey** asked the Tánaiste and Minister for Justice, Equality and Law Reform if he will allow a person (details supplied) to remain in the State on humanitarian grounds; and if he will make a statement on the matter. [31157/06]

**Tánaiste and Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been

informed by officials in my Department that there is no record of the person in question having made an application for asylum. However, an application for Family Reunification on behalf of the person in question was made, by his sister, in April 2004 and this was refused in November 2004. This decision was then reviewed and upheld in December 2004. The sister of the person in question made a fresh application for Family Reunification in June 2006. This application will be considered by my Department and a decision will issue in due course.

#### **Crime Prevention.**

236. **Mr. O'Connor** asked the Tánaiste and Minister for Justice, Equality and Law Reform if he will confirm that funding is in place for a project (details supplied) in Dublin 24; if his attention has been drawn to the fact that his announcement giving the go-ahead was welcomed by the community; and if he will make a statement on the matter. [31158/06]

**Tánaiste and Minister for Justice, Equality and Law Reform (Mr. McDowell):** As part of my commitment to strengthening the Garda Youth Diversion Projects, I secured an increase of 21% in the overall budgetary allocation for the projects in 2006, bringing funding for the projects for the year to €6.6 million. Resulting from this additional funding I was pleased to be able to announce the establishment of ten new Garda Youth Diversion Projects including the project referred to.

My Department has issued initial funding to the Garda Síochána for the establishment of the project referred to. Work is ongoing on securing a premises for the project and recruiting a coordinator. I was pleased to hear of the positive response to the establishment of the project concerned, and I wish all of the new projects, including this project, every success.

#### **Anti-Social Behaviour.**

237. **Mr. O'Connor** asked the Tánaiste and Minister for Justice, Equality and Law Reform the full report on issues within the Garda authorities remit which caused the bus services to Tallaght west estates to be withdrawn in the week commencing 25 September 2006; if he will resource the Gardaí to deal with crime associated with the bus service; and if he will make a statement on the matter. [31159/06]

**Tánaiste and Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Dublin Bus Community Forum is in place to address anti-social behaviour on buses in the area mentioned and meets regularly. Local Garda management and community leaders from the area concerned participate in the Forum along with Dublin Bus management and union representatives.

I am informed by the Garda authorities that local Garda management in conjunction with Dublin Bus has put Operation Saferoute in place to address public order issues on public transport in the areas concerned. This involves members of the local Community Policing Unit travelling on Dublin Bus services in the area in order to prevent and detect incidents occurring on public transport in this area.

I am further informed that an incident which occurred on Dublin Bus on 25 September, 2006 is under active investigation by the Garda authorities.

#### **Garda Strength.**

238. **Mr. J. O'Keefe** asked the Tánaiste and Minister for Justice, Equality and Law Reform the number of recruit Gardaí who completed their training and became full members of An Garda Síochána in each of the years 2002 to 2005; and the number of Gardaí who ceased to be members of the force in each of those years. [31160/06]

**Tánaiste and Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am assembling the information requested by the Deputy and I will communicate with him within a week.

#### **Criminal Records.**

239. **Mr. J. O'Keefe** asked the Tánaiste and Minister for Justice, Equality and Law Reform if An Garda Síochána can readily access the criminal records of non-nationals who are arrested here on criminal charges if such persons are from other EU Member States; the arrangements in place in this regard; and if these arrangements are considered to be satisfactory in relation to all such Member States. [31161/06]

**Tánaiste and Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that An Garda Síochána has no direct access to criminal records from any other country. However, where a rogatory letter is not required under the mutual legal assistance regime, arrangements are in place whereby a request for a record of a person's criminal convictions, together with a set of the person's fingerprints, is forwarded to the country involved through Interpol. The Garda Interpol Office is then supplied with certified convictions for the individual in question for court use.

I understand from the Garda authorities that co-operation from EU Member States is generally satisfactory in relation to responding to requests for records of criminal convictions. Where a rogatory letter is required under the mutual legal assistance regime, the request for a record of a person's criminal convictions is forwarded by the Central Authority for Mutual Assistance, located within my Department, to the

[Mr. McDowell.]

equivalent authority in the country concerned. The reply from that authority is forwarded to An Garda Síochána through the Central Authority.

#### Visa Applications.

240. **Aengus Ó Snodaigh** asked the Tánaiste and Minister for Justice, Equality and Law Reform the status of a visa application for a person (details supplied) in Dublin 20 who has been accepted, pending the granting of a visa, into an adaptation programme for general nursing and midwifery, both of which are needed here; and when a decision can be expected. [31162/06]

**Tánaiste and Minister for Justice, Equality and Law Reform (Mr. McDowell):** My Department has no record of a current visa application in respect of the person in question referred to by the Deputy.

#### Residency Permits.

241. **Mr. Costello** asked the Tánaiste and Minister for Justice, Equality and Law Reform the progress made regarding the application for residency of a person (details supplied) in Dublin 7; and if he will make a statement on the matter. [31247/06]

**Tánaiste and Minister for Justice, Equality and Law Reform (Mr. McDowell):** The person in question applied for permission to remain in the State on the basis of being a parent of an Irish citizen child, born before 1 January 2005, in accordance with the revised arrangements announced by me on 15 January 2005, commonly referred to as the IBC/05 scheme.

The person in question did not satisfy the criteria under the revised arrangements and was notified of this decision on 12 October 2005. The immigration status of the person concerned is currently being reviewed. In the event that the person in question does not have permission to remain following this review, he will then have an opportunity to make further representations as to his continued presence in the State.

#### Road Traffic Offences.

242. **Ms O. Mitchell** asked the Tánaiste and Minister for Justice, Equality and Law Reform the number of motorists who are expected to escape prosecution as a result of the drafting error in the Road Traffic Act 2006; and if he will make a statement on the matter. [31249/06]

243. **Ms O. Mitchell** asked the Tánaiste and Minister for Justice, Equality and Law Reform if motorists who are affected by the drafting error in the Road Traffic Act 2006 will be prosecuted under alternative existing road traffic legislation provisions; and if he will make a statement on the matter. [31250/06]

**Tánaiste and Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 242 and 243 together.

Section 4 of the Road Traffic Act 2006 provides the legal basis for mandatory alcohol testing (MAT). It confers a statutory power to administer a roadside breath test to a motorist stopped at a checkpoint without a member of An Garda Síochána being required to form an opinion that the motorist has consumed alcohol, been involved in a collision or breached a provision of the Road Traffic Acts.

It is an offence to refuse to give a roadside breath sample, the penalty for which is a fine of up to €5,000 on conviction and/or imprisonment for up to 6 months. A person who refuses to give a roadside breath sample can be arrested for that offence and required to provide an evidential test in the Garda station. In addition, under long standing legislation, if a Garda as a result of the test forms the opinion at the roadside that a person has consumed an intoxicant then he/she can arrest that person and bring the person back to a Garda station for the purposes of administering an evidential test.

The penalty for refusal to provide an evidential test is a fine of up to €1,270 and/or imprisonment for up to 6 months. As a result of a typographical error in the Act, a refusal to give an evidential test following arrest at a MAT checkpoint cannot be pursued. This error is being addressed by my colleague the Minister for Transport in the Road Traffic and Transport Bill 2006 which is before the House today. There is no error in the provisions for mandatory alcohol testing, and Garda checkpoints continue to operate effectively as they have been since they were introduced in July.

Developments since the introduction of mandatory alcohol testing in July have been encouraging. The number of road deaths in August was 17 — the lowest number for any month since November 1999. This trend continued in September, when the number of deaths was 22, compared with 31 in 2005. I believe that the practical effect of the typographical error is limited and that if a court challenge to the section is launched on the basis of the error the State will vigorously defend it.

The provisions for mandatory alcohol testing operate in addition to the other drink driving provisions in the law. The Garda Síochána will use all legal provisions to pursue drivers detected driving while intoxicated.

#### Garda Operations.

244. **Mr. Gregory** asked the Tánaiste and Minister for Justice, Equality and Law Reform if the Garda authorities monitor or have speed checks at a location (details supplied) in Dublin 15 where pedestrians and cyclist claim there is speeding traffic. [31251/06]

**Tánaiste and Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that Garda management at Blanchardstown, which covers the area referred to, is aware of the concerns of people in this area regarding speeding motorists. I am further informed that road traffic checkpoints are regularly established in the area by members of the Divisional Traffic Corps Units and persons found to be speeding are issued with fixed charge penalty notices.

#### **Garda Deployment.**

245. **Ms Shortall** asked the Tánaiste and Minister for Justice, Equality and Law Reform the number of Gardaí attached to Ballymun, Finglas, Santry and Whitehall Garda Stations at 31 December 2004 and 2005; the number currently attached; and the breakdown of the numbers of community Gardaí attached to each station for each of these time periods. [31306/06]

**Tánaiste and Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities, who are responsible for the detailed allocation of resources, including personnel, that the personnel strength (all ranks) of An Garda Síochána increased to a record 12,762 on Friday, 8 September, 2006, following the attestation of 249 new members. This compares with a total strength of 10,702 (all ranks) as at 30 June, 1997 and represents an increase of 2,060 (or 19%) in the personnel strength of the Force during that period. The Garda Budget now stands at €1.3 billion, a 13% increase on 2005 and an 85% increase since 1997 in real terms.

I have been further informed by the Garda authorities that the personnel strength (all ranks) of the Ballymun, Finglas, Santry and Whitehall Garda Stations as at 31 December, 2004, 2005 and as at 3 October, 2006 was as set out in the table hereunder:

Station	31/12/04	31/12/05	3/10/06
Ballymun	65	62	57
Finglas	74	76	82
Santry	107	119	122
Whitehall	35	34	35
<b>TOTAL</b>	<b>281</b>	<b>291</b>	<b>296</b>

This represents an increase of 15 (or 5%) in the number of personnel assigned to these stations during that period.

I have also been informed by the Garda authorities that the number of Community Gardaí attached to the Ballymun, Finglas, Santry and Whitehall Garda Stations as at 31 December, 2004, 2005 and as at 30 June, 2006 (the latest date for which these figures are available) was as set out in the table hereunder:

Station	31/12/04	31/12/05	30/06/06
Ballymun	7	9	12
Finglas	13	12	10
Santry	3	5	4
Whitehall	3	5	4

It is the responsibility of Garda management to allocate personnel to and within Garda Divisions on a priority basis in accordance with the requirements of different areas. These personnel allocations are determined by a number of factors including demographics, crime trends, administrative functions and other operational policing needs. Such allocations are continually monitored and reviewed along with overall policing arrangements and operational strategy. This ensures that optimum use is made of Garda resources, and that the best possible service is provided to the public.

I should add that the current recruitment drive to increase the strength of the Garda Síochána to 14,000 members, in line with the commitment in the Agreed Programme for Government, is fully on target. This will lead to a combined strength, of both attested Gardaí and recruits in training, of 14,000 by the end of this year. The first three groups of newly attested Gardaí under this accelerated recruitment programme came on stream in March, June and September of this year and the fourth such group will become fully attested members of the Force later this year. Further tranches of approximately 275 newly attested Gardaí will follow every 90 days thereafter until the programme is complete. The Garda Commissioner will now be drawing up plans on how best to distribute and manage these additional resources, and in this context the needs of the Garda Stations referred to by the Deputy will be given the fullest consideration.

#### **Flood Relief.**

246. **Mr. Durkan** asked the Minister for Finance if his attention has been drawn to the possible structural damage and flooding in the vicinity of the retaining wall at Dun Carraig, Leixlip, County Kildare; if he will liaise with Kildare County Council with a view to ascertaining the adequacy of the structure and the elimination of the flooding and its consequent affect on the structure; and if he will make a statement on the matter. [31239/06]

247. **Mr. Durkan** asked the Minister for Finance the position in regard to the proposal to alleviate flooding at Mill Lane, Leixlip, County Kildare through the aegis of Kildare County Council or the Office of Public Works; and if he will make a statement on the matter. [31240/06]



**Minister of State at the Department of Finance (Mr. Parlon):** I propose to take Questions Nos. 246 and 247 together.

Officials in the Office of Public Works are meeting with Kildare County Council later this week. Flooding issues relating to Mill Lane and Dun Carraig will be discussed at this meeting.

#### Airport Customs Checks.

248. **Mr. Costello** asked the Minister for Finance the number of private aircraft from outside the State in connection with the Ryder Cup event which were subjected to customs checks; his proposals to provide permanent customs checks at the Weston Executive Airport and other small airports here; and if he will make a statement on the matter. [31248/06]

**Minister for Finance (Mr. Cowen):** In light of the seizure in Belgium of 50kgs of Heroin last week, I am advised by the Revenue Commissioners that they are reviewing the risks attached to the operation of all 27 licensed aerodromes in the State. I am further assured that the monitoring of licensed aerodromes in the State by the Revenue Commissioners is currently in line with international standards. The Customs and Excise Service is continuously engaged in the analysis and evaluation of seizure trends, routes and smuggling risks and consequential resource deployment. All customs operations are risk focussed and staff is deployed to combat areas of greatest risk. The level of activity at licensed aerodromes is constantly monitored from a risk perspective. However, because of concerns raised by the seizure last week, the conditions of approval under which the Revenue Commissioners approve licensed aerodromes will be immediately reviewed by Revenue. This review will include options for improving the level of control and prior reporting of arrivals from EU and non-EU countries. The Revenue Commissioners will also examine the frequency of checking incoming flights to these aerodromes.

#### Rural Renewal Scheme.

Residential	Commercial
Units completed: 4,534. Units work in progress: 3,031. Units in planning: 3,031.	Projects completed: 147. Projects work in progress: 98. Projects in planning: 99.

#### Urban Renewal Scheme.

Residential	Commercial
Units completed: 4,057. Units work in progress: 8,561. Units in planning: 2,920.	Projects completed: 542,654 metres square. Projects work in progress: 705,246 metres square. Projects in planning: 332,515 metres square.

The Revenue Commissioners inform me they do not have information on the number of private aircraft which arrived in Ireland from outside the State in connection with the Ryder Cup.

#### Garda Stations.

249. **Ms Shortall** asked the Minister for Finance the position regarding the projects to provide new Garda stations at Ballymun and Finglas; and if he will make a statement on the matter. [31270/06]

**Minister of State at the Department of Finance (Mr. Parlon):** It is expected that a contract for the construction of the new Garda station at Ballymun will be placed this week.

Preparation of tender documents for the construction of the new Garda station at Finglas is nearing completion. It is hoped to invite tenders for construction at the end of this month.

#### Tax Code.

250. **Ms Burton** asked the Minister for Finance the number of tax designated units which are currently on the market, being constructed and received planning permission under a tax benefit scheme but have not commenced construction; and if he will make a statement on the matter. [31130/06]

**Minister for Finance (Mr. Cowen):** The estimated level of output of residential units and commercial units under the four tax designation schemes namely the Urban Renewal Scheme, the Rural Renewal Scheme, the Town Renewal Scheme and the Living over the Shop Scheme are set out in the Review of the Area-Based Tax Incentive Schemes. This review was conducted in 2005 by Goodbody Economic Consultants. The consultants findings on the outputs of the schemes as of November 2005 are as set out below. While the consultants output findings for commercial projects for the Rural Renewal Scheme were set out on a project basis, in the case of the remaining schemes their findings on output were expressed in terms of the actual amount of additional commercial floorspace generated.

## Town Renewal Scheme.

Residential	Commercial
Units completed: 971.	Projects completed: 66,225 metres square.
Units work in progress: 704.	Projects work in progress: 46,408 metres square.
Units in planning: 1,230.	Projects in planning: 77,342 metres square.

## Living Over The Shop Scheme.

Residential	Commercial
Units completed: 157.	Projects completed: 4,057 metres square.
Units work in progress: 159.	Projects work in progress: 4,206 metres square.
Units in planning: 124.	Projects in planning: 3,137 metres square.

As both my Department and the Revenue Commissioners have no direct role in either the marketing of tax designated units or the planning process, it is not possible to disaggregate the information provided further.

251. **Ms Burton** asked the Minister for Finance the sum of tax forgone due to tax incentive schemes on property for each of the years from 2000 to date in 2006; and if he will make a statement on the matter. [31131/06]

**Minister for Finance (Mr. Cowen):** I am informed by the Revenue Commissioners that for the tax year 2003 and earlier years claims for tax incentive schemes on property were aggregated in tax returns with other claims and could not be distinguished from other reliefs claimed. Accordingly, the specific information on costs for 2003 and earlier years are not available.

Provisions were included in the Finance Act 2004 to allow this data to be obtained separately in future. As regards the tax year 2004, the latest year available, this information was included in personal income tax returns due for filing in October, 2005. Based on the information that has been received and collated to date, a total of €586 million was included in the relevant income tax returns for 2004 as claims in respect of a range of property-based incentives. This figure would correspond to a maximum Exchequer cost of the order of €246 million for these returns in terms of income tax forgone.

This information is in respect of the following incentives:-

Urban Renewal, Town Renewal, Seaside Resorts, Rural Renewal, Multi-storey Car Parks, Living over the Shop, Enterprise Areas, Park and Ride, Hotels, Holiday Cottages, Nursing Homes, Housing for the Elderly & Infirm, Convalescent homes, Qualifying Private Hospitals, Qualifying Sports Injury clinics, Buildings used for Certain Childcare purposes, and Student Accommodation.

I should point out, however, that Revenue are concerned at preliminary indications that in some instances the new, separately categorised data on exempt income and property incentives may not have been correctly entered on the 2004 Income Tax returns. Revenue is engaging with the tax practitioner bodies to draw attention to these deficiencies and to rectify them. Revenue has also increased awareness among its own staff involved in processing tax returns of the need to ensure, through closer examination of the returns, that they are correctly completed.

Data for the tax years 2005 and 2006 is not yet available as the income tax returns for those years are not due for filing until October 2006 and October 2007 respectively.

It should be noted that all but one of these schemes were reviewed by Indecon Economic Consultants and Goodbody Economic Consultants as part of the overall review of property and area based tax incentives in 2005. These reports were published on 6 February 2006 and are available on the Department of Finance's website.

**Communications Masts.**

252. **Mr. Haughey** asked the Minister for Finance when will he make available to this Deputy the details of non-ionising radiation emission levels for 2 masts (details supplied); and if he will make a statement on the matter. [31142/06]

**Minister of State at the Department of Finance (Mr. Parlon):** The Commissioners of Public Works have requested their consultants, Vilicom Limited, to measure the non-ionising radiation emission levels from the two masts referred to as a matter of urgency. The Commissioners expect the reports to be available in approximately 3 weeks and will forward them to the Deputy on receipt.

**OPW Projects.**

253. **Mr. Cuffe** asked the Minister for Finance

[Mr. Cuffe.]

the list of all Office of Public Works projects currently on-site with a construction value in excess of €15 million; and the details of each of the appointed contractors and project teams.  
[31143/06]

254. **Mr. Cuffe** asked the Minister for Finance the list of all Office of Public Works projects that

are planned to be on-site between now and the end of 2007 with a construction value in excess of €15 million; and the details of each of the appointed contractors and project teams.  
[31144/06]

**Minister of State at the Department of Finance (Mr. Parlon):** I propose to take Questions Nos. 253 and 254 together.

## Currently on Site

Project	Voted / Non-voted	Appointed Contractors	Project Teams
<i>Dept of Justice, Equality &amp; Law Reform, Irish Prison Service</i> — Portlaoise Prison C Block	Non-Voted	Laing O'Rourke	Project Managers: OPW Project Management Services Architect: OPW Architectural Services QS: Rogerson Reddan & Associates M&E: Hayes Higgins Struc: Fearon O'Neill Rooney
<i>Dept of Justice, Equality &amp; Law Reform</i> Decentralisation for the Irish Prison Service, Longford	Voted	Duggan Brothers (Shell & Core only)	Project Managers: OPW Project Management Services QS Healy Kelly, Turner, Townsend
New Theatre Royal	Non-voted	Cleary Doyle Contracting	Project Managers: OPW Project Management Services Architect: Michael Williams Associates / OPW Architectural Services QS: Nolan Ryan Partnership M&E: OPW M&E Services Structural: Arups Consulting Engineers Theatre Consultant: Car & Angier Acoustic Consultant: Arup Acoustics
<i>Department of Agriculture &amp; Food</i> — Backweston — Office Accommodation	Voted	PJ Walls & Co.	Project Managers: OPW Project Management Services Architect: OPW Architectural Services QS: Mulcahy McDonagh & Partners Services Engineer: OPW M&E Services Structural: Michael Punch & Partners
<i>Department of Finance</i> — 7-9 Merrion Row — Provision of Office Accommodation	Voted	John Paul Construction	Project Managers: OPW Project Management Services Architect: Grafton Architects QS: Leonard & Williams Services Engineer: OPW M&E Services Structural: Barret Mahony
<i>Department of Agriculture &amp; Food</i> — Relocation of Laboratories from Abbotstown to Backweston	Voted	Bennett Construction Ltd (nearing end of Defects Liability Period)	Project Managers: OPW Project Management Services Architect: RKD Architects QS: Bruce Shaw Partnership Services Engineer: Homan O'Brien Associates Structural: PH McCarthy
<i>Dept. of Justice Equality and Law Reform</i> / Dept. of Social and Family Affairs — Ballymun — Garda Divisional HQ, Social Welfare Services	Voted	Michael McNamara & Company	Project Managers: OPW Project Management Services Architect: OPW Architectural Services QS: Bruce Shaw Partnership M&E: CH2M Hill Structural: Fitzsimmons Doyle Associates

[Mr. Parlon.]

Project	Voted / Non-voted	Appointed Contractors	Project Teams
<p><i>Dept. of Justice, Equality and Law Reform — Templemore Garda College (combined exceed €15m)</i> New Facilities Building</p>	Voted	Duggan Bros.	<p>Project Managers: OPW Project Management Services Arch: OPW Arch. Services Q.S. Nolan Ryan Partnership M&amp;E: OPW Mechanical and Electrical Services Structural: Michael Punch &amp; Partners</p>
<p>Extension of Dining Hall and Gym</p>	Voted	Duggan Bros.	<p>Project Managers: OPW Project Management Services Arch: OPW Arch. Services Q.S. Nolan Ryan Partnership M&amp;E: OPW Mechanical and Electrical Services Structural: Michael Punch &amp; Partners</p>
<p>Refurbishment of Garda Station and refitting of existing buildings to create 15 new classrooms</p>	Voted	Tom Hayes	<p>Project Managers: OPW Project Management Services Arch: OPW Arch. Services Q.S. Patrick A. Butler &amp; Partners M&amp;E: OPW Mechanical and Electrical Services Structural: Michael Punch &amp; Partners</p>
<p>Extension of Dining Area and Gym</p>	Voted	Duggan Bros.	<p>Project Managers: OPW Project Management Services Arch: OPW Arch. Services Q.S. Patrick A. Butler &amp; Partners M&amp;E: OPW Mechanical and Electrical Services Structural: Michael Punch &amp; Partners</p>

Planned to be on site before end of 2007

Project	Voted / Non Voted	Appointed Contractors	Project Teams
<i>Department of Defence</i> : Decentralisation of the Defence Forces HQ to the Curragh, Co. Kildare	Voted	Not appointed to date	Project Managers: OPW Project Management Services Architect: OPW Architectural Services OS: John F. Dillon & Associates M&E: OPW in-house services Struc: OPW in-house services
<i>Department of Justice, Equality &amp; Law Reform</i> Land Registry and Registry of Deeds – Hammond Lane/Church Street	Voted	Not appointed to date	Project Managers: OPW Project Management Services Architect: OPW Architectural Services OS: Not appointed to date M&E: Not appointed to date Struc: Malone O'Regan
Buncrana <i>Dept of Social &amp; Family Affairs</i> Local Office /Decentralised Offices/ <i>Dept of Transport</i> Driver Test Centre <i>Dept of Justice, Equality &amp; Law Reform</i> Garda HQ	Voted	Not yet appointed	Project Managers: OPW Project Management Services Architect: OPW Architectural Services Q.S. Not yet appointed M & E: OPW in-house Structural: Not yet Appointed.
<i>Dept of Justice, Equality &amp; Law Reform</i> Decentralisation Fit out for the Ir FLJ= "0"ish Prison Service – Longford	Voted	Not yet appointed.	Project Managers: OPW Project Management Services Q.S.: Healy, Kelly, Turner, Townsend
<i>Dept of Justice, Equality &amp; Law Reform</i> : Spike Island Bridge for the Irish Prison Service	Non Voted	Not yet appointed.	Project Managers: OPW Project Management Services Architect: OPW Architectural Services Q.S: Arup Consulting
National Conference Centre	PPP	Preferred Tenderer: Spencer Dock International Conference Centre Ltd (SDICC)	
<i>Department of Justice, Equality and Law Reform</i> – Forensic Science Laboratory	Voted		Project Managers: OPW Project Management Services Architect: OPW Architectural Services OS: Tom McNamara & Partners M&E: Homan O'Brien Associates Structural: PH McCarthy

[Mr. Parlon.]

Project	Procurement Method	Contractor	Project Team
Decentralising Offices <i>Department of Agriculture &amp; Food – Portlaoise</i>	PPP	To be appointed	Project Managers: OPW Project Management Services Contractor appoints Design Team
<i>Department of Enterprise, Trade &amp; Employment – Carlow</i>	PPP	To be appointed	Project Managers: OPW Project Management Services Contractor appoints Design Team
<i>Department of Education and Science – Mullingar</i>	PPP	To be appointed	Project Managers: OPW Project Management Services Contractor appoints Design Team
<i>Land Registry (Department of Justice, Equality and Law Reform) – Roscommon</i>	Design / Build	To be appointed	Project Managers: OPW Project Management Services Contractor appoints Design Team
<i>Ordnance Survey Ireland – Dungarvan</i>	Design / Build	To be appointed	Project Managers: OPW Project Management Services Contractor appoints Design Team
<i>Department of Defence – Newbridge</i>	Design / Build	To be appointed	Project Managers: OPW Project Management Services Contractor appoints Design Team
<i>Office of Public Works – Trim</i>	Design / Build	To be appointed	Project Managers: OPW Project Management Services Contractor appoints Design Team
<i>Department of Environment, Heritage and Local Government – Wexford</i>	Design / Build	To be appointed	Project Managers: OPW Project Management Services Contractor appoints Design Team
<i>Department of Communications, Marine and Natural Resources / Bord Iascaigh Mhara – Clonakilty</i>	Design / Build	To be appointed	Project Managers: OPW Project Management Services Contractor appoints Design Team
<i>Department of Communications, Marine and Natural Resources – Cavan</i>	Design / Build	To be appointed	Project Managers: OPW Project Management Services Contractor appoints Design Team
<i>Department of Social and Family Affairs – Donegal</i>	Design / Build	To be appointed	Project Managers: OPW Project Management Services Contractor appoints Design Team
<i>Department of Justice, Equality and Law Reform (Garda Síochána) – Thurles</i>	Design / Build	To be appointed	Project Managers: OPW Project Management Services Contractor appoints Design Team
<i>Revenue Commissioners – Athy</i>	Design / Build	To be appointed	Project Managers: OPW Project Management Services Contractor appoints Design Team

### Court Rulings.

255. **Ms Shortall** asked the Minister for Finance the specific quality proofing measures he has in place to ensure he, his officials, agents and servants, in carrying out their responsibilities, comply with the ruling of the Supreme Court in the case of the Health Amendment Bill that the State cannot abolish or reduce a right without compensation of not less than the market value and the more recent High Court ruling in the case of (details supplied) that the State cannot renege on its contractual obligations on the basis of objective public interest reasons. [31145/06]

**Minister for Finance (Mr. Cowen):** In the case of court rulings, including the rulings to which the Deputy refers, my Department seeks advice or clarification from the Office of the Attorney General when required. All primary legislation is, of course, submitted to the Office of the Attorney General for examination prior to drafting and enactment by the Oireachtas.

### Dormant Accounts Fund.

256. **Mr. Bruton** asked the Minister for Finance if his attention has been drawn to the fact that over the past five years approximately 8% of the prize money awarded by the prize bond company has not been claimed; and if he will include this unclaimed money in the Dormant Accounts Fund in order that it could be put to community uses. [31146/06]

**Minister for Finance (Mr. Cowen):** I understand from the National Treasury Management Agency that there are at present about 9,500 unclaimed prizes in the Prize Bond scheme, dating back to the establishment of the scheme in 1957 and representing approximately €1.25 million in prize money. The number of unclaimed prizes for the years 2001 to 2005 inclusive is 5,585, or just over 1% of the total number of prizes awarded in that period.

With regard to the inclusion of Prize Bonds in the Dormant Accounts Scheme, the number of Prize Bond prizes which are unclaimed for 15 years or more is very small, with only 244 outstanding, valued at €104,000. In view of the likelihood that prizes may still be claimed and the relatively small amounts involved, I do not propose to bring any additional legislation to extend the Dormant Accounts Scheme to prize bond winnings.

I am informed that the Prize Bond Company makes extensive efforts to contact each prize-winner but are not always successful, usually because bondholders have not informed the Company of changes of address. The Prize Bond Company will also check for unclaimed prizes on request from any bondholder. All unclaimed prizes are listed on the Company's website, *www.prizebond-s.ie*. I should add that the Company takes steps periodically to raise public awareness about

unclaimed prizes, e.g. by publishing a booklet listing the unclaimed prizes and through other advertising.

### Employment Rights.

257. **Mr. Connaughton** asked the Minister for Finance if his attention has been drawn to the anger and frustration of people not being allowed to work after the age of 65; if his further attention has been drawn to the fact that many people would be willing to submit themselves for an annual medical examination to prove they were fit to work; and if he will make a statement on the matter. [31244/06]

**Minister for Finance (Mr. Cowen):** The Government wishes to encourage and facilitate an increase in work force participation by older people. Recent measures introduced in Budget 2006 such as an increase in the income tax age exemption limits for persons aged 65 and over and the introduction of an earnings disregard for recipients of the social welfare State Pension (Non-Contributory) (previously known as the old age non-contributory pension) will make a significant contribution to that objective.

On the particular matter raised, the retirement condition associated with entitlement to the social welfare State Pension (Transition) (previously known as the Retirement Pension) at age 65 is a matter for consideration by my colleague, the Minister for Social and Family Affairs. The wider issue of an entitlement by employees to work after the age of 65 is a matter for consideration by my colleagues the Minister for Enterprise, Trade and Employment and An Tánaiste and Minister for Justice, Equality and Law Reform in regard to their policy remit in the area of labour law and employment equality respectively.

### Medical Cards.

258. **Mr. Sherlock** asked the Minister for Health and Children if the provisions of section 48 of the Health Act 1970 remain in place; if responsibility for this section was transferred to the Health Service Executive under the 2004 Act; and if she will make a statement on the matter. [31138/06]

**Minister for Health and Children (Ms Harney):** Under Section 48 of the Health Act, 1970, an applicant for a medical card may be required to make a declaration in such form as the Health Board considers appropriate in relation to his/her means. Section 59 of the Health Act, 2004 provided that functions which were the functions of a specified body, including a health board, transfer to the Health Service Executive. Furthermore, section 66 provides that references to a specified body in any Act passed before the establishment day, or in any instrument made



[Ms Harney.]

before that day under an Act, are to be read as references to the Health Service Executive, unless the context otherwise requires. Therefore, with effect from 1 January 2005, the functions of a health board under Section 48 of the Health Act, 1970 transferred to the Health Service Executive.

#### Health Services.

259. **Mr. McHugh** asked the Minister for Health and Children if she will ensure that constant speech and language therapy is made available for a person (details supplied) in County Galway; and if she will make a statement on the matter. [31139/06]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

260. **Dr. Cowley** asked the Minister for Health and Children the reason a person (details supplied) in County Mayo who was told by the Health Service Executive West orthodontic section when they were in sixth class that they did not require orthodontic treatment but now, having had a routine appointment with a dentist they have been told that they need immediate treatment; and if she will make a statement on the matter. [31140/06]

**Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Nursing Home Charges.

261. **Mr. Neville** asked the Minister for Health and Children the position regarding an application for refund of moneys under the national repayment scheme for a person (details supplied) in County Limerick. [31150/06]

**Minister for Health and Children (Ms Harney):** As the Health Service Executive has responsibility for administering the Health Repayment Scheme, enquiries relating to the scheme are referred to the Parliamentary Affairs Division of the Executive. My Department has asked the

HSE to have this matter investigated and to have a reply issued to the Deputy.

262. **Mr. O'Connor** asked the Minister for Health and Children the progress on the implementation of her plan to refund nursing home charges; and if she will make a statement on the matter. [31151/06]

**Minister for Health and Children (Ms Harney):** The Health (Repayment Scheme) Act 2006 was signed by the President on 23 June 2006 and the legislative provisions of the Act came into effect on 30 June 2006. The repayment scheme was launched publicly by the Health Service Executive (HSE) and the scheme administrator KPMG/McCann Fitzgerald on 14 August 2006. A national advertising campaign and a helpline also commenced on this date.

The HSE have informed the Department that 22,000 application forms have been issued, of which to date 11,500 forms including over 3,000 probate forms have been returned.

It is anticipated that notification of the calculated amount of repayment due, in the case of applications received in respect of approximately 9,000 claims which have been validated by the scheme administrator, will issue in October. On receipt of these notifications, applicants will have a period of 28 days in which to reject or appeal the calculated amount of repayment due prior to the issue of the money by the Health Service Executive. Provision has been made for applications to be received up to 1 January 2008 and it is anticipated that all applications will have been received by this date, however if necessary the cut off date for receipt of applications can be extended.

#### Medical Cards.

263. **Mr. O'Connor** asked the Minister for Health and Children the actions she will take to publicise the availability of the general practitioner only medical card in view of the small take up of the card since its introduction; her plans for same; and if she will make a statement on the matter. [31152/06]

**Minister for Health and Children (Ms Harney):** The GP visit card initiative was introduced as a graduated benefit so that people on moderate incomes, particularly parents of young children, who do not qualify for a medical card would not be deterred on cost grounds from visiting their GP.

Since the introduction of the GP Visit Card, the HSE has conducted two national media advertising campaigns to promote the benefit. The Executive has made available on its website '[www.hse.ie](http://www.hse.ie)' a calculator which will help people to get an indication as to whether they might qualify. The HSE continues to publicise all of these change to encourage people to apply and has made the application process as simple as

possible. The HSE has informed me that, in addition, a specific programme of work is being undertaken, focused on further modernisation of the administrative and operational arrangements regarding the GP visit card and related primary care schemes.

#### Health Services.

264. **Mr. Dennehy** asked the Minister for Health and Children the arrangements or improvements proposed for dealing with the needs of Alzheimer patients in the Cork region; if St. Stevens Hospital features in such proposals; and if she will make a statement on the matter. [31153/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Hospital Accommodation.

265. **Mr. Dennehy** asked the Minister for Health and Children the arrangements in place, or being put in place, for step-down beds in the Cork region; if her attention has been drawn to the fact that a Southern Health Board survey in the late 1990s found a need for over 300 such beds; the way these have been provided; and if she will make a statement on the matter. [31154/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Health Services.

266. **Mr. J. O'Keefe** asked the Minister for Health and Children her views on whether school children who are in need of orthodontic treatment should be entitled to have access to such treatment within a reasonable time; and if she will make a statement on the matter. [31155/06]

**Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested

the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

267. **Mr. Gogarty** asked the Minister for Health and Children the reason speech therapy service has not been provided for all students requiring it at a centre (details supplied) for two years; the plans in place to ensure that existing and recently graduated students are given access to the services at a later date; and if she will make a statement on the matter. [31156/06]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

268. **Mr. F. McGrath** asked the Minister for Health and Children if she will urgently assist a person (details supplied) in Dublin 11 with back up services. [31245/06]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### General Practitioner Services.

269. **Mr. Carey** asked the Minister for Health and Children the funds paid to general practitioners from the Exchequer on a county basis outlining the different grant payments and the sub-total and total paid by the Exchequer to each general practitioner for the year 2005 or for the latest year for which figures are available; and if she will make a statement on the matter. [31246/06]

**Minister for Health and Children (Ms Harney):** The Deputy's question relates primarily to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

I understand that arrangements are also in place under the auspices of other Departments, whereby general practitioners are paid in respect of the provision of certain services. The remuneration

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ation arrangements involved are a matter in the first instance for the Ministers concerned.

### Hospital Accommodation.

270. **Mr. Costello** asked the Minister for Health and Children her plans for accommodating the long-term patients in James Connolly Memorial Hospital who find that the land on which their hospital beds rest has been sold off to a builder; and if she will make a statement on the matter. [31305/06]

### Minister for Health and Children (Ms Harney):

The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

### Fishing Vessel Licences.

271. **Mr. Ferris** asked the Minister for Communications, Marine and Natural Resources the reasons properly licensed oyster fisherman in Lough Swilly were told to cease fishing in early September 2006 by Fisheries Officers on a Naval vessel. [31105/06]

272. **Mr. Ferris** asked the Minister for Communications, Marine and Natural Resources if he was lobbied by any Member on behalf of a company involved in a dispute over oyster fishing in Lough Swilly. [31106/06]

273. **Mr. Ferris** asked the Minister for Communications, Marine and Natural Resources the section of his Department responsible for the Lough Swilly oyster fishery; and if his attention has been drawn to the issues underlying the current dispute. [31107/06]

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne):** I propose to take Questions Nos. 271 to 273, inclusive, together.

The position is that all Irish fishing vessels engaged in commercial fishing activities are required to be appropriately licensed and registered as such.

In early September 2006, on foot of a joint Department of Communications, Marine and Natural Resources and Naval Service patrol, a number of the vessels operating in the Lough Swilly Wild-Oyster fishery were found not to be correctly licensed and registered, and written warnings were issued by the Naval Service to two fishing vessels in that regard.

The other fishing vessels found to be operating in Lough Swilly on that day were given instructions by a Department of Communications, Marine and Natural Resources Sea Fishery

Officer to return to port until they could establish that they were appropriately licensed and registered to engage in commercial fishing.

Although the Naval Service operates entirely independently in carrying out its functions of fishery control, on this particular occasion the Naval Service were engaged in one of a number of joint operations with the Department of Communications, Marine and Natural Resources to regulate inshore fisheries.

Licences issued by the Northern Regional Fisheries Board relate to participation in the oyster fishery in its area of responsibility only. Licences to participate in the fishery are issued by the Board on an annual basis. Approximately 30 operators are licensed to fish for wild oysters within the Lough.

The Department has received reports of encroachment by some oyster fishermen into a licensed aquaculture site within the Lough. The allegations have been investigated by the Department in consultation with the Naval Service, which has recently undertaken patrols in the Lough.

The Department has advised the representatives of the Lough Swilly Wild Oyster Development Association that fishing within a licensed aquaculture site is an offence under the Fisheries (Amendment) Act 1997, and that there are no circumstances in which such encroachment can be justified.

An application for an aquaculture licence by the Association in respect of oyster beds identified in a survey undertaken by Aquaculture Initiative is under consideration.

Officials of the Department have met representatives of the Association and advised them as to the further information required to allow consideration of their application to be progressed. Some additional information has been received and it is expected that the outstanding issues can be resolved without undue delay.

### Fisheries Protection.

274. **Mr. Ferris** asked the Minister for Communications, Marine and Natural Resources if more than 800 tons of mussel seed have been transferred under authorisation from Lough Swilly to Lough Foyle; and if so, the reason and the basis on which the license to do so was granted. [31108/06]

### Minister of State at the Department of Communications, Marine and Natural Resources

**(Mr. Browne):** In line with the requirements of EU regulations, under Irish legislation, measures are in place, which provide for the control of movements of shellfish from bays around the coast. Following the detection of *bonamia ostrea* in Lough Foyle last year, specific controls were put in place on movements of shellfish from the lough by SI 500 of 2005. In addition, a comprehensive range of guidelines, drawn up by this Department working with the Department of

Agriculture & Rural Development, Northern Ireland, the Marine Institute and the Loughs Agency, has been put in place in respect of shellfish operations in Lough Foyle, following the detection of bonamia ostrea in the Lough. A copy of the guidelines was circulated to all operators on the 28th of July 2005 to help prevent the spread of the parasite. Operators have been strongly advised to adhere to these guidelines.

On 27 February 2006 a movement licence was issued by the Department of Communications, Marine and Natural Resources, to move 850 tonnes of mussel seed from Lough Swilly to Lough Foyle. The period of the licence was February 20 th 2006 to April 30th 2006. This is the only licence issued for a movement of mussel seed from Lough Swilly to Lough Foyle by the Department to date, in 2006.

#### Departmental Staff.

275. **Mr. Ferris** asked the Minister for Communications, Marine and Natural Resources if his Department has investigated the possible acceptance of corporate hospitality by an officer of the Petroleum Affairs Division from a person or company associated with the development of the Corrib gas field at the time of the World Cup; and the outcome of such an investigation. [31226/06]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** My Department has no record of any staff member from the Petroleum Affairs Division availing of any such corporate hospitality as outlined in the Deputy's Question.

#### Alternative Energy Projects.

276. **Mr. Ferris** asked the Minister for Communications, Marine and Natural Resources if the whole of the 16 million litres of biofuels which he states will be placed on the transport market here in 2007 will be produced within the State; and if not, the proportion which will be imported. [31265/06]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** The Pilot Biofuels Mineral Oil Tax Relief Scheme, which commenced in August 2005, will see the production in Ireland of all 16m litres of biofuels in the two-year period to 2007 by the eight companies awarded excise relief under the scheme.

#### Telecommunications Services.

277. **Mr. Wall** asked the Minister for Communications, Marine and Natural Resources the mechanisms used to determine funding for the installation of broadband to the various towns where it has been agreed to install such a service; and if he will make a statement on the matter. [31266/06]

278. **Mr. Wall** asked the Minister for Communications, Marine and Natural Resources the number of towns that have broadband installed; the cost to his Department of such installations; the plans to further extend the number of towns; and if he will make a statement on the matter. [31267/06]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** I propose to take Questions Nos. 277 and 278 together.

The provision of telecommunications services, including broadband, is a matter in the first instance for the private sector companies operating in a fully liberalised market, regulated by the Commission for Communications Regulation (ComReg), the independent regulator. The majority of towns now have at least one provider offering broadband services.

However, it has been clear for some time that the private sector has failed to invest at the level necessary to keep pace with the demand for broadband. My Department's regional broadband programme is addressing the infrastructure deficit by building high speed open access broadband networks, in association with the local and regional authorities, in 120 towns and cities nationwide. These Metropolitan Area Networks (MANs) will allow the private sector to offer world-class broadband services at competitive costs.

Phase One of this Programme has delivered fibre optic networks to 27 towns and cities throughout the country with a total of €80 million funding provided by my Department. ENet the Management Services Entity, is currently managing those completed networks.

In planning the second phase of the MANs programme, a review of the availability of DSL broadband in the regions showed over 90 towns with a population of 1,500 and above that were not being offered a broadband service by the private sector, and these towns have been targeted for the provision of MANs under Phase Two. €80 million in funding has been earmarked for this second phase between 2005 and 2007.

A further phase of the Programme to include medium-sized towns with a MAN is also being considered.

My Department also offers funding assistance for underserved smaller towns and rural communities with a population of less than 1,500, through the Group Broadband Scheme. The project proposals should demonstrate that the service is technically and commercially viable on an ongoing basis, after initial start up support. The scheme is technology-neutral, allowing the community to select the most suitable broadband delivery platform for the area. To date, over 160 projects have been approved for funding of €5,890,000 in total, under this Programme. The projects cover over 575 communities with a combined population of over 410,000. The most recent call for proposals has now closed and the

[Mr. N. Dempsey.]

question of a further round of financial assistance is under consideration.

However despite these interventions, there will still be some parts of the country where the private sector will be unable to justify the commercial provision of broadband connectivity. I am currently examining options to address the delivery of broadband services to these areas and I hope to be in a position to bring proposals to Government shortly.

### Foreign Conflicts.

279. **Caoimhghín Ó Caoláin** asked the Minister for Foreign Affairs if his attention has been drawn to the ongoing failure of the Nigerian authorities to provide compensation for the victims of violence in Maiduguri earlier in 2006; if he will raise this issue with the Nigerian authorities; and if he will make a statement on the matter. [31133/06]

**Minister for Foreign Affairs (Mr. D. Ahern):** I am aware of the violent incidents which occurred in February this year in Maiduguri, the capital of Borno State, and then elsewhere in Nigeria. These regrettable incidents occurred following protests in Maiduguri on 18 February against the publication of cartoons depicting the Prophet Muhammad. The violence in Maiduguri resulted in at least eighteen confirmed fatalities and the burning of more than thirty Christian churches. Violent incidents subsequently spread to other areas in Northern Nigeria and also led to serious violence and attacks directed against Muslims and northerners in a number of locations in the south of Nigeria.

Our Embassy in Abuja reported extensively on these incidents at the time and also liaised closely with all members of the Irish community to ensure their safety and protection. A number of Irish religious in Kontagora, Niger State suffered loss of some property, including school buses, during the riots and consular assistance was extended to them by the Ambassador and Embassy. Irish Aid was able to provide some assistance to facilitate the continuation of their work. I am advised that any issue of compensation arising for those affected by the violence would be, in this instance, a matter to be pursued with the provincial rather than the Federal authorities in Nigeria.

The Government's serious concerns regarding these incidents, as well as those of the European Union, have been made known to the Federal Government of Nigeria. The EU pursues an active political dialogue with Nigeria within the framework of the Cotonou Agreement which provides an opportunity to discuss the sensitive issue of inter-communal relations in Nigeria as well as the challenge of confronting serious poverty which can often exacerbate ethnic and religious tensions. Our Embassy in Abuja will continue to monitor and report on these issues as

they arise and will continue to make the Government's views known as appropriate. It will also offer any further appropriate consular assistance to those affected.

### Human Rights Issues.

280. **Caoimhghín Ó Caoláin** asked the Minister for Foreign Affairs the efforts he has made to promote human rights in Burma and in particular, to bring Burma to the agenda of the UN Security Council; if he will ban Irish investment in Burma; if he will provide humanitarian aid to the internally displaced people in Burma and financial aid to Burmese human rights organisations; and if he will make a statement on the matter. [31134/06]

**Minister for Foreign Affairs (Mr. D. Ahern):** In my statement on behalf of Ireland to the 61st Session of the UN General Assembly on 26 September, I referred to the particularly grave human rights situation in Burma. I called, once again, on the Burmese régime to move towards democracy and to release all political prisoners, in particular Aung San Suu Kyi. At the ASEM (Asia-Europe Meeting) Summit held in Helsinki earlier in September, the Taoiseach also raised the situation in Burma and called for the release of Aung San Suu Kyi.

These statements by the Taoiseach and myself are consistent with the strong position on Burma which Ireland takes on all possible occasions, including in the European Union framework and at the United Nations. Together with our EU partners, we avail of all opportunities to call for the immediate release of Aung San Suu Kyi, to condemn the abuse of human rights and fundamental freedoms and deplore the lack of progress towards democracy in Burma.

The visit by UN Under-Secretary-General (UN USG) Gambari to Burma from 18-20 May was the first high-level visit to that country by a UN representative in more than two years. I welcome the fact that he was able to meet with the most senior Burmese leaders as well as with Aung San Suu Kyi and representatives of her party, the National League for Democracy, during the visit. It is vitally important that the Burmese government allow the UN to play a role in promoting common ground between the government and the National League for Democracy so that the National Convention, when it resumes its work, can proceed in a more inclusive way.

The situation in Burma was most recently discussed at the EU General Affairs and External Council Meeting in Luxembourg on 12 June. On that occasion the possibility of the situation in Burma coming before the UN Security Council was discussed. Subsequently, the UN Security Council decided to include Burma on its agenda. On foot of this, UNSG Gambari briefed the Security Council last Friday, 29 September. This was the first time that the UN Security Council met to discuss Burma as a formal item on its

agenda. This is a welcome development. In this regard also, I welcome the news that UN USG Gambari is due to pay a return visit to Burma. Ireland and our EU partners apply a range of sanctions and restrictive measures against Burma, referred to as the EU Common Position, which had been due to expire on 30 April but which has been renewed for a further year. In the absence of any significant progress in Burma, Ireland strongly supported the renewal. The Council Regulation giving effect to the Common Position imposes, *inter alia*, a ban on the provision of technical assistance and on the provision of finance relating to military activities; a ban on the sale, supply, transfer or export of equipment that might be used for internal repression in Burma, and, on the provision of technical assistance or finance relating to such equipment. A Statutory Instrument provides for the implementation of this Regulation in Ireland and incorporates penalties for infringements of its provisions. In addition, the sale, supply, transfer or export of arms-related material to Burma is prohibited under the EU Common Position. Accordingly, no licences to issue such materials to Burma have been issued by the Department of Enterprise, Trade and Employment.

The question of a general ban on investment in Burma has not arisen in the EU context. I am not aware, however, of any Irish investment in Burma. Furthermore, the current level of trade is very low. The implementation of a ban on Irish investment in Burma, or in any other country, would primarily be a matter for my colleague the Minister for Enterprise, Trade and Employment, Mr Micheál Martin T.D.

Irish Aid supports human rights and democratisation in Burma through its Civil Society Fund and Multi-Annual Programme Scheme. In 2005, under Irish Aid's Multi Annual Programme Scheme, Trócaire received funding of over €500,000 in support of its programme to strengthen civil society in Burma and in support of Burmese refugees in Thailand. In 2006, this funding increased to over €650,000. In addition, €200,000 in humanitarian assistance was provided this year in support of the work of the Thai-Burma Border Consortium, which provides long term humanitarian assistance to some half a million Burmese refugees and internally displaced persons in the border area. Irish Aid is also providing over €290,000 to the Voluntary Service Overseas organisation for a three year programme promoting democratisation, human rights and reconciliation among five ethnic groups on the Burma/Thailand border.

Irish Aid also provided funding in 2005 for Burma Action Ireland to publish two reports to document and raise awareness of human rights violations in Burma. These reports were launched in Iveagh House by Minister of State Conor Lenihan T.D., on 28 June.

I will continue to raise concerns about Burma on all possible occasions and to call on the Bur-

mese government to assume its responsibilities towards its people and to allow the fullest possible UN involvement in a genuine process of democratisation and reconciliation.

### Foreign Conflicts.

281. **Caoimhghín Ó Caoláin** asked the Minister for Foreign Affairs if his attention has been drawn to ongoing reports of religious persecution in Laos; if he has raised this matter with the Lao-tian authorities; and if he will make a statement on the matter. [31135/06]

**Minister for Foreign Affairs (Mr. D. Ahern):** While I am not aware of any specific very recent report on religious persecution in Laos, concerns about freedom of expression have been raised by the EU in the past with the authorities in Laos, most recently by the local EU Presidency last October. In addition, Amnesty International's 2005 Report referred to numerous incidents of religious repression of evangelical Christians having been reported in 2004. The Report stated that the number and consistency of such reports indicated that official government policy on freedom of religion, which is reported to have been relaxed in recent years, had not been implemented uniformly.

Ireland condemns all forms of persecution on the basis of religion or belief, irrespective of where they occur or who the victims are. Ireland, with its EU partners, has previously expressed concern at various international fora, including at the United Nations, over the climate of intolerance towards religious groups in a number of countries around the world.

### Human Rights Issues.

282. **Caoimhghín Ó Caoláin** asked the Minister for Foreign Affairs if his attention has been drawn to new anti-conversion laws in India and to reports that these laws have been used to harass and oppress members of minority religious communities; if he will raise this matter with the Indian authorities; and if he will make a statement on the matter. [31136/06]

**Minister for Foreign Affairs (Mr. D. Ahern):** I understand that the new laws to which the Deputy refers relate to changes to existing laws passed by State legislatures in Madhya Pradesh, Gujarat and Chhattisgarh States. I am not aware of any proposal for anti-conversion laws at the federal level. Indeed federal law in India provides for freedom of religious expression.

Ireland is committed to religious freedom and condemns all forms of persecution on the basis of religion or belief, irrespective of where they occur or who the victims are. Ireland, with its EU partners, has previously expressed concern at various international fora, including at the United Nations, over the climate of intolerance towards religious groups in a number of countries around the world.

[Mr. D. Ahern.]

Together with our partners in the EU, we follow closely developments relating to the situation of Christian and other minority communities in India. These and other human rights concerns are regularly addressed within the framework of regular consultations on human rights between the EU and India.

In September 2005, the EU and India agreed a Joint Action Plan to strengthen the Strategic Partnership, in place since 2004. Continuing the dialogue on pluralism, diversity and human rights is an important goal of the Joint Action Plan, which commits both India and the EU to upholding human rights and fundamental freedoms.

The most recent discussion on human rights issues, including the rights of minorities and the right to religious freedom, took place with the Indian authorities in New Delhi on 1 December 2005. The EU Heads of Mission Troika met with representatives from the Indian Ministry of External Affairs, the Ministry of Home Affairs and the National Commission for Minorities.

I welcome initiatives such as the recent introduction by the Government of India, in the Indian Parliament, of the Communal Violence Suppression Bill, which will give special powers to the central government to deal with communal violence in Indian States. The EU is also following the questions relating to the discrimination against Christian Dalits which have been brought to the jurisdiction of the Indian Supreme Court.

I have asked our Embassy in New Delhi to continue to carefully monitor developments in this area.

283. **Caoimhghín Ó Caoláin** asked the Minister for Foreign Affairs if he will make a statement on the human rights situation in Belarus, particularly with regard to religious freedom. [31137/06]

**Minister for Foreign Affairs (Mr. D. Ahern):** Within the EU, and in the relevant international and regional organisations, Ireland actively promotes respect for human rights and fundamental freedoms worldwide. In this context, we monitor reports of abuses of religious freedom wherever they occur.

Together with our EU partners, we remain very concerned about the general human rights situation in Belarus, though religious freedom has not been an issue of specific difficulty. Our concerns relate particularly to the failure of the Belarus authorities to respect international standards in the area of democracy and the rule of law. On 10 April and 18 May 2006, the EU imposed restrictive measures on members of the Belarusian leadership and on officials responsible for the violation of international electoral standards and for the crackdown on civil society and democratic opposition.

In presenting his report to the UN Human Rights Council last week, the UN Special Rapporteur on the situation of Human Rights in

Belarus, Mr Adrian Severin, underlined the continued refusal of the Belarus Government to cooperate with his office or recognise his mandate. He pointed to a steady deterioration of the human rights situation in Belarus, which was particularly evident in the period of the Presidential elections held on 19 March. The deterioration is characterised, the Special Rapporteur said, by a disregard for freedom of assembly, association and expression, by arbitrary use of State power and by widespread detentions. These views, moreover, coincide with numerous reports from other sources over a long period.

On the other hand, the Belarus Government has been willing to communicate with the UN Special Rapporteur on Religious Freedom or Belief, Ms Asma Jahangir. In this context, Ms Jahangir has underlined to Belarus, as she has to other countries, that the right to freedom of religion is not limited to members of registered religious communities.

As a general principle, Ireland expects each UN member state to cooperate fully with UN human rights mechanisms, including with Special Rapporteurs, and would strongly urge Belarus to meet its obligations in this regard.

#### **Undocumented Irish Emigrants.**

284. **Mr. O'Connor** asked the Minister for Foreign Affairs the contacts he is maintaining with Government and other political leaders in the United States of America with regard to the plight of the undocumented Irish in America; the actions he is taking to progress the campaign; and if he will make a statement on the matter. [31147/06]

**Minister for Foreign Affairs (Mr. D. Ahern):** The welfare of the undocumented Irish in the United States is a matter of the highest priority for the Government. I raise our concerns in all of my dealings with contacts on Capitol Hill and in the US Administration. In particular, I emphasise our strong support for measures that would enable the undocumented to regularise their status and have open to them a path to permanent residency.

Over the St Patrick's Day period, the Taoiseach and I availed fully of our valuable meetings with President Bush and with Members of Congress to reiterate to them our views on this matter. The President helpfully assured us of his support for a comprehensive approach to immigration which advances reforms, as well as addresses enforcement issues. I am pleased to note that this is an approach which he has endorsed strongly on a number of occasions since then.

In view of the prominence of immigration on the legislative agenda in the US, I returned to Washington D.C. in May to reiterate to key legislators the importance which the Government attaches to the welfare of the undocumented Irish.

The passage through the US Senate that month of a comprehensive bill on immigration with provisions that would provide a path to permanent residency for the majority of the undocumented represented a significant and positive development in the legislative debate.

While encouraged by the passing of the Senate bill, we recognise that securing consensus on this sensitive and divisive issue remains a very considerable challenge. In view of this, we greatly appreciate the firm commitment to a comprehensive and positive approach that Senator Kennedy, Senator McCain and others continue to promote.

In addition to my on-going contacts with US political figures, I continue to liaise very closely with the Irish community organisations in the United States. While in New York last week, I met again with representatives of the Irish Lobby for Immigration Reform, an organisation that is proving most effective in representing the views of the undocumented Irish and which the Government has been happy to support financially. I also had a valuable exchange with Irish community welfare and advisory groups in the New York area.

The Deputy can be fully assured that my efforts on behalf of the undocumented Irish will continue to be accorded the highest priority in the critical period ahead.

#### Passport Applications.

285. **Mr. J. O’Keeffe** asked the Minister for Foreign Affairs if those approaching the age of 65 who wish to renew their passport have to pay for a further ten years renewal despite their entitlement to a free renewal of passport at the age of 65; and the proposals he has to allow shorter term and cheaper renewals for those in this situation. [31149/06]

#### Minister for Foreign Affairs (Mr. D. Ahern):

The fees to be charged for passports are laid down by a Statutory Instrument [Diplomatic and Consular Fees (Amendment) Regulations 2005]. A person must be aged 65 years or above to be eligible to apply for a free passport. There is no provision in this Statutory Instrument to permit the Passport Office to waive the fee for persons aged less than 65 years. Apart from the legal dimension, the reality also is that, if this generous concessionary scheme is to work satisfactorily, there has to be a fixed starting date for the scheme and fixed qualifications for persons to benefit under it.

I should add also that new passports do not, of course, have to be applied for, or be valid from, the date when the previous passport expired.

#### Redundancy Payments.

286. **Ms Harkin** asked the Minister for Enterprise, Trade and Employment if the figures for collective redundancies as defined (details supplied) are correct; if an employer applies to

his Department and notifies of a collective redundancy, if the employer can receive a two thirds rebate on the cost of the redundancy; and if he will make a statement on the matter. [31271/06]

**Minister of State at the Department of Enterprise, Trade and Employment (Mr. Killeen):** The correct definition of “collective redundancies” as per Section 6(1) of the Protection of Employment Act, 1977 as amended by Article 5 of the Protection of Employment Order 1996 is as follows—

“Dismissals effected by an employer for one or more reasons not related to the individual concerned where in any period of 30 consecutive days the number of such dismissals is—

(a) at least 5 in an establishment normally employing more than 20 and less than 50 employees,

(b) at least 10 in an establishment normally employing at least 50 but less than 100 employees,

(c) at least ten per cent of the number of employees in an establishment normally employing at least 100 but less than 300 employees, and

(d) at least 30 in an establishment normally employing 300 or more employees.

Under Section 12 of the Protection of Employment Act 1977, as amended by Article 5 of the Protection of Employment Order 1996, there is an obligation on an employer proposing to effect collective redundancies to notify the Minister for Enterprise, Trade and Employment in writing of his or her proposals at least 30 days before the first dismissal takes place.

Employers who pay their employees their correct statutory redundancy lump sum entitlement under the Redundancy Payments Acts, 1967 to 2003 are entitled to a 60% rebate from my Department, financed by the Social Insurance Fund. This rebate applies to payments to all eligible employees under these Acts, regardless of whether or not a collective redundancy is involved.

#### Social Welfare Code.

287. **Mr. F. McGrath** asked the Minister for Social and Family Affairs if he will abolish the means test for carers; and if he will examine other ways to assist carers and their families. [31132/06]

**Minister for Social and Family Affairs (Mr. Brennan):** The carer’s allowance is a social assistance payment which provides income support to people who are providing certain elderly or incapacitated persons with full time care and attention and whose incomes fall below a certain limit.

In line with other social assistance schemes, a means test is applied to the carer’s allowance so



[Mr. Brennan.]

as to ensure that limited resources are directed to those in greatest need. This means test has been eased significantly over the years. Following Budget 2006, since April, the earnings disregard for a couple is currently set at €580 per week which is just at the level of gross average industrial earnings. This means that a couple with two children can earn up to €32,925 per annum and still receive the maximum rate of carer's allowance as well as the free travel, the household benefits package and the respite care grant. In accordance with the new social partnership agreement, towards 2016, I am committed to expanding, subject to available resources, the income limits for carer's allowance and aiming to keep the level of the disregard in line with average industrial earnings.

In Budget 2006, I provided for a significant increase in the rate of carer's allowance. From January this year, the rate of carer's allowance increased to €200 per week for carers aged 66 years and over.

Complete abolition of the means test for carer's allowance would cost an estimated €140 million in a full year. The view of some support organisations is that if this level of resources were available, it would be more beneficial to carers if it were invested in further increases to carers allowance and in the type of community care services which would support them in their caring role, such as additional respite care facilities, more home helps, public health nurses and other such services.

In addition, from June 2005, the annual respite care grant was extended to all carers who are providing full time care to a person who needs such care regardless of their income. Those persons in receipt of other social welfare payments, excluding unemployment assistance and benefit, are entitled to this payment subject to meeting the full time care condition. This arrangement was introduced to acknowledge the needs of carers especially in relation to respite. Provision was made in Budget 2006 to increase the amount of the respite care grant from €1,000 to €1,200.

I have introduced several improvements to payments from my Department in order to facilitate carers who wish to engage in employment, education or training. From 1 June this year, I increased the number of hours a person can engage in employment, self-employment, training or education outside the home and still satisfy the qualifying conditions for payment, from 10 to 15 hours per week.

In addition, in Budget 2006 I increased the length of time for which a person can claim carer's benefit from 65 to 104 weeks. The duration of the associated carer's leave scheme has also been extended to 2 years.

I am always prepared to consider changes to existing arrangements where these are for the benefit of recipients and financially sustainable within the resources available to me. Those

recommendations involving additional expenditure can only be considered in a budgetary context.

#### Departmental Correspondence.

288. **Mr. Gregory** asked the Minister for Social and Family Affairs his views on the issues raised in correspondence (details supplied). [31252/06]

**Minister for Social and Family Affairs (Mr. Brennan):** The issues raised will be addressed and a reply issued directly to the correspondent shortly, a copy of which will be forwarded to the Deputy.

#### Social Welfare Code.

289. **Ms Shortall** asked the Minister for Social and Family Affairs the way in which mental illness is catered for under the medical assessment for disability allowance; the reason a person (details supplied) in Dublin 9 was deemed not medically suited for disability allowance in view of their condition; if he intends to reform the eligibility criteria for disability allowance in order to allow that all people with a mental illness are assessed fairly and equally for social welfare entitlements; and if he will make a statement on the matter. [31253/06]

**Minister for Social and Family Affairs (Mr. Brennan):** Disability allowance is payable to people whose employment capacity is substantially restricted because of a disability and whose income falls below certain limits. Entitlement to the allowance is subject to the person satisfying both a means test and the medical eligibility criteria that apply and these are prescribed in legislation.

The medical criteria which must be satisfied in order to qualify for the allowance require that the person be suffering from an injury, disease, or illness which has continued or may reasonably be expected to continue for a period of at least a year, and as a result of the condition, be substantially handicapped in undertaking work which would otherwise be suitable having regard to the person's age, experience and qualifications. A person suffering from a mental illness may qualify for the allowance subject to other conditions.

When a person makes a claim for disability allowance an opinion regarding their medical condition is firstly provided by the person's own general practitioner. Where required, a second opinion is provided by the medical assessors employed by the Department. In certain instances medical examinations are undertaken, at which the medical assessor will have available the initial medical diagnosis, supplemented where appropriate, by relevant specialist and other reports. Any information provided by the claimant is also taken into account.

In the event that the medical assessor is not satisfied that the claimant meets the medical criteria for admission to the disability allowance

scheme, the claim may be disallowed. In those circumstances, a person may appeal to the Social Welfare Appeals Office, in which case a second medical assessment will be undertaken by a different medical assessor. I am satisfied that these arrangements ensure that all claims are assessed fairly and equally.

In the case of the person concerned, a medical assessor expressed the opinion that there was not enough evidence to admit him to Disability Allowance. He attended for a medical examination in connection with his application and was found not qualified for the Disability Allowance.

He appealed against this decision and was examined a second time by a different medical assessor who also considered unsuitable for disability allowance. His case will now go for full oral appeal hearing.

Medical Assessors carry out medical assessments of clients in order to provide an independent medical opinion with regard to eligibility on medical grounds for the guidance of deciding officers. I consider that these medical criteria are reasonable and I have no plans to change them.

### Social Welfare Benefits.

290. **Mr. N. O’Keeffe** asked the Minister for Social and Family Affairs if he will investigate a matter where an application form under the back to school clothing and footwear allowance for a person (details supplied) in County Cork was refused by the Health Service Executive; and his views on whether they have a right to apply for this allowance and have their application assessed thereafter. [31257/06]

**Minister for Social and Family Affairs (Mr. Brennan):** The back to school clothing and footwear allowance (BSCFA) scheme is administered on behalf of my Department by the Community Welfare division of the Health Service Executive.

A person may qualify for payment of a back to school clothing and footwear allowance if he or she is in receipt of a social welfare or health service executive payment, is participating in an approved employment scheme or attending a recognised education or training course, and has household income at or below certain specified levels.

The Health Service Executive has advised that it has disallowed an application by the person concerned as she was not in receipt of a qualifying payment at the time of the application but advised the claimant that she could re-apply if her circumstances changed.

### Road Network.

291. **Dr. Cowley** asked the Minister for Transport the criteria which is used when classifying a national primary and a national secondary road; the regularity of the review of this decision; the process which is necessary to reclassify the status

of these roads; and if he will make a statement on the matter. [31129/06]

**Minister for Transport (Mr. Cullen):** Until earlier this year, the national and regional road classification system was set out in Statutory Instrument (S.I.) 209 of 1994: Roads Act, 1993 (Declaration of National Roads) Order, 1994 and S.I. 400 of 1994: Roads Act, 1993 (Declaration of Regional Roads) Order, 1994. A major review of these Statutory Instruments — designed to take account of road improvements and route changes since 1994 — was completed earlier this year and Statutory Instruments (S.I. 187 of 2006 and S.I. 188 of 2006) were signed by me in April this year.

This review was conducted in consultation with local authorities and took account of representations received from a wide range of local interests. The criteria employed are set out below.

#### *National Primary Roads*

1. Long distance through routes, including those providing access to the key commercial seaports and State airports.
2. Serving as connections between principal cities and large towns.
3. Serving major geographical regions.
4. Having continuity throughout their length.
5. Serving in aggregate a high percentage of the total population of the country.
6. Carrying significant heavy commercial vehicles.

#### *National Secondary Roads*

1. Medium length through and semi-through routes.
2. Serving as connecting roads between principal towns.
3. Serving medium to large geographical regions.
4. Forming extensions to the national primary roads.
5. Linking national primary routes together to form a homogeneous network.
6. Serving major tourism traffic.

#### *General*

1. A by-pass of a town on a national route should be classified as the national route with the existing route being classified as non-national.

2. National roads should have continuity throughout their length and there should be no gaps within the designated network.

3. Spurs off the network should not be designated as national roads unless they connect to/from the key commercial seaports and State airports.

### Aircraft Security Checks.

292. **Mr. Costello** asked the Minister for Transport the number of private aircraft which came from outside the State in connection with the Ryder Cup event; the number which were subjected to security checks; and if he will make a statement on the matter. [31248/06]

**Minister for Transport (Mr. Cullen):** I am informed by the Dublin Airport Authority that in the week of the Ryder Cup four hundred and ninety business and general aviation aircraft landed in Dublin airport compared with one hundred and fifty eight in this category for the corresponding period in 2005. I am advised by the Irish Aviation Authority that no fixed wing aircraft arrived at Weston Aerodrome during the period of the Ryder Cup.

The requirements for airport and aircraft security as prescribed by EU Regulation 2320/2002 and associated implementing legislation were applied in the normal way.

### Traffic Management.

293. **Mr. Haughey** asked the Minister for Transport if he will report on plans to limit the size of trucks in the Dublin area; and if he will make a statement on the matter. [31171/06]

**Minister for Transport (Mr. Cullen):** I presume the Deputy is referring to the height of vehicles. There is currently no height limit for goods vehicles in Ireland. However, I am considering the introduction of a national height limit for vehicles taking account of more recent discussions with stakeholders. I expect to make a decision in this matter shortly.

### Light Rail Project.

294. **Mr. O'Connor** asked the Minister for Transport the progress made regarding future plans for the extension of LUAS through the Templeogue area of Dublin south west; and if he will make a statement on the matter. [31172/06]

**Minister for Transport (Mr. Cullen):** Transport 21, provides a Government commitment to deliver an extensive Luas and Metro network for Dublin in the period up to 2015.

Transport 21 does not include the provision of Luas to serve the Templeogue area within the timeframe of the strategy.

While Transport 21 involves a very large commitment of financial resources, those resources are also finite. It has therefore been necessary to prioritise the investments to be made over the ten year period.

The Dublin Transportation Office (DTO) strategy of 2001 did suggest that the Templeogue area be served by Luas or Metro. This remains the longer term vision for transport in Dublin. RPA expects to investigate those elements of the DTO strategy which fall outside of Transport 21 towards the latter part of the Transport 21 prog-

ramme when the projects have been substantially delivered.

### Public Transport.

295. **Mr. O'Connor** asked the Minister for Transport if he will order an investigation into the reason bus services to Tallaght west estates were withdrawn without notice in the week commencing 25 September 2006 causing inconvenience and concern; if he will seek an assurance from Dublin Bus in the matter; and if he will make a statement on the matter. [31173/06]

**Minister for Transport (Mr. Cullen):** This is a day-to-day operational matter for Dublin Bus and not one in which I have any role.

### Light Rail Project.

296. **Mr. Timmins** asked the Minister for Transport when the LUAS line will be extended to Bray, County Wicklow; the possible routes which have been identified; the way these were chosen; the consultation process which took place; if additional possible routes will be identified; the means by which a person can participate in this process; and if he will make a statement on the matter. [31174/06]

**Minister for Transport (Mr. Cullen):** Transport 21 provides for a Luas extension to the Bray area for completion in 2015.

A large number of possible routes were identified and evaluated by the Railway Procurement Agency (RPA). Following an in-depth multi-criteria analysis a short-list of three routes were selected for public consultation.

The first of these routes runs west of the M11, the second runs east of the M11 and third route runs along the old Harcourt Street Line. In addition a possible spur linking options one and two with the DART is under consideration.

The public consultation process began on 14th August and this process is continuing. A detailed Newsletter, including a Freepost reply card and other contact details has been distributed to households, businesses and stakeholders in the areas likely to be affected. A public Open Day was held in Bray on 13 September 2006 and I am informed that this event was extremely well attended.

All comments made to the RPA before 27 October 2006 will be considered in selecting the final route, which may include variants to those put forward for public consultation.

Comments can be made to the RPA at

Freephone: 1800 676464

E Mail: [info@rpa.ie](mailto:info@rpa.ie)

Web: [www.rpa.ie](http://www.rpa.ie)

Address: PR Department  
RPA,  
Parkgate Business Centre  
Parkgate St.  
Dublin 8.

### Public Transport.

297. **Ms Shortall** asked the Minister for Transport the number of buses in the Bus Éireann bus fleet for each of the past nine years; and if he will make a statement on the matter. [31175/06]

**Minister for Transport (Mr. Cullen):** My Department has asked Bus Éireann to forward the information sought to the Deputy.

298. **Ms Shortall** asked the Minister for Transport the way in which a detailed account of the passenger numbers, including numbers for individual lines and routes, peak-time and off-peak travel and so on carried on LUAS, Dublin Bus, Bus Éireann, Iarnród Éireann and other public transport modes is reported and recorded by his Department; the reporting mechanism in place in respect of each transport provider; the way in which this data is published; and if not, the reason for same. [31176/06]

**Minister for Transport (Mr. Cullen):** The Railway Procurement Agency, Iarnród Éireann, Dublin Bus and Bus Éireann provided to my Department, as part of their annual and other reports, information in relation to passenger carriage.

Details of passenger carriage on individual bus routes, railway lines and Luas are held by the relevant companies and are not routinely provided to my Department. Data in relation to actual and projected passenger carriage is provided as required, including in the context of business plans and capital investment projects.

In addition, the Dublin Transportation Office carries out each year a count at the canal cordon of all traffic crossing the cordon which provides valuable information on the modal split between public and private transport. This exercise also includes a monitoring of the Quality Bus Corridor network, by surveying peak and off-peak sectional journey times of buses and cars on sections. This count is carried out as follows: Dublin Bus counts bus passengers on all buses, including Bus Éireann and other buses, crossing the canal into and out of the city centre; and Dublin City Council counts all categories of traffic, including pedestrians, cyclists and categorized motorized traffic, into and out of the city centre.

This information assists the Department and transport operators in their development and consideration of transport strategies and plans.

### Open Skies Policy.

299. **Mr. P. Breen** asked the Minister for Transport further to Parliamentary Question No. 1115 of 27 September 2006, if his decision to seek to implement the essential elements of the transitional Ireland-US bilateral arrangement from November 2006 outside of an agreed EU-US open skies agreement is contrary to the judgment of the European Court of Justice in 2002 that

nationality clauses in existing bilateral aviation agreements between EU countries and the US were inconsistent with member states' obligations under the Treaty of Rome; and if he will make a statement on the matter. [31258/06]

**Minister for Transport (Mr. Cullen):** A transition period for phasing out our Shannon Stop requirement between November 2006 and March 2008 was built into the November 2005 EU-US agreement. The transitional arrangements negotiated with the EU US agreement offer significant benefits to Irish tourism and business interests opening up three new destinations in the US for Irish airlines. While we await the outcome of the US rulemaking process on ownership and control we are very concerned at any delay in commencing that transition period.

As stated in my reply to the previous question referred to by the Deputy, in the absence of progress at EU level I intend to seek to implement, the essential elements of the transitional arrangements by way of an amendment to the Ireland-US bilateral Air Services Agreement. It should be stressed that this will be done in accordance with the applicable Community law.

The European Court of Justice ruling on nationality clauses is a separate matter that applies to existing bilateral agreements and one of the objectives of the proposed EU US Open skies deal is to resolve this issue on a community-wide basis.

### Road Safety.

300. **Mr. Kehoe** asked the Minister for Transport the reason adequate notice was not given for the introduction of the child safety protection laws in order that parents could prepare financially for the purchase of additional restraints; the reason there are penalties for the enforcement of these laws but no grants of assistance available to parents (details supplied); and if he will make a statement on the matter. [31259/06]

**Minister for Transport (Mr. Cullen):** The European Communities (Compulsory Use of Safety Belts and Child Restraint Systems in Motor Vehicles) Regulations 2006, which were made on 5 May 2006, transposed into Irish law EU Directive 2003/20/EC relating to the compulsory use of safety belts in motor vehicles. Member States were obliged to transpose the directive into their national laws by 8 May 2006. Directive 2003/20/EC is one of a series of important vehicle-related directives which I transposed into Irish law in the past year.

It is normal practice for regulations of this type to include penalty provisions for breaches of them. It is not proposed to provide grant assistance for the purchase of child restraint systems for motor vehicles.

### Parking Regulations.

301. **Mr. Costello** asked the Minister for Trans-

[Mr. Costello.]

port the progress made towards making provision for resident parking only in the vicinity of Croke Park on match days and other major event days; if he will introduce new legislation; if so, the timescale for same; and if he will make a statement on the matter. [31260/06]

**Minister for Transport (Mr. Cullen):** An examination in my Department of the present road traffic legislative provisions indicates that there is no legislative provision to exclusively reserve parking on a specified public roads in the vicinity of Croke Park on match days and other major event days. The calls to reserve parking to local residents, whether in the context of match and event days at stadia or under other circumstances, is a very complex matter. The issue has been referred to the Office of the Attorney General and the matter will be considered further when advice is received on the issue.

#### Traffic Management.

302. **Mr. Costello** asked the Minister for Transport the proposals he has for the general regulation of heavy goods vehicles in respect of parking in urban areas and in respect of rat running through narrow streets and roads to avoid tolls or to take short cuts; and if he will make a statement on the matter. [31261/06]

**Minister for Transport (Mr. Cullen):** Statutory provisions are available to road authorities since 1997 to address the regulation of traffic, the application of restrictions on access by heavy goods vehicles to public roads and the application of parking restrictions by heavy goods vehicles at any location. The decision to apply such regulatory measures is a matter to be decided upon at local level by each road authority. I have no role in relation to local traffic management plans.

#### Public Transport.

303. **Ms Shortall** asked the Minister for Transport if he has received the report of the integrated ticketing project board on the review of the integrated ticketing project; if so, the conclusions of same; and the way he will proceed with the project. [31262/06]

**Minister for Transport (Mr. Cullen):** I understand from the Chairman of the Integrated Ticketing Project Board that the report is being finalised and is expected to be submitted to me within the next day or so.

#### Grant Payments.

304. **Mr. Deenihan** asked the Minister for Agriculture and Food the position regarding an application by a person (details supplied) in County Kerry under the national reserve; and if she will make a statement on the matter. [31104/06]

**Minister for Agriculture and Food (Mary Coughlan):** The person named submitted an application for an allocation of entitlements from the 2005 Single Payments Scheme National Reserve under categories A and D. It should be noted that the rules governing the Single Payment Scheme National Reserve stipulate that an applicant who is found to be eligible under more than one category may only receive an allocation of entitlements under whichever category is most beneficial.

Category A caters for farmers who inherited land or received land free of charge or for a nominal sum from a farmer who had retired or died by 16 May 2005 and who had leased out his/her holding to a third party during the reference period 2000-2002. The person named has been deemed successful under this Category. A formal letter outlining my Department's decision has issued to the person named and payment will issue shortly.

Category D caters for farmers, who inherited or purchased land and who commenced farming after 31 December 2002, or who commenced farming in 2002 but who received no direct payments in respect of that scheme year. The person named did not qualify under this Category as the land applied for was leased land. If the person named is dissatisfied with my Department's decision in relation to the National Reserve, he now has the opportunity to appeal this decision to the Independent Payment Appeals Committee. An appeals application form is available from any of my Department's offices or on the Department website at [www.agriculture.gov.ie](http://www.agriculture.gov.ie).

#### Farm Retirement Scheme.

305. **Dr. Upton** asked the Minister for Agriculture and Food the recommendations of the Report on the Operation of the Scheme of Early Retirement from Farming prepared for the Joint Committee on Agriculture and Food which she is in favour of implementing; if she has raised relevant issues in relation to its implementation with the relevant EU authorities; if so, the outcome of these discussions; and when she plans to implement the said recommendations within that report. [31178/06]

**Minister for Agriculture and Food (Mary Coughlan):** The Joint Oireachtas Committee published its report in February 2005. The report dealt with a range of issues and I responded in detail to it in September 2005.

In line with the Joint Committee's recommendations, I have recently increased the off-farm income limit for transferees in the current Scheme from €25,400 to €40,000 and have abolished the income limit for transferors. The Committee made certain other recommendations, some of which are still under consideration.

The Committee paid particular attention to two further issues. One was the implication of decoupling for retired farmers who had leased

out land and quota to transferees before or during the Single Payment Scheme reference period. I believe we secured the best deal that we could for people in this situation, in spite of the fact that the Commission were unsympathetic at the outset. A specific mandatory category was included in the National Reserve arrangements under the Single Payment Scheme. This category caters for farmers who inherited or otherwise received a holding free of charge or for a nominal amount from a farmer who retired or died before 16 May 2005 where the land in question was leased out to a third party during the reference period.

Under these arrangements, where a farm reverted to the retired farmer at the end of a lease without any entitlements, a family member taking it over will have access to the National Reserve. Retired farmers in the current Scheme who farmed during part or all of the reference period and who hold Single Payment entitlements could activate entitlements and lease them to their transferees. If the transferee did not wish to use the entitlements, a transferor has until 2007 to lease the entitlements with land to another farmer. Once at least 80% of the entitlements have been used by the lessee, the transferor has the option to sell the entitlements with or without land; otherwise he can continue to lease the entitlements with land.

The second issue the Joint Committee focused on was the levels of payment under the two Schemes. In the course of discussions on this issue, the European Commission has pointed out that the rate in the earlier Scheme was set at the maximum amount for co-funding that the Regulation allowed, and that it would not be possible to secure co-funding for an increase in the rate of pension for existing participants in the current Scheme.

#### **Grant Payments.**

306. **Mr. G. Murphy** asked the Minister for Agriculture and Food if she will expedite the processing of a grant for farm waste management for a person (details supplied) in County Cork. [31263/06]

**Minister for Agriculture and Food (Mary Coughlan):** The person concerned applied for grant-aid under the Farm Waste Management Scheme on 18 September 2006. The application is being processed in line with the arrangements set out in the Charter of Rights for Farmers 2005/2007.

#### **Pupil-Teacher Ratio.**

307. **Mr. J. O’Keeffe** asked the Minister for Education and Science the number of pupils in primary schools in Cork South-West who are in classes of 24 to 28 and 29 and above; and the proposals she has to reduce teacher pupil ratios. [31110/06]

**Minister for Education and Science (Ms Hanafin):** The information requested is not available in my Department in the format requested by the Deputy. As the Deputy will be aware, major improvements have been made in staffing at primary in recent years. At the beginning of the current school year there are no less than 4000 extra teachers in our primary schools, compared with 2002. The average class size in our primary schools is 24 and there is now one teacher for 17 pupils at primary level.

Children with special needs and those from disadvantaged areas are getting more support than ever before to help them to make the most of their time at school. Indeed, with the thousands of extra primary teachers hired by this Government, recent years have seen the largest expansion in teacher numbers since the expansion of free education. Over the next two school years even more teachers will be put in place both for the above priority areas of disadvantage and special education and also under a reduction in the mainstream staffing schedule.

As you know all primary schools are staffed on a general rule of at least one classroom teacher for every 28 children. Of course, schools with only one or two teachers have much lower staffing ratios than that – with two teachers for just 12 pupils in some cases and so on — but the general rule is that there is at least one classroom teacher for every 28 children in the school. Next year (2007/2008 school year) this is being reduced to 27 children per classroom teacher.

A further initiative that has been of direct benefit to primary schools has been the change in the criteria for developing schools. For the current school year the threshold for getting a developing school post was reduced specifically to help schools that are seeing large increases in enrolments each year, as is the case in many schools. 170 such posts were sanctioned in the 2005/06 school year, compared to 105 in 2004/05.

This Government has shown a clear determination to improve the staffing in our schools and we will continue to prioritise this issue going forward.

#### **Schools Building Projects.**

308. **Mr. McCormack** asked the Minister for Education and Science the position regarding permanent accommodation for a school (details supplied) in County Galway which has been waiting for 22 years for progress on this matter; the outcome of a recent meeting held in Galway as to the suitability of various sites; and if she will make a statement on the matter. [31111/06]

**Minister for Education and Science (Ms Hanafin):** My Department has been actively pursuing a suitable site to facilitate the construction of a permanent building for the school referred to by the Deputy. My Department is considering two site options with the intention of identifying

[Ms Hanafin.]

the most suitable site to facilitate the development of a new school building.

#### **Vocational Training Opportunities Scheme.**

309. **Mr. Ring** asked the Minister for Education and Science if she will increase an allowance (details supplied) for VTOS participants in view of the fact that the current rates of payment are in effect since 1 January 2002 and are no longer reasonable. [31126/06]

**Minister of State at the Department of Education and Science (Miss de Valera):** The allowance for VTOS students referred to in the question is equivalent to that paid to participants on FÁS training courses. Allowances are increased periodically in line with increases in FÁS rates.

#### **Schools Building Projects.**

310. **Mr. McEntee** asked the Minister for Education and Science the timeframe for the building of a new national school in Laytown, County Meath; and if she will make a statement on the matter. [31127/06]

**Minister for Education and Science (Ms Hanafin):** As the Deputy will be aware the Department has taken over from the Patron with regard to acquiring the necessary permanent site for the Junior School with a view to concluding the acquisition as quickly as possible to move the delivery of the permanent structure forward. It would be the Department's intention to relocate the Junior School to temporary accommodation on the new site for 2007.

#### **Pupil-Teacher Ratio.**

311. **Mr. F. McGrath** asked the Minister for Education and Science if she has replied to any of the 200,000 parents who signed letters to her in June 2006 demanding that the Government implement the promise to reduce class size in primary schools contained in the programme for Government; and if not, when she intends to provide these parents with the courtesy of response. [31128/06]

**Minister for Education and Science (Ms Hanafin):** The letters referred to by the Deputy were given to me in the form of a petition by the INTO and did not call for an individual response. However, in response to the petition, I issued a statement pointing out the position with regard to staffing in our primary schools. As the Deputy will be aware, major improvements have been made in staffing at primary and post-primary level in recent years. At the beginning of the current school year there are no less than 4000 extra teachers in our primary schools, compared with 2002. The average class size in our primary schools is 24 and there is now one teacher for 17

pupils at primary level, including resource teachers etc.

Children with special needs and those from disadvantaged areas are getting more support than ever before to help them to make the most of their time at school. Indeed, with the thousands of extra primary teachers hired by this Government, recent years have seen the largest expansion in teacher numbers since the expansion of free education. Over the next two school years even more teachers will be put in place both for the above priority areas of disadvantage and special education and also under a reduction in the mainstream staffing schedule.

As you know all primary schools are staffed on a general rule of at least one classroom teacher for every 28 children. Of course, schools with only one or two teachers have much lower staffing ratios than that – with two teachers for just 12 pupils in some cases and so on — but the general rule is that there is at least one classroom teacher for every 28 children in the school. Next year (2007/2008 school year) this is being reduced to 27 children per classroom teacher.

A further initiative that has been of direct benefit to primary schools has been the change in the criteria for developing schools. For the current school year the threshold for getting a developing school post was reduced specifically to help schools that are seeing large increases in enrolments each year, as is the case in many schools. 170 such posts were sanctioned in the 2005/06 school year, compared to 105 in 2004/05. This Government has shown a clear determination to improve the staffing in our schools and we will continue to prioritise this issue going forward.

#### **Higher Education Grants.**

312. **Mr. Connaughton** asked the Minister for Education and Science the reason the higher education grants have not been substantially increased in view of the cost of maintaining a student at a third level institution; if her attention has been drawn to the financial hardship that is being endured by many families particularly where there is more than one family member at a third level institution; and if she will make a statement on the matter. [31227/06]

**Minister for Education and Science (Ms Hanafin):** This Government has shown a clear determination to dramatically improve the financial support available to those students who need it most. We introduced a Top Up Grant, which currently benefits over 12,000 students this year. The higher, non-adjacent special rate of maintenance is based on the maximum personal rate of Social Welfare Unemployment Assistance. This year the top up grant was increased by 22.5%. Indeed, with the increases that we have provided in recent years, the maximum amount of grant support available this year (including top-up) is €5,970, compared to just €2,032 in 1996/97. The

payment rates for the ordinary maintenance grants have also been increased in recent years.

In relation to the reckonable income limits under the maintenance grant schemes, the practice in recent years has been to increase the limits at least in line with movements in the average industrial wage in the previous year in the reference period (September to September). This year, an increase of 5.3% was approved, in the reckonable income limits for the 2006/2007 academic year, as has the allowance by which the income limits may be increased for each dependant where two or more children are in further or higher education. This increase was ahead of the 3.2% increase in the relevant reference period. The top income limit has been increased from €44,350 to €46,700 (where there are less than four children). Higher income thresholds than this apply in cases where there are 4 or more dependent children in the family. The annual income threshold for the special rates of maintenance grant has been increased, in line with the relevant social welfare payments by over 7%.

Over €228 million has been allocated for third level maintenance grants in 2006. This Government is committed to ongoing improvements in the student support schemes, including increasing the value of maintenance grants and increasing the income limits, as resources permit.

313. **Mr. Naughten** asked the Minister for Education and Science if all social welfare payments are taken into consideration when calculating eligibility for a higher education grant; if family income supplement and farm assist payments are considered in such calculations; her plan to review this policy; and if she will make a statement on the matter. [31228/06]

**Minister for Education and Science (Ms Hanafin):** The assessment of means under my Department's Third Level Student Maintenance Grant Schemes is based on gross income from all sources, with specified social welfare and health service executive payments being excluded from the calculation. The following Social Welfare and Health Service Executive Payments are excluded in the calculation of reckonable income:—

- Child Benefit
- Family Income Supplement
- Disability Allowance (where paid to the candidate)
- Blind Pension (where paid to the candidate)
- Means Tested One Parent Family Payments
- Orphan's Pensions
- Back to Education Allowance
- Foster Care Allowance

- Domiciliary Care Allowance and
- Carer's Allowance

I have no plans at present to depart from the above practice in respect of the determination of income.

*Question No. 314 answered with Question No. 174.*

#### **Communications Masts.**

315. **Mr. Connolly** asked the Minister for the Environment, Heritage and Local Government his views on the erection of mobile phone masts in close proximity to schools and densely populated residential areas; his further view on the expressed concerns of school authorities and local communities; and if he will make a statement on the matter. [31185/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** In general, planning permission must be sought for the erection of an antenna support structure or mast. In July 1996 my Department issued Guidelines for Planning Authorities on Telecommunications Antennae and Support Structures. Their purpose was to assist planning authorities, An Bord Pleanála, operators of mobile telecommunications services and the general public by providing guidance on dealing with telecommunications masts and base stations within the planning system.

The Guidelines advise that "in the vicinity of larger towns and city suburbs operators should endeavour to locate in industrial areas or in industrially zoned land". They advise that "only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages" and also that "only as a last resort should free standing masts be located in a residential area or beside schools". Planning authorities must have regard to the Guidelines in considering applications for permission for new masts in their areas.

The Planning and Development Regulations 2001 set out certain limited exemptions for telecommunications infrastructure and equipment. These include subject to certain conditions, the attachment of additional antennae to an existing antenna support structures, the replacement of an existing antenna support structure and the attachment of antennae to certain existing structures, such as telegraph poles, electricity pylons and certain public or commercial buildings. These exemptions specifically exclude attaching antennae to existing structures such as educational facilities, childcare facilities and hospitals. These Regulations were the subject of extensive debate in the Joint Oireachtas Committee on the Environment and Local Government, and were subsequently approved by both Houses of the Oireachtas.



[Mr. Roche.]

It is a matter for each local authority to ensure that developments permitted in their area conform to these standards.

Following the Oireachtas Joint Committee on Communications, Marine and Natural Resources Report on Non-ionising radiation from mobile phone handsets and masts of June 2005, an inter-departmental advisory committee and an expert group, working to the committee, has been established to provide advice on the appropriate action to be taken on foot of the recommendations contained in the Oireachtas Committee report. The work of the committee and expert group is in train and I expect it to be finalised by the end of 2006, following which appropriate action will be addressed.

### Planning Issues.

316. **Mr. O'Dowd** asked the Minister for the Environment, Heritage and Local Government the reason there has been a 33% fall in the number of homes granted planning permission in the second quarter of 2006 compared with the same period in 2005; the expected consequences of same; and if he will make a statement on the matter. [31196/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I assume that the Question refers to recently released figures from the Central Statistics Office (CSO). These show that in the second quarter of 2006 a total of 19,097 residential units were granted planning permission, which was a decrease of 33% on the equivalent figure for the second quarter in 2005, that is, 28,818.

However figures taken over 4 quarters, that is the year up to June 2006, show a considerably smaller fall in permitted residential units, namely a decrease of 17% over the previous four quarters.

The numbers of units approved in 2004 and 2005, 101,653 and 99,352 respectively as compared to the number of units completed in those years – 76,954 and 86,188, respectively – suggests that there are many permissions yet unused.

It is also worth bearing in mind that, according to the CSO, the rate of grant of planning permission for residential units in 2004 and 2005 was significantly higher than in the 3 years prior to that with 200,000 units granted permission in those years alone – at current rate of construction, that is 2½ years supply. In contrast the rate of grant of residential units in 2001 to 2003 was less than 80,000 units annually, a rate of approval that was sufficient to deliver record numbers of constructed units. Therefore the drop in numbers may simply reflect the numbers being applied for in any one period and be a natural part of the construction cycle.

The fall is not due to a decline in the efficiency of the planning system or to any deficiency in the

amount of zoned and serviced land. Insofar as the processing of all planning applications by planning authorities is concerned, the number of decisions being made by planning authorities has increased over the same period. Planning authorities decided 38,377 applications in the first half of 2006, an increase of over 1,000 decisions compared to the same period in 2005. The proportion of applications granted remains above 80% consistently. While these figures relate to all planning applications, it is reasonable to assume that they do not vary widely between housing and other types of application.

A survey conducted by my Department on the amount of zoned residential land in local authority areas that was serviced at end 30 June 2005 indicates that there is more than an adequate stock of serviced building land available throughout the country for residential development. At end June 2005, there was 14,782 hectares of serviced residentially zoned land nationally, with an estimated yield of 459,641 housing units. This equates to sufficient capacity nationally for residential development for over 5 years, based on 2005 completions of around 81,000 units.

### Social and Affordable Housing.

317. **Mr. Crowe** asked the Minister for the Environment, Heritage and Local Government the plans he has for continuing the use of the rental accommodation scheme as a long-term option to house people who should be in social housing. [31269/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I am satisfied at this early stage that the Rental Accommodation Scheme (RAS) is meeting the objectives set for it by Government in July 2004. RAS has progressed from piloting to full local authority mobilisation. RAS is being constantly monitored and its use should be continued as part of the range of local authority responses to meeting long-term housing needs.

RAS uses a range of measures to provide good quality, secure accommodation and is particularly suited to dealing with the needs of single person households, the elderly and the long term homeless. It has also provided a solution to the problems of poverty traps in the rent supplement scheme. To date over 11,000 rent supplement cases have been reviewed, 1,600 properties inspected and some 1,700 cases transferred to RAS. An additional 1,200 rent supplement households have also been allocated local authority housing.

Under RAS, eligible persons can indicate their preference to be accommodated by local authorities in social housing, continue to remain in their current private accommodation or apply for alternative private accommodation. Accommodation may also be provided by voluntary and co-operative housing bodies. RAS has taken on a

pivotal role in proving local authorities with solutions to a range of accommodation demands. This has been recognised in Towards 2016. Voluntary and co-operative housing bodies, tenant representative bodies and organisations supporting the homeless are fully supportive of the scheme and bodies with the voluntary sector are active in providing accommodation.

RAS provides fresh options for local authorities to improve and accelerate the provision of social housing support. In the short term we are committed to providing an additional 1,000 new units from the private sector on long term contracts over the period 2007-2009. Over the long term RAS will become an important part of the armoury of local authorities in addressing the issue of housing need.

#### **Local Authority Charges.**

318. **Mr. Kelleher** asked the Minister for the Environment, Heritage and Local Government if local councils can waive water charges for schools; if he proposes to change legislation to allow councils to have discretion in relation to the collection of water charges from schools; his views on whether it is fair or just to schools particularly in disadvantaged areas paying large sums of money for water; and if he will make a statement on the matter. [31112/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Local authorities are required to recover the cost of providing water services from all users of these services, with the exception of householders. The intention is that the cost of providing water services to the non-domestic sector will be recovered by local authorities by means of a meter based volumetric charge. Wavier provisions in relation to local government services are designed only to address personal hardship and cannot therefore appropriately accommodate the non-domestic sector.

In order to provide a transparent and equitable cost recovery mechanism for water services, as envisaged by the EU Water Framework Directive, local authorities are now moving towards the metering of all non-domestic users, including schools. Metering of water usage should incentivise all non-domestic users, including schools, to conserve their use of water and so minimise this element of their running costs.

#### **Housing Grants.**

319. **Mr. Dennehy** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the difficulties being created for elderly and handicapped people who have applied for assistance with funding for stairlifts and other essential repairs, by the need to have an occupational therapists report on each such application; if his further attention has been drawn to the fact that this requirement can cause

delays of up to six months due to the non-availability of occupational therapists; the proposals he has to amend that requirement; and if he will make a statement on the matter. [31113/06]

#### **Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):**

I am very much aware of the importance of the efficient operation of the Disabled Persons and Essential Repairs Grant schemes in assisting with the provision of appropriate accommodation for disabled and elderly persons in the community. The administration of the Disabled Persons Grant scheme is delegated to local authorities within the framework laid down in statutory regulations in order to give an appropriate degree of flexibility at local level. The introduction of systems of medical prioritisation as well as standardisation of costs and improved arrangements for the use of occupational therapists has enabled authorities to manage the schemes more efficiently and has allowed them to tackle the backlog of applications which had been allowed to build in a number of areas.

The issue of the availability of occupational therapists has been considered in the context of a review of the Disabled Persons and Essential Repairs Grant schemes, including the conditions governing the Special Housing Aid for the Elderly Scheme, recently finalised within my Department. Proposals for the future operation of these schemes are now being prepared, in consultation with other public agencies concerned, and I expect to be in a position to announce these shortly.

#### **Water and Sewerage Schemes.**

320. **Mr. Dennehy** asked the Minister for the Environment, Heritage and Local Government when a drainage scheme will be sanctioned for a town (details supplied) in County Cork; if his attention has been drawn to the fact that urgent remedial work on the main street of the town is being deferred, pending work on the drainage scheme; and if he will make a statement on the matter. [31114/06]

#### **Minister for the Environment, Heritage and Local Government (Mr. Roche):**

The proposed sewerage works at Carrigaline form part of the Cork Lower Harbour Sewerage Scheme which is included in my Department's Water Services Investment Programme 2005-2007 as a scheme to commence construction in 2007 at an estimated cost of €71.4 million.

My Department is awaiting submission of a Preliminary Report for the scheme by Cork County Council. Following approval of the Preliminary Report the Council will be in a position to draw up Contract Documents. Responsibility for the maintenance of road surfaces in the meantime is of course a matter for the Council.

*Question No. 321 answered with Question No. 174.*

### Planning Issues.

322. **Dr. Cowley** asked the Minister for the Environment, Heritage and Local Government if the Irish Rural Dwellers Association should be a nominating body to An Bord Pleanála; and if he will make a statement on the matter. [31116/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** In the context of new Planning and Development Regulations to be finalised shortly I intend to make the Irish Rural Dwellers Association (IRDA) a nominating body for An Bord Pleanála.

323. **Dr. Cowley** asked the Minister for the Environment, Heritage and Local Government his views on whether it is incorrect that membership of An Taisce is secret; his further views on whether there should be transparency in this area; and if he will make a statement on the matter. [31117/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** An Taisce is an independent non-governmental organisation and I have no detailed information regarding its membership.

In general terms it is a matter for non-governmental organisations to regulate their own affairs, without Government involvement. However, general provisions have been included in Section 10 of the Planning and Development (Strategic Infrastructure) Act 2006 for the prescription of additional requirements for environmental organisations which must be satisfied in order for them to make an appeal against a decision by a planning authority on applications for development involving environmental impact assessment. Any regulations made under that provision must be of a general nature and for the purposes of promoting transparency and accountability in the operation of the non-governmental organisations involved.

### Light Rail Project.

324. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government if he will provide this Deputy with a copy of any written submission that he may have made to the Railway Procurement Agency in regard to the Luas Line B2 from Cherrywood to Bray. [31118/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** My Department has not made a submission to the Railway Procurement Agency (RPA) in regard to the Luas Line B2 from Cherrywood to Bray, and there are therefore no papers from the Department in this regard which I could release to the Deputy.

However, I should point out that, in my role as constituency representative, I have written to and met with the RPA in relation to the proposed extension of the LUAS to Bray.

### Third Level Courses.

325. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government the recognition which will be afforded to the newly convened degree courses of architecture at Waterford Institute of Technology and the University of Limerick under the terms of the Building Control Bill 2005 once enacted in law; and if he will make a statement on the matter. [31119/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The architectural degree courses referred to have only recently commenced and, consequently, are not specified as recognised architectural qualifications for the purpose of registration of the title of “architect” in Section 11 of the Building Control 2005, introduced last December. Following the enactment of the 2005 Bill, I will consider making Regulations under Section 11 (5), providing for recognition of these courses, if appropriate, in consultation with the Higher Education and Training Awards Council (HETAC) and the National Qualifications Authority of Ireland (NQAI).

### Water Quality.

326. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government the situation in regard to levels of lead in drinking water supplies; the progress which has been made in eliminating same; and if he will make a statement on the matter. [31120/06]

335. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government if he has satisfied himself that all drinking water throughout the country is of an adequately high standard in terms of quality and pollutants; and if he will make a statement on the matter. [31233/06]

337. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government his plans to meet in full, current and future domestic water supply needs with particular reference to purification, storage capacity and continuity of supply; and if he will make a statement on the matter. [31235/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I propose to take Questions Nos. 326, 335 and 337 together.

Drinking water quality in public and private water supplies is monitored and reported on by the Environmental Protection Agency. The most

recent EPA report *The Quality of Drinking Water in Ireland — A Report for the Year 2004* is available in the Oireachtas Library and confirms the fundamentally good quality of drinking water supplies in Ireland. The report shows an overall compliance rate with all relevant parameters, including lead, of 96.4%.

This Government has invested very considerable resources in this area. Some €3.7 billion will be spent under the National Development Plan 2000-2006 on the provision of water services infrastructure. Substantial increases in water treatment and storage capacity, both for domestic and non-domestic use, are being achieved as a result of this investment. Schemes completed in the period 1997 to June 2006 have produced additional drinking water treatment capacity equivalent to the needs of a population of over one million. The increase in storage capacity over the same period was sufficient to meet the requirements of a population of over 1.5 million. Overall, the resources being put in place by my Department should continue to ensure that the coverage and quality of the national water supply infrastructure is adequate to meet current and anticipated demands.

The European Communities (Drinking Water) Regulations 2000, which transposed Council Directive 98/83/EC, reduced the parametric value for lead in drinking water to 10 micrograms per litre. A December 2013 deadline is specified for achieving compliance with this standard, with an interim value of 25 micrograms per litre required since the end of 2003. Compliance with the interim standard is generally achievable through appropriate treatment at water treatment plants. I have also provided funding in the Water Services Investment Programme 2005-2007 for a study of the implications of the 2013 lead standard for public water supply systems. The study is being led by Dublin City Council and is currently in progress.

Management of public drinking water supplies is generally the responsibility of the local authorities, which have a range of instruments and measures available to them to produce and conserve sufficient stocks to meet anticipated needs and to ensure quality standards. In addition, my Department co-ordinates and finances a major programme of investment in improved infrastructure, active leakage control, telemetry and rehabilitation of water mains. Details of such projects are set out in the Water Services Investment Programme 2005 -2007 which is also available in the Oireachtas Library.

The schemes included in the Programme are derived mainly from regular assessments of needs undertaken by local authorities, at my Department's request, as an input to the overall strategy for meeting necessary water supply and treatment requirements. Sanitary authorities have been requested to carry out new assessments in 2006 and these will inform project selection in the next

phase of the Water Services Investment Programme.

### National Parks.

327. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government the plans he has to provide for national parks legislation in order to improve the regulatory framework for the designation, management and future development of national parks; and if he will make a statement on the matter. [31121/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** All of Ireland's six National Parks are managed as Category II National Parks under the criteria set out by the World Conservation Union (IUCN). Under this Category, ownership and management should normally be by the highest competent authority of the State.

Accordingly, all National Parks in Ireland are fully owned and managed by the State. A large proportion of Killarney National Park is made up of the Bourn Vincent Memorial Park, which was gifted to the State in 1932 under the Bourn Vincent Memorial Park Act 1932. The other areas of Killarney National Park, together with Connemara, Glenveagh, Wicklow Mountains, the Burren and Ballycroy National Park, County Mayo are managed under the State Property Act, 1954. Most of the land in the National parks is also designated as Special Areas of Conservation (SACs) under the EU Habitats Directive, 1992, which was transposed into Irish Law by the European Communities (Natural Habitats) Regulations 1997.

While I have no current proposals for National Parks legislation, I indicated in the Interim Review of the Implementation of the National Biodiversity Plan 2002-2006, that my Department is examining the legal basis for the National Parks and in this context will consider, inter alia, the need for specific National Parks legislation.

### Water and Sewerage Schemes.

328. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government the report that he may have received in regard to the odour issues and any other problems arising from the operation of the Ringsend waste water treatment plant in Dublin City; and if he will make a statement on the matter. [31122/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The operation of the regional waste water treatment plant in Ringsend is the responsibility of Dublin City Council and my Department has no direct function in the matter. I understand that remedial measures to deal with odour issues are being carried out by the plant operators on behalf of the City Council.

### Planning Issues.

329. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government if he is satisfied that local authorities are complying with the requirement under Section 38 of the Planning and Development Act to make available copies of parts of planning applications at reasonable cost; his views on whether a charge of €5 is reasonable for an A4 page, €10 for an A3 sheet and €20 for a larger drawing in the case of Dublin City Council; and if he will make a statement on the matter. [31123/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Section 38(4) of the Planning and Development Act 2000 allows the charging of a fee for photocopies of documents relating to planning applications “not exceeding the reasonable cost of making a copy”.

On the basis of a survey carried out in 2005, my Department determined that there was a large variation in practices in planning authorities as regards the method of calculation of charges for photocopies of planning documents. My Department issued Circular PD4/05 on 10 August 2005 requesting planning authorities to review their charging policy for copies of planning documents.

The circular advised that the reasonable cost of making a copy should include only the cost of actually making the copy, and should not include for example the cost of searching for and retrieving the document in question. The circular also states “that the charging of a minimum charge of e.g. €2-€5 for one page is not reasonable if this charge exceeds the actual cost of making the copy.” This advice will be reiterated in the Development Management Guidelines which will be finalised and published in the coming months and its implementation will be kept under review.

*Question No. 330 answered with Question No. 174.*

### Architectural Heritage.

331. **Mr. O'Connor** asked the Minister for the Environment, Heritage and Local Government if he will make contact with South Dublin County Council and offer assistance with regard to the need to preserve, protect and develop a house (details supplied) in Dublin 24; his views on the historical significance of this site; and if he will make a statement on the matter. [31229/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Statutory protection of the architectural heritage is primarily a matter for the planning authorities to whom my Department provides advice in the exercise of their functions in that regard under the Planning and Development Act 2000.

Under the provisions of the Act, each planning authority is required, for the purpose of protect-

ing structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, to include in its development plan a Record of Protected Structures within its functional area. This may be done at the time of the preparation of the development plan, or where appropriate, at any other time. The making of an addition to, or a deletion from, a Record of Protected Structures is a reserved function.

I understand that the building referred to in the Question is included in the Record of Protected Structures for South Dublin County Council which was published in the development plan in December 2004. I am satisfied that the use of the Planning Acts, together with the County Council acting vigilantly and proactively to ensure the status of the building on the Record of Protected Structures, are appropriate in relation to its protection.

My Department funds a scheme of grants for the conservation of protected buildings, which is administered by the local authorities. It is a matter for each individual local authority to assess and prioritise applications and approve funding. The scheme is aimed at assisting owners and occupiers to carry out conservation works on structures which are included in the Record of Protected Structures.

### Alternative Energy Projects.

332. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government when he expects to be in a position to utilise methane gas emissions from sewage treatment plants for energy purposes; and if he will make a statement on the matter. [31230/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The generation of methane gas for use as a fuel is a potential benefit of treating sludge, a waste water by-product, by anaerobic digestion. The gas produced from the sludge digestion process in Ireland's largest waste water treatment facility at Ringsend in Dublin supplies some 50% of the heating requirements of the plant. Other sewage treatment plants also recover energy from methane gas to heat the sludge digestion process.

Funding for the inclusion of energy recovery facilities in waste water treatment plants is available, where appropriate, from my Department under the Water Services Investment Programme.

### Fire Stations.

333. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government when he expects fire fighting services, permanent and part-time, to be fully equipped with the most modern technology in terms of breathing apparatus, sufficient to meet requirements emanating

from major accidents or terrorist attacks; and if he will make a statement on the matter. [31231/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The provision of a fire service, including equipment such as breathing apparatus, is a statutory function of the individual fire authorities and my Department has no direct role in this matter. My Department supports the local fire authorities through the setting of general policy, the provision of capital funding, the issue of guidance to fire authorities in relation to fire prevention and operational matters, and other such initiatives.

Over the past 25 years, almost €240 million has been provided to local fire authorities under the fire services capital programme for the provision of new and refurbished fire stations and the purchase of fire appliances and other equipment, including breathing apparatus. In the current year almost €20 million has been allocated to the Fire Services capital programme. This allocation will be used to further modernise and update the resources available to the fire authorities.

In addition, since 2001, my Department has provided almost €4.2 billion in general purpose grants to assist the local authorities in carrying out their statutory functions, including the provision of fire services.

#### **Air Pollution.**

334. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the extent to which he has studied the monitoring of air pollution with particular reference to identification of the areas most severely affected; the plans he has to deal with same; and if he will make a statement on the matter. [31232/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Air quality assessment is the responsibility of the Environmental Protection Agency and air quality management a matter for local authorities informed by air quality measurement data.

The Environmental Protection Agency's Air Quality in Ireland 2005 report, published in July 2006 (available in the Oireachtas Library), contains details of the monitoring and assessment of national air quality, and incorporates data from all air quality monitoring stations operated by the EPA and local authorities. Air quality was good throughout the country in 2005 and complied with the air quality standards in force for all pollutants.

From its recent report Environment in Focus 2006; Environmental Indicators for Ireland, I am aware of the Environmental Protection Agency's concern in relation to increasing emissions of nitrogen oxides and the challenge for Ireland in meeting our 2010 nitrogen dioxide target under EU Directive 1999/30/EC. In this regard I refer

to the reply to Question No. 116 on today's Order Paper.

*Question No. 335 answered with Question No. 326.*

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

336. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the way in which he proposes to address the issue of the inadequacy of the local housing construction programme with particular reference to the need to address the requirements of applicants within a reasonable timeframe; and if he will make a statement on the matter. [31234/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** The Government's commitment to a strong local authority housing construction/acquisition programme is reflected in the record allocation of €942 million provided to local authorities under the programme for 2006. This should allow for the completion of over 5,000 housing units in the year. I have urged them to accelerate progress on the implementation of their programmes in order to commence construction and secure completion on as many social housing schemes as possible in 2006.

The Government have committed in the social partnership agreement, Towards 2016, to higher levels of output to meet assessed need as part of a comprehensive programme of social housing investment. This includes an additional 4,000 new housing units over the period 2007 to 2009 through a combination of local authority and voluntary and co-operative housing, and private rented accommodation using long-term contractual arrangements.

*Question No. 337 answered with Question No. 326.*

#### **Housing Grants.**

338. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government if he will allocate or approve increases in the funding available to local authorities for disabled persons' grants and essential repair grants; and if he will make a statement on the matter. [31236/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** My Department had allocated €65 million for the funding of Disabled Persons and Essential Repairs Grant schemes in private houses in 2006. It is expected that a further €7 million will be spent this year on works of adaptation to make local authority rented houses more suitable for a disabled member of the household, bringing the total expenditure in the area to €72 million. I am satisfied that this significant level of funding is reasonable and this is

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reflected in the fact that all local authorities received the capital allocation requested by them in 2006.

My Department is continually monitoring expenditure patterns of local authorities for the schemes to ensure that the resources being made available are utilised to the maximum extent possible and in this regard an amount of €1.75m has already been reallocated to local authorities this year.

#### **Water and Sewerage Schemes.**

339. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the number of applications currently before his Department for the upgrading of sewerage schemes throughout County Kildare; if he will ensure the availability of adequate funding to meet such requirements in early date; and if he will make a statement on the matter. [31237/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I refer to the reply to Questions Nos. 1504, 1506 and 1526 of 27 September 2006. I am arranging to forward the information promised to the Deputy.

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

340. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government if he will increase the allocation of capital funding to Kildare County Council to meet the full requirement in terms of the local authority housing programme; and if he will make a statement on the matter. [31238/06]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** Kildare County Council have been allocated €39 million in capital funding for their local authority housing construction / acquisition programme in 2006. My Department has not received an application from the County Council for additional funding. However, any such application will be considered taking account of the overall provision under the local authority housing construction/acquisition programme for the year.

*Question No. 341 answered with Question No. 115.*

#### **Departmental Bodies.**

342. **Mr. Costello** asked the Minister for the Environment, Heritage and Local Government the membership of the National Heritage Council; its terms of reference and level of consultation with other heritage groups; the budget for the first 12 months; its policy on the conser-

vation of churches which are no longer required for religious service; and if he will make a statement on the matter. [31242/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The Buildings at Risk Grant Scheme operated by the Heritage Council, a statutorily independent body established under the Heritage Act, 1995 and funded by my Department, has been deployed to certain churches which are no longer required for religious service. Enquiries should be made directly to the Heritage Council. The Council is itself broadly based in its membership and has active engagement with heritage NGOs.

The Irish Heritage Trust Limited was incorporated in July this year with the object 'To acquire properties of significant heritage value where there is a risk to such value, so as to provide for their proper conservation, maintenance and presentation; their public enjoyment and appreciation; and public access to them in perpetuity.' The Irish Heritage Trust has been established as a charity (company limited by guarantee and not having a share capital) under the Companies Acts. The Trust provides an alternative to State acquisition of major important heritage properties where there is imminent risk to their heritage value.

The Trust has a strong remit to maximise non-Exchequer resources in support of its activities, to encourage membership and volunteers and to be financially self-sufficient over time. However in its early years the Trust will be reliant on State support and the Government has committed itself to providing support for the Trust in this starting period.

The Directors of The Irish Heritage Trust Limited are Sir David Davies (Chairman), Vourneen Collins, Desmond FitzGerald (Knight of Glin), John Hughes, Samantha Leslie, Camilla McAleese, Mary Moylan, Sean Mulryan, Carmel Naughton, Anne O'Donoghue, Nobby O'Reilly, James Osborne and Primrose Wilson.

The Memorandum of the Irish Heritage Trust Limited requires it to work closely with heritage and other bodies, in Ireland and internationally, concerned in any way with heritage, including but not limited to non-governmental organisations, tourism organisations, development authorities and State and local government authorities.

My Department is providing €0.5 million in 2006 to meet the establishment and initial running costs of the Trust.

It will be for the Irish Heritage Trust Limited to establish its own policy in relation to acquisitions and other matters, including if appropriate in relation to disused churches. The Trust can be contacted at 4 Castle Street, Dublin 2.

*Question No. 343 answered with Question No. 165.*