



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

Thursday, 14 May 2009.

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# DÁIL ÉIREANN

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*Déardaoin, 14 Bealtaine 2009.*

*Thursday, 14 May 2009.*

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

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*Paidir.*

*Prayer.*

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## **Requests to move Adjournment of Dáil under Standing Order 32.**

**An Ceann Comhairle:** Anois, iarratais chun tairisceana a dhéanamh an Dáil a chur ar athló faoi Bhuan Ordú 32. Now we come to requests to move the adjournment of the Dáil under Standing Order 32.

**Deputy James Bannon:** I seek the adjournment of the Dáil under Standing Order 32 to raise a matter of national importance, namely, the threat to the education of the poorest children in the State by the proposed reduction in teaching posts and educational supports for the disadvantaged. There has been no improvement in literacy in this sector since 1980, according to the children's charity, Barnardos. The restricted codes which denote a linguistic impoverishment, combined with economic and resource curtailment, will further enforce the intellectual divide to the detriment of future economic progress in what should be a knowledge-based economy. This is frequently and unrealistically proposed by the Government but will never be realised without an increase in educational attainment across incomes and the social divide and the putting in place of appropriate resources to achieve equity.

**Deputy Pádraic McCormack:** That sounds good.

**Deputies:** Hear, hear.

**Deputy Joan Burton:** I ask for a debate in respect of SR Technics which now seems to be doomed. Will the Tánaiste allow a debate under the terms of Standing Order 32?

**Deputy Martin Ferris:** Under Standing Order 32, I seek the adjournment of this House to debate the ongoing situation at Glengad, County Mayo, where local people with genuine objections to the proposed gas pipeline are being treated in a very heavy-handed manner by private security people. The freedom of people, including local fishermen, to move about and engage in their work is being impeded. I call on the Minister for Communications, Energy and Natural Resources, Deputy Eamon Ryan, to intervene and to ensure that a full public inquiry is held in order to address all objections.

**Deputy Dan Neville:** I seek the adjournment of the Dáil under Standing Order 32 to discuss a matter of national importance, namely, that with regard to the Monageer tragedy there was failure by the Health Service Executive and the social services to complete a suicide risk assessment which would have superficially identified ten indicators. These, combined, indicate high

[Deputy Dan Neville.]

risk of suicide and the consequential need for the intervention of the mental health services and such an action would have saved the lives of Mr. Dunne, his wife and two children. In addition, there was failure by the Minister for Health and Children to include a psychiatrist in the Monageer inquiry team.

**An Ceann Comhairle:** Tar éis breithnithe a dhéanamh ar na nitheardaithe, níl siad in ord faoi Bhuan Ordú 32. Having considered the matters raised they are not in order under Standing Order 32.

### Order of Business.

**The Tánaiste:** It is proposed to take No. 16, motion re proposed approval by Dáil Éireann for a regulation of the European Parliament and of the Council establishing a European asylum support office; No. 22, Industrial Development Bill 2008 [*Seanad*] — Order for Report and Report and Final Stages; No. 21, Harbours (Amendment) Bill 2008 [*Seanad*] — Second Stage (resumed); No. 3, Fines Bill 2009 — Order for Second Stage and Second Stage.

It is proposed, notwithstanding anything in Standing Orders, that No. 16 shall be decided without debate and that the proceedings on Report and Final Stages of No. 22 shall, if not previously concluded, be brought to a conclusion at 1.30 p.m. by one question which shall be put from the Chair and which shall, in respect of amendments, include only those set down or accepted by the Tánaiste and Minister for Enterprise, Trade and Employment.

**An Ceann Comhairle:** There are two proposals to be put to the House today. Is No.16, motion re proposed approval by Dáil Éireann for a regulation of the European Parliament and of the Council establishing a European asylum support office, agreed?

**Deputy Richard Bruton:** We are not happy with these two motions, namely, No. 16 which is being sought without debate and the subsequent guillotine. The House needs to set aside time to debate the imminent disappearance of hopes of recovery of the jobs in SR Technics. As the Tánaiste will know, the company has signalled the sale of key assets in this company which will pull the leg out from under the various proposals that have developed by the IDA. Many feel that the Government sleepwalked into this crisis.

**An Ceann Comhairle:** I cannot have a debate now.

**Deputy Richard Bruton:** I believe I am entitled to give my reasons for proposing——

**An Ceann Comhairle:** A brief reason.

**Deputy Richard Bruton:** We need to have a debate because——

**Deputy James Reilly:** Hear, hear.

**Deputy Richard Bruton:** ——significant State money will go to fund the redundancy package of €15 million. The trade unions have signalled they believe the Government did not make sufficient effort to recover the jobs. Many feel that SRT has not co-operated to the extent necessary and that it has motives other than the recovery of employment. This is vital. It concerns 1,100 jobs on the north side at a time when we simply cannot afford the haemorrhaging of jobs.

**Deputies:** Hear, hear.

**Deputy Richard Bruton:** There is a desire in the House to have time to discuss this and see whether, even at this late stage, anything can be retrieved.

**Deputy Joan Burton:** Before anything is agreed on the Order of Business, I would like to have a commitment from the Tánaiste that in the House today she will discuss what is another jobs disaster for the Dublin region. It concerns not only the north side of Dublin but also the counties of Meath, Louth and Kildare and surrounding areas where many people of the 1,200 people employed by SR Technics live. This Government seems to be helpless in the face of a strategy by the company——

**An Ceann Comhairle:** I cannot have a general debate on this now.

**Deputy Joan Burton:** ——to take assets out of Ireland, asset strip the Irish company and only leave the base of the skilled workers — 1,200 men — with nothing to do. It is a tragedy for the families involved and the economy in a week when the Dublin Airport Authority has announced a further 400 redundancies. Will the Tánaiste come into the Dáil today before we agree to anything on the Order of Business——

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

**Deputy Joan Burton:** ——to see whether we can work out a strategy for the 1,000 workers at SR Technics who will be unemployed. From now on it will cost the State at least €20 million a year in addition to the €15 million it will pay out in redundancy payments. It is a no-brainer that the Tánaiste should put a package together to try to salvage something for the economy of the greater Dublin region.

**An Ceann Comhairle:** We cannot have a debate on the matter now. The Deputy has made her point.

**Deputy Aengus Ó Snodaigh:** I echo what the two Deputies have said. I, too, reject the Order of Business, unless a commitment is given by the Tánaiste that we will have a debate on how the Government has allowed a viable, strategic and world-class Irish industry to be destroyed by multinational vultures. I also urge that we have a debate in order that we can show the absolute failure of the Tánaiste, a waster of time and a waster of jobs——

**An Ceann Comhairle:** We cannot have a general debate now.

*(Interruptions).*

**Deputy Aengus Ó Snodaigh:** Over 1,000 jobs in SR Technics have been wasted by the Government when there was a possibility of ensuring they could be sustained.

**Deputy Dick Roche:** Deputy Ó Snodaigh is the waster.

**Deputy Aengus Ó Snodaigh:** The Tánaiste is a waster, as is the Government, as anybody working in the industry knows.

**Deputy Dick Roche:** The Deputy and his party sought to destroy the country.

*(Interruptions).*

**The Tánaiste:** As the Ceann Comhairle knows, there have been two requests to his office and it is for him to decide on time availability for Adjournment debates and private notice

[The Tánaiste.]

questions. I note Deputy Ó Snodaigh has not changed since the time the two of us were in college.

The issue of SR Technics has been raised on a considerable number of occasions by members of the Opposition whom I have met privately, as well as by my colleagues on this side of the House. I agree it is serious. At the time I met the unions to discuss the matter. I have also met all the agencies involved. I set up a special project team between Enterprise Ireland and the IDA and employed a specialist in aviation to support the decision making to be made on the basis of a number of bids being made by Irish people who wished to invest. As the House knows, there have been extensive contacts made by me, my officials and agencies with SR Technics over a considerable period of time and I am extremely disappointed with the decision made last night. However, the company indicated that the bids received from the Dublin operations which were supported by the IDA and Enterprise Ireland were well below its assessment of the current market value of the assets. I understand it is still open to bids for the remaining parts of the business, including base maintenance, line maintenance, the garage and remaining tooling and equipment. It has indicated that it will accept bids in respect of base maintenance until Friday, 22 May and Wednesday, 27 May in respect of line maintenance and the garage.

I reiterate that I will continue to work with Enterprise Ireland, the IDA and the DAA, as well as the remaining bidders and other interested parties, to maximise the available employment opportunities, in addition to the remaining 250 plus jobs in maintenance and design. We shall continue to endeavour to work to the best of our ability. The Government, through its agencies, has fulfilled its role and will continue to do so between now and the end of May.

**Deputy James Reilly:** It is too little, too late.

*(Interruptions).*

Question put: "That the proposals for dealing with No. 16 be agreed to."

The Dáil divided: Tá, 65; Níl, 49.

Tá

Ahern, Dermot.  
 Ahern, Michael.  
 Ahern, Noel.  
 Andrews, Barry.  
 Andrews, Chris.  
 Ardagh, Seán.  
 Aylward, Bobby.  
 Blaney, Niall.  
 Brady, Áine.  
 Brady, Cyprian.  
 Brady, Johnny.  
 Byrne, Thomas.  
 Calleary, Dara.  
 Carey, Pat.  
 Collins, Niall.  
 Conlon, Margaret.  
 Connick, Seán.  
 Coughlan, Mary.  
 Cregan, John.  
 Cuffe, Ciarán.  
 Curran, John.  
 Dempsey, Noel.  
 Dooley, Timmy.  
 Finneran, Michael.  
 Fitzpatrick, Michael.  
 Fleming, Seán.

Flynn, Beverley.  
 Gallagher, Pat The Cope.  
 Gogarty, Paul.  
 Harney, Mary.  
 Haughey, Seán.  
 Healy-Rae, Jackie.  
 Hoctor, Máire.  
 Kelleher, Billy.  
 Kelly, Peter.  
 Kennedy, Michael.  
 Kirk, Seamus.  
 Kitt, Michael P..  
 Kitt, Tom.  
 Lenihan, Conor.  
 McEllistram, Thomas.  
 McGrath, Mattie.  
 McGrath, Michael.  
 Mansergh, Martin.  
 Moloney, John.  
 Mulcahy, Michael.  
 Nolan, M. J.  
 Ó Cuív, Éamon.  
 Ó Fearghaíl, Seán.  
 O'Connor, Charlie.  
 O'Hanlon, Rory.  
 O'Keeffe, Batt.

Tá—*continued*

O’Keeffe, Edward.  
 O’Rourke, Mary.  
 O’Sullivan, Christy.  
 Power, Seán.  
 Roche, Dick.  
 Ryan, Eamon.  
 Sargent, Trevor.

Scanlon, Eamon.  
 Smith, Brendan.  
 Treacy, Noel.  
 Wallace, Mary.  
 White, Mary Alexandra.  
 Woods, Michael.

## Níl

Bannon, James.  
 Barrett, Seán.  
 Behan, Joe.  
 Breen, Pat.  
 Broughan, Thomas P..  
 Bruton, Richard.  
 Burke, Ulick.  
 Burton, Joan.  
 Byrne, Catherine.  
 Carey, Joe.  
 Clune, Deirdre.  
 Coonan, Noel J..  
 Coveney, Simon.  
 Crawford, Seymour.  
 Durkan, Bernard J..  
 English, Damien.  
 Feighan, Frank.  
 Ferris, Martin.  
 Flanagan, Charles.  
 Flanagan, Terence.  
 Hayes, Tom.  
 Higgins, Michael D..  
 Hogan, Phil.  
 Howlin, Brendan.  
 Lynch, Ciarán.

Lynch, Kathleen.  
 McCormack, Pádraic.  
 McEntee, Shane.  
 McGinley, Dinny.  
 Morgan, Arthur.  
 Naughten, Denis.  
 Neville, Dan.  
 Ó Snodaigh, Aengus.  
 O’Dowd, Fergus.  
 O’Mahony, John.  
 O’Shea, Brian.  
 O’Sullivan, Jan.  
 Penrose, Willie.  
 Quinn, Ruairí.  
 Reilly, James.  
 Ring, Michael.  
 Sheehan, P.J.  
 Sherlock, Seán.  
 Shortall, Róisín.  
 Stagg, Emmet.  
 Stanton, David.  
 Timmins, Billy.  
 Upton, Mary.  
 Varadkar, Leo.

Tellers: Tá, Deputies Pat Carey and John Cregan; Níl, Deputies David Stanton and Emmet Stagg.

Question declared carried.

**An Ceann Comhairle:** Is the proposal for dealing with No. 22 agreed to?

**Deputy Emmet Stagg:** It is not agreed to. I do not propose to seek a division on this matter but I cannot understand why the Government has proposed to guillotine debate on a Bill which has only one amendment. There is no emergency and the debate could be finished long before the guillotine time. The Bill could be dealt with effectively in half an hour. The use of a guillotine is outrageous. I ask the Government not to abuse the privilege of using a guillotine, which is intended for emergencies, on standard legislation where there is no emergency whatsoever. Only one amendment has been tabled. Half an hour would be sufficient to debate it.

**The Tánaiste:** I will agree to that.

**Deputy Michael Ring:** The Government should get used to the guillotine. It is coming soon for them.

**Deputy Bernard J. Durkan:** It is well they have hard necks.

**Deputy Dara Calleary:** Is Deputy Ring still in Fine Gael? I thought he had joined the Labour Party.

*(Interruptions).*

**An Ceann Comhairle:** The Tánaiste has indicated her agreement to Deputy Stagg's proposal.

**The Tánaiste:** Before you proceed with the Order of Business, a Cheann Comhairle, I beg your indulgence for a moment while so many Members are in the House. Today, our usher team-leader, Mr. Mick Phelan, is performing his last official duty in the House, after many years of dedicated duty. As so many Deputies are present, it is appropriate that we wish him well.

*Members rose and applauded.*

We wish him well and thank him for his wonderful service. I have been advised that he served under many Governments as far back as the time of Liam Cosgrave. We have all known him as an absolute gentleman and he has always carried out his duties with the utmost decorum. He is a great enthusiast of the GAA and the Lily Whites. I do not know if they will be killed on Sunday but we wish them well. We also wish well his wife, Patricia, and wish them a long and happy retirement. I am sure he will not be a stranger to the House.

**Deputy Richard Bruton:** On behalf of Fine Gael I join in the note of congratulation. I cannot remember many people getting a standing ovation from all sides of the House and even from the bull pen. One has to be something special to get that. Mick's is a testimony to the triumph of hope over expectation. He continues to loyally support the Lily Whites despite their continual disappointments which shows his great loyalty. We have also enjoyed the fruits of his loyalty, kindness and his ethic of hard work. We really appreciate it and hope that Mick and his family enjoy many long years in retirement. The future is bright for the Lily Whites.

*11 o'clock*

**Deputy Joan Burton:** On behalf of all the Labour Deputies I join in the tributes to Mick Phelan. He is one of the people who always brightens up Dáil Éireann, particularly when one comes in on a wet day, such as today, and he encourages one to keep on going, just as he encourages Kildare to keep going. He has given long service stretching back to the time of Liam Cosgrave as Taoiseach. He served before that in the Army and the Military Police and has a military bearing on all occasions. It has been a particular delight to have worked with Mick and to have been the recipient of his courtesy and encouragement on so many occasions. When one comes here as a new Deputy it can be very confusing; it is somewhat like the first day at school having to learn the ropes. I hope that Mick and his wife Patricia enjoy a happy a retirement. I know that he brought the luck to the ushers in their recent lotto win.

**Deputy Aengus Ó Snodaigh:** I join with the others in the House in congratulating Mick on, at long last, escaping from here. Long may he have an enjoyable retirement with Patricia. When I first met him he was one of the most courteous people here. I am not saying the others were not courteous but he has been very helpful in all of my dealings with him and in his dealings with the rest of the party. One of these years the Lily Whites might get somewhere and I wish him luck in that pursuit. I realise he is a great fan of the GAA throughout the country, not only the Lily Whites. I hope he will enjoy many more matches in future. Go n-éirí an t-ádh leat agus gach rath ortsa agus ar do chlann.

**Deputy Mary Alexandra White:** On behalf of the Green Party, An Comhaontas Glas, I add my best wishes to Mick on his retirement. On my first day here in the Dáil I could not get over the courtesy and efficiency of all the ushers but Mick was one of the first people I met and I believed it was auspicious to meet him on my first day. I recognise he has a great fondness for

his home constituency in Kildare and his love for the GAA. He served admirably in the Congo and at one time stated, referring to the dangers there, if people knew what it was like they would not have half the fear in Leinster House. I wish him, his family and his wife Patricia every happiness and continued good health in a long and happy retirement.

**An Ceann Comhairle:** Ba mhaith liom mo bhuíochas a ghabháil le Mick as ucht an mhéid atá déanta aige i rith na blianta ar son mhuintir Teach Laighean. I express my deepest gratitude to Mick for his service to the Members and staff of Leinster House throughout the past 27 years. His professionalism, dedication, kindness, courtesy and friendship are something every Member of the House and the Staff in Leinster House deeply appreciate. I wish him well in the future and we will miss him.

Let the battle resume.

**Deputy Richard Bruton:** Discord need not necessarily break out straight away. I wish to ask about some legislation. Many welcomed the press release from the Minister for Justice, Equality and Law Reform yesterday to the effect that there would be legislation to deal with gangland crime. However, I note the signal from Government is that the legislation will not appear until October. Can the Minister not do a little better than that? There is a sense of great urgency about this matter and wide support for it. Will the Minister do better? Will the Tánaiste consult with the Minister for Justice, Equality and Law Reform to try to fast-track it?

What is the position with the legislation to establish the National Asset Management Agency? We read in the newspapers that it will be introduced in July. Will the Dáil be held back from summer recess to complete the passage of that legislation? Is that the intention of Government?

What is the position with the legislation that dates back to a series of commitments made last October in respect of the rationalisation of State agencies? There was to be a merger of the National Consumer Agency and the Competition Authority, the merger of qualifications authorities in education, the merger of museums and the National Gallery, the merger of fisheries boards and the merger of the Taxi Regulator and the DTA, Dublin Transportation Authority? All of these require legislation but there appears to be no fixed date for them. If these are genuine rationalisations to achieve taxpayer savings we would expect to see the legislation surface. Where is the legislative programme to achieve these savings promised by the Government?

**The Tánaiste:** On the issue of crime legislation, the Minister is most anxious to have it during this session. I realise it is a tight timescale but I believe we will get the co-operation of the House once it is introduced.

**Deputy Charles Flanagan:** It is not a question of the co-operation of the House, it is a question of the publication of the legislation.

**The Tánaiste:** It will be published when it is published.

On the NAMA legislation, the Taoiseach indicated yesterday this is a key priority for the Government. Work is ongoing on its preparation and we are doing our utmost to have it available as quickly as possible. If we can have it during this session then so be it. Every effort is being made to publish the legislation as quickly as possible.

On the rationalisation of agencies, I am aware the Taxi Regulator aspect is being facilitated in the Transport Bill before the House. In my legislative area, I would hope to have the legislation dealing with the NCA, National Consumer Agency, and the Competition Authority during this session if at all possible. As the Deputy will be aware we are carrying out an overall



[The Tánaiste.]

review of the Competition Authority in addition to the amalgamation. We will do our utmost to try to have it as quickly as possible. I can revert to the Deputy on the specifics of the others.

**Deputy Joan Burton:** I refer to the notice published yesterday on the NTMA website advertising and tendering for advisers for NAMA. We have received legal advice that proceeding with NAMA as a shadow agency is very fraught in terms of the constitutional and legal proprieties. Information held by the Central Bank, the Financial Regulator and other agencies is confidential under the terms of the legislation. Thus far, the Minister for Finance has spent between €2 million and €6 million in fees to Merrill Lynch and a preliminary fee of €3.8 million to PricewaterhouseCoopers.

**An Ceann Comhairle:** I cannot allow a debate on that matter now. The Deputy should only ask a question which is in order.

**Deputy Joan Burton:** Will the Tánaiste indicate if it is the intention of the Government to proceed with a shadow NAMA with all costs on the taxpayer but without legal clarity, particularly in the context of the legal advice that legislative power is required? I inform the Tánaiste that in respect of NAMA and particularly in respect of the earlier reply on SR Technics—

**An Ceann Comhairle:** We must hold a debate on that matter another day.

**Deputy Joan Burton:** If the Tánaiste were on “The Apprentice” she would be told, “You are fired” because of the lack of performance. Can the Tánaiste tell us what is happening on NAMA and when the legislation will appear?

**An Ceann Comhairle:** Just the legislation, Tánaiste. The question is not in order other than in relation to the legislation.

**Deputy Charles Flanagan:** We do not need “The Apprentice” for that. People on the doorsteps are saying it.

**An Ceann Comhairle:** The doorsteps have nothing to do with the Standing Orders.

**The Tánaiste:** A Cheann Comhairle, as you know, this is the Order of Business and not Leaders’ Questions. I work within the rules that have been set down by the House, therefore I am curtailed in answering on the specifics of any piece of legislation. As Deputy Burton is aware, members of the NTMA and the new chief executive designate of NAMA are appearing at the moment before an Oireachtas committee, and I am sure the questions can be addressed through that forum.

**Deputy Joan Burton:** They are not elected. The Tánaiste is.

**The Tánaiste:** As I indicated to the House two or three minutes ago, the legislation is a serious priority for the Government and every effort is being made to publish it and bring it to the House as quickly as possible.

**Deputy James Reilly:** I wish to raise two matters. First, with the equivalent of St. James’s Hospital being closed for a year due to delayed discharges, and with people lying on trolleys, 498 last week—

**An Ceann Comhairle:** The Deputy must ask a question.

**Deputy James Reilly:** —and a seriously ill lady patient sitting on a chair for 36 hours—

**An Ceann Comhairle:** I cannot debate that now.

**Deputy James Reilly:** —when will the nursing homes Bill be introduced? I have a second point on legislation. Given the clear lack of communication between the Minister for Health and Children and the CEO of the HSE, resulting in a possible €50 million loss to the HSE through the new consultants' contract, will a supplementary budget be introduced—

**An Ceann Comhairle:** On the legislation, now.

**Deputy James Reilly:** —or will the likes of children in Crumlin be left without services, as are many adults?

**The Tánaiste:** The legislation will be before the House next week.

**Deputy James Reilly:** What about a supplementary budget?

**An Ceann Comhairle:** We do not ask questions about a supplementary budget on the Order of Business unless it is promised.

**Deputy James Reilly:** It requires legislation, therefore—

**An Ceann Comhairle:** The Standing Order is clear.

**Deputy Bernard J. Durkan:** Some time ago, the European Commission issued instructions to the governments of all member states to introduce conservation policies for eel fishing. This is pending, subject to a decision at the end of May, but it appears the Minister or his predecessor indicated their intention to ban eel fishing for 90 years. The Joint Committee on European Affairs deemed this to be excessive on the basis that Ireland's contribution to the diminution of fish stocks is small. As the measure will involve both primary and secondary legislation, will the Tánaiste tell the House whether the Minister will defer agreeing to the European Commission's proposals until after the Bill on the restructuring of the inland fisheries sector has been introduced, or might it be possible to defer the secondary legislation that will be needed?

**An Ceann Comhairle:** Tánaiste, on the legislation.

**The Tánaiste:** As Deputy Durkan is aware, the Bill on the inland fisheries deals with structures and the amalgamation of the regional fisheries boards. It does not refer specifically to the secondary legislation. However, I will ask the Minister of State at the Department of Communications, Energy and Natural Resources, Deputy Conor Lenihan, to contact the Deputy directly on the matter.

**Deputy Bernard J. Durkan:** A Cheann Comhairle, I thank the Tánaiste—

**An Ceann Comhairle:** That is the best she can do.

**Deputy Bernard J. Durkan:** I know, but this is an important issue for the people concerned. I thank the Tánaiste for her reply, but the senior Minister is the person with responsibility. Would it be possible to defer the decision at least until adequate consideration has been given by the responsible person?

**An Ceann Comhairle:** The Tánaiste said she will take that up with the Minister of State, who will be in contact with the Deputy.

**Deputy Tom Hayes:** I ask the Tánaiste that some time be set aside for a discussion in this House about the non-availability of finance for the running of small businesses.

**An Ceann Comhairle:** That is not a runner now.

**Deputy Tom Hayes:** A Cheann Comhairle——

**An Ceann Comhairle:** The Deputy must ask a question which is in order.

**Deputy Tom Hayes:** My reason for asking is that, around the county, in every town and county——

**An Ceann Comhairle:** I know all about that.

**Deputy Tom Hayes:** Banks are not giving small private businesses money.

**An Ceann Comhairle:** Deputy Hayes, you know as well as I do we cannot go into that now.

**Deputy Tom Hayes:** The reality is that people are losing their jobs every day.

**An Ceann Comhairle:** We cannot go into that now.

**Deputy Tom Hayes:** I want to know from the Tánaiste, and I am serious in this——

**An Ceann Comhairle:** No, I cannot deal with that now, as Deputy Hayes well knows. I must call Deputy Bannon next.

**Deputy Tom Hayes:** I want time to be set aside to discuss the matter. The banks are turning a blind eye to people with real problems.

**An Ceann Comhairle:** Deputy Hayes, I must move on.

**Deputy Tom Hayes:** The Tánaiste wants to answer me.

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

**Deputy Tom Hayes:** In fairness, a Cheann Comhairle, I do not stand up too often.

**An Ceann Comhairle:** I know, but when you do, you should try to stay in order. That is the point.

**Deputy Tom Hayes:** I asked a question and I would like an answer.

**An Ceann Comhairle:** I cannot deal with that now. Deputy Bannon is next. No exception is made for anyone, that is the way we are.

**Deputy James Bannon:** Given the recommendations by Teagasc regarding biofuel pumps, which is impacting on rural areas, particularly in my area of the midlands, when will the Bill to amend the National Oil Reserves Agency Act 2007 be published?

On another issue, front-line staff are being cut back right across the hospitals in the midlands——

**An Ceann Comhairle:** That might be the case, but we cannot discuss that now.

**Deputy James Bannon:** It has been brought to my notice——

**An Ceann Comhairle:** It does not matter.

**Deputy James Bannon:** It has been brought to my notice that an electronic filing system is being installed at Mullingar——

**An Ceann Comhairle:** No, I have to move on, Deputy Bannon.

**Deputy James Bannon:** ——at the cost of €100,000. Who takes these wildcat decisions?

**An Ceann Comhairle:** I call the Tánaiste, on the legislation.

**The Tánaiste:** The legislation will be published later this year.

**Deputy Joe Carey:** I would like to ask the Tánaiste about the current position on the full US pre-clearance facility at Shannon Airport. Legislation has to come before the House to enable it to become operational. What is the current position?

**The Tánaiste:** We hope to have it before the summer.

**Deputy Terence Flanagan:** I welcome the publication of the Property Services (Regulation) Bill 2009. However, the Bill is more than four years late. We have had a toothless quango in operation in the past number of years and millions of euro have been paid out. Also, there has been no regulation of the property management companies. Can the Tánaiste confirm the multi-unit developments bill and the Property Services (Regulation) Bill 2009 will go through the House in the current session?

May I also raise the issue of Prosper Fingal and the funding cutback in relation to 35——

**An Ceann Comhairle:** No. The Deputy was going well there, but he cannot raise that. He heard what I said to the other Members. I cannot make an exception for him.

**Deputy Terence Flanagan:** It is going to save the country a lot more money if funding is given to look after——

**An Ceann Comhairle:** That might be the case, but I cannot deal with that. I ask the Tánaiste to deal with the legislation.

**The Tánaiste:** It was indicated yesterday that the multi-unit developments Bill will be brought before Government on Tuesday with a view to its imminent publication. Hopefully we will get it to the House as quickly as possible.

**Deputy Jan O'Sullivan:** We are due to get the Adoption Bill 2008 from the Seanad soon, but the bilateral agreements with Vietnam and Russia are still outstanding and hundreds of families throughout the country cannot adopt because the agreements have broken down. It is important that is resolved before the Bill goes through. Will the Tánaiste treat this as a matter of urgency? Will a high-level ministerial delegation go to Vietnam to deal with the issue? There is a different issue in Russia, but will the Government address the issues urgently for the hundreds of families throughout the country who want to adopt?

**An Ceann Comhairle:** Tánaiste, on the Adoption Bill 2008.

**The Tánaiste:** We hope to get the Adoption Bill 2008 from the Seanad fairly quickly. This serious issue has been raised with all Members of the House and the Minister of State at the Department of Health for Children, Deputy Andrews, is doing his utmost to deal with the imminent decision——

**Deputy Kathleen Lynch:** It is very disappointing.

**The Tánaiste:** It is very difficult for a lot of people, but hopefully we will be in a position to give clarity on the issue.

**Deputy Kathleen Lynch:** The ball has been dropped three times on this.

**The Tánaiste:** As Deputy O'Sullivan is aware, a number of high-level groups have travelled to Vietnam to deal with the issues.

**Deputy Billy Kelleher:** We know the real reasons.

**Deputy Michael D. Higgins:** Last September, when we discussed in the Chamber the response to the Anglo Irish Bank crisis, I got the impression from the Minister for Finance that the companies legislation would be amended to define the role of the public interest directors. Such an amendment would enable the public interest directors who have been appointed at a number of banks to fulfil their role. Under the legislation, their duty is to the shareholders, in a limited sense. I recall the Minister suggested in the debate that if such an amendment was necessary it would be made. When will it come before us? It will enable the public interest directors, for example, to respond to the absence of credit, which is one reason they were put in place.

**An Ceann Comhairle:** I assume the Tánaiste will contact the Minister for Finance.

**The Tánaiste:** The Companies Act 1990 comes under my Department. As the Deputy is aware, we are carrying out a number of serious reviews of the Act and more than 1,200 sections will be brought before the House for consideration. The specific issue the Deputy mentioned is an overarching one between the Companies Act and what will happen in financial regulation. The view is that issues appertaining to financial regulatory matters will be transferred in due course so they are under the auspices of the Department of Finance rather than my Department. I will deal specifically with companies which are financial institutions but there are other overarching matters that must be dealt with. I will ask the Minister for Finance to prepare a briefing note for the Deputy.

**Deputy Michael D. Higgins:** While I will not delay the House, one would appreciate that those who have been named, and they have been named from a wide source, will be sitting there, going through the annual meetings of the banks, with the shareholders asking questions. Much more importantly, however, this was an important gesture as to how the public interest is served. If they are to serve the public interest as was the intention, they need legal clarity. I appreciate the memorandum.

**Deputy Ciarán Lynch:** I wish to ask the Tánaiste about three matters regarding legislation. The Minister for the Environment, Heritage and Local Government made two announcements recently, one with regard to electronic voting and the other concerning directly elected mayors. Yesterday in the House, the Taoiseach confirmed that the directly elected mayors will require legislation. When will it come before the House? Given the long overdue decision with regard to the scrapping of the e-voting project, will the dismantling of this project also require legislation?

**An Ceann Comhairle:** I doubt it.

**Deputy Ciarán Lynch:** We will see.

**Deputy Kathleen Lynch:** The Ceann Comhairle is missed on the other side of the House.

**Deputy Ciarán Lynch:** The meter is still running on that one.

**Deputy Michael D. Higgins:** They could use the machines for soccer matches.

**Deputy Ciarán Lynch:** On another matter, the Housing (Miscellaneous Provisions) Bill has just completed Second Stage. When will Committee Stage be taken and will it be before the summer recess?

**The Tánaiste:** On the issue of directly elected mayors, the Minister for the Environment, Heritage and Local Government is commencing the drafting of that legislation. Naturally, there is a timeframe as there is to be an electoral process and it will be done as quickly as possible. The second issue raised does not require legislation. The third item will be a matter for the Whips to decide and I am sure the Deputy's Whip will express his views on trying to bring that Stage to the House as quickly as possible.

**Deputy Ruairí Quinn:** With regard to the reintroduction of university fees legislation that has been promised, has the Minister for Education and Science brought the memorandum before Cabinet yet?

**Deputy Billy Kelleher:** That is speculation, not promised legislation.

**The Tánaiste:** No legislation is promised.

**Deputy Ruairí Quinn:** It is promised, if the Tánaiste will check the records. Legislation is required to reintroduce the fees and I am asking whether the memorandum has been brought before Government.

**Deputy Billy Kelleher:** That is speculation.

**Deputy Ruairí Quinn:** The Government cannot hide it for the local elections. The people in the Public Gallery know they will be paying every year.

**The Tánaiste:** It is not promised. I have not got it.

**An Ceann Comhairle:** The Tánaiste said no legislation is promised.

**Deputy Kathleen Lynch:** I wish to raise an issue in which the Tánaiste has a particular interest. A little boy called Jack, which is his name and is not an assumed name, is about to lose his special needs assistant. He has a particular need that cannot be covered by the other special needs assistants in the school. When will we see the removal of the suspension of the Education for Persons with Special Educational Needs Act? Things are happening under the suspension of that Act that should not be allowed in any civilised country. It was introduced to ensure that children with special needs in education would be treated properly but the Government walked in during the budget last year and simply suspended it. One would not see it in a dictatorship. When will the suspension be——

**An Ceann Comhairle:** The Deputy will have to raise this on the Adjournment.

**Deputy Kathleen Lynch:** The question is when the suspension will be removed.

**An Ceann Comhairle:** I know what the question is. That is not promised legislation. The Deputy will have to raise this matter on the Adjournment.

**EU Regulations: Motion.**

**Minister of State at the Department of the Taoiseach (Deputy Pat Carey):** I move:

That Dáil Éireann approves the exercise by the State of the option, provided by Article 3 of the fourth Protocol set out in the Treaty of Amsterdam, to notify the President of the Council that it wishes to take part in the adoption and application of the following proposed measure:

a proposal for a Regulation of the European Parliament and of the Council establishing a European Asylum Support Office,

a copy of which proposed measure was laid before Dáil Éireann on 18th March, 2009.

Question put and declared carried.

**Industrial Development Bill 2008 [Seanad]: Order for Report Stage.**

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

Question put and agreed to.

**Industrial Development Bill 2008 [Seanad]: Report and Final Stages.**

**An Ceann Comhairle:** Amendments Nos. 1 to 7, inclusive, are cognate and may be discussed together.

**Deputy Willie Penrose:** I move amendment No. 1:

In page 4, line 13, to delete “inserted” and substitute “as substituted”.

These are basically drafting amendments. I know the Minister of State, if given some leeway, would be eager to accept them in some form. Our job is to tighten up the Bill, which is an important one, providing for the transfer of shares held by Shannon Free Airport Development Company to Enterprise Ireland and to amend the Industrial Development Acts of 1986 and 1993. My party has been very supportive of the Bill, as have all parties in the House. In that context, I want to ensure there are no technical omissions or deficiencies in the Bill and to strengthen it, where possible, given its importance and its place, going back to SFADCo, in the regional development of the country, which has worked well.

I can anticipate that the Minister of State will have received legal advice from a higher quarter than myself to indicate that the amendments are not necessary and unwarranted in the circumstances. In that event, I do not have the pretensions to be a parliamentary draftsman. However, I have a motive for bringing forward the amendments, which I believe are parallel with provisions in similar legislation in which I have been involved. I ask the Minister of State to consider the amendments, although I anticipate I will get a short rebuff.

**Minister of State at the Department of Enterprise, Trade and Employment (Deputy Billy Kelleher):** I propose to take amendments Nos. 1 to 7, inclusive, together.

First and foremost, if I were to take legal advice from anyone, I assure the Deputy that on an ongoing basis I would take it from a solicitor from the midlands. However, when we are dealing with legislation, we must consider the advice of the Parliamentary Counsel. We have considered this issue and I was requested on Committee Stage to try to accommodate it in as far as was practicable. I received the following advice, which will bring clarity to the issue.

The convention is that where an enactment refers to a provision that has been substituted by another enactment, that provision is referred to as having been inserted by the latter enactment. The purpose of referring to a later enactment is to enable the reader to ascertain the latest version of the provision. The use of the word “substituted” does not add anything in terms of substantive information and does not accord with drafting practices. I hope that brings clarity as to the reasons I would like to accept the amendments but cannot do so.

This is different from the position that obtains in the case of the wording of substantive sections where the words “inserting” and “substitution” are used depending on what the substantive amendment is actually doing. Unfortunately, due to the advice I have received and outlined to the House, I cannot accept the amendments.

**Deputy Willie Penrose:** I anticipated that nuanced reply of the Minister of State. I am sure he is extremely happy in that regard. I accept the point made and understand the thrust of it. In that context, I am willing to bow the knee to the superior draftspersons involved as I understand what they are doing. I thought my amendment would reinforce the Bill but, in any event, I will withdraw all amendments and allow the Bill to proceed as the Minister of State indicated.

Amendment, by leave, withdrawn.

Amendments Nos. 2 to 7, inclusive, not moved.

Bill reported without amendment and received for final consideration.

Question proposed: “That the Bill do now pass.”

**Minister of State at the Department of Enterprise, Trade and Employment (Deputy Billy Kelleher):** I thank the Deputies on all sides of the House and the Senators in the other Chamber who have made a practical input into this Bill. I note that some amendments were accepted on Committee Stage. It is a technical Bill but there is an element of urgency to it in the context of transferring shares and property. I record my appreciation to all the Deputies who contributed in the House.

Question put and agreed to.

**An Ceann Comhairle:** As this is considered to be a Dáil-initiated Bill, in accordance with Article 22(2) it will be sent to the Seanad.

### **Harbours (Amendment) Bill 2008 [Seanad]: Second Stage (Resumed).**

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

**Deputy Michael D. Higgins:** I welcome the opportunity to say a few words on the Bill. I will make reference to conditions I know about in a small west of Ireland port, namely, Galway. I was the author of a report for the human sciences committee of the Irish national productivity committee towards the end of the 1960s.

*Notice taken that 20 Members were not present; House counted and 20 Members being present,*

**Deputy Michael D. Higgins:** In 1969 in my first research position I finished a report for the human sciences committee of the Irish national productivity committee on the factors affecting productivity in a small Irish port, namely, Galway. The issue was our response to changing circumstances in sea traffic. The port of Rotterdam had expanded massively into the roll-on, roll-off business. Right across the world in different ports it was a very tense time, as often ill-



[Deputy Michael D. Higgins.]

thought out proposals not made on the basis of consultation sought to achieve a decasualisation of dock labour which was one of the hottest issues.

My work is not as relevant to this legislation, but it involved interviewing all of those who had worked at the docks, their families and port users, as well as those who were seeking to develop both general cargo and other forms of trade operations from the port. I recall this because in a way I am very familiar with the space or physical setting of ports. It is important we bear in mind the cultural significance of a port or harbour in its physical setting. Some, not just families but generations of people, have constructed their lives and relationships with their city in terms of that proximity. This seems to have been swept aside in the consideration of thinking from the mid-1990s onward, when there was a view that harbour commissioners and boards were antiquated and needed to be replaced by what were called dynamic port development companies with a commercial ethos. There was a basis to people being unhappy with harbour companies or boards as in many ways they were inefficient. It is important to remember that there is significant evidence — I believe the Minister shares this view — that port operators or persons who retained their positions year after year used them in ways that were not in the interests of the development of the port or community in which it was situated. To go further, they were very clever at blocking new users. I need not go into the details now, but some ports show an interesting history of the attempts to achieve and sustain monopoly conditions in business, from the distribution of coal to the use of the stevedoring companies to provide labour for the unloading of ships. This is the rich background the the issue of ports. I am concerned about the evolution that has taken place into commercial companies because this can cross a line that means the new port company is less a harbour company in the old sense than a property company in the modern sense. These two sets of functions are not always easily reconciled and what I have to say deals with this issue in a number of ways.

The Minister of State, for whom I have great respect, does not carry the burden of this, but it is scandalous that we do not have a Department of the marine. I remember when I was a relatively young Member of the Oireachtas sharing a bottle of sparkling water with the late former Taoiseach, Charles J. Haughey. He asked about my views on the sea, ports and the marine and I casually used the phrase, “The Irish people must be encouraged to turn their eyes to the sea again.” Because he was such a sensitive man and knew a good line, I heard that line repeated as the headline to his speech the following week. I wished him well with it as a philosophy. Unfortunately, one of the questions that could be used as a tie-breaker in any quiz held in this country would be where is the Department of the marine now, as it keeps moving. The breaking up of the functions associated with the marine makes no sense. It makes no sense in responding to international law. We are on the verge of some positive exploration developments in the Irish jurisdiction under the Law of the Sea treaty. We might be quite far on in arriving at a practical point of development in agreements between the United Kingdom and Denmark. There is a Marine Institute and we have finally got going in assessing our potential marine resources. It makes no sense to have no stand-alone Minister for the marine.

Responsibility for coastal zone management lies in one place, while responsibility for preparing the foreshore legislation lies somewhere in the Department of Agriculture, Fisheries and Food, someone else is responsible for commercial traffic and another person for fisheries. This Bill gives power to own property not just beyond the harbour but abroad. It makes sense to have harbour companies that can use the skills they have developed. That is not the issue. The functions related to the sea, marine, harbours, ports, fishing, safety and conservation are scattered indiscriminately across different Departments. I urge whatever Government comes in to take all that we know, given the new developments, and put them into a significant Department of the marine.

In his Second Stage speech the Minister mentioned that this Bill came about as a result of significant consultation. That statement is a bit florid. I do not recall seeing any report of significant consultation with elected members on the proposal to remove them from the board of the new port authorities. It may well be that there was significant consultation, as is the norm, with the City and County Managers Association which might have a particular view but, if so, it did not communicate this either to its elected members or through them to the public. I appeal to the Minister of State at the Department of Enterprise, Trade and Employment, Deputy Kelleher, to save us having to oppose this Bill in respect of its amendment to the Harbours Act 1996 which takes away the representation by local authority members. The Minister retains the power to put a member back but the Bill describes this as a director from the local authority. It is not clear whether this is an elected member or, for example, a director of services. The Minister of State can clarify the point later but I suggest that he eliminate it and include the elected members.

I say this for practical reasons which I hope are not partisan although they will be perceived as such. Where the ports are strategically located they are inevitably involved with other spaces which involve transport for example, in line with modern thinking and meeting European standards, we need a road to access the port and to be able to define how the traffic will impact on an integrated transport model. If we are to integrate planning for transport and for the new port companies in respect of the physical space, their buildings, and urban planning, it is invaluable to have open, transparent representation of, and reporting from, the port company on the local authority. For example, in Galway city CIE has not yet resiled from its proposals for the largest site in a European city, having instructed the lead architect to get €9 million from the site. Approximately 15% of the proposals deal with public transport although CIE is statutorily obliged to provide public transport. It wants to sweat the site to build apartments and shops and other retail developments which we do not want. There is neither a road shown from that site to where the local authority has plans, nor any connection whatsoever with the harbour yet it has published plans for a multi-million euro development which does not access the CIE site or the proposed transport system for the city.

That is an example of what can happen if there is no open or transparent reporting or integrated thinking. It should not be the case in 2009 that responsibility for these developments lies with the Departments of the Environment, Heritage and Local Government and Transport and that responsibility for harbours is somewhere else. We will not move from this position without integrated thinking that represents and achieves good planning.

Other issues arise. The Bill transfers significant powers from the Minister for Transport to An Bord Pleanála but bearing in mind the example I have given this will have the effect of stirring a wasps' nest if the Minister does not say how he defines strategic infrastructure in three places that adjoin one another but are not connected. In another way, and in other places, I will publicly develop my point about how CIE discharges its functions of establishing strategic infrastructure when it devotes only 15% of a site set aside for public transport to that purpose and uses the rest for property development. It has already put itself into the Bord Pleanála trap, to use a greyhound racing analogy, thinking it can get out of it fast. The port is trying to do the same.

This legislation, which removes the elected representatives from the authority and is not integrated with other planning, is now also going to An Bord Pleanála which will enjoy the functions the Minister previously had. The argument will be that this concerns strategic infrastructure. How does one balance that if it has nothing to do with significant port-related activity? This also involves fisheries and other port usages such as ferries and so on. These must be balanced. The best way to deal with this is to have a Department of the marine. It is necessary to be able to integrate different kinds of transport systems.

[Deputy Michael D. Higgins.]

What kind of company will emerge when this legislation is passed? It seems to have many of the characteristics of a property development company. If I am right the following absurd situation arises, the company develops part of the area around the port, and has to sell this to leverage or trigger what it might borrow for what will be miniscule developments in respect of the traditional uses of ports. This could be a recipe for disaster, the resources of ports could be put into very expensive pre-planning models and models of property development that might never come to pass. Returning to my conversation with the late Mr. Charles Haughey, instead of turning the eyes of people in our ports to the sea we will have turned them to their cheque books, to the valuable sites around the port which will be used for property development.

I have a further point in this regard, which even raises constitutional difficulties. Supposing port companies decided to start reclaiming from the sea and started to drive coaches and four through whatever is left of the Foreshore Act, how would they then function? Who would own that which was reclaimed and on what basis could it be used? Could it be used for property development, for example? One is left with a speculative suggestion. The notion is that it does not matter what one is doing, be it fishing, transporting on the sea or dealing with others, such as dockers, as long as one calls one's company a port company. The legislation would be very bad if this were allowed.

I hope every point I have made has been offered on the basis of being positive. One should remove the section removing the elected representatives on the grounds of having better integration into everything else that is happening. One should think again about the powers being transferred to An Bord Pleanála. I have a commitment that is not sentimental to the communities around harbours and ports and to the people who worked there inter-generationally. Their history is important, as are their functions and types of future employment.

When great plans are being discussed regarding ports and harbours, there is sometimes what is alluded to in planning legislation and local government as a preplanning consultation. A preplanning consultation between representatives of boards and directors of services, or county or city managers, in office or retired, is not an adequate discussion. To be political about it, the members of the public who walked down to their harbours and ports, or who went down to the sea and looked at it, believed those ports or harbours were public spaces although they did not own them collectively. When I consider what is being proposed regarding port companies, which were harbour companies formerly and harbour boards theretofore, and people who might have been dockers, for example, I begin to think of the talk of signature buildings. The idea is that one will see signature buildings as one comes into one's port. In this respect, I am familiar with Galway Bay.

The word "harbour" is important in this legislation. It should be a harbour for things that float rather than a harbour for speculative investment. We should have had enough of the latter. I suggest, in respect of the points I am making, that we all want to get this Bill right in the short term. I hope there will be all-party agreement, regardless of who is next in Government, to have a Ministry for the marine that puts all these functions together. There should be local representation and, ideally, regional representation and actions should be transparent. We should have integrated thinking and planning in respect of all forms of transport, including road, rail, sea and air transport, domestic and international. That is the way to proceed. Meanwhile, the pub quiz will continue. The real question is, "Where is the Department of the Marine?" If one gets that right, one can finish off the opposition with the tie-breaker question, "Who is responsible for the foreshore act?" No one will get that right and one will be certain to win.

**Deputy Denis Naughten:** I am sure Deputy Michael D. Higgins will be going off for a pint to go with the pub table quiz.

I welcome the opportunity to speak on this legislation. Will the Leas-Cheann Comhairle indicate when I have five minutes remaining?

**An Leas-Cheann Comhairle:** Is the Deputy sharing his time?

**Deputy Denis Naughten:** I am not but there is an issue I want to discuss and I do not want to get carried away.

**Deputy Michael D. Higgins:** Restraint is good.

**Deputy Denis Naughten:** The specific aspect of the Bill on which I want to focus is section 20, which concerns the amendment of section 4A of the Marine Institute Act 1991. It pertains to the Irish Maritime Development Office and shipping services. I will focus on the specific issue of border controls at harbours around the country, in respect of which I have serious concerns. I brought this issue to the attention of the Minister for Justice, Equality and Law Reform in the context of the Immigration, Residence and Protection Bill. However, he seems to be washing his hands of the issue. Under the legislation on entry into this country, a number of ports are designated for the legal entry of persons, namely, those in Dublin, Dún Laoghaire, Galway, Greencastle, Moville, Rosslare and Waterford. Larne in Northern Ireland can also be used legally by people who want to enter this jurisdiction from across the Border.

12 o'clock

I have great concerns over the checks in place at the legitimate ports of entry. I am concerned that some other ports in the country could be used for the illegal transfer of people into this jurisdiction. In the context of the legislation before us, it is vital that the issues of security and border control be taken into consideration while bearing in mind the provisions for the development of our existing ports and the improvement of services, not only in the ports that already take foot passengers but also ports that may be developed with this in mind. It is vital that the Irish Maritime Development Office, local authorities taking over some of the ports' roles and An Bord Pleanála give full consideration to this.

Let me highlight a number of problems with border controls at our harbours. It is of the utmost importance that someone take responsibility for this issue. It seems it is being ignored at present by the various agents of the Government. There is an onus on the Minister of State to make proper and adequate provision in this Bill for port authority police who could legally stop and detain an individual pending the arrival of a garda if they have suspicions regarding that individual's illegal entry into the country or that he or she may be wanted by the authorities in this country or his or her country of origin.

Our three semi-State airports, in Cork, Shannon and Dublin, have airport police but there are none in any of the other airports in the country. Police with similar powers to those in Cork, Shannon and Dublin need to be appointed to the port authorities around the country. For example, in the part of the country of the Minister of State, Deputy Kelleher, there was a case concerning an illegal immigrant and rapist who set up a restaurant in west Cork and travelled in and out of Ireland using a murderer's passport. Despite his using this passport, he was never stopped, even when the convicted murderer went on the run from British police. The individual was only caught after getting drunk and coming to the attention of the immigration officers in Fishguard. When he was questioned by the immigration officers in Fishguard he could not remember where he was staying in London, so they looked with greater attention at his passport and recognised that it was a false one. There are, I am sure, numerous other

[Deputy Denis Naughten.]

cases, which do not come to the attention of the public, of people using our ports because they are seen as a soft touch in terms of immigration checks.

In an constituency adjoining mine there was an individual who recently came before the courts and the judge, as is standard practice when dealing with a non-Irish citizen, asked him to surrender his passport. The person, who had come from continental Europe through Rosslare harbour, said he did not have a passport as he had not used one to enter the jurisdiction in the first place. As a result, he could not surrender his passport to the courts. Again, this highlights the fact that border controls at our harbours and ports need to be dramatically strengthened to ensure they are not being used as an easy option for entry into this country.

Many officials in the area of trafficking of human beings, who have done much work in this regard, will tell one that our ports — including the port of Larne, as a result of the Border with Northern Ireland — are seen as soft options for entering into this jurisdiction and thence to the UK. The Welsh Assembly published a report on the trafficking of women and children which indicated that Ireland was being used for trafficking human beings into Wales through Fishguard and other ports.

Not only do we need to strengthen the powers of those conducting checks at our ports, we also need greater co-ordination between An Garda Síochána and the Department of Social, Community and Family Affairs. An article published in a Sunday newspaper on 3 February last year highlights the weaknesses within the existing system. A source at the Department of Justice and Law Reform stated that a Nigerian woman who had been recorded as having left the country in November 2002 had continued to claim social welfare benefits, to a total of €67,000, up to 2006. It defies logic that the Garda Síochána and the immigration system can identify someone as having left the country, yet they can continue to draw social welfare payments in this jurisdiction.

We have all come across cases of people who have applied for citizenship or long-term residency, one of the conditions for which is five years' continuous residence in this jurisdiction prior to the submission of their application, and after two or three years have received a letter back from the Department of Justice, Equality and Law Reform saying it had been noted they had gone on holidays for a fortnight during the five-year period and were thus 14 days short of the required five years, resulting in their application being rendered null and void and a requirement to submit a new application. I doubt there is a Member of the House who has not come across such a case. How in God's name can we have a system which can identify that someone has left the country for 14 days but not that someone from within the EU is flying back and forth and continuing to claim social welfare payments after having officially left the country? There is a crazy logic in our immigration system whereby we know to the exact minute when one set of nationals has left the country, but for another set of nationals, all outside the Schengen Agreement area, we do not seem to know when they are entering or leaving the country. I do not understand how this continues to happen, and our social welfare system is being exploited as a result.

It is vital that we have greater co-ordination between both agents of the State. The Department of Social Welfare is involved in meeting people once they come into the jurisdiction because they cannot function in this society without a PPS number. Surely there can be greater co-ordination, so that if the Garda happens not to identify a person at our ports or airports or a person comes across our unpoliced border with Northern Ireland, the social welfare system and the issuing of a PPS number will act as a safety net. There have been numerous instances in which the Department of Social, Community and Family Affairs, even with its limited technology, has identified false documentation that has been presented for the issuing of PPS numbers. No one is going into the Department with false documentation looking for a PPS

number unless he or she is trying to exploit the system in some way or conceal his or her true identity.

Given these loopholes, we are encouraging and promoting the trafficking of human beings into this country. We recently heard a report by the Immigrant Council of Ireland that it had identified 102 victims of trafficking in a 21-month period, 11 of whom were children, yet there have been no convictions in this jurisdiction for illegal trafficking of women and children. There is no doubt that our harbours and ports are being used as a soft touch for trafficking people into the country to work in a sex industry which is worth an estimated €180 million per year. It is frustrating to see the Garda being quoted as stating that mobile phones are the lifeblood of prostitution and that removing mobile phone numbers from the system could close down many of the brothels that are currently operating. If it is that easy to close down this massive industry which is exploiting women and children, surely we should be taking action. Why action has not been taken to date I cannot understand, because such activity is driving a coach and four through our border control system and making a joke of our immigration system at harbour and ports. Serious consideration must be given to this issue.

We have had numerous reports of individuals coming in through our harbours and ports because our immigration checks are scant in those areas. People with serious sexual convictions in other parts of Europe are coming here. A senior garda has been quoted as saying that many of them are free to work with children in this jurisdiction because of the difficulties with vetting. In 2007 the Garda vetting unit received 187,000 requests, in 15% of which the individuals involved were found to have convictions. We do not know how many of these are sexual convictions, but the EU has a responsibility to set up a Europe-wide database to allow us to identify people with serious convictions in these areas who should not be allowed next, nigh or near children. One of the crucial functions of the European Union should be to protect all of its citizens, yet it has failed to put such a system in place and ensure there is greater co-operation in the sharing of information. The difficulty is that, even were the database in place, the technology would not be available to our immigration service or to the Garda Síochána to allow for the identification of the individuals in question at ports and airports. Nor would it be available to the Department of Social and Family Affairs, which might be able to identify the individuals when they seek to obtain PPS numbers.

I hope the Minister of State takes note of my points because this matter costs the taxpayer a significant amount of money in terms of the deportation of those who have entered the country illegally and what it is doing to fuel Ireland's significant sex industry. According to the Minister for Justice, Equality and Law Reform's figures on the new Thornton Hall prison, we will spend €6 million per year to provide accommodation for those who are to be deported.

I wish to raise two final points. Given the first point, I am glad that my constituency colleague, the Minister of State, Deputy Finneran, is present. An issue close to his heart is that of aliens in our waterways. Recently, the bloody red shrimp has invaded the Shannon waterway. It seems to have spread through Lough Ree and Lough Derg. This issue is not only being ignored in our jurisdiction, but internationally. It must be addressed. Everyone knows about the considerable problems caused in the Shannon waterway by the zebra mussel, including water intake costs and damaged boats. There is a concern that the shrimp will have a major impact on the survival of juvenile coarse fish such as bream, perch and roach, as they compete for the same food source within the Shannon waterway.

More must be done internationally to ensure we have a tight agreement on the use and management of ballast water and that technologies are put onshore in our harbours to treat ballast water via chemicals, filtration or so on, thereby ensuring that we do not transport alien species from one part of the world to another. They pose a major bio-pollution problem. Ships

[Deputy Denis Naughten.]

transporting goods around the world are using ballast water, much of which is taken on board in one harbour and pumped out when the next port of call is reached. Under some international agreements, ballast water should be taken in only when ships are on the open sea. If it is harbour-sourced, it should be pumped out on the open sea and sea water pumped in. In these ways, there would be less chance of organisms either entering ballast water or, if they manage that, surviving the pumping out process to reach other ports. Ballast water has been used as a vehicle to transport the zebra mussel to Ireland and might have been used by the bloody red shrimp.

The cleaning of boats and the selling of pond plants in shops and gardening outlets should be regulated.

My final point is on Foynes Port. It could develop as a major international port had it pre-clearance from US customs, similar to the significant proposal in respect of Shannon Airport, which can put the airport back on the map. The harbour at Foynes is one of the finest in western Europe and I urge the Ministers and the Taoiseach to take this issue up with their US counterparts to try to reach an agreement on pre-clearance. Doing so might not only lead to the development of the Shannon Estuary, but of freight business on the western rail corridor and other rail corridors.

**Deputy Bernard J. Durkan:** I recall discussing this Bill in its most recent guise several years ago and another even prior to that. Like the rivers, the harbours go on forever. Given the contribution of my colleague, Deputy Naughten, our maritime nation should recognise the importance of harbours and their development and the important role that such developments or a lack thereof can play in the commercial life of society. I compliment the various Governments of recent years on taking the initiative and developing a number of coastal harbours. However, much remains to be done in that regard and countless harbours and fishing ports could be developed to a greater extent. In turn, this could lead to the generation of commercial activity, be it leisure, fishing or so on. We have not made full use of the type of visionary development that is possible.

Several years ago, I was on holiday in one of our competitor states in the EU. I found that a whole region had been transformed by the development of a marina, an artificial beach and many ancillary facilities. We do not have the summer sunshine enjoyed by some countries, but it is worth knowing that the country in question has completely changed the area's quality of life and its value. It has done this by virtue of a simple intervention that was consistent with good planning, lent itself to the area's aesthetics at all times and did not breach any environmental rules or regulations on preserving the area's natural development. In the context of the Bill, we would do well to reconsider what development potential exists and to determine how far we could push the boat out, no pun intended.

Deputy Naughten's point on the involvement of harbour police or immigration authorities in the supervision of activities at ports was well made. It is good that most countries have stricter interpretations of the rules without being repressive. We must recognise the need to be up to date and compliant with international developments and codes in policing and immigration.

I do not live in a maritime county, but I was born in one. There are more harbours in my constituency than there are in most other countries, given our number of canals, including two main ones. There are harbours everywhere. Not for one moment am I suggesting that they present the same opportunities, but there is considerable scope for the development of sporting and recreational activity, as the Minister of State opposite knows well from his constituency. We have not even attempted to grasp the full extent to which harbours can be developed,

be they maritime or inland harbours or controlled by maritime authorities, inland waterways authorities or Waterways Ireland. We can regenerate a great deal of activity in water sports through the development of various tourist based support facilities without in any way interfering or damaging the environment or way of life of those who live in their environs. Considerable work has been done in the Lough Erne and Shannon catchment areas. Apropos this legislation, the Minister might examine the full extent to which we can develop water sports recreational facilities in harbours with a view to maximising employment. In times such as these we should avail of every opportunity to maximise employment.

I wish to refer to harbour developments I have observed overseas, mainly while on holiday. At first glance one would not recognise that a development is, in fact, an artificial add-on development, for example, where the foreshore has been extended, land having been reclaimed from the sea, and facilities provided in harmony with the existing environment in a way that is hugely beneficial to employment creation and the provision of recreational facilities which are necessary at all times.

Our fisheries sector seems to have waned at little, for want of a better description, in recent years. That is the sad reality. It may well be that in the future we will rediscover the value of our sea fisheries which I hope will not be closed down. Having visited various fishing harbours, the tradition of fishing is obvious. Many families are dependent on the sea for their livelihoods. It is a difficult way of life, often fraught with danger. Sadly, we can recall many such instances. Given that some features of commercial activity have gone through tough times or that such activity has diminished, we should examine the alternatives and future prospects to determine the possibility of revitalising such activity. This legislation presents an opportunity to revisit and develop this sector through a combination of commercial and new recreational activity. I do not want to dwell on the development that has taken place in other countries, but given that there has been such development, there is no reason it cannot happen here with equal beneficial effect. The Minister of State might take some of these suggestions on board, not forgetting the potential of our inland harbours which are equally important.

Section 20 provides for the transfer of ministerial responsibility for the Irish Maritime Development Office to the Minister for Transport which was achieved by virtue of SI 842 of 2005. The amendment proposes to reflect the transfer by inserting a reference to the Minister for Transport in section 4A of the Maritime Institute Act 1991. Further amendments provide for the application of an additional function to the office in respect of the ports and ports services sector and for a minor addition to the explanation of the term “shipping services” in the section. Reference has been made to the development of shipping services. I am sure my good friend and colleague will make reference to the need for certain shipping services to ensure tourism and commercial development. Our friends in Cork have provided for the restoration of certain links with the Continent which should be welcomed by all involved.

I note it has been suggested the Bill should not give rise to any direct cost to the Exchequer. I am certain that is true and if so, it must be a first. During my time in the House I do not know of a Bill that has not had some implications for the Exchequer.

There is a proposal to transfer certain responsibilities from the local authorities to An Bord Pleanála. This will come under the heading of the strategic infrastructural deficit. As I said previously, this can be a good move. The identification of infrastructural deficits in a particular area that need to be addressed is a positive step. However, it should never follow that because there is a deficit all contrary views should be set aside. There must be a degree of balance. I have spoken about this matter previously in the House and have had good reason to do so on a number of occasions in my constituency. In the context of this proposal, I emphasise that due regard must be had to the fact that in identifying infrastructural deficits and the need for a



[Deputy Bernard J. Durkan.]

response to ensure issues are addressed, it should not automatically follow that the views of local people who might have genuine concerns about the possible environmental impact of proposals on an area are always right, but they do have a view that needs to be heard. That applies to all developments under this heading.

The Bill, as set out, has considerable potential. It can ensure positive developments in assisting in the generation and regeneration of activity in our ports and harbours, particularly given the need to do so at this time.

On one occasion I tabled a question to the Minister for Transport and learned that the Minister's area of responsibility only extended as far as the shoreline, that responsibility for the area beyond it came within the remit of the Minister with responsibility for the marine. There is a proposal to streamline this. I do not wish to suggest how Departments could be configured, but there is a relationship between transport and the marine that needs to be borne in mind to a greater extent than it has in the past. There is a certain degree of continuity that can flow from a meeting of minds on transport issues beyond the shoreline which would be to the benefit of the country. The proposal made in this respect will encourage investment in port companies, which is as it should be. Local initiatives and investment should be encouraged.

I hope that, as a result of the passing of this legislation, we will not see a situation — as has happened on many occasions — where questions asked of the Minister relating to the subject matter of the Bill will be met with the response that the Minister has no responsibility to the House. In recent times Ministers have introduced legislation which tends to offload responsibility to a quango and from then on the Minister has no responsibility, except to have occasional meetings with the board or executive of the quango concerned. That is not the way it is supposed to be. Where the relevant Minister introduces legislation governing the area for which he or she has responsibility, he or she should continue to have that responsibility and reply to questions in the House, for instance, whenever he or she is asked about the development of whatever facilities are in place or what future plans he or she might have. It is not sufficient to say the Minister is very busy directing policy and working at a very high level and that as a result, he or she could not possibly have the time to deal with the minutiae. I do not accept such an argument, nor do I accept that the technicalities of the administration of such matters at local level are beyond the competence of the Minister to comprehend. In the first instance, if the Department deems it appropriate that the Minister should bring forward the relevant legislation governing the operation of the areas for which he or she is responsible, the Minister or Minister of State should accept full responsibility when questions are raised in the House; neither should he or she be afraid to come into the House to answer such questions. Such responsibility empowers the Minister, gives greater credence to ministerial office and accords greater respect to the House. This is a win-win, both for the House and Ministers.

I do not wish to delay the House any further other than to say I hope the legislation will represent an improvement and present openings for initiatives and ensure the possibilities for development are fully availed of resulting in economic benefit. Unfortunately, much legislation has passed through the House during the years, some of which left a lot to be desired. It is hoped this Bill will not be such legislation and that there will be a net benefit in the national interest.

**Deputy Martin Ferris:** When the Minister for Transport, Deputy Dempsey, introduced the Bill last Thursday, he referred to the extensive consultation that had taken place as the 2005 report, on which the legislation is based, was being prepared. However, many of those who will be affected by the Bill and whose livelihoods depend on the facilities that are the subject of the Bill have claimed that there was not adequate consultation. That was certainly the case

according to the people of Fenit who claim that they were not consulted but merely told what the changes would mean for them. They were given no opportunity to make a meaningful contribution to any alleged consultation that might have affected the drafting of the Bill. They contrast that lack of consultation in the preparation of the 2005 report that led to this legislation with the wide consultations conducted prior to completion of the KPMG 1999 report. One of the findings of that report was that local management of ports and harbours such as Fenit and Bantry, for example, was quite adequate and did not need to be changed. The case being made by those involved in Fenit is that the interests of the port would not be best served by the proposal in the Bill to bring Fenit Harbour under the same authority as Foynes. Their reasons for making this case have to do with the very different interests at stake.

Fenit has been a harbour and a port for the town of Tralee and surrounding areas for more than 130 years. It was the main port for the importation of all the merchandise during that period. Cargo ships came from all over the world bringing timber, tea, coal and chocolate crumb into the area. Exports such as potatoes and corn were shipped from the port. When I was a young man, I worked on the docks for a period. Most people in the area had a direct tie to the port which was important to the economy of the area. During the 1960s there was a massive decline in the business of the port because of the use of other forms of transportation to bring merchandise into rural Ireland and ports such as Fenit suffered significantly as a result. Were it not for those engaged in the fishing sector, business would have collapsed completely. I remember vividly how important the port was for the fishing industry in the 1960s and early 1970s when thousands of cran of herring were landed on a nightly basis and transported from Fenit. It was a significant source of employment for people of the area, as well as for those involved in the fishing sector. However, as a result of the sell-out of the fishing sector in the EEC negotiations at the time, Fenit suffered greatly and, as a consequence, went into what appeared at one stage to be an irreversible decline. Thankfully, there has been a transformation and the port has enjoyed considerable development in recent years, including the provision of a marina which can accommodate in excess of 100 yachts, with proposals to further extend the marina. Fenit is still an important fishing facility, both for local commercial fishermen and leisure fishing which is an important part of the local tourism industry and also serves a commercial purpose for local business.

Liebherr has continued to export cranes from Fenit to ports throughout the world on a monthly basis and effectively kept viable the commercial sector of the port. In contrast, Foynes is a heavy industrial port and it makes no sense to the people of Fenit to amalgamate the two ports under one authority. As Deputy Broughan stated last week in the House, there are questions about some of the decisions made at Foynes which would not fill the people of Fenit with confidence. The same case is being made by people in Bantry about the proposal to bring that harbour under the same authority as Cork Port and for similar reasons, given the different uses to which the two ports are put.

Fenit Port and Bantry are similar in many ways. In Fenit there is leisure, commercial fishing and cargo. A predominantly industrial port such as Foynes would not be in any way compatible with what happens in Fenit Port. That is why I intend to seek to amend the Bill at sections 18 and 19 and seek similar changes to Schedule 2 to remove the references to Fenit and Bantry so the two ports would remain as they are in terms of management and overall supervision and that the Tralee and Fenit Pier and Harbour Commissioners and the Bantry Bay Harbour Commissioners are retained. There is a reference that this would not take place without consultation, but it would be far preferable for me and other Deputies from those areas that this would be removed completely. That view seems to be generally shared around the coast in that local democratically elected representatives ought to be involved as they have been traditionally in the port and harbour authorities.

[Deputy Martin Ferris.]

This Bill proposes to centralise that authority and in that way remove any input from local representatives from, for example, the Fenit or Bantry areas. The authority that replaces them and which does not have that representation cannot be expected to represent those local and particular interests in the same way. The Bill proposes to reduce the level of involvement by workers' representatives on the authorities.

The Tralee and Fenit Pier and Harbour Board comprises management, workers, local representatives and members of the Tralee Chamber of Commerce. It works very well. The management plan sent to the Department and the way the port has been revitalised and transformed are testament to the work the harbour board has done. If that were taken away and put under the authority of the Foynes Harbour Board it would be detrimental to a small port such as Fenit. It would also be detrimental to the service it provides, including a lifeboat service and the fact that it is a very safe harbour for people to come in and out of. There are some very interesting and ambitious but achievable plans to extend the marina and provide a further amenity and service to the coastal areas and the local economy. That is of major importance and cannot be overlooked.

In general terms regarding port and harbour facilities, it is vital to enhance port capacity as part of a strategy to encourage indigenous industry linked to exports. One of the issues that emerged from the report on farming and fishing in the western counties, which was adopted only yesterday by the Oireachtas Joint Committee on Agriculture, Fisheries and Food, was the need to focus on local job creation, through the Leader programmes for example, which have had a high level of success in creating locally sustainable jobs. The success of those local and sustainable jobs far outnumbers that which comes in from the IDA in our areas. As part of that, it is necessary that local fish processors, for example, as well as other businesses have the facilities available to move their produce quickly, and local ports have a central role to play in that. To develop a sustainable and viable fishing sector it is necessary to use local harbours and ports so they can complement onshore investment in developing a processing sector that will be also able to complement what happens at sea.

If there were a serious plan to develop the domestic fish processing sector rather than continue with the current high level of exports of unprocessed fish, there also needs to be the capacity in ports. Unfortunately however, the impact of recent budgetary changes, apart from the impact of the overall economic downturn, have exacerbated the situation. For example, the cut in funding for renewable energy projects will not only have an immediate financial impact on those concerned but will also inhibit the development of future local renewable energy projects. In the current climate would the turbine built by the fishing co-op at Burtonport be adequately supported? I doubt it. It is used to power the local fish processing plant and thereby create jobs and exports, which is where the local port facilities come into play. Such thinking, focused on the creation of sustainable local jobs tied to local resources and local infrastructure, is required rather than the current obsession with making short-term savings that will, in the long-term, impose a bigger burden on the State through social welfare and so on.

There are other aspects to this Bill on land acquisition by An Bord Pleanála which concern me but overall, if these issues I have raised can be addressed, the Bill has positive aspects and must be supported. I compliment many aspect of it. However, similar circumstances surround Bantry, which is not in my constituency, and Fenit, which is, and I have intimate and first-hand knowledge and experience of this. I hope, as the Bill passes through its various Stages, this will be taken into account. Above all, I hope the references to them will be removed entirely from the Bill, despite the implication that nothing will take place without consultation. I have my doubts about that and that is why I hope the Minister will take all that on board.

**Deputy Jim O’Keeffe:** This is a single issue speech on behalf of Bantry Bay, the second biggest harbour in the world, after Sydney Harbour. It has been host to shipping over the centuries. The Hoche expedition came in there in 1796. It was a base for the British fleet and a corner of it, in Castletownbere, was one of the treaty ports. It has a long tradition and I make a special plea that its identity and the authority of the harbour commissioners there be retained. There are objective cases to be made for that.

Bantry Harbour is a busy, active port and the commissioners there form a busy, cost-effective, efficient and profitable body. It has run its affairs at a profit for years. I cannot understand why the Minister wants to shovel merge Bantry Bay into the Port of Cork. Cork Port is almost 60 miles away from Bantry. It is already a busy port with its own affairs to run. The notion of the Bantry Bay Harbour Commissioners being an add-on to the Port of Cork is anathema to the people of west Cork in general and the people of Bantry in particular.

The Minister has given no consideration to this proposal. He did not even mention it in his speech to the House. He has not taken into account the fact that Bantry Bay has a broad range of marine activities. There is fishing, aquaculture, tourism and the oil trans-shipment terminal at Whiddy Island. There have been other activities in the bay such as stone export and so on. In recent years Bantry Bay hosted the largest tanker in the world. Yet the Minister proposes in this Bill to abolish the local harbour board, which was reconstituted after the Betelgeuse disaster as a result of the recommendations of the Costello tribunal at the time. He made a specific recommendation for this body, and the Minister wants to take power to abolish it and subsume it into the Port of Cork.

I have nothing against the Port of Cork. As far as I can see it runs its operations well, in Cork Harbour, which is what it was established to do. I cannot see how a body such as the Port of Cork could give anything other than cursory consideration to issues that apply in a port 60 miles away from its main operation.

I wish to record my very strong objection to the powers being taken here. This is opposed utterly by the people I represent. It is not in the best interests of Bantry and no case has been made for it. Why does the Minister take an efficient profitable body that is running its affairs effectively and, without a “by your leave”, use power to hand it over to another body? It defies common sense.

The Minister may ask what is the future. By a remarkable coincidence, there will be a ceremony tomorrow to mark the next stage of the development of Bantry, organised by the Bantry Bay harbour commissioners. This is the beginning of a major contract for the development of the inner harbour, the first phase of which involves a substantial dredging operation. The contract by the Bantry Bay Harbour Commission is to be signed tomorrow. What in the name of goodness is the Minister doing by trying to cut the legs from under the very sensible, carefully planned and financially organised arrangements of the Bantry Bay Harbour Commission?

I demand some element of justification for this approach. This has not been forthcoming. I am quite prepared to, and am sure I am in a position to, rebut any phony justifications that may be produced. The Bill went through the Seanad and in consequence of issues raised there it was amended, marginally. The Bill originally provided for the direct transfer of all the operations, powers, duties, functions, property and responsibilities of the Bantry Bay harbour commissioners to the Port of Cork, by order of the Minister. In the Seanad, grudgingly and under some pressure, the Minister provided a smokescreen for this by saying he would have local consultation. He would amend the Bill but would only do so after local consultation. That is like the fellow who said: “We’ll give them a fair trial before we hang them”. Who was he trying to cod and con with that amendment? The power still remains, unaltered, with the Minister

[Deputy Jim O’Keeffe.]

and the fact that he must issue a notice and listen to local people before he signs the order does not affect that power by one iota.

I ask the Minister to think again and appreciate that what he is doing is wrong. He may produce a report that was brought out years ago in order to give some credence to his position. If he does this, he may refer to the report made after the Whiddy disaster when the terminal was badly damaged as a result of the French ship *Betelgeuse* blowing up there. Obviously, the port was not in proper operation for some years after that. In the meantime a major single point mooring, SPM, was located off the Whiddy terminal. That SPM was commissioned approximately ten years ago and is designed to handle vessels up to 320,000 DWT, deadweight tonnage. How many ports in the country can do that? One would probably have difficulty naming them. Both crude and refined product, including gasoline, crude, jet, DP, kerosene and gas oil, have been handled at the SPM. It is an enormous facility and is operational. We have floating roof tanks there and it is a major operation, very well run now by Conoco-Phillips.

I hesitate to think the following because the idea seems to come from the Minister. Is it the case that the Port of Cork wishes to get its hands on this kind of operation? I say, “Hands off”; Bantry Bay is doing fine as it is and we are happy as we are. The harbour commissioners are running it well.

There was a more recent due diligence report on behalf of the Port of Cork, by direction of the Minister, to which I recently had access. I understand the report stated that Bantry Bay and its harbour commissioners were very efficient and profitable and that Bantry Bay was one of the most efficient ports in the country. That dangles the prize even more temptingly in front of the Port of Cork. My take on that report, however, is that it totally reinforces the case I make for the independence of the Bantry Bay Harbour Commission.

My message to the Minister is very simple. There are many good things in this Bill but he should take his hands off Bantry Bay Harbour Commission. There is a strong streak of independence in west Cork. We have done fine without the ministrations of either the Minister or the Port of Cork over the years and we wish to continue that way. If the Minister wishes to do anything for the Port of Cork, I shall make a suggestion. The people of west Cork strongly supported the re-establishment of the Cork-Swansea ferry, not to come into Bantry Bay but to go into the Port of Cork. We raised a very substantial sum of money towards that project, with the full support and enthusiastic encouragement of the Port of Cork, which was hardly surprising as the ship would be based there. In west Cork we would gain substantially if the Cork-Swansea ferry were re-established because in the past it was significantly important to us from the point of view of tourism. If Deputy Ferris has left I can say that west Cork is the premier tourist centre in the country although there might be some spillover business for County Kerry too.

We have seen very little concrete encouragement from this Government towards the re-establishment of that ferry which is so vital to the development of tourism. Joking apart, it really is vital for the entire south-west region. If the Minister wishes to turn his eyes to west Cork, he can extend the Port of Cork, accept a plea from a long time representative of the area and support the re-establishment of the Cork-Swansea ferry. That would give a great deal of support to the Port of Cork because the ferry would be trading in and out, and would give much support to the entire south-west region. There are some inhibitions concerning how that support might be funded because of EU restrictions but there are ways and means of supporting the re-establishment of that access route.

Therefore, I have two messages for the Minister with regard to the Harbours Bill. First, hands off west Cork and Bantry Bay and second, if he really wishes to do something for the

area, let him direct his mind and efforts and not necessarily an enormous sum, but whatever limited amount of finance can be organised, towards encouraging the co-opted efforts of the people of west Cork in conjunction with the Port of Cork to get the Cork-Swansea ferry re-established. It will be in place from 1 March of next year but there is need for some support from the Government in order that the arrangement be completely copperfastened.

**Deputy Seán Barrett:** This Bill deals mainly with certain amendments to the Harbours Act 1996. As Minister for the Marine at that time, I had the pleasure of introducing that legislation. Although I welcome some of these amendments as progress because time moves on there are some points in this legislation to which I object strenuously. I refer in particular  
*1 o'clock* to the abolition of local authority representation by way of having directors on the board. There is neither sense nor meaning to this. The Government is attempting to reduce the number of directors from 12 to eight. That is being achieved by repealing the provision whereby local authorities nominate three of the directors on each board. It is also stating that staff representation is to be confined to one, irrespective of the number of staff. With the greatest respect to staff, to have no public representation on a board, where in most areas a harbour is very much part and parcel of the local authority area, is absurd. The harbour is a gateway to many activities within the local authority's jurisdiction. It does not make sense to allow staff to be represented but with no provision on the board for the local authority.

It is also proposed to discontinue the representation of the main user of the ports. Again, no reason seems to be given for this. In my constituency, Dún Laoghaire, for example, one of the principal sources of income is the ferry service. It is important, in my opinion, that the main ferry provider should have some say in what is going to happen within the harbour, so that this does not interfere with the business of bringing people in and out of this country. We are getting rid of that representation.

When I was setting up these boards, as Minister of State with responsibility for the marine, I came under enormous pressure from various organisations and groups to have automatic representation, which I resisted. However, when it came to the local authority and the user, I saw sense in giving some degree of automatic representation in those instances. I appeal to the Government to reconsider its plan to reduce the number of directors from 12 to eight. It might consider reducing the number to ten, perhaps, leaving provision for some degree of local authority representation, and I would be prepared to accept that. However, to automatically delete these representatives without giving any reason in any documentation I have seen, just does not make sense.

As Deputy Jim O'Keeffe was speaking about Bantry, I was mindful that Dún Laoghaire Harbour is a great example of what we were trying to achieve in 1996, namely, to let the major ports operate on a commercial basis, and that has been very successful. We need to have people on these boards who look at the issues in a commercial way and are not open to influence from any vested interest groups, which would be to the detriment of the profitability of the whole set-up. Dún Laoghaire is a good example of what has been achieved. In those days we also set up the marina there. Rather than give over part of the harbour to any private individual, a State-run marina was set up through the harbour company, and that has been tremendously successful, so that now the marina in Dún Laoghaire is the largest in the whole country. It proves that where there is a State company, properly managed, with a board that is representative of all the good things necessary for running a company on a commercial basis, there will be a success story. Simply because the shareholder happens to be the State does not necessarily mean that it cannot be run on a commercial basis. It has been proven that such a model can be successful.

[Deputy Seán Barrett.]

It is vitally important to have a board comprising directors that know what they are talking about and who link in to the activities of a local authority. One cannot really discriminate between Dún Laoghaire Harbour and Dún Laoghaire-Rathdown local authority. In fact most people believe the local authority is responsible for various features in the harbour, particularly given the massive recreational facility. Dún Laoghaire is unique in that respect, as regards, say, walking the piers, sailing or whatever. Therefore the local authority is naturally involved in some respects in ensuring that access to the harbour is maintained and so on. For these reasons I believe it is important to have some local authority representation. There is no better person for this role than the elected member who will represent his or her local authority on a board. I understand the Minister for State, Deputy John Curran, is not directly responsible for this legislation, but I would appeal to him to ask whoever is responsible to reconsider this point.

Another aspect of the legislation begins to worry me, namely, the Department poking its nose into the business of running a commercial State company. Perhaps the Minister of State will explain, in his reply, why section 10, which is an amendment to section 8 of the original Bill, provides for the port companies to annually furnish to the Minister information regarding the number of employees employed or expected to be employed over the course of the next accounting year. Why in God's name do we need a provision in legislation with a board, which is supposed to be run on a commercial basis, a chief executive and a chairman? The chairman I had, originally, in Dún Laoghaire was Mr. Philip Lynch, one of Ireland's leading business people, who gave up his time voluntarily to serve. Why, in God's name, do we want to start requiring a board to advise the Minister, in the event of it employing more than 30 people? What will the Minister do about it, or what is the reason for it?

It frightens me to see such interference creeping in, given that a State company is run by a board of directors, each of whom knows what he or she is doing and what has to be achieved — with a chief executive appointed to run the company on a commercial basis and make a profit. Whether there are 31 or 29 employees should not be the business of a Minister in a Department which is not directly responsible for the day to day running of the company. Perhaps the Minister of State will explain why this is necessary, because once we start down this road there will be all types of further interference.

On those two issues, I appeal, not on a party political basis but for the proper running of State companies as regards the control of our important harbours and ports. If something is working we should leave it, and not interfere with any entity that is working perfectly well, without very good reason. I do not know why the Government wants to change the numbers on a board from 12 to eight, when crucially this is to interfere with the representation of local authorities, which in most cases, are indirectly involved with the running of the day to day affairs in harbours or ports. I look forward to hearing the Minister of State's reply.

**Minister of State at the Department of Community, Rural and Gaeltacht Affairs (Deputy John Curran):** On behalf of the Minister for Transport, Deputy Noel Dempsey, I thank Deputies for the comprehensive manner in which they have contributed to the debate on this important Bill. In particular, I will relay the points made by Deputy Barrett on the make-up of the board to the Minister. I listened to what he said and notes of it have been taken.

We all acknowledge the importance of our commercial ports in facilitating our past and future economic growth. All sides have also acknowledged that the Bill contains some important provisions which will aid the development of the sector in the years ahead.

I would like to address some of the specific issues raised by Deputies during the course of the debate. Deputies O'Dowd and Broughan referred to the connectivity of our ports to the

overall transport network. The integration of the commercial ports into overall transport policy was a key aim of the ports policy statement. In a repeat of a previous exercise in 2005, the Department of Transport contacted all ports in 2008 and requested they identify priorities to help inform departmental consideration of future transport projects. The overall integration of all aspects of our transport network is a cornerstone of the Department of Transport's statement of strategy.

In reference to the views expressed by a number of Deputies regarding the proposals in section 11 to remove the statutory representation of local authority members, the Minister for Transport has acknowledged that this proposal may be seen by some as an unwelcome break from established tradition. However, I refer to the overriding purpose of this Bill, which is to enhance the commercial ethos of the port companies. The port companies are the only bodies within the State commercial sector that retain this provision, which itself is a remnant of their previous existence as quasi-local authorities in the guise of harbour boards. There is clearly a need to bring the port companies into line with other commercial bodies and to reform the board structure by removing this restrictive provision as regards board membership.

Deputy O'Dowd raised a question as to the rationale behind the provisions contained in section 6 of the Bill relating to the disposal of land by port companies. I can assure the Deputy that this provision is merely intended to bring the legislation into line with current Department of Finance guidelines. It corrects a drafting imperfection in the existing Act. The Deputy also referred to the issues within some port companies regarding their pension liabilities. In cases where there are such issues, the port companies are in communication with the Pensions Board regarding the timeframe for rectifying any deficits they may have in their pension funds. This is in line with the recently enacted Social Welfare (Miscellaneous Provisions) Bill 2008. Deputy O'Dowd raised a valid point regarding the valuation of a company's assets in the context of the falling values experienced across the economy in the last 18 months or so. The Minister's opinion is that the inclusion of the €200 million figure in section 9 would alleviate any concerns the Deputy may have with regard to this matter and ensure that our ports are not constrained in relation to their borrowing requirements.

Deputy Broughan commented on the length of time taken from the publication of the Government's ports policy statement in 2005 to the publication of the Bill in July 2008. Arising out of the recommendations of the ports policy statement, the Department of Transport initiated a national seaport capacity study to evaluate capacity needs and proposed projects. This very important and valuable piece of work was commenced in late 2005 and concluded in mid-2006. I am sure all sides of the House would acknowledge the importance of awaiting its conclusions before commencing any legislative drafting process. Following on from the publication of the capacity report in 2006, a widespread period of consultation followed, which allowed all relevant stakeholders to put forward ideas and suggestions. This period of consultation also enabled the Department of Transport time to take account of emerging needs in the sector, such as the proposed development at Bremore. It is clear that in the case of this Bill, there were clear processes in play which helped shape the evolution of the legislation.

With regard to Deputy Broughan's comments on the standardisation of employee directors on boards, the Minister does not disagree with his assertion that employee directors have made an "overwhelmingly positive contribution to boards". One must remember that in terms of direct employee numbers, the port companies are some of the smallest employers in the State sector and that already seven of the ten ports have one employee director out of a total of 12 directors. In terms of the overall reduction in board numbers from 12 to eight proposed in section 8, standardising the number of employee directors at one per port company will ensure



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that the contribution they have made in the past will continue to be convincingly made in the future.

With regard to the appointment of the chief executive officer to the board, I would highlight the fact that such appointments are standard practice both within the State commercial sector and the private sector. It is not considered that such appointments represent any conflict of interest. On the contrary, they are in line with standard corporate governance practice.

With regard to the Bremore project and the potential impacts it may have on surrounding communities, I remind Deputy Broughan that the development of these proposals are at an early stage. The entire project will be subject to the normal planning process of any large scale development and that process will afford all potentially affected stakeholders an opportunity to make a submission on the matter. Deputy Broughan also referred to the issue of amalgamation of port companies. One of the key aims of the ports policy statement is to encourage competition between port companies. The Harbours Act 2000 does provide for amalgamation of port companies but there are no proposals under consideration at present. Merger proposals are considered on a case by case basis in light of prevailing circumstances.

Another element of the ports policy statement was that of regulation of the ports. The position today remains as that outlined in the statement, namely that there is no proposal for a regulator to be appointed having regard to the structure of the sector, including the high degree of competition and the substantial level of private sector investment in ports.

The Minister for Transport agrees with Deputy Broughan's reference to the importance of Dublin Port in the context of both the national and regional economy. It was in the light of this importance that the national development plan provided for a comprehensive study on its future role and I am pleased to say that the work of this study is almost complete. The work undertaken by this study and the work proposed to be undertaken by the Dublin Bay task force are quite separate yet inextricably linked. The Dublin Bay task force, established by the Minister for the Environment, Heritage and Local Government, Deputy Gormley, in July 2008, will look at the bay as a whole and examine a range of issues. The focused work of the Department's study will feed into and inform any eventual outcomes of the work of the task force.

My colleague, Deputy Dooley, referred to the important regional role and potential of Shannon Foynes Port Company. The Shannon Estuary is a major natural resource and the Minister is fully supportive of the exploitation of its potential on the basis of commercially viable proposals.

Deputy Broughan raised the difficulties faced by Shannon Foynes Port Company in recent years. As the Deputy is aware, the company commissioned an internal audit report of process and procedure and the board are committed to implementing its recommendations. In September 2008, the Minister for Transport appointed a new chairperson and five other directors to the board of the company. It is the board of the company, in the first instance, which is responsible for corporate governance. However, his Department continues to closely monitor the company's business in accordance with normal corporate governance practice.

Deputy Broughan also raised the unique position of Rosslare Harbour. As he is aware, Rosslare is not one of the ten State commercial port companies and its legislative standing is a rather complex one dating back to the 19th century. Currently, CIE is the de facto owner of the company charged with maintaining the harbour, along with Stena Line. I can confirm that there is no specific legislation under development at present, but this will be kept under review.

While the Minister respects Deputy Sheehan's impassioned contribution in respect of section 18, I remind the House that the proposal contained within the Bill is not in itself a transfer of Bantry Bay Harbour to Port of Cork Company control. This matter was also raised by Deputy Jim O'Keeffe. It is an enabling provision only, which merely adds to the suite of options currently available in respect of the harbour. The amendment made to the section during its passage through the Seanad will ensure that all local and regional stakeholders will have a platform to have their voices heard prior to any decision being made in respect of a transfer of responsibility to the Port of Cork Company.

With regard to section 17 and Deputy Doyle's comments regarding Arklow Harbour, the rationale for the proposal was outlined quite clearly in the Minister's introductory speech on the Bill. However, I would highlight the fact that the section does not in itself transfer the harbour to local authority control. The option to create a private company in respect of the harbour will remain, under section 87 of the 1996 Act.

The insertion of the term "Minister for Transport" in place of "the Minister" in relation to the Irish Maritime Development Office, contained in section 20, is merely an administrative exercise to reflect the fact that responsibility for the office rests with the Minister for Transport rather than the Minister responsible for the Marine Institute itself.

The Harbours (Amendment) Bill 2008 is important legislation in terms of equipping our commercial port companies with the legislative tools required to continue their development and evolution as full commercial companies. The Bill has been subject to an extensive consultation process stretching back a number of years, with important contributions from the various stakeholders within the sector. That consultation process helped to shape the development of the Government's port policy statement of 2005 and the Bill.

I thank Deputies for their contributions to the debate. The Minister looks forward to continuing the discussion on Committee Stage.

Question put and declared carried.

### **Harbours (Amendment) Bill 2008 [*Seanad*]: Referral to Select Committee.**

**Minister of State at the Department of Community, Rural and Gaeltacht Affairs (Deputy John Curran):** I move:

That the Bill be referred to the Select Committee on Transport, in accordance with Standing Order 122(1) and paragraph 1(a)(i) of the Orders of Reference of that committee.

Question put and agreed to.

### **Fines Bill 2009: Order for Second Stage.**

Bill entitled an Act to make provision in relation to the maximum fines that a court may impose in respect of offences tried summarily and certain offences tried on indictment; to provide that a court in imposing a fine upon conviction of a person of an offence shall take account of a person's financial circumstances; to provide for the payment of such fines by instalment in certain circumstances; to make provision in relation to the powers of the court where there has been a failure on the part of a convicted person to pay a fine; for those purposes to amend the Criminal Justice (Community Service) Act 1983 and the Courts (No. 2) Act 1986; and to provide for matters connected therewith.

**Minister of State at the Department of Justice, Equality and Law Reform (Deputy John Moloney):** I move: “That Second Stage be taken now.”

Question put and agreed to.

### **Fines Bill 2009: Second Stage.**

**Minister of State at the Department of Justice, Equality and Law Reform (Deputy John Moloney):** I move: “That the Bill be now read a Second Time.”

I am pleased to present the Bill to the House. It is a good example of law reform at its best, updating all existing fines that may be imposed in the District Court and many of those that may be imposed in the higher courts, ensuring persons can afford to pay fines imposed without causing undue hardship to them or their dependants and providing alternatives to imprisonment where a fine is not paid by the due date for payment.

To give effect to these issues, the Bill can be described under three main headings. The first, that is, the indexation of fines and the second provide an improved means of assessment and for payment of fines by instalments. The third policy issue addressed in the Bill is the question of providing alternatives to imprisonment where offenders default on payment of fines.

Any approach to the complex exercise of updating fines must be underpinned by two fundamental realities. First, because the District Court is a court of summary jurisdiction which deals only with minor offences, there must be an upper limit to the level of fine that may be imposed by that court that reflects its limited jurisdiction. Second, the updated fines in the District Court cannot be greater than the maximum fines for the same or similar offences that could be imposed in the higher courts.

The indexation of fines scheme is based on a report of the Law Reform Commission in 1991 and a review of developments in the indexation of fines published by the commission in 2002. The commission undertook an in-depth examination of the effect of inflation over time on the integrity of the imposition of fines as a penalty by the courts. It also examined systems in operation in other jurisdictions. It identified two possible avenues of reform, the standard fine system and the variable fine system. The standard fine system provides updated fine maxima for all existing fine maxima. The variable fine system, also known as a unit fine or day fine system, provides for the imposition of fines in terms of units of gravity where the monetary value in each case is dictated by the means of the offender.

The Law Reform Commission, rather tentatively, initially recommended the introduction of the standard fine system. In its review of developments in 2002 it came down decisively in favour of the standard fine system. It further examined the experience of jurisdictions in which unit fine systems were adopted and recommended caution in respect of the adoption of such a system in this jurisdiction. It considered that it would be inappropriate to adopt such a system at present and that many of the positive features of such a system could be achieved by adopting its recommendations. The Bill gives effect to the main recommendations of the commission in this respect by introducing a standard fine system and placing an obligation on the courts to conduct a means inquiry before imposing a fine.

I will explain the features of the Bill in more detail. Sections 3 to 7, inclusive, introduce a standard fine system for the District Court with five classes or categories. The monetary values of existing fines are being brought up to date such that they will now regain the value they had when first introduced or last updated. There are tables of relative money values dating back before 1922, although, as the Law Reform Commission pointed out, they become less reliable as one goes further back and, in any case, in the century before 1914 prices were very stable. The tables proposed in the Bill are based on a 1914 index of 100 which is an appropriate

starting point as changes in money values before 1914 were slight such that for present purposes they can be disregarded. If one wished to be exact, it would be necessary to take a particular fine and increase its value in line with increases in the consumer price index since the fine was created. This would require a separate calculation to be made for every fine imposed in the District Court. Deputies will agree that would not be practicable. However, that level of exactitude is not necessary. Instead, the Minister for Justice, Equality and Law Reform has accepted the recommendation of the commission to have a limited number of possible maximum fines. The commission recommended between three and five classes and the Minister has opted for five. These are set out in section 2. Fines not exceeding €5,000 will in future be described in legislation as class A fines; class B fines will be fines not exceeding €4,000; class C fines will be fines not exceeding €2,500; class D fines will be fines not exceeding €1,000, and class E fines will be fines not greater than €500.

When new legislation is published after the commencement of the indexation provisions of the Bill, maximum fines will not be described in such legislation in monetary terms but instead by the class to which they will belong. Existing fines will be assigned to their appropriate classes when updated in accordance with increases in the consumer price index. In this way, all fines will have regained the value they had when first created or last updated by statute.

The clearest way to illustrate how the system will work is by giving examples. A Bill passed later this year may create an offence triable summarily with a maximum fine on conviction of, let us say, €4,000. The definitions indicate a fine falls into class B where the amount of the fine does not exceed €4,000. Therefore, the Bill would state something on the following lines: “A person found guilty of an offence under this section shall be liable on summary conviction to a class B fine”, instead of the present formula which is, “A person found guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding €4,000”. Similarly, if the maximum fine was €1,000, it would be described as a class D fine. In these two examples, the maximum fine within the appropriate classes are €4,000 and €1,000, respectively. The actual fine a court could impose would be those amounts or anything less that the court in its discretion considered appropriate. This system imposes no restrictions on the discretionary power of the court to impose the fine it considers appropriate in a particular case apart from the fact that a maximum is specified, as at present.

For a practical example of how the system will work, we need look no further than section 13. Section 13(6) creates an offence of knowingly or recklessly making a statement that is false or misleading for the purpose of an inquiry by a court into a person’s financial circumstances. It states a person guilty of the offence shall be liable upon summary conviction to a class B fine and-or imprisonment for a term not exceeding six months or both. As a result, the fine will not exceed €4,000.

I provide some examples of how to find the appropriate level of an existing fine that has been updated to its real value. Not to update existing fines in line with inflation since they were first introduced or last increased would be to defeat the intention of the Houses of the Oireachtas which, in days gone by, had decided on the appropriate maximum fine for a particular offence. The first example is of an Act of 1935 which created an offence with a maximum fine on summary conviction of, in modern currency value, €200. To find the current value of that fine, one has to study the tables by reference to the year and the amount. The first reference is to the year, reference No. 7, that is, the years 1915 to 1944. The relevant amount is greater than €127 in the class A table. Accordingly, it will be a class A fine which has a maximum value of €5,000. A further example is a €500 fine in 1940 which was increased to €1,000 in 1990. The reference number in this case is 2, that is, between 1990 and 1996. It cannot be a class A fine as it is not more than €2,769, the amount opposite reference No. 2. Similarly, it cannot be a class B fine as it is not more than €1,731. In fact, it will be a class C fine as the

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most recent level of the fine was not more than €1,731 but was more than €692. Therefore, the maximum fine is now €2,500.

I emphasise that in the examples I have given there would be no change in the real value of the fines other than minor variations which might arise because this system does not rely on mathematical exactitude. I acknowledge that the District Court will take a little time to get used to the system, including calculating the euro equivalent of pre-2001 fines, but in time the system will run smoothly and it is superior to the alternatives. It is also true that most commonly imposed fines are regularly revised and kept up to date.

The Law Reform Commission recommended that, if practical, in the interests of clarity, all existing fines should expressly be allocated to their proper classes, using the method I have outlined, in a statute with long Schedules. The Minister has concluded this is not practical as it could not repay the amount of time such Schedules would take to prepare. However, it is more than just a question of the time such an exercise would take. It would also be difficult to guarantee the complete accuracy of the Schedules and accuracy is clearly essential in statutes. The commission, probably recognising the preparation of such long Schedules was not feasible, considered that Schedules should be prepared for the more common offences. Although this could have been done, it is considered that the level of fines for the more common offences will rapidly become assimilated into court procedures but that more seldom prosecuted offences, one way or the other, will have to be calculated. A single system whereby all fines have to be referred to the tables is probably the easiest to understand in the long run.

Ideally, the tables in sections 3 to 7 would be amended periodically in regulations to take account of inflation, but our advice is that this might be open to challenge in the courts. To avoid that risk, figures in the tables will have to be amended by way of primary legislation. Such amendments need not be made at regular intervals but can be made whenever increases in the consumer price index warrant it. There is nothing to prevent Ministers at any time from substantively increasing fines for offences in legislation for which they have responsibility. That would also have to be done by way of primary legislation. If required, it could mean changing a class D fine to a class C fine, for example.

The Law Reform Commission concluded in its report that a scheme should be devised to restore and maintain the real value of the fine maxima stated in criminal legislation. This is proposed in sections 3 to 7. The commission conceded that the design of such a scheme was not the simple task it might appear to be and that has proved to be the case. However, the Minister is satisfied that the scheme I briefly outlined is the fairest, simplest, most accurate and most legally sustainable method of indexing fines that can be imposed in the District Court and I have no hesitation in recommending it to the House. It is not as complex as it might at first appear to be. As the District Court begins to refer to the tables, it will quickly become accustomed to using them.

I mentioned two issues that are fundamental to the indexing of fines. As a court of summary jurisdiction, there must be a relatively low ceiling on the maximum fines the District Court can impose when dealing with minor offences. Article 38.2 of the Constitution states “Minor offences may be tried by courts of summary jurisdiction”. The Attorney General has agreed that, for the present, the maximum fine a court of summary jurisdiction can impose is €5,000. Therefore, in the definition in section 2, the maximum fine the District Court can impose will be a class A fine, that is, a fine not exceeding €5,000. This can be increased by means of legislation in line with inflation when fines in general are updated.

It is not feasible to provide tables for fines the higher courts can impose. These courts can impose huge fines of many millions of euro or even unlimited fines. Such fines do not lend

themselves to indexing, but we could not ignore higher court fines in preparing the legislation. To have done so would have meant that, where an offence was triable either way, the District Court fine might be higher than the maximum fine a higher court could impose. Other anomalies could also arise. A danger that might arise from such a situation is that the courts might be inclined to declare a particular offence was no longer a minor one fit to be tried summarily but had become a serious offence that must be tried on indictment. That could be undesirable. A factor the court takes into account when deciding whether an offence is a minor one fit to be tried summarily is the fine for which a person would be liable if convicted of the offence. The elimination of any appreciable difference between the maximum summary fine and the maximum fine on conviction on indictment, or the fact the maximum summary fine exceeded the maximum indictable fine in the same statute, would be likely to weigh heavily with a court in determining whether the offence had ceased to be a minor offence fit to be tried summarily.

The position of higher court fines was a conundrum for which there was no easy, obvious or ideal answer. It was concluded that one way to deal with this problem was to raise the maximum fines for certain offences that could be imposed on conviction on indictment in order that there was no danger that a District Court fine would be equal to or more than the maximum higher court fine for the same or similar offences. The system of indexing higher court fines agreed with the Attorney General is based on a multiplier system. Section 8 has a table of seven time periods and any fines of determinate amounts provided for or updated during each period are multiplied by an amount based on the increase in District Court fines during the same period. The reason that, unlike the other tables, there are not eight time periods is that the most recent would be multiplied by one; therefore, there is little point in providing for it in the table.

Many Irish statutes are old but still in operation without amendment. This does not necessarily mean that they are archaic; on the contrary, many have survived because they are clear and workable and still relevant. However, it does mean that in the older statutes fines have survived but with their values almost totally eroded by inflation. Even where statutes have been amended and fines updated or new statutes enacted, the value of fines can quickly be reduced, lessening their impact. It is not practical continually to bring amending legislation before the Oireachtas for no reason other than to update fines. A mechanism had to be found to ensure all existing fines of whatever vintage were updated and could, using the same mechanism, be updated at future dates, which could be determined as required by their loss of value. The scheme I have outlined provides such a mechanism. It is based on a recommendation of the Law Reform Commission which it reaffirmed in 2002. It will take the courts a little time to become fully familiar with the practicalities of operating the scheme, but that is unavoidable and it is a small price to pay for ensuring the value of fines enacted by the Oireachtas is maintained.

As I mentioned, the Law Reform Commission recommended in its 2002 report that the court, in determining the level of a fine in a particular case, should be able to take into account the financial circumstances of the offender and the burden the payment of the fine would have on him or her and his or her dependants. The commission further recommended that a court should have regard to such matters, irrespective of whether the effect would be to increase or reduce the fine so as to convey the principle of equality of impact on offenders of different means. The commission reiterated these recommendations in a further report in 2003.

Section 13 gives effect to those recommendations. The purpose of section 13 is to ensure that, as far as practicable, the effect of a fine on a person or his or her dependants is not significantly abated or made more severe by reason of his or her financial circumstances. For that purpose the court will be obliged to inquire into the person's financial circumstances and may then impose a fine that is higher or lower than, or equal to, the otherwise appropriate fine. The otherwise appropriate fine is the fine the court would have imposed but for section

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13, having regard to all the circumstances of the case. In the District Court, no fine can exceed the €5,000 maximum that can be imposed in that court and in the case of individual fines, the fine cannot exceed the maximum for the offence for which it was imposed. In the rare cases where there is a minimum fine, the fine cannot be less than that minimum.

Section 13 replaces section 43(2) of the Criminal Justice Administration Act 1914 which it is now proposed to repeal. The 1914 Act provision, which was restricted to courts of summary jurisdiction, gave those courts power to take into consideration the means of the offender in so far as they appeared or were known to the court. Section 13 is not limited to courts of summary jurisdiction and is more extensive in its application by, for example, introducing the principle of equality of impact upon offenders of different means and by defining what is meant by “financial circumstances”.

Section 14 is another ground-breaking initiative that will greatly facilitate a smoother and more efficient collection of fines in that it provides for payment of fines by instalments. This initiative was recommended in the Comptroller and Auditor General’s report on the collection of fines in 2000 as a way of increasing the level of payment of fines, in particular where the offender had limited means. The high level group report on the collection of fines to the Committee of Public Accounts in 2001 also recommended that the facility of payment of fines by instalment be introduced as a necessary prerequisite to the introduction of harder-hitting enforcement methods, such as attachment of earnings. The high level group conceded that payment by instalments would place greater demands on the administration of the Courts Service, which will be the case.

Section 14 gives effect to those recommendations. It gives the courts power to direct that a fine be paid by instalments if it is satisfied that requiring a person to pay up-front by the due date would place that person or his or her dependants under undue financial hardship. At first glance, this provision might seem unnecessary, indeed slightly contradictory, in light of section 13 under which the court must, as far as practicable, inquire into a person’s financial circumstances and impose a higher or lower fine than that which would otherwise have been appropriate, so that the effect of the fine on the person or his or her dependants is not significantly abated or made more severe by reason of those financial circumstances. However, a fine can only be abated or made more severe by so much, and the practical reality will be that the provisions relating to capacity to pay and payment by instalments will complement one another.

Imposing a fine is a judicial function and, similarly, any decision on whether it should be paid by instalments and the period for which the instalments should be paid are also judicial functions. However, the court may leave the amounts of the instalments and the intervals for their payment to be determined administratively by the Courts Service. The Courts Service can alter the amounts and intervals for payment, as it considers appropriate, as long as the full amount is paid by the latest date for payment as determined by the court.

There can be no doubt that a scheme for paying fines by instalments will pose an administrative challenge for the Courts Service. To lessen the burden, it has been decided that the payment by instalments system will apply only to fines in excess of €100. As soon as the system is up and running smoothly, that amount can, if necessary, be reviewed but for the present it is a prudent but relatively minor limitation on the operation of the scheme. It is also prudent to place a time limit for the full payment of the fine and the norm will be for the instalments to be spread over one year. However, the person on whom the fine has been imposed may apply to the court for an extension of the time and the court may grant the extension for a period of not more than a further year. In other words, there are no circumstances where the payment of the fine by instalments can be spread beyond two years. The extension of up to one year is by no means automatic. Before granting an extension, the court must be satisfied that the

financial circumstances of the person who applied for the extension have changed to the extent that compliance with the original direction would cause undue financial hardship to the person or his or her dependants. The court must be also satisfied that the change in the person's financial circumstances is not due to his or her culpable neglect.

Discussions are taking place between the Department of Justice, Equality and Law Reform and the Courts Service at present to see if a way can be found to reduce the level of additional court sittings that the implementation of sections 13 and 14 could potentially entail. If some appropriate minor changes to the way those sections will operate are identified, any necessary amendments will be brought forward on Committee Stage.

The third major policy initiative in the Bill is at sections 15 to 17. Those sections provide the courts with three options as alternatives to imprisonment when a person defaults on payment of a fine. There is a perception that our prisons are cluttered up by persons who are there for no other reason than they did not pay a fine, which is not true. Approximately 1,500 persons were imprisoned last year for that reason but, on any given night, only approximately six fine defaulters were in prison. While these provisions, with the equality of impact and payment by instalments initiatives, should reduce those figures even further, that is not the only reason I am proposing to provide alternatives to imprisonment. It is socially desirable that prison be an option for fine defaulters only in the most exceptional of circumstances, such as where someone has a malign reason for refusing to pay the fine.

Section 15 will allow the courts to appoint a receiver to recover the fine or to seize and sell property belonging to a fine defaulter and recover from the sale of the property a sum equivalent to the value of the fine. This provision will apply only in cases of fines being imposed on conviction on indictment where the size of a fine would make the appointment of a receiver worthwhile. The powers generally of a receiver appointed under this section will be similar to receivers appointed for other purposes.

Section 16 provides the courts with the power to make an order for the recovery of the fine from the person in default. Such an order, which is called a recovery order, is of the same force and effect as an execution order under the Enforcement of Courts Orders Acts. In other words, it can be recovered as if it was a civil debt.

The third of the new alternatives to imprisonment is the power being given to the courts in section 17 to impose a community service order where a person has not paid a fine by the due date. At present, a community service order can be imposed only as an alternative to imprisonment where a person has been convicted of an offence.

Other provisions include amending the Criminal Justice Act 1951, the Criminal Procedure Act 1967 and the Criminal Justice (Theft and Fraud Offences) Act 2001. Section 4 of the 1951 Act provided for a maximum fine of £100 on summary conviction for an offence referred to in the Schedule to that Act. Similarly, section 13 of the 1967 Act provided for a maximum fine of £100 where a person pleaded guilty in the District Court to an indictable offence, apart from certain offences mentioned in that section. Both of those fines were increased to a maximum of £1,000 by section 17 of the Criminal Justice Act 1984. The sum of £1,000 was the maximum fine that could be imposed in the District Court in 1984. Accordingly, it is now proposed to increase those fines to the current maximum, namely, they will become class A fines. Section 53 of the 2001 Act allowed for the summary trial of offences under that Act if certain conditions were fulfilled. The maximum fine on conviction was £1,500. I also propose to increase that fine to a class A fine.

The Courts (No. 2 ) Act 1986 provided a scale setting out the maximum period of imprisonment on default of payment of a fine imposed on summary conviction. For example, on the third point on the scale, if the fine was between £250 and £500, the maximum term of imprison-



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ment on default would be 45 days. This scale has been totally altered by significantly raising the amount of the fines and reducing the corresponding periods of imprisonment. For example, again taking the third point on the scale to illustrate this point, default on payment of a fine between €1,500 and €3,000 could result in a maximum prison sentence of 20 days. Imprisonment is the ultimate sanction for non-payment of a fine and the provisions of this Bill should greatly reduce the level of default on payment of fines. In future, the ability of a person to pay a fine will be the main factor in determining the level of fine.

When this legislation is fully operational and there has been an opportunity to examine its effectiveness, the question of whether further legislation will be necessary can be considered. It is only in the light of the practical application of the Act that it will be possible to determine, for example, whether legislation on the attachment of earnings is desirable, and, if so, the scope of any such legislation.

A fines Bill was published in 2007 and has now been withdrawn. That requires some explanation. The Parliamentary Counsel who drafted the Bill concluded that as the Bill would be used every day in the courts, in other words, more often than any other piece of legislation we pass, it should be as clear and easy to understand as possible. Accordingly, sections 3 to 7 have been redrafted and section 8 provides a totally new approach to maintaining the value of fines imposed on indictment. It was always intended that the Bill would include provisions giving the courts more powers to deal with persons who have defaulted in the payment of their fines, thus greatly reducing if not almost eliminating the imposition of imprisonment. Several such powers are now included in the Bill. To have brought forward those changes on Committee Stage would have resulted in a multiplicity of amendments and a change in the character of the Bill. It is clear that drafting a new Bill was the right approach.

While this is a relatively short Bill, it will be shown within a short time to be an important piece of legislation. It is complex, in particular the indexing provisions, but that is a worthwhile price to pay for what is being achieved. I go further and say that is a necessary price to pay, because not to index fines could lead to some ridiculous fines having to be imposed. Not to maintain the values of fines imposed years ago only serves to frustrate the efforts of our predecessors in the House who gave so much thought to what they considered to be the appropriate financial penalties for breaches of the offences they were creating. I commend the Bill to the House.

**Deputy Charles Flanagan:** I welcome this legislation and thank the Minister of State, Deputy Moloney, for his explanation. The indexation of fines imposed by the District Court can be dealt with under this legislation, as can a limited number of fines imposed by the higher courts. The Bill will also give the courts the power to inquire into the capacity of persons to pay fines and will allow, for the first time, for the payments of fines on an instalment basis.

While the Bill provides for alternatives to imprisonment, regrettably it does not propose to end the practice whereby people are imprisoned for non-payment of a civil debt. Interestingly, a case is proceeding through the courts currently and I am sure the Minister for Justice, Equality and Law Reform and his colleagues will watch developments there with some interest.

I do not propose to deal with the main provisions of the Bill as the Minister of State has dealt with these. It is important that the emphasis in the Bill should be on the capacity of a person to pay a fine rather than the intent of a person to pay a fine. The Bill will deal with people who cannot pay fines rather than people who will not pay them. This is a distinction that is sometimes difficult for a court to get to the root of. It is important that people who might well be in a position to pay a fine but who for reasons best known to themselves do not wish to pay that fine do not unduly avail of the legislation in a way that would be unjust.

The Fine Gael Party welcomes the publication of the Bill, which is long overdue. An overhaul of fines legislation has been required for many years. In an effort to establish a progressive, fair, equitable and efficient system of fines collection, Fine Gael has put several Bills before the Oireachtas over the past 11 years since the Fianna Fáil Government took power in 1997. I would like to acknowledge the contribution of my former colleague, Jim Higgins MEP, who introduced the enforcement of court orders Bill 1998 when he was Fine Gael spokesman on justice. The enforcement of court orders Bill 2004 was sponsored by Deputy Jim O'Keeffe when he was spokesman on justice, but it did not enjoy the passage through the House it should have had. The enforcement of court orders (No. 2) Bill 2004 was sponsored by the then Leader of the Seanad, now Deputy Brian Hayes. The fines Bill 2004 and the enforcement of court orders Bill 2006 were also sponsored by Deputy Jim O' Keeffe.

All of these Bills were voted down by the Government in a way that, perhaps, underscores all that is wrong with the adversarial nature of our political system. The Government chose on all of those occasions, as it continues to do with Private Members' Bills, to play partisan party politics when there was no social, economic, logical or moral reason for so doing, other than to play the party political card.

We now have a situation where members of the public are under increasing pressure to meet their debts in the economic downturn. Our prisons are becoming more and more overcrowded and it is costly for the State to imprison those who fail to pay fines and debts in the manner envisaged by the blunt instrument of the current system. The inertia of successive Governments over the past 11 years is highlighted by the failure to address the issue now before the House.

It is important to dwell for a moment on the main arguments advanced by the Government against the Fine Gael Bills I listed earlier. The first argument was the Bill could undermine the existing system for payment of fines. There is no reason at all such a Bill would undermine the existing system. Our proposed legislation actually strengthened the current system by ensuring that fines would be collected and disposed of expeditiously and that fines would not be disproportionately onerous on less well-off members of society. The second argument advanced was that the Bill could prove vastly and disproportionately expensive to administer. However, the scheme outlined in our 2006 Bill would more likely have saved money than anything else on the basis that currently, the system requires repeated appearances in court, which are by definition very expensive, and in some cases periods of detention in prison at a cost of just less than €100,000 per year per prisoner. There is no argument therefore that the current system of allowing for the imprisonment of fine defaulters or imprisoning people for non-payment of civil debts is anything other than an expensive cost to the State.

A third argument put forward for not accepting our Bill was that it would not make any significant improvement on pressure on prison accommodation. I listened carefully to what Deputy Moloney said about the popular perception that there are people in prison for non-payment of debt. As with everything else, he twisted the statistics to suit his argument. Almost 2,000 people are committed to prison in Ireland every year for non-payment of fines, civil debt and other non-violent offences. That is a lot of people and prison space and amounts to significant costs. I accept that many of these people serve only short sentences. I understand the average term of imprisonment for non-payment of debt, fine defaulters or TV licence evaders is approximately 20 days. If we worked out the average cost of 20 days imprisonment against the cost of €100,000 per prisoner per year, we would recognise this is a huge drain on the resources of the State, with money being spent keeping people in prison when the matter could and should have been handled in a different way. The arguments have fallen by the wayside as the Government belatedly introduces these proposals for alternatives and for the categorisation of the fines in accordance with the legislation.

2 o'clock

[Deputy Charles Flanagan.]

I regret that the Minister for Justice, Equality and Law Reform is not present. I would have thought that in his absence the Minister of State who introduced the legislation to the House might at least have done the Opposition the courtesy of remaining here to hear our submissions. I accept that the Minister may have urgent business that keeps him out of the House, such as another press conference but the Minister of State might have remained between now and Question Time, or at least to hear the main spokespersons.

The only section to which the Minister of State did not refer was section 11, the only one with which I have difficulty. I do not know why he did not refer to it because it is rather unusual. The section gives the Minister power to make regulations to address difficulties with Part 2. Section 11(1) states:

If, in any respect, any difficulty arises in bringing any provision of this Part into operation or in relation to the operation of any such provision, the Minister for Justice, Equality and Law Reform may, by regulations, do anything which appears to him or her to be necessary or expedient for removing that difficulty, for bringing that provision into operation or for securing or facilitating its operation, and any such regulations may modify any provision of this Part so far as may be necessary or expedient for carrying such provision into effect for the purposes aforesaid, but no regulations shall be made under this section in relation to any provision of this Part after the expiration of 3 years commencing on the day on which the provision came into operation.

The only safeguard is that the draft regulations are laid before the Houses and a resolution of the House is required.

It seems extraordinary that the Minister is taking unto himself such a wide-ranging power, one can see how many times the phrases “power”, “any respect” or “any thing” or “any power” are used in the section. I ask the Minister to engage in detail with this section before we conclude Second Stage because it appears as a warning that the contents of the Bill may not run in accordance with the Minister’s expectation and if there is any difficulty he can deal with it by way of ministerial regulation.

We have abdicated power to allow Ministers legislate by way of regulation. We should engage in the legislative process here rather than delegate power to ministerial regulations to be laid in the Oireachtas Library or rubber-stamped by an Oireachtas committee. I am not happy with this provision and want to know why the Minister of State referred to every section in the Bill except section 11, which is crucial and requires a detailed explanation.

The Minister must be familiar with the case of *Cooke v. Walsh* in respect of medical expenses in which the Supreme Court was critical of legislation by regulation and referred to Ministers acting *ultra vires* without appropriate power, apparently taking upon themselves power to introduce legislation in the form of regulations. I am concerned about the application of this legislation when pitched against that Supreme Court ruling. I remind the Minister that his intention to amend any such provision or “do anything which appears to him or her to be necessary or expedient for removing that difficulty” can be achieved by way of regulation. Has the Attorney General satisfied himself and the Minister that this is in accordance with the Supreme Court decision in *Cooke v. Walsh*?

The path to this Bill has been long and I acknowledge the role of the Law Reform Commission in this matter. In October 1991 it published a report on the indexation of fines. No proposals were ever brought forward to implement this in any meaningful way. In 1998 the then Taoiseach informed the House that an indexation of fines Bill was “at an early stage of preparation” and would be published in 1999. That never happened. In 2000 the Comptroller

and Auditor General published a value for money audit on the collection of fines based on 1998 and on foot of the report a high level group chaired by the Department of Justice, Equality and Law Reform recommended the establishment of an executive office in that Department to oversee and manage fines collection policy. The then Minister agreed but nothing happened. In July 2002, the Law Reform Commission published a report entitled *The Indexation of Fines: A Review of Developments*, and in response to a parliamentary question in 2002, the then Minister for Justice, Equality and Law Reform stated that a Bill to deal with the indexation of fines would be published in 2003. This never occurred.

The commitment to publish a Bill on the indexation of fines during 2004 was contained in the Government's legislative programme and it also formed part of the Government's White Paper on *Regulating Better*, 2004 but this never occurred. There is a clear and consistent record of inaction on this issue on the part of the Government over the past 11 years. It has voted down four Fine Gael Bills only to publish the same Fine Gael Bills in Government clothes. Our Bills have been completely subsumed in this Bill with the exception of section 11.

The Fine Gael Bill provided for the indexation of fines. There are many fines in our legislation which have not been amended or updated and do not serve as an adequate deterrent or as an adequate penalty. When they are imposed and highlighted by the courts, such low penalties bring the law into disrepute and cause it to become the subject of amusement. For example, in September 2002, a mother was convicted on a charge of being drunk and in charge of a three year old child and as a result was fined €2.00. In October 2003, a 14 year old boy was fined €5 and banned from driving for one year. It is important that at the other end of the scale we allow for a scheme for the payment of fines by instalments. It obviously will take that person considerable time to save for a fine not greater than €2,500 but greater than €1,000. The setting aside of money from one's weekly income to pay such a fine will take a long time and, in many cases, much longer than the court will allow. This is a real problem and we come across it from time to time as public representatives. For example, if a person does not appear in court and the court is unaware of the reason therefor, it is most likely the fine will be at the higher end of the scale. There is no redress other than an appeal to the higher court, the papers for which must be lodged within 14 days. It often takes longer for the recipient to be notified of the fine by post. An appeal to the Circuit Court, as we all know, may cost more than the original fine. This is a real problem.

There was a system some years ago which, unfortunately, was used to the extent of its being brought into disrepute and abandoned. It involved a ministerial direction in favour of mitigation. It was perhaps subjected on occasion to a use that may have been described as an abuse. However, it served a function in principle because there are cases where there is a clear injustice. I am not saying this legislation will deal adequately or satisfactorily with such an injustice but there is not much point in imposing a fine of thousands of euro, as the courts regularly do, on people who may not be working or clearly have no ability to pay. It causes difficulty not only for the individuals concerned but also for their families. Such fines are more likely to be imposed without a proper or adequate examination of their wherewithal to pay the fine. This is compounded because the Garda does not have any power, or wish or intent, to accept an amount less than that which is due when executing a warrant for the collection of the fine. There are many unfortunate people who have a prison sentence hanging over them like the sword of Damocles, who do not know what night or day the doorbell will ring and they will be carted off to prison because of inability to pay a fine they would be well able to pay if they could afford it.

I hope this legislation addresses this problem by providing a system of payment by instalment which would allow a person to make regular partial payments over time to satisfy an order of the court. It is essential that fines imposed on people in a position of economic disadvantage

[Deputy Charles Flanagan.]

but who wish to pay can be paid in a manageable and realistic way. Thus, it can be ensured that the fine is paid without default.

I ask the Minister to provide some details on the logistics of the system from a practical point of view on the basis that there are hundreds of thousands of fines imposed. While the legislation provides for a statement of means to be provided, the Law Reform Commission stated quite strongly that the manner in which the District Court runs its affairs is such that it is impossible to carry out a thorough or meaningful examination of people's means before the imposition of a fine. We should ensure in legislation that our court system operates in a fair way. If this involves further delays owing to the need for detailed examinations of means, it will be good. There can be no lawful reason or justified excuse to say, as the Law Reform Commission has done, that what I propose could not be achieved just because the District Court is busy and would be made too busy, thus clogging up the system, if it were to carry out more detailed examinations. The fundamental function of our court system is the administration of justice. Justice will not be administered in a fair way if people are too busy to engage in the type of scrutiny that is essential to the assurance of fairness.

I am assuming the Bill will have a protected welfare rate below which a person will not be expected to make any instalments. This arose under the Enforcement of Court Orders Bill, which deals with the matter of hardship. It is important that the Minister put in place procedures that would require the courts to assess the means of a defaulter or offender before the imposition of a fine. It is important that there be clear procedures to ensure an offender's ability to pay is fully taken into consideration. That should result in the imposition of a fine that does not represent an undue or unrealistic burden on the offender. In the Bill the Minister has included a provision that the assessment of means be rebranded as "equality of impact". It is a fine phrase but meaningless unless there is a clear onus on the court, by way of procedure, to ensure means are taken into consideration in a thorough way.

On any given day, between 40 and 50 people are in prison for the failure to pay a fine or debt. Annually, almost 2,000 people are sent to prison for failing to pay fines or debts. The practice of sending these debtors to jail serves no useful purpose at all because, when the debtor is freed, the debt still remains unpaid. It is not like the purging of contempt of court as the debt still remains due. We should acknowledge in the House that the main reason people default is not that they will not pay or refuse to pay but because they cannot do so because of financial difficulties. Any proposals to allow the courts to engage in the recovery of a debt must be fair and considered.

I have fears regarding the busy nature of the District Court and the number of cases dealt with daily, which cases provide the annual statistics in the annual report of the Courts Service. I fear that the statistics would be given more weight than the need to take time to examine means so that a statement of means could be provided and the spirit of this legislation could be acknowledged by the courts and enforced in a meaningful way by building it into their procedures.

The Minister of State, Deputy Moloney, wished to downplay the number of persons in prison for the non-payment of debt. The reality is that, according to a 2006 report, 22% of all prisoners are in jail for this reason — I stand to be corrected if I am wrong. This percentage is not insignificant. At a cost of nearly €2,000 per week, it is more expensive to put someone into prison than to put them up in a posh hotel in Dublin for a week. What benefit is this having on our already struggling Exchequer?

One must also consider the chronic overcrowding in our prisons. Early this month, there were just under 4,000 prisoners in custody in the State although the total bed capacity is 3,636.

Thus, we have an occupancy level of 106%, which has risen from 105% in one month. This is the shambles that is our prison system in mid-2009. Overcrowding in our prisons creates tension, which makes prisoner violence more likely. It severely hinders the capacity of the prison system to rehabilitate serious offenders. Twelve out of 15 of the State's prisons are packed beyond capacity.

This is not just a matter of prisoner comfort levels, as some might think. It is about having prisons that are safe and functioning and that serve a role. Part of the role of prison is to rehabilitate inmates in order to ensure that those who come out having served a sentence are in a position to integrate into society and play a meaningful role. Rehabilitation is not happening at present, as almost half of offenders are back behind bars within four years of release. In any event, people jailed for non-payment of debts do not require any degree of rehabilitation, training or education. What rehabilitation is required for a person who cannot pay a television licence fee? Yet 54 people were jailed last year in Mountjoy and other prisons for not having television licences. They did not hear, or chose to ignore, the rather amusing advertisements on our radio and television saying that the licence inspectors are around. For those 54 people, the ultimate result of the visit of a licence inspector to their areas was to be packed off to Mountjoy. I regret that there are no proposals to cease the practice of sending people to jail for non-payment of a debt. That is currently before the courts and should have been dealt with but has not been.

I have a number of issues to raise on Committee Stage. I ask the Minister to deal with the ministerial power to mitigate, which was an unclear area, although I will not describe it as a grey area. Since its demise there has been a gap that has not been filled, and the courts can reflect on the imposition of a rather blunt instrument. I welcome the Bill and will return on Committee Stage to what will be an interesting debate. I thank the Minister of State, Deputy Moloney, for his introductory comments.

**Deputy Seán Sherlock:** We broadly welcome the legislation, which is long overdue, and wonder why the draft Bill from 2007 has not been introduced before now. However, it is now before us. It is ludicrous that a significant number of people are incarcerated on the basis that they are unable to pay fines. It is expeditious and proper that the State put in place a system to allow people to pay their fines by instalment or other means, thus negating the need to go to prison. The case was already made by my colleague in Fine Gael that the problems that persist in prisons as a result of overcrowding are in no small way attributable to the fact that people are in prison due to non-payment of fines. This is leading to an undue burden on the State and must be rectified.

There was a previous judgment in this regard. I believe it was Mr. Justice Henchy who stated that in no circumstances should a court impose imprisonment as an alternative to a fine solely on the grounds that the defendant could not afford to pay the fine considered by the court to be appropriate. Imprisonment is the most serious punishment, and if it is not appropriate because the case is not sufficiently serious, a fine should be imposed as a lesser penalty. If the defendant cannot afford an appropriate fine, the amount should be lowered, and if he or she cannot afford any fine, imprisonment should not be considered as an alternative solely on the grounds that the fine cannot be paid. This is an important point. According to that judgment, it is better for someone to walk free without punishment rather than be punished by imprisonment just because he or she has no money to pay a fine. Otherwise we are imprisoning people on grounds of poverty rather than according to the seriousness of the offences they commit. This legislation will facilitate a process whereby those people who are unable to pay their fines in one fell swoop will be able to pay by instalments. This results in greater equity in that

[Deputy Seán Sherlock.]

somebody who is convicted of a crime but is not a criminal in the classic sense of the word now has an opportunity to pay the fine in smaller instalments, which is to be welcomed.

I do not understand why, when the Law Reform Commission introduces recommendations — which in this instance date back to 1991 — the legislature does not come forward with proposals in a more timely fashion to rectify matters or make the law better. This Bill was first published in 2007 and the Law Reform Commission has been speaking on this issue since 1991. Any functioning democracy should have within its remit the ability to enact laws in a timely fashion. If one considers the cost factor alone, based on the number of people who have served prison sentences for non-payment of fines, we could have saved the State countless thousands of euro if better legislation had been introduced earlier. The Law Reform Commission, from any document I have seen, has been far-reaching in its approach to these issues. This is a matter that needs to be addressed.

I do not think it is fair that the limit above which instalments can be paid is €100. This limit should be removed so that fines of less than €100 can be also paid in instalments. There are many people out there who survive on subsistence wages or rely solely on income from the Department of Social and Family Affairs, and to whom literally every penny counts. To those people a fine of as little as €50 would be a considerable burden. Provision should be made in the Bill so that a fine of less than €100 can be paid by instalment. Daily, I deal with people who find themselves in difficulty over the non-payment of refuse charges, for example. Local authorities have systems whereby €5 per week could be paid. In many such instances, the outstanding debt could be as little as €70 or €80. The same type of principle should apply to this provision, a matter I hope can be addressed.

The legislation's net effect should be to reduce the number of impecunious offenders being sentenced to imprisonment. There should be careful monitoring of sentencing practices across the board to ensure the objective is achieved. For this reason, the Bill should provide for some form of statistical analysis whereby its net effect can be quantitatively and qualitatively measured in order that we can see the knock-on effect in terms of any reduction in the number of people presenting to prison and the success or otherwise of the legislation as enacted. If the legislation is updated in future, it is important that there be a statistical analysis. In this context, the Courts Service would be an important actor.

I refer to the Bills Digest. The Oireachtas Library and Research Service issued a good document from which it is worth quoting. It states:

A problem inherent in a system of penalties based on fines is the changing value of money over time. This can deprive a fine of its punitive nature and reduce its deterrent effect.

In terms of indexation, the Schedules are clearly set out in section 2, but we will submit some amendments that will be of a semantic nature as opposed to a substantive one. A good job has been done in the legislation's drafting in terms of the changing monetary effect that will persist in future. This is welcome.

The issue of a statement of means should be addressed. If someone presents himself or herself before the court and claims an inability to pay a fine despite possessing sound financial means, by what mechanism can the judge determine whether the person has the ability to pay? While there is provision in the legislation, should it be more prescriptive? As mentioned by the Minister of State, section 13 creates an offence of knowingly or recklessly making a statement "that is false or misleading in any material respect to a court conducting an inquiry into a person's financial circumstances". Should the section be more prescriptive in seeking a statement of means by the convicted person to prevent those with means from claiming otherwise?

As there is scope for someone to misrepresent his or her position to the court, it might be desirable that a statement of means be sworn by the offender who is seeking an abatement of the fine by reason of his or her circumstances.

Two issues are not provided for in the Bill, to which the Minister of State might respond. Under the Bill, could judges be trained to analyse the types of scenario that appear before them and to work with the Courts Service to ensure efficiency is built into the system? There seems to be no specific provision regarding revenue offences. Is there such a provision?

I do not wish to repeat the points made by my colleague in Fine Gael, although I could. I would like to see specific issues addressed. The Labour Party is broadly in favour of the Bill and strongly believes that it is high time to reduce the numbers presenting to prisons for, in many instances, being unable to pay fines. It is proper that legislation be introduced to prevent such occurrences. The Government must take into account the fact that many people find it difficult to pay fines of less than even €100. We also believe that, since some people might try to misrepresent their true financial positions before judges, the Bill should have a prescriptive provision *vis-à-vis* the presentation of a statement of means. Judges should be trained on the Bill's mechanisms and its effect should be monitored by the Courts Service to ensure its intended impact because only by means of a statistical analysis can we measure the Bill's true impact.

**Deputy Aengus Ó Snodaigh:** Ba mhaith liom fáilte a chuir roimh an Bille Fíneálacha 2009. Is trua é go raibh orainn fanacht chomh fada chun an Bhille a phlé sa Dáil. Is céim beag chun tosaigh é. Nuair a thoghadh mé ar dtús i 2002, dúirt an Rialtas go tógfaí an reachtaíocht seo agus Bille eile — the enforcement of fines Bill — gan mhoill. D'fhoilsíodh iad i 2003. I 2007, foilsíodh an Bille Fíneálacha 2007, ach stop an próiseas reachaíochta ansin. Ní raibh aon dul chun cinn maidir leis an Bille eile. Tar éis seacht mbliana, tá Bille amháin againn, ar a laghad. Tá súil agam go mbeidh Acht cuíosach forasach againn. Ba cheart go mbeimid bródúil as. Tá díomá orm, dar ndóigh, gur thóg sé an oiread sin ama. Leis an méid sin dréachtú agus athdréachtú déanta ó 2002, is mór an trua é nach bhfuil an reachtaíocht níos foirfe ag an bpointe seo. Tá súil agam go nglacfaidh an Aire le leasuithe ar Chéim an Choiste agus ar an Tuarascáil a dhéanfaidh an Bhille níos foirfe. Tá díomá orm nach bhfuil sé ag cinntiú nach rachfaidh daoine go bpriosún muna bhfuil siad in ann fíneáil a íoc ina iomlán. Tá bogadh éigin chun tosaigh déanta, áfach.

I am disappointed the Bill fails to reverse the current position whereby people continue to be detained in prisons simply as a result of the inability to repay a debt rather than a fine. The issue of a person's indebtedness is not addressed in the Bill. Another Bill might be needed to address that issue. This Bill presented an opportunity to address it and it could have been more substantial, particularly given the time it has taken us to reach this Stage.

Section 13 allows the courts to take a person's financial circumstances into consideration when determining the level of a fine with the purpose of ensuring that the effect of the fine on that person or his or her dependents is not significantly abated or made more severe by reasons or his or her financial circumstances. That is to be welcomed. The Bill, as drafted, is short on the detail with the scope for a wide spectrum of judicial determinations in respect of potentially similar circumstances as a result. Hopefully, that aspect will be given more teeth and more detail on it will be provided as we progress through Committee Stage.

I have long argued that there is a need for judicial sentencing guidelines to ensure consistency in the handing down of prison sentences. In this instance, I seek the inclusion of judicial guidelines to address the determination of fines to ensure consistency across the board. There might be a mechanism by which such provision could be included in the Bill.



[Deputy Aengus Ó Snodaigh.]

Section 14 provides for the payment of fines by instalments. This is a welcome provision, especially for people on low income or those who have a substantial level of indebtedness. The courts will be able to take such circumstances into account in determining a person's ability to pay a fine. If a fine imposed is substantial, and the law determines that a fine must be substantial on occasion, it is welcome that it can be paid in this way. The absence of such a provision in the past resulted in the imprisonment of the most vulnerable of fine defaulters, namely, people who wanted to pay their fines but were not in a position to do so in advance of the due date. While on occasion, judges have taken into account people's circumstances and have often been lenient in extending a long period of time for people to pay their fines, to my knowledge, the option to pay a fine in instalments has not been available to most people. Therefore, this provision is a welcome change.

The Bill, in general, is welcome. The fact that the facility to be provided for was not available up to now resulted in a disproportionate imprisonment of social welfare recipients and others on low income in the past. According to British Home Office statistics, 76% of those who fail to pay fines are unemployed. This illustrates how the imposition of fines impacts greater on a lower socio-economic grouping.

Section 17 allows for a community service order to be imposed as an alternative to imprisonment where a fine has not been paid by the due date. This provision is very welcome. More use of the imposition of community service orders should now be made. At least now the courts are being allowed to determine in this respect, given that imprisonment involves a huge cost for the State. It is rarely beneficial and can be detrimental for the individual in question, when one considers what has happened in our prisons ranging from people being murdered, committing suicide to people going into prison not addicted to drugs and coming out addicted to hard drugs. The more people we can keep out of prison and the more we as a society can find an alternative way to punish them or to extract our pound of flesh from them for the wrong they have done to society, the better for society. In this way justice can be seen to be done.

In this instance we are concerned with fines and this provision is a way of ensuring that those who cannot afford to pay or who have not paid fines do not end up costing the State more by their being imprisoned, which was a ridiculous practice in the past. The imposition of community service orders on offenders will ensure that they pay back society in respect of the wrong they have done.

The failure of the Government to introduce such legislative provisions before now has meant that every year fine defaulters make up a significant portion of our prison population. The practice of imprisoning fine defaulters gives rise to serious human rights questions because the deprivation of liberty which should be a sanction of last resort was routinely employed against non-violent individuals. It also confounds the most basic economic logic. The position has been well articulated by the Free Legal Aid Centres when they, like ourselves, over the years have advocated community service and restorative justice schemes as the most cost-effective and appropriate alternatives especially in these circumstances. A report by them has stated:

. . . the supreme irony is that if a prison sentence is served, the fine is purged. Thus, the State spends a vast amount of resources (court staff, garda time and the cost of the prison stay) and gets nothing in return.

Ireland stands out from other countries in the developed world in this regard. According to National Crime Council statistics in 2006, 22% of all prison committals were for non-payment of fines. The recidivism rate among this category is exceptionally high. That begs other ques-

tions. Research by UCD covering the period 2000 to 2004 found that 85% of people jailed for not paying a fine were back in prison within three years. Across the general prison population, 25% re-offend within one year and 50% within four years.

In stark contrast re-offending rates among participants of the State's two adult restorative justice schemes in Nenagh and in Tullaght are much lower, standing at between 10% and 20%. I urge the Minister to re-examine the restorative justice programme with the view of going beyond the two pilot projects in Nenagh and Tullaght in terms of provision. There was a discussion on the programme at a committee and presentations were made in respect of both those schemes. I appeal to the Minister to accept that there is economic sense in using the programme. In terms of the administration of our prisons, it costs €60,000, €70,000 or €90,000 per annum, and maybe even more in some circumstances, to detain a prisoner in prison while it costs approximately €2,500 for a person to participate in a restorative justice scheme. That illustrates the economic sense for developing the latter model. The development of that programme would be a way of addressing not only over-crowding in some of our prisons but of ensuring that justice is done and that our justice system delivers for the public.

Not only does prison not work as a deterrent, which I have demonstrated in the figures I cited, it is not a deterrent to people defaulting on the fines they owe. Furthermore, it is vastly more expensive than its community based alternatives. That speaks for itself. In a media interview in 2004, the Governor of Mountjoy Jail, Mr. John Lonergan, gave some stark examples to highlight the disproportionate nature of, and the gross financial mismanagement that is endemic to, the current situation. He stated:

There should be other ways of getting back the value of the fine from people rather than jailing them. No one would convince me that people who don't pay fines should be imprisoned. Remember that, in such a case, when the court makes its decision it says that it feels the offence does not warrant imprisonment. Surely there must be more innovative ways of penalizing them appropriately, such as via community service.

It is welcome that the Bill addresses this point and recognises the point made by Mr. Lonergan. I refer to some cases by way of example. A County Mayo farmer was fined €6 for not having a tail-light on his tractor trailer. He refused to pay and two days in prison was the alternative. The State paid for a taxi and two gardaí to bring him from Mayo to Mountjoy where he was released the next day and his train fare home was also paid, with a total cost to the Exchequer in the region of €2,500 for a fine of €6. A woman in her late teens failed to pay the correct bus fare and was fined approximately €100. She was unable to pay the fine and was imprisoned for 14 days, at a cost to the State of almost €250 per day or €3,500 in direct prison costs. This is the type of case being addressed in the Bill, and for which I am thankful

Most community service orders operate under the supervision of the probation service. Budget 2009 reduced funding to the probation service by 3%, to €52 million, whereas the prison budget was reduced by just 2% to €386 million. Contrasting the budget allocations to the prison service versus the probation service may be a crude exercise, but it provides an indication of where the Government's priorities lie. The Government was more than happy to waste taxpayers' money during the good times, as evidenced by its stubborn refusal to cut its losses on the Thornton Hall super prison, and it also appears more than willing to waste our money during the hard times. I appeal to the Minister for Finance to properly fund the Probation and Welfare Service because it has never been properly funded. It is more crucial than ever that the probation service is given the funding required. Money will be saved on the prison budgets by introducing the community service but the probation service must have the personnel and resources needed to deliver.

[Deputy Aengus Ó Snodaigh.]

That the Bill would provide judges with an alternative option to imprisonment for non-payment of fines is welcome, but it will take more than the passage of this Bill to make that alternative a reality. Commencement and resources are key and we will be dependent on the Government to deliver these. Unfortunately, past experience does not bode well. The implementation of the alternatives to custody contained in the Children Act 2001 was painfully slow, both because the relevant Ministers dragged their heels when it came to issuing the statutory instruments required to give effect to the relevant sections of the Act and because the Government refused to resource the provisions and, therefore, these did not exist as options for the Judiciary.

I am concerned that section 1 of this Bill contains a similar inbuilt get-out clause for Government. Every provision in the commencement section is conditional on the making of ministerial orders. It took seven years for the Government to produce this Bill and passing it will be the easy part. There seems to be a welcome for the Bill from all sides of the House. However, we will be dependent on the up to now unconvincing political will of the Government for its implementation. I urge that this section be amended so that commencement happens within a very short period of time of the Bill being passed. It is disappointing that the Bill fails to end the practice whereby people who are unable to keep up with payments relating to personal debt are imprisoned. The actual imprisonment trigger in these circumstances is contempt of court. Article 1 of Protocol 4 of the European convention provides that, "No one shall be deprived of his liberty merely on the ground of inability to fulfil a contractual obligation". Article 11 of the International Covenant on Civil and Political Rights makes the same provision. However, between 2002 and 2007 a total of 1,000 people were jailed in contempt of court having failed to repay a debt. This is against a backdrop of an outdated, constrained and extremely expensive bankruptcy system. We also have no personal insolvency system akin to the individual voluntary arrangements made available in recent years in England or to the type of repayment schemes that exist elsewhere in Europe. The numbers suffering over-indebtedness in this State are rising at an astronomical rate. The figure for non-housing and non-investment-related unpaid credit balances rose from €3.9 billion in the second quarter of 1999 to €18.8 billion in the third quarter of 2008. This is a significant jump.

The issue of imprisonment for inability to pay a debt is currently the subject of a High Court challenge. An unemployed mother of two with a total weekly income of €300 is challenging the one-month jail sentence imposed on her for her failure to make weekly payments of €82 to her credit union. We cannot afford to wait around for the final outcome of this lengthy legal process and as legislators we should act now because there is a potential for this case to go the whole way to the Supreme Court and beyond. The House needs to address this issue and we will have an opportunity on Committee Stage to deal with the aspect of imprisonment due to indebtedness.

The Government should introduce amendments on Committee Stage to address the situation. Failure to do so will undoubtedly result in an exponential rise in the number of non-violent people sentenced to prison as the recession intensifies. We have seen companies go to the wall and an increase in the number of applications for repossession orders. There also will be an increase in the numbers facing bankruptcy, insolvency or prison as a result of failure to repay a debt to a credit union, a bank or a credit lending institution.

Speaking of credit lending institutions, I am dumbfounded to think there are credit institutions in this State which are legalised and licensed by the State, who are entitled to charge up to 190% interest on loans or purchases. One of these companies is on the South Circular Road. This is highway robbery in anybody's language. It is no wonder that people end up being unable to repay such institutions. They usually go to them in the first place because of their

circumstances. This is a difficult issue but as legislators we have to grapple with this type of highway robbery, especially since it is legalised by the State. It is unjust and cruel to the individuals affected and will further compound chronic overcrowding in our prisons, not to mention the avoidable high cost to the Exchequer, unless we address the issue. Otherwise prison refurbishment or increase in prison capacity would be required and these would require significant investment. We cannot have people imprisoned in the Dickensian conditions which exist in some prisons. We cannot wait around, and now is the opportunity to end the plan for building the Thornton Hall super prison. We need refurbishment of Mountjoy. Greater resources must be also made available to the money advice bureaus which deal with many of these cases.

I thank the Minister for publishing this Bill and I hope we can get it through as quickly as possible with the caveats I mentioned and the need to address some of its shortcomings.

**Deputy Seymour Crawford:** I welcome the publication of the Bill. My colleagues on this side of the House and I have been seeking it for a long time and I have had a hang-up about the fact that this was not before the House long ago.

I will never forget the situation of a young man who desperately wanted to pay his fines but they had approached the £1,700 mark. That is many years ago and it was a lot of money then. He had not been a good boy, otherwise he would not have had the fines. He tried to have part payment accepted but it could not be. He went away to England but did not like it there. When he returned his sister got him into a good job. He was quickly brought before the local credit union, which endorsed a £2,000 loan on the Friday night. On the Friday morning gardaí took him from his house and left him in Mountjoy. No excuses were taken. He was not there very long before they found out there was no place for him. He was given a £20 note to get himself back home, he was in Three Mile House before the gardaí were back home and no £1,700 had to be paid. It was the worst thing that ever happened to him in some ways. Had the fines been attached to his income or taken on a quarterly basis he would have seen the difficulties of it and understood that if one does wrong one has to pay for it. What happened solved no problem and did not help in the future. There is no justification for that type of thing.

I could outline several other hardship cases. As anybody who is long enough about this House knows, many years ago if there was what appeared to be an unjust fine one could go to the Minister for Justice and have some easing of that. We all know that changed dramatically when the case was taken against the then Minister in Galway. There is no means of easing a fine now. I have come across some horrible cases where people genuinely could not afford to pay the fines imposed on them and they were in grave difficulty. When one considers that 276 debt defaulters finished up in jail last year and it costs €2,000 each per week to keep them there, one realises we have to move from that system.

The Bill provides for payment of fines by instalments, gives the courts the powers to impose a community service order for non-payment of fines and provides improved means of assessing the capacity of persons to pay a fine to achieve equality of impact. This is important. The previous speaker mentioned a case in my home town on Monaghan which is going before the courts and could have implications for how money is paid to institutions in future. It is important that people realise when they borrow money they must pay it back by whatever means and if it can be done by instalments in a reasonable fashion that is better than sending them to prison.

Fine Gael has been pushing this issue for a long time. We produced a number of Bills, from the 1998 one with the former Deputy Jim Higgins, Deputy Jim O'Keeffe in 2004, then Senator Brian Hayes in the Seanad in 2004, Deputy Jim O'Keeffe also introduced another Bill, the

[Deputy Seymour Crawford.]

Fines Bill 2004 and we sponsored the Enforcement of Court Orders Bill in 2006. That is going back over a long period of time. With the exception of the one in the Seanad, I was present for every discussion and on each occasion we were promised when there was a vote against us that it was only a matter of weeks or months before a proper Bill would be brought in.

It is interesting that this Bill contains the majority of the provisions proposed in the previous Fine Gael Bills. We were not far wrong. We were the Opposition party and did not have all the expertise the Government had. It would not have been difficult for the Government to have accepted those Bills and moved it forward, but it was not done because funds were available to keep people in jail and the cost did not matter. We had gardaí going around the country trying to collect fines when their time could have been used to much better effect. This Bill should be put through the system quickly and we should ensure the gardaí are doing the jobs they are trained to do and are not out there as debt collectors. We should also ensure the jails are used for the people who should be there, and they should not be released early. This is the importance of this Bill.

From my involvement here in Dáil Éireann I am glad to see the Bill move forward. However, we must seriously examine the way we conduct our business. Why, for party political reasons, do we turn down these issues just for the sake of turning them down? We have avoided dealing with this issue since 1998. It was seen as necessary then by people on this side of the House and it took 11 years to bring it forward. It reminds me of a situation with carers. When I sought the half-rate carer's allowance 12 years ago we were told it was illegal. Three years ago, coming up to an election, it was brought in and has proved to be a valuable asset for those who are eligible for it.

To be relevant to the country, whether in Government or in Opposition, we should not play opposition just for the sake of it. If somebody has a good idea we should go forward with it. The record will clearly show that Fine Gael over the past number of years has had a good, worthwhile idea, tried to use its Private Members' time in a positive way, but was ignored. Now the times are more difficult and people realise we must get better value for money, and this Bill is introduced. This Bill will give better value for money and will avoid putting people in prison unnecessarily.

I do not know if there is a provision dealing with attachment of fines in the Bill. I do not have time to read the Bill and I apologise for that. It is important that fines could be attached to a job, if the person is lucky enough to have one, or to social welfare to avoid arrears in paying the fine. We brought forward that proposal in a Bill and I see no reason it cannot be included in this one. I urge the Minister to deal with that. It may require another piece of legislation but it is important that people are able to pay their fines by sums or attachment.

I welcome the proposal. I will leave it to my colleague, Deputy Charles Flanagan, to tease out the changes that may be needed in it. That is his role as our party's spokesperson. I am sure this can be addressed and I hope if there are items he considers need to be changed that his logic will be accepted and the Bill will be passed as quickly as possible.

**Minister of State at the Department of the Taoiseach (Deputy Pat Carey):** I wish to thank all Deputies who spoke and ensured a positive and interesting debate on the fines system in this country.

The Minister of State, Deputy Moloney, explained in his opening speech that the system of indexing proposed in the Bill might appear, on the face of it, quite complex. However, I suggest that although several tables of figures might seem intimidating at first the scheme of indexation proposed in the Bill is not too difficult to understand. It is the system recommended in two reports by the Law Reform Commission. There is no realistic alternative scheme. We do not

want to end up with a scheme under which a wealthy person might be fined several thousand euro for throwing a cigarette butt on the pavement, for example. Even if one believes that someone who has that sort of money could afford to pay a huge amount and deserves to pay it, there would be two insurmountable obstacles in the way. First, the courts would never accept that such a fine was proportionate to the offence committed. Second, as was explained earlier, the District Court is a court of summary jurisdiction and there must be an upper limit to the amount of fine such a court of limited jurisdiction could impose. Therefore, not only is there no realistic alternative, there simply is no alternative.

Deputies Flanagan and Sherlock raised the question of persons being imprisoned for non-payment of fines. Of course nobody wishes to see persons imprisoned for non-payment of a fine and the Bill should greatly reduce the numbers imprisoned due to the equality of impact and payment by instalments provisions as well as the proposals aimed at providing the courts with alternatives to imprisonment. The size of any fine imposed by the courts will be directly related to the impact of the fine on the convicted person and his or her dependants. However, there are persons who can afford to pay but will not. They ignore all opportunities and wilfully refuse to pay their fines. We would be foolish to abolish all possibility of imprisonment in such cases.

There seems to be an impression that the prisons are full of persons incarcerated for non-payment of fines. This is not true. As the Minister of State, Deputy Moloney, said in his opening speech, a survey taken at random on two days showed a total of six persons in prison solely on foot of committal warrants ordering their imprisonment in lieu of non-payment of a fine. On another day a total of 11 persons were in custody for non-payment of a fine. It is fair to assume that on any given day the number of persons in prison for non-payment of a fine is in single figures.

A total of just over 1500 persons were imprisoned in 2007 solely for non-payment of fines.

**Deputy Charles Flanagan:** That is not in single figures. While the script is before the Minister of State, 1,500 is not single figures.

**Deputy Pat Carey:** The single figures issue refers to a particular day. Concerning non-payment of fines, most of those imprisoned would have had a very short stay in prison. The issue is not one of prison spaces being taken up by fine defaulters but of ensuring that persons are not imprisoned either because they cannot afford to pay the fine or that payment would entail undue hardship for the person and his or her dependants. That issue is more than adequately dealt with in the Bill.

Staying with the issue of imprisonment, I draw attention again to section 10, which amends the table in section 2 of the Courts (No. 2) Act 1986 that sets out the maximum terms of imprisonment for default on payment of fines imposed in the District Court. A maximum term of imprisonment is provided and the length of terms depends on the level of fine default. Section 10 substantially reduces the periods of imprisonment and increases the levels of fine default in that table.

I shall address a number of issues that were raised by speakers. Deputies Flanagan and Ó Snodaigh asked why the Bill did not deal with failure to pay a civil debt. Imposition of fines on conviction of offences and failure to pay a civil debt are two totally different concepts and I am sure Deputy Flanagan knows this better than I do. They need to be considered as such despite efforts to link them, especially in the press. A fine is a State-imposed criminal sanction while the other relates to the enforcement of court judgments in respect of contract or civil debt. There are no immediate plans to bring forward legislative changes in regard to civil debt but the legislation is being kept under review.

[Deputy Pat Carey.]

Deputy Flanagan referred also to several Private Members' Bills published by Fine Gael over the years, as did Deputy Crawford. The most relevant of these is the 2004 Bill which was published by Deputy O'Keefe in 2004. It provided for a system of indexation and also for payment of fines by instalment as follows: "The Minister may, by regulation, provide for the establishment of procedures under which a court may order payment of a fine by way of instalments". That hardly compares to the detailed provisions for payment by instalments set out in section 14 of this Bill.

The relevant section 14 of the Fine Gael Bill states: "The Minister may, by regulation, provide for the establishment of procedure under which a court, when imposing a fine must take into consideration the means of the offender". In response, the Minister would say these are simply enabling provisions. The hard work starts when trying to put detail on them. There would also be a technical problem in that giving effect to those provisions in regulations would almost certainly be regarded by the courts as being too substantive to be dealt with in secondary legislation. The Fine Gael Bill made no provision for alternatives to imprisonment and therefore that Bill bears very little resemblance to the Bill we are now debating. To say it does is misleading, to say the least.

Deputy Crawford asked whether the Bill provides for the attachment of earnings. Providing for attachment of earnings would be problematic at the present time and difficult to operate fairly. It would be futile to introduce attachment legislation that did not include attachment to social welfare entitlements and this would be a particularly inopportune time to provide for that. There would also be practical difficulties with persons who are not in the type of permanent employment that has a capacity to allow attachment to be implemented. It is well worth seeing how the provisions in the Bill and other administrative sanctions that make paying fines easier work in practice before considering further options.

Deputy Flanagan also referred to section 11. That section, as the Deputy noted, is unusual but not unique. If any unforeseen difficulties arise in the implementation of the index provisions the Minister can attempt to overcome them by regulations. It is regarded as unlikely that any regulations will be necessary but it is prudent to provide for that possibility. Any regulations would be enacted only to ease implementation from an administrative point of view and would be in compliance with the decisions of the Supreme Court.

Deputy Flanagan referred also to the logistics of implementing the Bill. The Courts Service will have to make full use of modern technology in administering the legislation, especially the collection of fines. Detailed procedures will be set out in the rules of court.

Deputy Sherlock inquired as to why the 2007 Bill was not brought before the House. I believe the Minister of State, Deputy Moloney, dealt fully with that point in his opening speech. I would add that this legislation proved to be complex to prepare. Deputy Sherlock also suggested that fines of less than €100 should also be payable by instalments. The purpose of limiting the instalments provisions to fines above €100 is to reduce the burden on the courts, at least initially. The sum of €100 is relatively modest but in time it may be possible to abolish that limit.

Deputy Sherlock asked whether section 13 should be more prescriptive. This can be considered but, on the face of it, section 13 seems to deal adequately with the possibility of false statements. The Deputy also raised the question of the training of judges. Judicial training is dealt with through the Judicial Studies Institute.

I believe I have addressed all the issues raised in this debate and I thank all the Members who contributed to it.

Question put and agreed to.

**Fines Bill 2009: Referral to Select Committee.**

**Minister of State at the Department of the Taoiseach (Deputy Pat Carey):** I move:

That the Bill be referred to the Select Committee on Justice, Equality and Women's Rights, in accordance with Standing Order 122(1) and paragraph 1(a)(i) of the Orders of Reference of that committee.

Question put and agreed to.

*Sitting suspended at 3.20 p.m. and resumed at 3.30 p.m.*

**Ceisteanna — Questions.****Priority Questions.**

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**School Absenteeism.**

1. **Deputy Brian Hayes** asked the Minister for Education and Science the number of school children who have missed more than 20 days of school in 2008; and if he will make a statement on the matter. [19474/09]

**Minister of State at the Department of Education and Science (Deputy Seán Haughey):** The National Educational Welfare Board, NEWB, is the statutory body with responsibility for school attendance. A key function of the board is to compile statistics on attendance. Schools are required to submit reports on levels of attendance at the end of the school year. This data is analysed and the findings published by the board. The findings will help identify trends and measure the effectiveness of interventions.

The most recent statistics on national levels of school attendance are contained in the report entitled Analysis of School Attendance Data in Primary and Post-Primary Schools: 2003-4 to 2005-06, published by the NEWB in December 2008. The report shows that 11% of primary school students and 17% of post-primary students were absent for 20 days or more. This equates to 100,000 children approximately with absences of more than 20 days each year. Data for the 2006-07 and 2007-08 school years are currently being prepared by the NEWB for analysis.

Reasons for absence can vary and while many can be explained by factors such as illness, the data show that non-attendance is more prevalent among older children and children who come from more disadvantaged areas.

Educational welfare officers employed by the NEWB work with about 10,000 children each year with reported attendance or school placement difficulties. Research generally shows that the underlying causes of non-attendance are complex and are strong indicators of overall child welfare. Combating the issues underlying poor attendance requires concerted effort and better integration of existing support services.

The NEWB is one aspect of the comprehensive framework that this Government has put in place to improve school attendance and encourage more young people to finish school. While the primary responsibility is on parents to ensure that their children attend school, schools also encourage regular attendance by children. The other key support services are the school completion programme, SCP, and the home school community liaison, HSCL, programme. School attendance is a central objective of the school completion programme with attendance



[Deputy Seán Haughey.]

tracking being one of its main preventative strategies. HSCL co-ordinators work with parents to promote school attendance and its importance for success in school. These services are available to all schools participating in Delivering Equality of Opportunity in Schools, DEIS, the action plan for educational inclusion. In line with Government policy the board prioritises its resources to support schools participating in DEIS.

To support and advise families the NEWB has issued leaflets to parents, runs public awareness campaigns to raise the profile of school attendance and operates an education helpline to provide information on attendance and related matters. Guidelines for developing school codes of behaviour, which were issued to all schools last year, will assist schools to put in place strategies to deal with poor behaviour and other possible causes of poor attendance.

**Deputy Brian Hayes:** Does the Minister of State think it acceptable that information which schools provide to the National Educational Welfare Board at the end of each school year cannot be provided to his Department? The latest information he has cited, suggesting that more than 100,000 children miss more than 20 school days per year, is three years out of date. My question referred to 2008. The Minister of State cannot provide information which is in the possession of the NEWB. Does the Minister of State think that is acceptable?

**Deputy Seán Haughey:** A vast amount of information is involved. The data for 2006-07 and 2007-08 school years are currently being prepared by the NEWB for analysis. The statistics show that figures for non-attendance are stable. Presumably that is why the Deputy wants the information.

**Deputy Brian Hayes:** Is it acceptable or not?

**Deputy Seán Haughey:** The NEWB does a very good job. It is a relatively new statutory organisation.

**Deputy Brian Hayes:** So, it is acceptable. I have another question. The Minister of State is defending the National Educational Welfare Board. He thinks it acceptable to give the House information which is three years out of date when each school in the country has given the current information to the NEWB. Does the Minister of State think that is acceptable?

The Minister of State has said 100,000 children miss 20 school days or more. Can he confirm that the NEWB only deals with cases of 60 days or more of non-attendance? Children who miss 20, 30, 40 or 50 days of school have no intervention whatsoever through their local educational welfare officer. Does the Minister of State think that is acceptable?

**Deputy Seán Haughey:** This involves the processing of a vast amount of information. School attendance is, first and foremost, the responsibility of parents. The school also has a role to play. The educational welfare officers provide a service, particularly to schools participating in DEIS.

School attendance is a complex issue and the National Educational Welfare Board is dealing with it. In the first instance it is a matter for parents. There are schemes in place to encourage attendance, such as the schools completion programme and the home school community liaison programme. They all play a role in that regard.

**Deputy Brian Hayes:** Does the Minister of State accept that this country has a chronic school attendance problem? On the basis of the information he has given the House, albeit three years out of date, one child in eight misses more than 20 school days per year, which is above

the statutory amount set out in the Act. Is that acceptable? This year, we will have fewer educational welfare officers than last year directly involved in such cases.

Does the Minister of State believe it appropriate that a woman be given a prison sentence in connection with chronic non-attendance, as happened recently? Does he accept the criticism in the Barnados report, published this week, of the utter chaos in his Department and the relevant agency with regard to directly intervening?

**Deputy Seán Haughey:** The custodial sentence was handed down in a very complex case which was taken to court as a last resort. There were many other interventions prior to that. However, I cannot discuss the details of a specific case or argue with a judgment handed down by the courts.

The NEWB is concentrating on the DEIS areas and is dealing with school attendance. I do not accept that we have a chronic school attendance problem. A number of strategies are in place. It is my intention to reform the NEWB with a view to integrating services. That will be of great help in dealing with this situation.

### **Schools Patronage.**

2. **Deputy Ruairí Quinn** asked the Minister for Education and Science if his Department has, following a meeting of the Joint Committee on Education and Science on 9 April 2009, been in contact with a person (details supplied), to discuss his proposals, made on a number of occasions but most recently at an education conference in Kilmainham in 2008, that he, as patron, wished to divest himself and his archdiocese of the patronage of a number of primary schools; if senior officials in his Department charged with the planning of education provision and school buildings have had discussions or meetings with representatives of the archdiocese; if not, if he proposes to initiate such meetings with a view to ensuring an orderly changeover of patrons that causes minimum disruption for all concerned; and if he will make a statement on the matter. [19409/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** Senior officials of my Department met with the patron in question in late 2007 to discuss statements he had made on the patronage of primary schools. At that meeting, the patron indicated that he had no specific locations in mind where one or more schools under his patronage might transfer to another patron but that it might arise at some point in the future. They discussed the different issues that might arise, the need for such changes to be planned and managed and the desirability in individual school cases of consultation with all stakeholders — parents, teachers and local communities. It was agreed that the patron would contact the Department at an early stage in any case where the patron was considering the feasibility of such a transfer.

The forward planning section of my Department is currently examining demographic trends throughout the country with a view to establishing education accommodation needs at a local level. As part of this examination, my Department will be consulting directly with all existing patrons about specific areas where the establishment of new schools will be required and how emerging demands in these areas will be addressed. In this context, my Department has written to representatives of the patron in question on 27 March and, as part of the follow-up to this process, it intends seeking details of any schools where a change of patronage might potentially be relevant.

In tandem with this, a review of the procedures for the establishment of new primary schools is being undertaken by the Commission on School Accommodation. A technical working group, under the direction of the chairman of the commission, has been established for this purpose. The working group has commenced its work and it is expected that it will be completed and

[Deputy Batt O'Keeffe.]

recommendations made to me before the end of the year. Among the issues being considered by the working group is the issue of patronage, including the criteria that must be met to become a patron and the circumstances where changes to patronage may be warranted. The working group will also consider the general approach to maximising the use of existing spare capacity where this arises, including possible changes to patronage.

The approach being adopted by my Department and the Commission on School Accommodation will ensure any changes to current patronage arrangements will well planned and managed in a manner that will accommodate the interests of parents, teachers and local communities and that they will also contribute to an inclusive education system. As part of this process, if further meetings with the patron in question are needed to discuss or clarify any general issues relating to the change of patronage, they will be arranged.

**Deputy Ruairí Quinn:** I appreciate the reply and I am pleased that departmental officials have been in contact with the patron. Is it fair to extrapolate from the Minister's comments that in the other 19 or 20 dioceses a similar pressure is being exerted on the patron? If I understand the matter correctly, the Department will not contact all existing patrons. Some 93% of primary schools are under the patronage of the Roman Catholic Church. Has the Minister initiated formal contact with existing schools? Part of the problem with over-demand relates to existing schools rather than the provision of new schools. I have another supplementary question, but is it now the policy of the Department, through Mr. Murray's commission, to contact all patrons of all denominations to establish if they are intent on keeping patronage of existing schools or whether they intend divesting patronage in some areas? If so, what orderly transfer will take place and what will the replacement process involve?

**Deputy Batt O'Keeffe:** There may be a misunderstanding. As the Deputy is aware, I put in place a moratorium soon after taking office in respect of existing schools and the patronage of new schools.

**Deputy Ruairí Quinn:** It applied to new schools.

**Deputy Batt O'Keeffe:** Yes, to new schools. As part of the moratorium, we stated that where new schools were required, the technical group working at my Department would proceed because the school population is growing. It was agreed that the group would contact all patrons. For 2009 we are able to accommodate all requirements by adding extensions to schools and so on. In 2010 and 2011 there will be a serious influx of pupils into these schools and we must provide new schools. I have arranged for the commission to make contact with the various patrons indicating where we envisage a need for new schools and where existing schools will not be able to accommodate the increase. They were contacted on 29 March and we are awaiting responses in respect of the development of these new schools.

**Deputy Ruairí Quinn:** On a related matter concerning patronage, has the Minister considered the application from Educate Together, lodged with the Department in December 2007, to become a recognised patron not only of primary schools, of which it has responsibility for more than 53, but also at secondary school level?

**Deputy Batt O'Keeffe:** The Deputy will understand there is difference between primary and second level in terms of patronage. I have sought legal advice to establish exactly which powers are available to me under the Education Acts.

**Deputy Ruairí Quinn:** I assure the Minister he has a clear hand.

**Deputy Batt O’Keeffe:** I am not certain of that yet; we hope the legal information will be with us within a short period. However, there is a serious difference in terms of the scale of development. It is very easy to build a primary school, but for a second level school one must consider the scale of the development, the range of the curriculum and subject choice. A given second level school must have an inclusive curriculum and I must be satisfied in the first instance that there are not enough places in existing schools. I could hardly be expected in these strained financial times to build new schools where there is spare capacity. I will take all relevant matters into account in respect of any future development.

The answer to whether I have finally decided on the application of Educate Together in respect of second level patronage is no. I still await legal advice. When I receive that advice, I will examine the two applications before me, one of which is from Lucan and the other from Waterford city. I will examine them to establish if they stand on merit and whether new patronage is warranted. The Deputy will understand that the non-denominational dimension is covered at second level under the new VEC, vocational education committee, community college model.

**An Leas-Cheann Comhairle:** Leanfaimid ar aghaidh go dtí Ceist Uimh. 3. Níl an Teachta Feighan i láthair. Leanfaimid ar aghaidh to dtí Ceist Uimh. 4 in ainm an Teachta Brian Hayes.

*Question No. 3 lapsed.*

#### **Legal Costs.**

4. **Deputy Brian Hayes** asked the Minister for Education and Science the reason his Department chose to contest the legal costs in the case of a person (details supplied) that was recently concluded in the Supreme Court; and if he will make a statement setting out his views on the implications of this case for Irish education. [19476/09]

**Deputy Batt O’Keeffe:** This case was handled by the State Claims Agency on behalf of the State. There had to be a court hearing in respect of costs as the plaintiff sought costs against the State.

It is normal for the State Claims Agency to seek costs where the State’s case is upheld, which was the case in this instance. The State was not found liable by the High Court or the Supreme Court. The Supreme Court was told by counsel for the State that while an award of costs against the plaintiff was being sought, the matter of enforcement would be treated with the greatest sensitivity.

My Department cannot sustain a position whereby persons can take cases against the State on the basis that, win or lose, they will get their costs. Our desire is to find a fair balance between the need to protect the taxpayer against costs incurred defending cases where the courts have decided that the State has no liability and to treat individuals humanely at the same time. The decision of the Supreme Court was that no order for costs should be made, in effect, each party bearing their own costs. The judgment determined that the case was a test case and that there were exceptional reasons the normal rule of costs following the event should not be followed.

My Department has no involvement in the day-to-day management of national schools. Teachers are selected, appointed and employed by the school authorities, normally boards of management which are appointed by the patron. The judgment of the High Court which was upheld in the Supreme Court reflects the reality of the relationship between the Department, schools and teachers, essentially as set out in the Education Act 1998 and, therefore, has no implications for Irish education.

**Deputy Brian Hayes:** Why was it necessary to pursue this woman for costs on the part of the State, whatever about her own costs? She is an exceptionally brave person who challenged a fundamental principle in Irish education. The case has historical and legal precedent. As the Minister stated, comments made by Mr. Justice Murray at the time referred to the particularly complex relationship between primary school teachers and the Department of Education and Science. Is the Minister telling the House that neither he nor his Department had any responsibility and that it was exclusively a matter for the State Claims Agency? I believe undue pressure was put on this woman who had previously been abused and gone through the courts. Given the judgment of the Supreme Court, I would have thought that we had a responsibility at least to pay costs on the part of the State. Is the Minister telling the House that it was not the decision of his Department but rather that of the State Claims Agency to pursue this woman for costs?

**Deputy Batt O’Keeffe:** The State Claims Agency pursues cases on behalf of the Government and the Department.

**Deputy Ruairí Quinn:** It does so for all Departments.

**Deputy Batt O’Keeffe:** This case was very different from many others and its sensitivity was not lost on me. The girl is from Cork and I was certainly very sensitive to the whole area. I indicated early on that I, as Minister, would not pursue her in terms of taking her house from under her feet but would deal with the matter in a fair and even-handed manner.

That said, is Deputy Hayes suggesting that, when a case is taken against the State, we should not defend it but simply pay out? That is an untenable position and it is not in the interests of the taxpayer. Further, on this particular case, Louise O’Keeffe took the case against the State for her costs. We won the judgment in the High Court and she appealed it to the Supreme Court on the basis of seeking costs. We and the State Claims Agency had no choice but to challenge that in the Supreme Court, which departed from the normal judgment. Usually, if the case is won, costs are assigned against the person who lost. The court said this was a test case, that the circumstances were most unusual, and that it would take the exceptional circumstances into account. We are quite satisfied as a Department——

**An Leas-Cheann Comhairle:** I want to call Deputy Hayes for a supplementary.

**Deputy Batt O’Keeffe:** I want to say one other thing to Deputy Hayes, because it is relevant. Approximately 140 similar cases are being taken against the State. The State Claims Agency has advised the legal persons representing those individuals of the outcome of this case and indicated to them that they will have to consider the costs involved in pursuing cases similar to the one that has already been through the High Court and the Supreme Court. I am not sure the Supreme Court would give the same judgment if these cases were pursued to that extent.

**Deputy Brian Hayes:** Each case is different and it is for the courts to decide on the liability based on the evidence that is heard.

**Deputy Batt O’Keeffe:** Absolutely.

**Deputy Brian Hayes:** The reason the Supreme Court found in favour of Ms O’Keeffe in terms of the costs the State would have to bear is the special circumstances of the case. It is clear from what the Chief Justice said in the judgment that the complex relationship between teachers, the Department of Education and Science and the boards of management warranted the bringing of a case to the Supreme Court for a decision.

The Minister has had time to consider the decisions from the High Court and the Supreme Court. What lessons can his Department learn about that complex relationship? The Minister and his Department, in effect, pay the salary of every teacher in the country, but they are contracted to individual boards of management. Given that relationship and the importance of child safety and protection, do we need to legislate to make it abundantly clear, once and for all, where responsibility lies?

**Deputy Batt O’Keeffe:** The Department of Education and Science gives out the responsibility to run schools and manage and hire teachers, and we pay their salaries. We do not micro manage the day-to-day running of schools. That is as it should be. We have to make a distinction. In one instance where the Department was made aware that there was a difficulty within a school, it accepted responsibility and came to an arrangement. In the O’Keeffe case, the Department was never made aware of the issue, and therefore the responsibility lay with the school and the board of management. Therefore, there was a significant difference——

**Deputy Ruairí Quinn:** Is the Minister saying the board never informed the Department?

**An Leas-Cheann Comhairle:** Priority questions are restricted to the Deputy who tabled them.

**Deputy Batt O’Keeffe:** We were made aware in one case and we came to an arrangement because we felt that, as the Department had been made aware but did not take decisive action, there was a responsibility. In this instance, the Department was not made aware of the case in terms of the day-to-day running of the school. In those circumstances, and in light of all the other cases that were going to emanate and were surfacing, the Department had no choice but to defend itself, and ultimately it was successful.

### **Special Educational Needs.**

5. **Deputy Brian Hayes** asked the Minister for Education and Science how many of the 128 special classes in primary schools which are due to close in September 2009 he has visited; and if he will make a statement on the matter. [19477/09]

**Deputy Batt O’Keeffe:** I do not visit every school or class where the level of staffing or funding has been adversely affected by the application of various policies. Not only would it be physically impossible for me to visit every school where a teaching post is being suppressed, I suggest this would not represent the best use of a Minister’s time. I frequently visit schools and interact with staff and pupils and I intend to continue doing so. In supporting the principle of inclusion, I state that all children should feel part of the school community and it would be unusual for me to visit a specific special class. Rather, I meet the school community.

My Department examined the enrolment returns for a number of special classes for pupils with mild general learning disabilities and found many of them did not meet the minimum enrolment for retention. The decision was taken to apply the normal rules and suppress the classes concerned. Staffing levels in schools change frequently due to fluctuating pupil numbers. This is a normal feature of the operation of schools. Established administrative procedures are in place to facilitate adjustments to a school’s staffing in such situations.

I understand that parents are anxious that their children will continue to receive an appropriate education. I reassure them that no pupil with special educational needs will be without access to support from a special needs teacher as a result of this decision. I have stated previously that I am open to listening to proposals from schools where they can demonstrate it is educationally more beneficial for the pupils involved to be in a special class. A number of

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schools have made submissions to my Department and my officials will be in contact with them as quickly as possible.

I reiterate that pupils with mild general learning disabilities will continue to have access to additional teaching resources to support their education. However, there is a requirement to make appropriate use of the resources available, and as in all other areas of expenditure, provision depends on the resources available to the Government.

**Deputy Brian Hayes:** The Minister has confirmed to the House that, before he decided to abolish the 128 classes in 119 schools affecting more than 500 young people, he did not visit any of the schools, speak to any of the parents, or meet any of the children, principals or teachers. Before the end of the school year, will he go to some of the schools that are greatly affected by his decision to abolish the classes, meet some of the people directly and hear their experiences of the detrimental effect on their school community of his arbitrary decision last February?

Second, did the Minister get a specific legal opinion within his Department or from the Attorney General before he made his decision in February, given the clear obligations under section 2 of the Education for Persons with Special Educational Needs Act 2004, which states “the best interests of the child” are “as determined in accordance with any assessment carried out under this Act”? The Minister is leaving himself open to another legal challenge. Unless he shows some flexibility and common sense about the importance of these classes in many schools, such a challenge could well be contemplated and pursued.

**Deputy Batt O’Keeffe:** First, it is incorrect to say I did not visit special classes. The fact of the matter is that I was in such classes. It is also incorrect to say I did not have discussions with—

**Deputy Brian Hayes:** Which class?

**Deputy Batt O’Keeffe:** Excuse me. I visited a special class..

**Deputy Brian Hayes:** At one of these schools?

**An Leas-Cheann Comhairle:** Deputy Hayes must allow the Minister to reply.

**Deputy Brian Hayes:** That is contrary to what he told me two minutes ago.

**Deputy Batt O’Keeffe:** I certainly visited a special class and discussed with teachers who are mainstreaming pupils with mild general learning disabilities the success or otherwise of that procedure. It was Department of Education and Science policy for ten years from 1985 for special classes to be in place. In 2005, the general allocation model was brought into being. I emphasise to Deputy Hayes that mainstreaming is in line with modern international practice. We take the child with mild general learning disability out of the isolation of a special class and put them in a mainstream class next to their friends. They are allowed to integrate and play with their friends and they are given support outside the class consistent with their needs. Deputy Hayes cannot have it both ways. When I asked him during the last Question Time whether he agreed with mainstreaming, his answer was that he did.

**Deputy Brian Hayes:** The Minister is quoting me selectively.

**Deputy Batt O’Keeffe:** Yet, we see the hypocritical nature of his Private Members’ motion a week ago where the Deputy wanted me to restore all of the classes. Does he believe what he said three weeks ago in this House when I put a direct question to him about his juxtaposition?

**Deputy Brian Hayes:** The Minister seems to be in big trouble on this one, largely because he is not in possession of the facts. I will ask the question again. Did he get legal advice internally within his Department or from the Attorney General? He might answer the question posed. Second, the Minister will save €7.5 million from this. Will he give a guarantee to the House that the €7.5 million he will save by axing these 128 classes will go directly into those mainstream classes to help those children he is not putting into the classes? What will he do with the €7.5 million?

**Deputy Ruairí Quinn:** He has not got it. It has gone to the Department of Finance.

**Deputy Brian Hayes:** Let us find out. I would be interested to know.

**Deputy Conor Lenihan:** George Lee might have a difficulty with the Deputy.

**An Leas-Cheann Comhairle:** I call the Minister for a final reply.

**Deputy Brian Hayes:** I have one other question.

**An Leas-Cheann Comhairle:** The Deputy should be brief. We are well over time.

**Deputy Brian Hayes:** The Minister said last February that he would allow some classes to amalgamate in an area. How many classes of the 128 will he save? We are now into May and it is over three months since he made the decision. Can he give information to this House as to how many of those classes he will allow to amalgamate?

**Deputy Batt O’Keeffe:** There are three questions. First, I did not seek legal advice. The pupil-teacher ratio for mild general learning disability has been in place for ten years and is 11:1.

**Deputy Brian Hayes:** That was at that time. Why did no Minister abolish it previously?

**Deputy Batt O’Keeffe:** For the Deputy’s information, we accept a ratio of 9:1. Can the Deputy accept from me that when we considered these classes, eight of them had no mild general learning disability pupil.

**Deputy Brian Hayes:** The ones the Minister did not visit.

**Deputy Batt O’Keeffe:** I am very concerned that other children with moderate learning disability or who are autistic get the proper supports. Perhaps it strikes the Deputy that some of those children with special needs may be in an appropriate classroom and may be in a class with a ratio of 5:1.

**Deputy Brian Hayes:** Every case is different.

**Deputy Batt O’Keeffe:** That is a fact of life. I am concerned that those children would get the appropriate supports.

The Deputy’s third question related to amalgamation.

**Deputy Brian Hayes:** Which the Minister said in February he would do.

**Deputy Batt O’Keeffe:** Out of the 128 classes, there have been approximately 40 appeals. I put in place an appeals system because I thought it was appropriate that the schools in question got such an opportunity. Those 40 appeals are now being heard. I thought I would have a decision by Friday of this week but five more appeals arrived in the past week and we want to



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ensure we process those and give them due consideration. I hope to be in a position to make decisions on all of those appeals by the middle of next week.

**Deputy Brian Hayes:** The Minister does not make the decision.

**Deputy Batt O’Keeffe:** Is it not extraordinary that Deputy Hayes wanted to put back all of the 128 classes although only 40 appealed?

**An Leas-Cheann Comhairle:** We need to move on. We are well over time on this question.

**Deputy Batt O’Keeffe:** I would hate to think what control mechanism would be in place if the Deputy was in charge of education. He and George Lee would have a real difficulty.

**Deputy Conor Lenihan:** George Lee is not teaching Deputy Hayes much about economics.

**Deputy Brian Hayes:** I see the Deputies are conceding the seat already.

### Other Questions.

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#### Grangegorman Development Agency.

6. **Deputy Pat Breen** asked the Minister for Education and Science when his Department will allow the Grangegorman development, bringing together the Dublin Institute of Technology onto one campus, to proceed in order that a planning application under the SDZ procedure can be advanced by the relevant authority. [19304/09]

**Deputy Ruairí Quinn:** On a point of order, is this question being taken with Question No. 23?

**Deputy Batt O’Keeffe:** Strangely, it is not. It is a separate entity so the Deputy is on his own.

**Deputy Ruairí Quinn:** We could play the advantage rule, namely, I go first.

**Deputy Batt O’Keeffe:** The Grangegorman Development Agency was established in May 2006. Since its establishment the agency has worked on the preparation of a strategic plan and budget for the proposed development of the Grangegorman site. The strategic plan is required in order to inform the Government of the options and the associated costs of moving the Dublin Institute of Technology campus to the Grangegorman site as well as making recommendations on site provision for the relevant health facilities.

The agency completed the drafting of the strategic plan and budget in October 2008 and forwarded it to my Department for approval as provided in section 12(h) of the Act. Copies of the plan and budget were also forwarded to the Minister for Health and Children for her consideration. The Grangegorman Development Agency has provided my Department with a clear indication of the overall costs for the development of the Grangegorman site. This has allowed my Department the opportunity to consider fully the costs involved in utilising the majority of the Grangegorman campus to provide for the needs of DIT.

Following receipt of the strategic plan, my officials, in consultation with the Higher Education Authority, commenced an assessment of the proposals. My Department also sought the advice of the National Development Finance Agency on the funding portion of the draft cost-benefit analysis from the Dublin Institute of Technology and the draft strategic plan. In March

2009 the agency submitted a revised master plan and budget. The revised plan takes account of the reduced prices that have materialised in the construction sector by updating construction prices to January 2009 values. The agency also reduced enabling infrastructure costs and revised the estimated value of DIT property portfolio to reflect current market trends. The revised plan proposes to deliver the complete project in phases.

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

There are issues relating to the proposals that my Department is discussing with the various interested parties and when these have been fully explored, I intend bringing proposals to Government for consideration as soon as possible.

While the master plan and budget is being considered by my Department, work on the preparation of the strategic development zone planning scheme has been progressed by the agency. The benefits of the Grangegorman Development Agency using the SDZ process are that it provides a degree of certainty in any future planning process. If overall permission is granted under the SDZ, further planning applications which are in compliance with the SDZ would be permitted. This would simplify the preparation of incremental planning applications at a future date and would allow for an orderly scheduling of development and disposal of DIT properties as appropriate. Planning confidence also facilitates the use of public private partnership as a procurement tool.

**Deputy Ruairí Quinn:** The Minister gave an undertaking at committee last week that it was his intention to visit the site. He might confirm that this is still his intention.

**Deputy Batt O’Keeffe:** Yes, I will do that in the coming days.

**Deputy Ruairí Quinn:** He could combine it with the by-election. Senator Ivana Bacik will give him a tour of the site.

It is a very worthwhile project, for many reasons. The Minister is already committed to spending money in the DIT area for maintenance, repair and upkeep, and to all intents and purposes that is wasted, dead money because the buildings are in many cases old and not appropriate.

**Deputy Brian Hayes:** That is correct.

**Deputy Ruairí Quinn:** This cannot be compared with a new project that would go on a greenfield site, which is additionality; this is a logical rationalisation. I urge the Minister to find a way in which this could be done. I believe the Minister of State, Deputy Haughey, would be very happy to see a major educational institution established on the north side of Dublin city.

**Deputy Batt O’Keeffe:** Obviously, the rationalisation of the various entities of DIT is desirable. The Deputy might be interested to know that the most recent proposal outlines the overall cost to deliver all of the elements of DIT and HSE services on the Grangegorman site at €1.4 billion, so it is a sizeable bill.

**Deputy Ruairí Quinn:** That is over an extended period. If one considers the rent they are paying, their maintenance and all the other existing costs, it is nearly a win-win situation.

**Deputy Batt O’Keeffe:** The first tranche is to cost €610 million, which will be part funded from the sale of the DIT properties and from the HSE capital budget. A total of €195 million is being sought from the Department in capital funding. The second tranche is to be provided

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if and when required and the total cost of that second tranche is estimated at €848 million, the majority of which is to be self-funded. All costs quoted are as of January 2009, VAT inclusive.

**Deputy Ruairí Quinn:** What is the timescale?

**Deputy Batt O'Keeffe:** We got the revised plan and estimates in March 2009 and they are with the Department at present. As the Deputy knows, a report will be made to Government arising from that. The Taoiseach will also visit the site. We want to be fully informed so the Cabinet can make an appropriate decision.

**Deputy Ruairí Quinn:** If the Minister gives the go-ahead in principle, with whatever caveats he wants in regard to public moneys, there are items that could be done through the private sector, for example, student accommodation and many other developments on the site. It will unlock other sources of revenue but it depends critically on the Minister bringing a positive recommendation to Cabinet.

**Deputy Batt O'Keeffe:** It is fair to say we are considering all sources of funding. If the new infrastructural fund comes into being, we would look at that as being an area which could be used appropriately in regard to funding developments such as this.

**Deputy Ruairí Quinn:** It all comes down to the Minister.

**Deputy Batt O'Keeffe:** I will certainly visit the site to see the overall strategic plan and to be as informed as I can be in order to ensure whatever recommendations I make to Cabinet are based on full background information.

**Deputy Brian Hayes:** I put down this question through my colleague Deputy Breen because I wanted to establish that there is cross-party support for this infrastructural project. It is good for the community, the DIT and business links, and is the kind of project we need right now to help the economy get out of the hole it is in. My understanding is that before the strategic development zone application is made to Dublin City Council, it requires the Minister's Department to give the green light in principle to the proposal.

When does the Minister think the Department, following Cabinet discussion, will be in a position to allow the proposal go to Dublin City Council? Otherwise, the project will not get off first base.

**Deputy Batt O'Keeffe:** I do not want to be tied to a time limit. I will visit the site within the next couple of weeks and will then discuss the strategic plan with my officials and the costs involved. It is a good time to be involved in construction and it is the desire of Government to put strategic projects in place so that we can sustain and increase construction jobs. We will examine the feasibility of the plan to see how it can be achieved and consider what form of funding would be appropriate for it.

### **Third Level Funding.**

7. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Education and Science if he will publish the findings of his report on third level funding in order to allow for an informed debate on the issue of third level fees. [19219/09]

14. **Deputy Jim O'Keeffe** asked the Minister for Education and Science if he proposes to introduce third level fees or to increase the registration and other charges for those attending third level. [19128/09]

19. **Deputy Aengus Ó Snodaigh** asked the Minister for Education and Science the status of the proposed reintroduction of third level fees. [19220/09]

28. **Deputy Aengus Ó Snodaigh** asked the Minister for Education and Science if the proposed third level fees will affect those students who are due to start their third level education in September 2009. [19221/09]

32. **Deputy Martin Ferris** asked the Minister for Education and Science the reason for the delay in announcing his plans for the reintroduction of third level fees. [19222/09]

34. **Deputy Jack Wall** asked the Minister for Education and Science when he will make an announcement on the reintroduction of third level fees; his favoured view on same; and if he will make a statement on the matter. [19248/09]

**Deputy Batt O’Keeffe:** I propose to take Questions Nos. 7, 14, 19, 28, 32 and 34 together.

As the Deputies will be aware, I am currently finalising a review of policy options relating to the introduction of a form of student contribution. There are many complex and competing considerations involved. These include considerations relating to institutional funding, family affordability, equity, participation and value for money for the taxpayer. However, it is an issue that merits consideration at this important juncture in the development of higher education and also given the current economic circumstances.

My officials are finalising a technical report on the various options available. This will look at available models, drawing on the experience of those that have operated internationally. It will assess the potential policy and cost and revenue impacts of various available approaches in an Irish context. I will be providing the completed technical report to my Cabinet colleagues for consideration in the near future. As the Deputies will appreciate, I do not wish to pre-empt any decisions of Government on these matters.

In the event that it is decided to introduce a form of student contribution, it is my intention to recommend to Government that any new arrangements will apply to students entering higher education from 2010. Such arrangements would also apply, in 2010, to those students who would have entered higher education this year, 2009.

On the issue of the student services charge, the Government has already announced that it is willing to accept increases of up to €1,500 — from €900 — for the 2009-10 academic year in individual higher education institutions. This increase of up to €600 is agreed on the understanding that the revenue generated by the level of increase to be adopted by each institution is required to defray the cost of items that fall to be funded by the student services charge.

All students who are eligible for means tested student support have the student charge paid on their behalf by the local authorities or the vocational education committees, in addition to any maintenance grant and tuition fee grant to which they are entitled.

**Deputy Aengus Ó Snodaigh:** Am I to take it from the Minister’s response that we must wait until the Minister’s officials have finished with the report before we see the findings of the commissioned report? Is the Minister aware that Ireland has consistently underspent in terms of third level education? The OECD puts us well below the average investment in students. Does the Minister understand that the abolition of fees had a hugely beneficial impact in terms of working class families who, otherwise, would not have benefited from the grant system in the past?

**An Leas-Cheann Comhairle:** I will take the supplementary questions together so the Minister gets a chance to reply to them.

**Deputy Brian Hayes:** We had a debate on this issue at the Joint Oireachtas Committee on Education and Science last week. Will the Minister clarify for me whether he is telling us that those who entered the higher education system this year, 2009, will not be subjected to any new funding arrangement the Government may decide on at some stage after their entry to college?

**Deputy Ruairí Quinn:** I presume that after the by-election disaster for Fianna Fáil, the Minister will be immune from any effect of publishing the report on fees because it will not be able to make his position any worse. Therefore, will he please get on with it and publish the report?

**Deputy Batt O’Keeffe:** On the matter of delaying the publication of the report until after the local elections, I have indicated clearly that it would be more appropriate and political for me to make the announcement beforehand, because that would allay all of the fears of those on middle incomes and let them know this would not affect them in any way.

**Deputy Brian Hayes:** Reverse psychology.

**Deputy Batt O’Keeffe:** It is to the advantage of the Opposition that I am not making the report available.

With regard to Deputy Ó Snodaigh’s question on bringing the report to the House, I have been charged by the Cabinet to make a report to it. My first report, therefore, will be to the Cabinet. It will then be a matter for Cabinet to adopt the proposals or otherwise. I will make the report available to the Cabinet, seek its comments and observations and then make a recommendation to Government. I will do that on the basis there are four former Ministers for Education and Science in Cabinet and obviously they would like to make their observations. I will take that into account.

**Deputy Ruairí Quinn:** They are equally divided on the issue.

**Deputy Batt O’Keeffe:** On the question of those who enter third level in 2009, I said the opposite. I said there would be no change for anybody going into third level in 2009. The reason for that was they had applied to the CAO, understood exactly what they had to pay and what their commitments would be. However, I clearly indicated that if the Government takes a decision to introduce either loans or fees for the 2010 school year, that those in the second year of university could be liable to such charges.

*Written Answers follow Adjournment Debate.*

### **Private Notice Questions.**

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### **Job Losses.**

**An Leas-Cheann Comhairle:** I will now call on the Deputies who tabled questions on job losses at SR Technics to the Tánaiste and Minister for Enterprise, Trade and Employment in the order in which they submitted their questions to my office.

**Deputy Joan Burton** asked the Tánaiste and Minister for Enterprise, Trade and Employment the action she will take in view of the implications for employment and the economy in Dublin north and west of the announcement by a company, SR Technics, that it is to sell certain of its assets at Dublin Airport; the consultation she plans to have with the industrial development agencies to ensure the preservation of the maximum number of jobs possible; her assessment of the prospect of saving jobs; and if she will make a statement on the matter.

**Deputy Tommy Broughan** asked the Tánaiste and Minister for Enterprise, Trade and Employment if she will report to Dáil Éireann on the sale of landing gear and APU assets at a company, SR Technics, in Dublin Airport; if, in view of the fast approaching company deadlines for receipt of bids for the base maintenance, line maintenance and garage operations at the company, she will report on the action she and IDA Ireland are taking to facilitate the remaining expressions of interest in the company's facility and to maintain the 1200 critical jobs and centre of aviation engineering and maintenance excellence at Dublin Airport.

**Deputy James Reilly** asked the Tánaiste and Minister for Enterprise, Trade and Employment the provisions she has taken to protect the jobs of 1,100 people at SR Technics following the announcement today of asset stripping by the company.

**Tánaiste and Minister for Enterprise, Trade and Employment (Deputy Mary Coughlan):** I propose to take all of these questions together.

I have noted with serious concern yesterday's announcement by SR Technics regarding the proposed sale of certain assets on their facility in Dublin airport. I have had extensive contacts with SR Technics over the past number of months and am extremely disappointed at this development. The firm has indicated that the bids received for its Dublin operations, which were supported by IDA Ireland and Enterprise Ireland, were what was described as "well below" their assessment of the current market value of the assets there.

The company has said that it has reached a provisional agreement with a bidder for the sale of the APU and landing gear assets. As part of this process, it has agreed not to disclose the bidder's identity or any details pertaining to the details of the sale agreement until the transaction has been completed. The company has also said that it is still open to bids in any of the remaining parts of the business, including base maintenance, line maintenance, garage and the remaining tooling and equipment not included in the APU and landing gear transaction. I understand that SR Technics will accept bids up until next Friday, 22 May for base maintenance and Wednesday, 27 May for line maintenance or garage. Without the key assets and equipment in place, the location of Dublin Airport is less attractive for companies to start an APU and/or landing gear maintenance shop. The skills base of the former employees will, however, remain an attraction for a short time. The line maintenance and garage division continues to employ over 200 people and a ten year contract is in place between SR Technics and Aer Lingus for the line maintenance of the Aer Lingus fleet.

Following the announcement by SR Technics on 12 February 2009, I established a team comprising IDA Ireland and Enterprise Ireland to work with SR Technics and interested parties to find the best possible solution. We also hired outside expertise on the aviation sector to help secure the best possible outcome. IDA Ireland and Enterprise Ireland established a team to market the operation internationally through their overseas office network and received over 16 expressions of interest in the facility. The team contacted the companies to evaluate their level of interest in the operation and encourage them to bring forward investment proposals to take over all or part of the operation. In all, SR Technics received over 30 expressions of interest and five bids from interested parties for parts of the business and carried out its assessment of these bids. The plan was that, following the assessment process, SR Technics would select a successful bidder, following which the State agencies, IDA Ireland and Enterprise Ireland, would evaluate the proposals to ascertain if they could support the proposals submitted. It is clear that SR Technics has moved to accept a bid for part of the business that was not among those expressions of interest received by the IDA Ireland and Enterprise Ireland team. Notwithstanding this move, I intend to continue to work with IDA Ireland, Enterprise Ireland and the Dublin Airport Authority, as well as the remaining bidders and any

[Deputy Mary Coughlan.]

other interested parties, to maximise employment opportunities at the plant, in addition to the 250 plus jobs which remain in line maintenance and design.

**Deputy Joan Burton:** I thank the Tánaiste and Minister for Enterprise, Trade and Employment for her reply which strongly suggests she is throwing in the towel on the survival of an operating facility in Dublin for anything more than one quarter of the current workforce at SR Technics. She seems to accept as a reality that SR Technics can asset-strip key equipment from the Dublin facility, thus disabling SR Technics Dublin's potential to restart operations and thereby compete with the revamped SR Technics operation in Geneva. Is she throwing in the towel and saying all that is salvageable are 250 of the line maintenance jobs because of the nature of these jobs and the maintenance of aircraft on the ground in the vicinity of Dublin Airport which is the home of the Aer Lingus fleet? The stripping of critical equipment is like the action of someone in a colony who when the country gains independence ups sticks and takes equipment with the result that the highly qualified, *crème de la crème* of industrial employees left behind are prevented from exercising their skills.

**Deputy Mary Coughlan:** Far from throwing in the towel, we have re-engaged with the unsuccessful bidders and any other potential and interested parties, one of whom I will meet this evening when the House rises. We will work with these bidders to see if they continue to have an interest in starting an APU and-or landing gear maintenance shop over and above the existing line maintenance operation that is part of the negotiations between Aer Lingus and SR Technics. I have indicated that it may be less attractive for these companies without the key assets and equipment but it is not for us to suppose until we ascertain from the unsuccessful bidders whether they are continuing to pursue the setting up of an APU and-or landing gear maintenance shop. We will continue with the bidders and other interested parties to discuss the possibility of a start-up operation and-or including the two other tenders that I mentioned.

**Deputy Thomas P. Broughan:** I thank the Minister for Enterprise, Trade and Employment for at long last coming into the House to reply to this question. I must have asked her and the Taoiseach at least a dozen times over the past four or five weeks for an update on SR Technics. The major information at the airport relates to the extraordinary rumour that the APU and landing gear units are effectively being transferred to a branch of Mubadala, Abu Dhabi Aircraft Technologies, ADAT, I think it is called, in the United Arab Emirates. If that is the case, SR Technics has taken the Minister and the Taoiseach for a pair of total fools. It is treating them like the Laurel and Hardy of European politics, with utter disdain because this means that the company always intended to strip SR Technics in Dublin, leaving us with empty hangars, no jobs and people trying desperately to survive, and without facilitating young apprentices to finish their training. Can the Minister give us any further information on to whom SR Technics has sold these vital assets? What legal advice has the Minister taken on the sale? Mr. O'Leary of IDA Ireland met Bernd Kessler a couple of weeks ago. The Minister was in the Middle East. Was there any outcome from these discussions and negotiations? Can the Minister give any hope to the 1,200 employees' families and the families of the apprentices based around north and west Dublin, County Meath and in Portlaoise, as I discover from a recent e-mail?

What is the position on the two deadlines, 22 May for bids in respect of base maintenance and 27 May for bid in respect of the maintenance and garage operations? The Minister has mentioned there have been several expressions of interest but she seems to be taking a passive role. That is the fundamental criticism the workforce and their families, the people we represent, make of the Minister and the Taoiseach, that they have behaved so passively with a crucial Irish industry which will cease to exist in a few weeks' time unless the Minister takes action. Is she prepared, with IDA Ireland or in any other way, to offer financial support to any

other bids which have a major Irish component? They have been waiting for the Minister to take a strong leading role. It looks as if Sheik Mohammed and Sheik Khalifa and the owners of SR Technics in the Middle East have treated her as a total fool.

**Deputy Mary Coughlan:** It is now opportune to tell the House what has been happening for some time, contrary to the remarks made by the Opposition. I met SR Technics local management in Zurich on 11 November. It indicated to me that it had a business proposal for which it sought support. I met the Irish management over Christmas. We worked through a business plan with the company and IDA Ireland. We put together a support programme and mechanism for it in training and research and development. That was ongoing work, as requested by local management, in which I participated personally and which IDA Ireland supported on my behalf. I met Mr. Kessler on 11 February. In the interim the board in Zurich rejected that business plan. The chief executive, the chief operations officer and the chief financial officer came to me on 11 February and made their announcement on 12 February. It is important to indicate that throughout that period, the IDA and I had been working with local management, supporting it and appreciating the work being done by it and the unions to reconfigure and deal with the cost base, research and development and training needs of the company. This was done on the basis of serious concerns brought to my attention, with which I dealt immediately.

The second issue is that SR Technics is a foreign, private company. When I met the chief executive officer and chief financial officer, whom I met three times and to whom I spoke on several occasions by telephone, I indicated that one of the concerns brought to my attention by Members of this House of all parties and by employees was that the equipment would be removed prior to the bids being completed. I received an undertaking from the company that, during the period when the bids were being prepared, the assets would not be removed. Unfortunately, the bid has been accepted and, although the Deputy has alluded to what was rumoured in Dublin Airport, one of the clauses of the bid is actually a confidentiality clause. That said, it was on that basis that I indicated quite categorically that I was very disappointed at the outcome on the basis of all the interaction that had taken place between me, the agencies and the specialist team set up on our behalf to support the bids and those who were interested.

**Deputy Thomas P. Broughan:** Why not nationalise it now?

**Deputy Mary Coughlan:** It is very important to say that all the bids were to be based on the long-term commercial viability and sustainability of the company. If we cobbled together something that would sort out Dublin Airport and it fell on its face in six months, it would be a retrograde step for the businesspeople, workers and taxpayer. All the bidders were aware of the process. The process was being supported by the team but the process and the bids were with the company. As I indicated, the company indicated it would not and did not receive the commercial expectations that should be raised. It is equally important to say there are new options in play regarding the re-engagement with these companies to ascertain whether they are continuing to proceed on the basis of the APU bid they submitted previously or other options available within the short timeframe which we have spoken about this month.

**Deputy James Reilly:** The Minister said she set up the new group on 12 February; she seems to be slow out of the traps. She now tells us she was involved personally from November in regard to this matter. This is all the more worrying given that nothing happened and that she did not see what was coming down the tracks. She surely knew when the Aer Lingus contract slipped that there would be problems. Surely it has been clear that it was extremely naïve to allow all the offers of interest to go straight to SR Technics, which has now shown very clearly that it has no interest in allowing Dublin Airport to act as a competitor to its Zurich operation.



[Deputy James Reilly.]

Two serious questions arise regarding what is now not only a tragedy for north County Dublin but also the greater Dublin area, bearing in mind the asset stripping and, as the Minister stated today, the fact that the company has sold assets to parties other than the original 30 bidders. Is this correct?

**Deputy Mary Coughlan:** No.

**Deputy James Reilly:** Did the Minister not indicate that this——

**Deputy Mary Coughlan:** I referred to the Irish bids.

**Deputy James Reilly:** As part of the original bids.

**Deputy Mary Coughlan:** Within the package of the overall 30.

**Deputy James Reilly:** It is very clear that the bona fides of this company have been questionable from day one in terms of staying in this country. Given that it costs the Exchequer €20 million per year to support 1,000 workers who will be on the dole and given that we will be paying SR Technics €15 million in the first year for the redundancy packages, what value has been placed on the company's assets by the company? More important, what amount of money did the Minister offer by way of support in respect of the management buy-out?

**Deputy Mary Coughlan:** It is important to clear up a number of misapprehensions and misnomers. All of us, including the Deputies opposite, who are local to the area in question, knew that, in November 2007 when Aer Lingus lost the contract and it went to tender, there would be grave implications for SR Technics. It was on that basis that everybody here did their utmost to ensure the contracts became available as quickly as possible. I refer to the ten year contract that Aer Lingus has at present. Contrary to what Deputy Reilly is saying, everyone knew in 2007——

**Deputy James Reilly:** Yes, we did, but the Minister is the one in government and in charge.

**Deputy Thomas P. Broughan:** We opposed privatising Aer Lingus.

**Deputy Mary Coughlan:** Arising from that, everyone knew in 2007 that there would be challenges for the company. On that basis the local management——

**Deputy Thomas P. Broughan:** The Minister is a shareholder.

**Deputy Mary Coughlan:** Neither I nor the State is a shareholder in SR Technics.

**Deputy Thomas P. Broughan:** The State has a 25% share in Aer Lingus.

**Deputy Mary Coughlan:** We all knew this——

**Deputy James Reilly:** The Minister is making——

**An Leas-Cheann Comhairle:** Please allow the Minister to continue.

**Deputy Mary Coughlan:** I am not making an allegation at all.

**Deputy James Reilly:** The Minister is.

**Deputy Mary Coughlan:** I am clarifying what has happened.

**Deputy James Reilly:** The State kept 25% for the public good. Is maintaining jobs not for the public good?

**An Leas-Cheann Comhairle:** The Deputy should not shout down other Members.

**Deputy James Reilly:** I am just trying to set the record straight.

**Deputy Mary Coughlan:** That is the entire objective. Saying that we were not aware of matters or did not do what needed to be done is factually incorrect. Local management expressed grave concerns about the viability of SR Technics on the basis of costs and contracts. It was on that basis that we worked very closely with local management.

**Deputy Thomas P. Broughan:** It produced the recovery plan it gave to the Minister.

**Deputy Mary Coughlan:** Yes. We worked with and supported it and indicated categorically that we would financially support research and development and training. It is therefore wrong to claim the State did not intervene and support SR Technics and its local management. The recovery proposal was sent to Zurich and not accepted by the company. The company indicated to me on 11 February what would happen and, as the Deputies know, it made its final decisions on 12 February.

It is also important to understand that those who made the bids were aware of the process. The process first involved the bid going to SR Technics and not to the team comprising IDA Ireland and Enterprise Ireland. The project details and expressions of interest were sent from the team to SR Technics directly or otherwise for the benefit of interested parties outside the State. The bids were being supported on that basis that, if a bid were to be successful——

**Deputy Thomas P. Broughan:** On a point of information——

**Deputy Mary Coughlan:** ——the financial wherewithal would be given.

**An Leas-Cheann Comhairle:** Deputy Broughan knows there is no such thing as a point of information.

**Deputy Thomas P. Broughan:** On a point of information, SR Technics did not have any commercial space in which to do its business from the middle of November. How could it run anything? The reality is that the Minister has been hoodwinked by this company. It is thrashing one of our key industries and the Minister of State, Deputy Seán Haughey, knows what I am talking about.

**An Leas-Cheann Comhairle:** Please allow the Tánaiste.

**Deputy Mary Coughlan:** I am trying to offer advice and clarify the process. There are insinuations across the House that the Government was not prepared to give financial assistance to SR Technics. That is factually incorrect. We offered assistance in a package throughout the local management recovery project. We offered assistance to the successful bidders in the normal context in which we can offer support for training, re-employment and employment. I refer to the suite of offerings that are available to a company through our State agencies. Therefore, it is untrue we were not present to offer support. We will continue to engage with these companies in the normal format in which we all support companies——

**Deputy Thomas P. Broughan:** It is getting too late.

**Deputy Mary Coughlan:** ——when they put together a viable business plan.

**Deputy James Reilly:** Will the Minister answer my question?

**An Leas-Cheann Comhairle:** I have no control over the answers.

**Deputy Fergus O'Dowd:** Will the Minister clarify whether, from the point of view of SR Technics, the preferred bidder is not part of the process and that the IDA has not been informed of that the bid and has no knowledge of the bidder preferred by the company?

**Deputy Mary Coughlan:** The Irish bidders were not successful.

**Deputy Fergus O'Dowd:** I refer to the preferred bidder.

**Deputy Mary Coughlan:** We are not aware of the preferred bidder.

**Deputy Fergus O'Dowd:** Therefore, it is really like a three-card trick by the company regarding the 1,000-plus jobs that are to be lost if the company does not stay in Ireland. We have no knowledge of the process and it is beyond the Minister's influence.

Given the seriousness of the matter and that the Dublin Airport Authority is announcing 400 redundancies, as we believe, and that the high-tech infrastructure in Dublin Airport and SR Technics may be lost forever to the country, we want the Minister to use every possible means to indicate, through whatever third parties are required, her support for the other bidder and make that bidder an offer to enter into a public private partnership or another arrangement required to get the company to stay in Ireland, given that it will ultimately get the contract. It is key that every possible endeavour be made.

**Deputy Mary Coughlan:** There are a number of people who have carried out due diligence and done a considerable amount of work on their business plans whom we are meeting to ascertain whether they wish to start up an APU or landing gear maintenance shop. We need to know whether they are still interested.

The other issue raised is certainly one for consideration. As I indicated, there is a confidentiality clause because it is only acceptance of a bid and not a final decision. However, all such discussions are taking place. The issue raised by the Deputy is one that we will pursue.

**Deputy Finian McGrath:** I ask the Minister to relay the message that there is widespread support for saving SR Technics. To follow up on Deputy O'Dowd's point, it is aviation vandalism if we let such a valuable industry go. With regard to removal of the assets, how did this happen, particularly when we were all warned weeks ago by staff who contacted Members of the Oireachtas? SR Technics is a highly specialised industry which would have had a significant future in the Irish economy. Is the Minister satisfied that IDA Ireland is pulling out all the stops to save this company?

With regard to the new options on the table, how confident is the Minister that she can deliver? If we lose this great industry, costs will go up when it moves to Zurich. That is an economic reality. Is the Minister aware of the major hardship that will ensue for many families on the north side of Dublin if we lose this industry?

**Deputy Mary Coughlan:** I am aware of the strategic importance of the aviation industry in this country. There are a number of companies based in Dublin, Shannon and Cork which provide support to the aviation sector. The aviation sector is going through a considerably difficult period and every effort is being made to address the issues of new business and costs. We have recently had to deal with these issues, as Deputies know.

**Deputy James Reilly:** By introducing a tourism tax.

**Deputy Mary Coughlan:** I am concerned here with support of the aviation sector.

Strategically, aviation is very important to Ireland. I assure Deputy McGrath we all appreciate the difficulties involved, as many of those in SR Technics have been there for a considerable period, through many changes, and have given a considerable amount of personal support to the aviation sector. This is not just a Dublin issue; it is a regional issue for the surrounding counties.

A bid has been accepted, although we are not *au fait* with the nature of that bid. Given that none of the bids are Irish, we are going back to the Irish bidders to ascertain what can be done to support them if they wish to establish a new start-up or proceed with the other two tenders that are presently forthcoming.

IDA Ireland and Enterprise Ireland have set up a special task force on specialist aviation support, given the importance of this sector and the numbers of people involved. It is on that basis that we provided additional resources to support it, and we have provided resources all over the world, in all of the offices, to ensure we can retain as many jobs as possible within that sector.

This has been a major disappointment to all of us, but it is important that we continue in resilient fashion to support the existing companies which have put forward their views. I will be meeting with one of those unsuccessful bidders this evening to ascertain the direction it wishes to take and the support we can give them. That will be equally available to others.

#### **Adjournment Debate Matters.**

**An Leas-Cheann Comhairle:** I wish to advise the House that eight Deputies have submitted matters under Standing Order 21: (1) Deputy Joe Costello — the ongoing operation of the Private Security Authority and the review of its licensing procedures; (2) Deputy Thomas P. Broughan — the urgent need for the Tánaiste and Minister for Enterprise, Trade and Employment to fully report to Dáil Éireann on the sale of landing gear and APU assets at the SR Technics operation in Dublin Airport, given the fast approaching company deadlines for receipt of bids for the base maintenance, line maintenance and garage operations at SR Technics; if the Tánaiste will also outline to the Dail what actions she, the Taoiseach and IDA Ireland are taking to facilitate the remaining expressions of interest in the SR Technics facility and to maintain the 1,200 critical jobs and the centre of aviation engineering and maintenance excellence at Dublin Airport; and if she will make a statement on the matter; (3) Deputy Chris Andrews — the concerns raised recently about the removal of certain facilities (details provided) in the Ringsend area, which affects elderly people in the area and their ability to collect social welfare payments; to ask the Minister if anything can be done to reverse this; (4) Deputy Bernard J. Durkan — the awarding of a higher education grant to a person (details supplied) in County Kildare; (5) Deputy Dinny McGinley — the loss of jobs at James Likely Limited, Ballyshannon, County Donegal. (6) Deputy Billy Timmins — the denial of a place on a school bus in respect of a person (details supplied) in County Wicklow; (7) Deputy James Reilly — to ask the Minister to outline what steps she has taken to protect the jobs of 1,100 people at SR Technics following the announcement of the company today; (8) Deputy Alan Shatter — that the Minister of State with responsibility for children takes the appropriate action to ensure that the circumstances of children reported to be at risk are properly investigated and publishes the survey of social work and family support finalised last month and conducted by the HSE, some of the contents of which are contained in *The Irish Times* today and the report on which has to date been suppressed; and that he also requires the HSE to publish their Review of Adequacy of Child and Family Services for the years 2007 and 2008.

[An Leas-Cheann Comhairle.]

The matters raised by Deputies McGinley, Costello, Durkan and Timmins have been selected for discussion.

### **Adjournment Debate.**

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#### **Job Losses.**

**Deputy Dinny McGinley:** I thank the Ceann Comhairle for giving me the opportunity to raise this issue in the House. I am pleased that the Tánaiste, my constituency colleague, is present and will be in a position to give answers and, perhaps, hope for the people who lost their jobs in Ballyshannon yesterday.

This has come as a bombshell to us all. I happened to be in Ballyshannon on Tuesday doing something with my colleagues who were running for election and there was no word about these jobs. Then, yesterday, we had the shock announcement that the company had gone into liquidation with the loss of 75 jobs. The Tánaiste has been dealing with the SR Technics issue here in Dublin, which represents a major loss of jobs, but 75 jobs in Ballyshannon is, *per capita*, almost as many, and it is just as serious.

James Likely Limited was established almost 40 years ago, in 1970-71, by a person known to both the Tánaiste and me. It started off with just five or six people and was built up to become the largest and one of the most influential construction, engineering and plumbing companies in Donegal, if not in the north west. At one time, at the height of the Celtic tiger, 150 people were working in the company, which has since fallen to 75, but from yesterday afternoon the company has gone into liquidation. This is a major blow to those who are losing their jobs. They are trained and highly skilled. They know their jobs, have great expertise and have worked all over the country.

The name of James Likely Limited has been synonymous with good business practice. It provided heating, plumbing and air conditioning throughout the country. Now these jobs are unfortunately gone. Like others who have lost their jobs recently, many of these people were the sole breadwinners in their families, with major responsibilities including mortgages, third level education costs and so on.

As I am sure the Tánaiste will agree, this is not the first blow Ballyshannon has received in recent years. It was only last week or the week before that 25 jobs were lost at C & C Wholesale distribution company. In one fortnight Ballyshannon has lost 100 jobs. A number of years ago Parian China, another gilt-edged company, was lost from Ballyshannon. It is ironic that when Donegal Rubber Company closed a number of years ago with the loss of several hundred jobs, the premises were taken over by James Likely Limited, which is now gone. There have been major job losses in Donegal in general and particularly in Ballyshannon. In Donegal unemployment has risen by 80% in the last year. That is an astronomical amount. In Ballyshannon, the increase is well over 80%; I am told it is 84% or 85%. That shows the difficulties we have. From Donegal town, from which Hospira was lost, to Ballyshannon and Bundoran, there is a major unemployment black spot.

All of these people will now be on benefits. Is there anything that can be done to save some of these jobs? In my own area, Údarás na Gaeltachta has a major project, Áisleann Ghaioth Dobhair, on which this company was a major contractor. The job is not complete and will not be completed for another year. If it was allowed to complete such jobs this would keep some of the personnel employed at least until the end of this year. The company was subject to

competition from Northern Ireland and other areas. The Government also has a responsibility in this regard.

The Tánaiste and I both represent this constituency. The Tánaiste is nearer to Ballyshannon than I am, but I have been there quite often as well. I know she is doing something there tomorrow, or perhaps next week, which may involve a few jobs, but there is much work to be done. Many people are wondering what the future holds and where they will get another job.

The Tánaiste heads a strategic Department. I would welcome it if she could give some hope to those who are looking towards us this evening, tomorrow and the day after that they will get employment instead of needing to leave the county.

**Tánaiste and Minister for Enterprise, Trade and Employment (Deputy Mary Coughlan):** I thank the Deputy, my constituency colleague, for raising this matter on the Adjournment. Like him, I was disappointed to hear about the liquidation of James Likely Limited in Ballyshannon with the loss of 75 jobs. The company has been in existence in Donegal since being set up in 1970. My first concern is with the workers who will lose their jobs and every effort will be made to assist them. The services available from the training and development agency FÁS will be important in this regard.

James Likely Limited is a mechanical building services contractor. Unfortunately, this company along with a number of similar companies has suffered from the downturn in the construction industry. I understand that the company's directors regret yesterday's developments, but they believed that they had no alternative. In earlier times, the company would have received assistance from Enterprise Ireland with the development of the company's business. However, the agency has not been actively involved with the company for a number of years.

The jobs will be a great loss to the town of Ballyshannon and the surrounding area. I can assure the House that the IDA and the local county enterprise board, CEB, are making every effort to attract new jobs to the south of the county. In this regard, the IDA is encouraging new investment for Donegal in knowledge-based industries. This is part of a focused strategy to replace the more traditional-type industries that have, unfortunately, been declining in the north west region in recent times. Donegal's industry base is moving to high-tech, high-skill activity.

In the past five years, five IDA-supported companies have created more than 750 new jobs in the county. Some 12 IDA companies in Donegal employ more than 1,700 people in software development, systems development and the medical technology industries. The agency is also building up an international and financial services cluster and is progressing in this area, as evidenced by the announcement of 123 jobs by SITA Incorporated. Significant investment has been undertaken in developing property solutions in Ballyshannon and Donegal town in particular. These investments will enhance south County Donegal's ability to attract further industry and jobs.

Following a meeting between the IDA, Enterprise Ireland, the Donegal CEB, the local community and myself last August, it was agreed that a study would be undertaken into the needs of the area to address the economic difficulties. Enterprise Ireland was a co-sponsor of the report, which is due to be finalised shortly.

So far this year, Enterprise Ireland has paid out in excess of €360,000 to its client companies in the county. In February, the agency held an enterprise start event in Bunrana to promote entrepreneurship in the area, identify potential entrepreneurs and help develop their projects. Following this, the agency has promoted the new year-long Propel programme, an enterprise development programme for the Border region that is heavily supported in the county. In all, 20% of all applicants and 25% of the successful participants to the programme are from the

[Deputy Mary Coughlan.]

county. Phase 1 of the programme starts on 23 May. The objective is to develop ten to 12 investor ready high-potential start-up businesses within 12 months. In addition, Enterprise Ireland worked closely with the Donegal CEB in its enterprise week at the end of March, providing speakers for a number of events, including the First Flight programme, the objective of which is to encourage and facilitate companies to pursue export markets.

In the course of 2008, the CEB paid out more than €690,000 in grant assistance to 31 clients, thereby assisting in the creation of 187 jobs in the region. I am pleased to say that this year, the CEB will continue to support enterprise and job creation in the area through direct and indirect assistance.

I am confident that the strategies being pursued by the industrial development agencies, in partnership with other key players and local interests with the Government's ongoing commitment to regional development, will drive investment and job creation for the south of the county. It is my wish that, working with the agencies, we will continue to pursue the matter vigorously.

Debate adjourned.

#### **Message from Seanad.**

**Acting Chairman (Deputy Charlie O'Connor):** Seanad Éireann has passed the Industrial Development Bill 2008, without amendment.

#### **Adjournment Debate (Resumed).**

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#### **Private Security Authority.**

**Deputy Joe Costello:** I welcome the Minister of State, Deputy Haughey, to the House. It is time that the operation of the Private Security Authority, PSA, be reviewed internally and by the Minister for Justice, Equality and Law Reform to determine whether it is operating effectively.

Ireland was the last country in the EU to provide a licensing system for the private security industry. The legislation was passed in 2005 and the PSA was established in 2007. I was spokesman on justice at the time and there were vague estimates of the number of operatives in the sector. Depending on who one met in the industry, the number varied from 12,000 to approximately 18,000. After two years in operation, the PSA has licensed 22,000 individuals as private security guards, night club bouncers, hotel and pub doormen, private investigators, installers of security equipment, etc. Clearly, there is a large private security sector. With the Garda at 15,000 personnel and an Army of 10,000, the private sector rivals the public security forces.

It was unacceptable that the Garda and the Army should have highly trained, qualified and regulated personnel whereas those in the private sector needed no training, qualification or regulation and little supervision. The situation needed to be addressed, but the manner in which that has been done has retained many of the problems. The fact that more than one third of those who have been licensed in the past two years were foreign nationals is a matter of concern because all they have to do is present a foreign criminal record certificate. The PSA made no contact with embassies or the licences' issuing authorities. Nor did it ask the Garda to perform background or Interpol checks. Some 7,400 of the licences came from foreign national sources. This is an unsatisfactory situation. While every foreign national is entitled to apply, people should be obliged to be vetted in a robust fashion.

It is simple for people of parliamentary groups, ex-special forces personnel or other various unsavoury and unsuitable people to acquire Irish private security licences. This is not good enough. Therefore, it is time to review the criteria and procedures of the PSA. The Garda and Interpol must have a role in ensuring that people who interface with Irish people through the private security industry are of the highest calibre irrespective of whether they are Irish or foreign nationals.

**Minister of State at the Department of Education and Science (Deputy Seán Haughey):** On behalf of the Minister for Justice, Equality and Law Reform, I welcome the opportunity to set out some details of the work of the PSA. Established under the Private Security Services Act 2004, it is the regulatory body with responsibility for regulating and licensing the private security industry. The authority is an independent body. Although it operates under the aegis of the Department of Justice, Equality and Law Reform, which provides its funding, the Minister has no role in the granting or refusal of licences.

The Minister is informed that, following the establishment of the PSA, the licensing of contractors commenced in April 2006. The next people to be licensed were individuals working as door supervisors and security guards, work that commenced in April 2007. In the past three years, the authority has received in excess of 1,750 contractor applications and 30,000 individual applications.

Licences issued to individuals are backed by a recognised qualification, which ensures that all those working in the industry have been trained to a high standard. The authority has put in place a standards and qualifications based licensing system which also involves criminal records checking for all applicants. Contrary to what has appeared in some newspapers during the past number of days, the Minister understands that all applicants are vetted by An Garda Síochána before any licence is issued.

**Deputy Joe Costello:** That is not true. There is no requirement in the legislation to do so.

**Deputy Seán Haughey:** That is the *de facto* position. This means that in excess of 33,000 people working in the security industry in Ireland have been vetted by An Garda Síochána on behalf of the authority. In addition, applicants who have resided outside of Ireland for a period of six months or more are required to provide the authority with a criminal record certificate from that jurisdiction. All Garda vetting results and foreign criminal record certificates are assessed against the authority's guidelines on criminality and applications are refused where convictions are deemed relevant, in accordance with the guidelines. While it is inevitable in any such procedures that the issue of dealing with such applications from persons who resided outside the jurisdiction is more complex, the criminal record checking process and criminality guidelines are constantly monitored and validated to ensure the effectiveness of these systems.

The Private Security Authority has also informed the Minister that before issuing a licence the authority will consider whether a contractor or individual is of sufficient standard to be deemed fit and proper to work within the security industry. In the case of contractors, this requires compliance with both management and operational standards, compliance with criminal records checking and compliance with tax and other regulatory requirements. The authority will also look at the previous business history of the applicant with particular emphasis on compliance with statutory responsibilities. In the case of individuals, applicants must obtain a relevant qualification and comply with criminal records checking. To date the authority has issued 22,037 individual licences. The remainder have either been refused, withdrawn or are still being processed.

The Minister understands that the licensing regime is supported by a resolute enforcement strategy undertaken by the authority's dedicated enforcement team. The authority is very pro-

5 o'clock



[Deputy Seán Haughey.]

active in its enforcement policy and targets those who are unlicensed and those who hire or employ unlicensed contractors or individuals. The monitoring of licensees is also important to ensure that they continue to operate within the remit of their licence. The enforcement team works in close co-operation with other State agencies and undertakes inspections at locations throughout the country including at night and on weekends. To date the authority has brought successful criminal prosecutions against 21 unlicensed operators while more than 600 consumers of security services have terminated contracts with unlicensed providers.

The Minister is glad to have had this opportunity to apprise the House of the excellent work undertaken by the Private Security Authority since its establishment. When one considers the environment which existed prior to regulation against that which exists today it is evident that the security industry in Ireland has benefited greatly from the establishment of the authority. The transformation which regulation has brought about has been remarkable and has had many positive benefits for the industry, the wider business community and the public. The introduction of a standard based licensing system has improved the service provided by contractors, removed unscrupulous security providers from the industry and restored public confidence in a multi-billion euro business.

The introduction of regulation in a previously unregulated industry will always present challenges for both the regulator and the industry. The Private Security Authority is committed to consulting with all stakeholders and considers the opinions of those in the industry in its business planning. Both contractors and employees are represented on the board of the authority along with other stakeholders. The Minister is informed that the workings of the authority are under constant review and improvements to the licensing process are undertaken when required. The authority is currently engaged in reviews in the areas of the cost of regulation, upgrades of existing standards and simplification of the renewal process for individuals.

The licensing of the security industry is a significant body of work which is delivering a professional security service supported by standards and qualifications. The Minister is assured that the authority's licensing process is robust and that the public can be assured that only those who meet the authority's criminality guidelines are licensed. The improvement in the industry brought about by the establishment of the authority should be commended.

### **Higher Education Grants.**

**Deputy Bernard J. Durkan:** This case refers to a young person who was not born in this country but came here, accompanied by his mother, 11 or 12 years ago. He subsequently attended primary and second level school and has completed his second level education. He applied for a higher education grant to participate in a third level course.

Everything was in order until he applied to renew his stamp 4 to have it updated and extended. He was told at the time that because his mother's status had changed in the past 12 months he would have to go through a special procedure to have his stamp 4 updated. However, it transpired that was not correct because his mother's status had changed some three or four years previously. His stamp 4 status had been updated at least twice or three times in the intervening period.

The above was all apropos of his application for a higher education grant. In an effort to comply with the requirements of the VEC, we managed to elicit this information from the respective Departments. His stamp 4 was eventually updated approximately two months ago but, sadly and unfortunately, he has not received a higher education grant. His mother's income is such that the family are eminently eligible for such a grant.

He was told that if he could supply documentation to the effect that he was entitled to remain in this State in his own right, further consideration would be given to his case. He duly supplied that information, which came via the Department of Justice, Equality and Law Reform. That was submitted some weeks ago but now, unfortunately, that is not sufficient either. I am getting sick of the roundabout, circuitous route this application is taking. I do not mind the Department of Education and Science, or any other Department, introducing new rules and regulations provided they apply to everybody across the board and are in accordance with fairness, justice and due process, but for any other reason, covert or otherwise, that it might be thought that new rules and regulations should apply, I have a distinct antipathy.

The Minister of State is a fair-minded man and I am hopeful he has gone into this case in some detail because it is not a case that will readily go away. The applicant in question is eminently eligible and he should not be deprived of his higher education grant. Incidentally, today he sits his examinations and this is the last day in that respect. If his higher education grant is not approved today, he will not be allowed to sit his examinations and that will be the end of the matter. In any event, he is required to pay for his examinations, something he cannot afford. I should also mention that this man has worked in his spare time out of school to earn pocket money and to be able to do the best he can for himself.

I have followed this particular case, as I have had a number of other cases of applicants who qualify for various benefits in recent years. There appears to be a general tightening of the noose in so far as members of the general public gaining access to certain qualifications are concerned. An aspect that has become notable is a closing date — the closing date has long passed in the case to which I refer due to the failure to process the application. I do not accept the need for closing dates. The applicable year is all that matters. It is simply for internal operations that closing dates were introduced, but people are now being seriously disadvantaged by virtue of the application of such rules. I object strongly to such procedures.

Depending on the reply now available, I will seek to resolve what remains of the issue in the current week. Very little remains to be done for the unfortunate young man concerned. His family had particularly tragic circumstances in the past in their native country. That is not relevant to this particular conversation but if he is seen to have been deprived of what are clearly his just entitlements, this nation should be ashamed of itself.

**Deputy Seán Haughey:** I am replying on behalf of my colleague, the Minister for Education and Science, Deputy Batt O’Keeffe.

I thank the Deputy for giving me the opportunity to outline the position of Education and Science on an application by the man in question for funding under the maintenance grant schemes. The Department funds four maintenance grant schemes for third level and further education students. These are the higher education grants scheme; the vocational education committees scholarship scheme; the third level maintenance grants scheme for trainees and the maintenance grants scheme for students attending post-leaving certificate courses. The higher education grants scheme is administered by the local authorities. The other three schemes are administered by the vocational education committees.

Under the terms of the maintenance grants scheme, grant assistance is awarded to students who meet the prescribed conditions for funding, including those which relate to nationality, residency, means and previous academic attainment. The nationality requirement states candidates must hold EU nationality, or have official refugee status, been granted humanitarian leave to remain in the State prior to the Immigration Act 1999, be a person in respect of whom the Minister for Justice, Equality and Law Reform has granted permission to remain following a determination not to make a deportation order under section 3 of the Immigration Act 1999, have permission to remain in the State by virtue of marriage to an Irish national residing in

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the State, be the child of such person not having EU nationality, have permission to remain in the State by virtue of marriage to a national of another EU member state who is residing in the State and who is or has been employed or self-employed in the State, be the child of such person not having EU nationality or a national of a member country of the European economic area or Switzerland.

The decision on eligibility for a maintenance grant is a matter for the relevant local authority or vocational education committee as appropriate. If an individual applicant considers that he or she has been unjustly refused a maintenance grant, or that the rate of maintenance grant awarded is not the correct one, he or she may appeal in the first instance to the relevant assessing authority. Where an individual applicant has had an appeal turned down in writing by the relevant assessing authority and remains of the view that the body has not interpreted the schemes correctly in his or her case, an appeal form outlining the position may be submitted by the applicant to the Department of Education and Science. No appeal has been submitted to date in this case.

In this case the decision on eligibility for third level grants is a matter for Kildare Vocational Education Committee. It recently sought advice from the Department on the candidate's eligibility under the nationality clause of the vocational education committees' scholarship scheme 2008 as the applicant's mother was recently granted naturalisation.

**Deputy Bernard J. Durkan:** It was not recently.

**Deputy Seán Haughey:** The Department contacted the Department of Justice, Equality and Law Reform to establish if this conferred a similar right on her child. That Department confirmed that although the mother had been granted naturalisation, this did not extend to the candidate, as an individual needs to apply for and be granted naturalisation in his or her own right. I understand evidence has not been provided as to the applicant's own immigration residency status and the Department of Education and Science has advised Kildare VEC that it should request the candidate to provide evidence of the grounds of his residency-immigration status in the State in order to establish if he meets the nationality requirements of the scheme. On receipt of this confirmation, Kildare VEC will assess the application for a maintenance grant.

The Department of Justice, Equality and Law Reform adjudicates on a person's entitlement to remain in the State. The Deputy will appreciate that it is not open to the Minister, the Department of Education and Science or the assessing authorities to depart from the terms and conditions of the maintenance grant schemes in individual cases.

**Deputy Bernard J. Durkan:** It is open to the Minister to ensure the rules are applied and observed. That is not the answer.

### **School Transport.**

**Deputy Billy Timmins:** I thank the Ceann Comhairle for giving me the time to outline the details of this case. I regret I have to raise such an issue on the Adjournment owing to the fact that one section of the Minister's Department or perhaps one or two officials have been unco-operative with me and the family concerned.

This matter concerns a young girl of seven years, Ciara Hosey from Grangecon, County Wicklow. She suffers from a physical disability and attends a special needs school, St. Anne's, in the Curragh. The school has been excellent in its care of the child, as have the bus drivers dealing with her. Ciara who is due to make her First Holy Communion tomorrow week on 22 May suffers from a severe disability. She travelled to St. Anne's on a school bus between 2006

and 2008 with an escort and special ancillary equipment and no difficulties arose. However, in December 2008 she was transferred from one bus operator to another. At no time did the family receive a communication from the school transport section of the Department of Education and Science on why this was the case. Last Sunday night they received a telephone call from a person from one of the bus companies to outline that the company could not carry Ciara to school any longer and that the service was being withdrawn while the company assessed the health and safety aspects of the case, including any medical requirements. This followed a telephone call from Ciara's mother who simply sought to have better facilities put in place for her daughter, not for a withdrawal of facilities. She was informed on Sunday night that there would be no transport to school for Ciara.

This is unacceptable. It is unacceptable not to provide school transport. Equally, it is unacceptable because there was no communication with the family. Over a couple of days they tried to obtain information but were unsuccessful. I contacted the Department of Education and Science and it was most co-operative. However, when I got through to the school transport section, I met a stone wall which in my experience is not representative of the general courtesy extended to members of the public or public representatives. I have been dealing with the section dealing with school transport in County Wicklow since I was first elected and it has been excellent; therefore, I was surprised in this case that I could not get any information. I was told to contact the family as it was a matter for them. When I contacted them, to my surprise I discovered they had not been given any information. I can understand, therefore, the frustration and annoyance of a family whose child is being left at home. They have not been able to get any information from the Department.

I ask the Minister of State to ensure this child will have transport to school. She is making her First Holy Communion tomorrow week. He must examine the policy in his Department and ensure the officials dealing with the public who are paid by the taxpayer afford the normal courtesy to people, particularly those who face very difficult personal circumstance. I was in contact with the family shortly before I came into the House and my understanding is that they may have been contacted by the school in the last hour or two, stating the girl will be able to attend school next week. I do not know if this information is included in the Minister of State's reply. I may be incorrect in my information but ask the Minister of State to use his good offices to resolve the matter and ensure staff in his Department who are public servants empathise, understand the plight of and the difficulties families face and to realise that Oireachtas Members are messengers of the people and elected to represent them and that they should also be afforded access to information.

**Deputy Seán Haughey:** I thank the Deputy for raising this matter as it provides me with an opportunity to clarify the general position on school transport for children with special educational needs.

The purpose of the school transport scheme for children with special needs is to provide a reasonable level of transport service for children with a diagnosed disability and-or educational need who, because of the nature of their disability, may not be in a position to avail of a school bus service which would be timetabled to pick up other children along the route of service. Children are eligible for school transport if they are attending the nearest recognised mainstream school, special class or special school or a unit that is, or can be, resourced to meet the child's special educational needs under Department of Education and Science criteria.

My Department also allocates funding to schools for the employment of escorts to accompany children with special educational needs whose care requirements necessitate continuous support on school transport services. In general, transport arrangements are made by Bus Éireann, which operates the school transport scheme on behalf of my Department. I must

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emphasise that the safety and welfare of pupils availing of school transport services are of paramount importance to my Department and to Bus Éireann.

In the case referred to by the Deputy, the pupil in question has special educational needs and has been facilitated with a school transport service since 2006. Recently, Bus Éireann advised that the existing level of service provided under the school transport scheme might not be sufficient or suitable to meet the child's specific needs. In that regard, the child's mother was informed by my Department of Bus Éireann's concerns and pending a review of health and safety issues, it would not be appropriate to continue to carry the child with effect from Monday 11 May.

My Department is liaising with Bus Éireann and the school authorities regarding the measures to be put in place to ensure that the child's welfare is taken care of, while travelling on the bus. My Department has been in continuous contact with the child's mother, and kept her informed of developments. In the course of conversations between the child's mother and my Department the child's mother raised a number of additional issues regarding the suitability of the service for her child. These have been forwarded to Bus Éireann and to the school authorities for their consideration. The service for the child cannot be restored until all the issues raised have been fully examined.

I appreciate why the Deputy put down this Adjournment debate matter and I will endeavour to resolve this problem as soon as possible.

The Dáil adjourned at 5.20 p.m. until 2.30 p.m. on Tuesday, 19 May 2009.

## 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 7, inclusive, answered orally.*

### **State Examinations.**

8. **Deputy Liz McManus** asked the Minister for Education and Science if he had been planning to introduce a junior certificate version of the leaving certificate vocational programme or leaving certificate applied syllabus; if this programme had been due to launch in 30 schools in disadvantaged areas; the status with regard to the introduction of the new courses; and if he will make a statement on the matter. [19247/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I had no plans to introduce a junior certificate version of either the leaving certificate vocational or applied programmes.

The Leaving Certificate Applied, introduced in 1995, is a self-contained Leaving Certificate programme which is pre-vocational by nature and is designed for those students who do not wish to proceed directly to higher education or for those for whom the established Leaving Certificate is unsuitable. Participants in the Leaving Certificate Applied are mainly engaged in work and study of an active, practical and student-centred nature. The main aim of the Leaving Certificate Applied is to prepare participants for transition to adulthood and working life.

The Leaving Certificate Vocational Programme (LCVP) was introduced in 1994. It is designed to enhance the vocational dimension of the Leaving Certificate (Established). This two-year programme combines the academic strengths of the Leaving Certificate (Established) with a new and dynamic focus on self-directed learning, enterprise, work and the community which are included in the Link Modules.

The aim of the existing junior cycle curriculum is to provide students with a broad and balanced programme of study across a wide range of curriculum areas in order to prepare them for transition to senior cycle education. Accordingly, some 25 subjects are available from which a range of academic or vocational subjects can be chosen. The Junior Certificate School Programme (JCSP), introduced in 1996, is particularly targeted at junior cycle (lower secondary) students who are identified as being at risk of early school leaving.

The DEIS (Delivering Equality of Opportunity in Schools) Action Plan for Educational Inclusion provides for extended access to the JCSP for second-level schools with the highest

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concentrations of disadvantage. An additional 30 schools joined the programme in 2007, and a further 24 schools joined in 2008. Participation in the programme is supported by an enhanced pupil:teacher ratio and by the provision of professional development support to schools and teachers. The programme is designed to offer schools and teachers a more flexible approach in mediating the Junior Cycle curriculum for students who have diverse learning needs.

Arrangements are being made for the final phase of rollout of JCSP to DEIS schools to take place in 2009/10.

### **Teachers’ Remuneration.**

9. **Deputy Brian O’Shea** asked the Minister for Education and Science his views on the revelation, at a meeting of the Joint Committee on Education and Science on 23 April 2009, that fee paying schools would charge fees of approximately €20,000 to €30,000 if the €100 million provided by the State for teachers’ salaries was removed; his views on whether most fee paying schools would collapse if this payment was removed; and if he will make a statement on the matter. [19250/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I understand that the statement to which the Deputy refers was made at the Joint Committee by Sr. Eileen Randles from the Loreto Education Trust. As the record of that discussion shows Sr. Eileen was seeking to address what she termed “a simplistic sound bite” in the media about why taxpayers should pay for the salaries of teachers in fee charging second level schools. Sr. Eileen went on to express the view that if fee charging second level schools through the withdrawal of public funding were to become like public schools in England, most of the schools she knew would not continue because the trustees could not run schools to which parents would have to pay €20,000 to €30,000 per annum.

First let me say that the position is a hypothetical one as there are no proposals to remove totally the exchequer funding of teacher salaries from fee charging second level schools. As Sr. Eileen identified there is a risk that this issue is treated in a simplistic or sensational manner. Indeed I want to compliment Sr. Eileen, committee members from both Houses and those who made the presentation and answered question for members. The discussion by the Joint Committee was valuable in exploring the historic evolution and context for the arrangements that apply in respect of the fee charging schools and why the current or future position of these schools cannot be considered in a simplistic manner.

The fee charging schools are all recognised voluntary secondary schools and as noted during the discussion at the Joint Committee many of them are among the oldest second level schools in the country. What distinguishes them from all other voluntary secondary schools is the choice made by those schools in relation to what is termed the “free scheme” initiated by Donogh O’Malley, to provide for universal free second level education.

At the time they chose to retain the capacity to charge fees while the schools that entered the scheme surrendered that capacity in return for enhanced funding. It is also important to note that at the time of the introduction of the free scheme the State was in large part funding the salaries of teachers in secondary schools and that prior to the introduction of the free scheme schools were not charging an economic fee by virtue of the exchequer funding they received.

As I have already stated it is intended to continue to fund teacher salaries for all voluntary secondary schools including those that chose to retain a capacity to charge fees.

### Third Level Places.

10. **Deputy Kathleen Lynch** asked the Minister for Education and Science the way he expects the additional 3,500 third level places to come into effect in autumn 2009 in view of the fact that the Central Application Office's deadline for applications passed on 1 February 2009; his view on the CAOs suitability for targeting these additional places to the unemployed; and if he will make a statement on the matter. [19252/09]

**Minister of State at the Department of Education and Science (Deputy Conor Lenihan):** I understand that the Deputy's question specifically refers to the suitability of the CAO application process in allocating the 2,000 full time places and 1,500 part time places which are part of the overall package of 5,400 new higher education places for unemployed people announced in the Supplementary Budget.

In relation to the 2,000 full time places, over 73,000 applications have been received through the CAO to date this year which is an increase of 8.5% on last year. This includes over 12,000 applications from mature students, an increase of 30% on 2008. Applications from people that previously attended Higher Education have also increased by 13%. These figures are likely to reflect the fact that many people who have been made redundant have already taken the initiative and applied to return to education to up-skill. While the initial CAO closing date is 1 February, late applications are accepted up to 1 May and 5,945 such applications were received this year, an increase of 51% on 2008. On 2 July next the CAO will publish details of its Available Place courses where places are likely to be available following the first round of CAO offers in August. A further opportunity will be available for people to apply for places on such courses from 18 August 2009. Unemployed people who obtain a third level place can apply to the Department of Social and Family Affairs to participate in the Back to Education Allowance Scheme under which they retain eligibility for income support payments and a Cost of Education Allowance while undertaking their course of study.

Part time places in third level institutions are not filled through the CAO process. The 1,500 part time third level places announced in the Supplementary Budget will be provided to enable persons who are unemployed to pursue third level certificate or degree programmes on a part time basis from September 2009. Arrangements for the operation of this initiative are being finalised by officials of my Department and the Department of Enterprise, Trade and Employment, which is funding the cost of these new places. Access to these places will be on a direct entry basis. Further information on how to access these courses and clarification of participants entitlements in relation to social welfare payments will be made available as soon as these arrangements are finalised. Information on the courses will also be made available to unemployed people through local FAS and Department of Social Welfare Offices.

### Schools Building Projects.

11. **Deputy Seymour Crawford** asked the Minister for Education and Science the position regarding his proposal to build a new secondary school in Kingscourt, County Cavan; the progress made towards same regarding drawings and planning and so on; the year he will guarantee the building and staffing of the school; and if he will make a statement on the matter. [19133/09]

**Minister of State at the Department of Education and Science (Deputy John Curran):** As the Deputy will be aware, I was pleased to announce recently approval in principle for the establishment of a new post-primary school for Kingscourt, County Cavan.



[Deputy John Curran.]

In this regard, an examination of the demographics and projected pupil numbers by the Forward Planning Section of my Department satisfied me that a facility for between 300 and 400 pupil places will be sustainable in this area in the medium term.

As my decision was only recently announced, the Deputy will appreciate that plans for the new school are at an early stage. There are a number of preliminaries that will have to be completed before an actual building project for the new school can be advanced. As a first step, officials from my Department will be meeting with the VEC shortly to discuss groundwork issues, appropriate feeder schools etc.

In addition, my Department will need to give consideration to how the new school should be procured. This will include an examination of the PPP model. Three separate PPP bundles have been announced to date and these are progressing through the procurement process. The make-up and timing of further bundles will be determined by my Department in consultation with the National Development Finance Agency (NDFA).

The issues to be considered in the timing and bundling of these schools include site availability for each school, geographical spread and the estimated total cost of the proposed bundle.

When a decision has been taken as to how the new school will be procured, the normal procedures will be put in train to prepare the project for advancement such as the preparation of an educational worksheet and the drawing up of schedules of accommodation.

When all of the preliminaries have been completed, consideration can then be given to the inclusion of a project in the School Building Programme for the appointment of a Design Team or inclusion in a PPP bundle. It will be a matter for the Design Team appointed to the project to prepare the building plans, apply for planning permission and deliver the building.

I am committed to advancing the project but the necessary preparatory procedures will have to be followed before this can happen. At this stage of the process it is not possible to be specific about the timeframe for delivery of the project.

#### **School Patrons.**

12. **Deputy Ruairí Quinn** asked the Minister for Education and Science if he has received the legal opinion which his Department sought in relation to the application by Educate Together to have its existing status as patron of primary schools extended into post primary schools; if that legal opinion has identified an impediment which would prevent Educate Together from becoming a patron at post primary level; and if he will make a statement on the matter. [19241/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** My Department is currently considering a number of broad policy issues relating to the recognition process for second level schools. To facilitate full consideration of all of the issues involved, my Department has sought legal advice from the Office of the Attorney General in relation to the system of patronage at second level. At this stage, the advice has not yet been received. However, it is intended that officials from my Department will be meeting with their counterparts in the Office of the Attorney General to discuss the matter within the coming week or so.

It is timely to examine the broad issues of patronage at second level, given the current climate of an ever increasing student population and the moves towards diversity in education provision.

I can assure the Deputy that the application from Educate Together to be recognised as a patron body at second level will be fully examined within the context of the legal, financial and other factors that I must consider.

### School Placement.

13. **Deputy Mary Upton** asked the Minister for Education and Science if, in respect of the two community national schools operating in north County Dublin, the question on the application form for admission regarding the religion of the child is a mandatory question or one that is voluntary and can therefore be left unanswered by the parents of the child; and if he will make a statement on the matter. [19244/09]

**Minister of State at the Department of Education and Science (Deputy John Curran):** The new community national schools welcome and respect children of all faiths and none. They recognise and aim to accommodate the wishes of parents to have their children receive religious education within the school day and also cater for parents who do not wish their children to receive religious education based on any one particular faith. Therefore the admission form for the community national schools includes a question seeking information on religion. It is not compulsory for the parents to declare their religion when enrolling children in the schools and a number of parents of children currently enrolled in each school have declined to provide this information.

For operational reasons and to assist the evaluation of community national school pilot model, it is helpful to know what religions and faiths are represented in the schools. The pilot phase provides an opportunity to test approaches to the practical issues that arise and to draw lessons from that experience that can allow the model to be developed and refined.

*Question No. 14 answered with Question No. 7.*

### Disadvantaged Status.

15. **Deputy Denis Naughten** asked the Minister for Education and Science the steps he is taking to support disadvantaged children in the classroom; and if he will make a statement on the matter. [19135/09]

**Minister of State at the Department of Education and Science (Deputy Seán Haughey):** The majority of schools include among their pupils, children with disadvantaged backgrounds. In general most schools address the individual needs of these children without recourse to additional targeted resources. Evidence has shown that disadvantage associated with poverty and social exclusion assumes a multiplier effect where the levels are highly concentrated in schools.

DEIS (Delivering Equality of Opportunity in Schools), the action plan for educational inclusion, provides for a standardised system for identifying levels of disadvantage and an integrated School Support Programme (SSP). As a result of the identification and review processes, 876 schools have been included in the School Support Programme (SSP) under DEIS. These comprise 673 primary schools (urban and rural) and 203 second-level schools.

The plan commenced in 2006 and is being rolled out on a phased basis over the period to 2010.

DEIS provides various supports for both primary and post primary schools. These include:

- reduced pupil teacher ratio in primary schools in urban areas with most disadvantage.
- allocation of administrative principal on lower figures than generally apply in primary schools in urban areas.
- additional capitation funding based on level of disadvantage.

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- additional funding for schools books.
- access to School Meals Programme
- access to numeracy/literacy supports and measures at primary level.
- access to Home School Community Liaison services.
- access to School Completion Programme.
- enhanced guidance counselling provision at post primary level.
- access to planning supports.
- provision for school library and librarian support at second level
- access to Junior Certificate School Programme and Leaving Certificate Applied
- access to range of professional development supports.

In line with my focus on retaining resources in the most disadvantaged areas, it is important to note that following Budget 2009, all DEIS supports in DEIS schools are not being affected.

#### **Consultancy Contracts.**

16. **Deputy Seán Sherlock** asked the Minister for Education and Science if he will, in respect of the two community national schools operating in north County Dublin, give details of the academic who has been hired as a consultant by his Department to advise on the issue of the provision of denominational religious education within these schools; the provisions made within these schools for those pupils whose parents have not sought religious denominational education; the terms of reference and conditions of the contract; when the academic's report will be completed; and if he will make a statement on the matter. [19242/09]

**Minister for Education and Science (Deputy Batt O'Keeffe):** The Community National School model is proceeding on the basis of very clearly stated principles in respect of the availability of religious education during the school day, in conformity with the wishes of parents. Approaches to the delivery of religious education in line with these principles are being developed on an action research basis over the course of the pilot phase.

The research project is being undertaken by a Research Officer with suitable qualifications in the field of curriculum development and with considerable practical experience in this area and is being facilitated by County Dublin VEC as patron-designate.

The Research Officer's initial brief is to develop a programme for Junior and Senior Infants in the first instance. The programme will provide a draft for future development in these schools and possibly elsewhere. The action research began in June 2008 and is expected to continue until programmes have been developed for children up to sixth class.

The research project is assisted by a Reference Group which includes representatives of non-theist perspectives. This will accommodate the development of an appropriate programme of moral development for children whose parents do not wish them to participate in multi-faith religious education where it is possible to provide such an option.

#### **State Agencies.**

17. **Deputy Kathleen Lynch** asked the Minister for Education and Science the progress made

on the merger of the National Qualifications Authority of Ireland, the Further Education and Training Awards Council and the Higher Education and Training Awards Council; the number of redundancies within each agency envisaged by the successful completion of the merger; the estimated savings the merger will accrue; and if he will make a statement on the matter. [19253/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The amalgamation of the National Qualifications Authority of Ireland (NQAI), the Higher Education and Training Awards Council (HETAC) and the Further Education and Training Awards Council (FETAC) was announced as part of the Government’s programme for the rationalisation of agencies. The new organisation will also take responsibility for the external quality assurance review of the universities, a function which is currently performed by the Irish Universities Quality Board (IUQB) and the Higher Education Authority (HEA). The budget announcement also refers to the possibility of including some of the related functions of the National University of Ireland (NUI) in the new organisation.

An Implementation Advisory Group (IAG) has been formed to advise my Department on the implementation of the amalgamation, comprising representatives of the NQAI, HETAC, FETAC, the HEA, the IUQB and the Irish Universities Association. The IAG has met on four occasions to date. My Department has had separate discussions with NUI.

A consultation paper has been prepared, with the assistance of the IAG, covering the functions and shape of the new organisation and key legislative considerations. A period of public consultation is planned, which is due to start very shortly and will conclude in June. My Department has also started work on the legislation necessary for the amalgamation. The target completion date for the legislative process is Autumn 2010, with the new statutory organisation to be established in Winter 2010.

Savings will arise from efficiencies achieved through economies of scale, the removal of parallel structures and streamlined and shared corporate services. Annual savings arising from the amalgamation are estimated to be in the region of €1 million, although it should be noted that it is likely that once-off up-front costs arising from the process will be incurred.

While the staffing requirements of the new agency have not been finalised, the three core agencies involved were requested immediately after the budget announcement not to recruit any new staff on a permanent basis. In addition, the recently announced moratorium on recruitments and promotions and incentivised early retirement scheme applies to the agencies. The impact of these measures on staffing levels will be kept under review and the situation will be examined when the staffing requirement of the new organisation is finalised.

### **School Accommodation.**

18. **Deputy Bernard J. Durkan** asked the Minister for Education and Science the number of pupils at primary and second level accommodated in temporary overcrowded or prefabricated accommodation at present; the degree to which this number is expected to change in 2009 or future years; and if he will make a statement on the matter. [19271/09]

20. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Education and Science the number of children here being taught in prefabricated accommodation. [19218/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I propose to take Questions Nos. 18 and 20 together.

The demand for additional accommodation in schools has risen significantly over the last number of years, with the appointment of 6,000 extra teachers in the primary sector alone since

[Deputy Batt O’Keeffe.]

2002. In considering the need to provide extra resource and other teachers to schools in recent years, the Government could have decided to make children wait until permanent accommodation could be provided. However, we prioritised putting the extra teachers into schools as soon as possible and, in some cases, this has involved the provision of high-quality prefabricated structures to accommodate them.

In general, my Department approves the purchase or rental of prefabricated classrooms based on need at the time of application. Local school managements then organise their class numbers, year on year, to achieve the optimum local efficiencies. My Department does not hold information on the numbers of pupils in individual schools who currently occupy temporary accommodation; this depends on the organisation of class groups by schools within available accommodation and may vary from year to year.

Following analysis of costs in my Department, it is now practice to purchase rather than rent temporary accommodation where the need for such accommodation is likely to exist for more than 3 years. This will reduce the incidence of long term rental of prefabs. In July of 2008, I introduced a further innovation which allows those schools with an urgent and pressing need for additional accommodation which is likely to last for more than 3 years, and who are being given approval for grant aid, to avail of the option of using their grants either to purchase prefabs or to construct permanent classrooms for the same amount.

*Question No. 19 answered with Question No. 7.*

*Question No. 20 answered with Question No. 18.*

### **Special Educational Needs**

21. **Deputy David Stanton** asked the Minister for Education and Science when the review of special classes and special schools being conducted by the National Council for Special Education began; when the report is due to be completed; the stakeholders consulted as part of this review; and if he will make a statement on the matter. [19265/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The review of schools and special classes was commenced by the National Council for Special Education (NCSE) in 2007 and involves wider consultation with schools and Education partners selected by the NCSE. It is expected that the review will be completed in 2009 and I look forward to receiving the report from the NCSE.

### **School Staffing.**

22. **Deputy Arthur Morgan** asked the Minister for Education and Science his views on the projected loss of 2.6 temporary and part-time teachers in secondary schools from September 2009. [19224/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I have consistently said that the 2009 Budget required difficult choices to be made across all areas of public expenditure. These decisions were made to control public expenditure and to ensure sustainability in the long run. In this respect Education while protected to a much greater extent than most other areas of public expenditure could not be totally spared, and I acknowledge the impact of funding restrictions in a number of areas, including at school level. However, these are the inevitable result of the challenging economic environment and the need to manage Exchequer resources prudently. These decisions included the increasing of the pupil teacher ratio across all second-level

schools from 18:1 to 19:1. In the case of fee-charging post-primary schools, there will be an additional one-point adjustment to 20:1.

Teacher allocations to all second level schools are approved annually by my Department in accordance with established rules based on recognised pupil enrolment. In accordance with these rules each school management authority is required to organise its subject options within the limit of its approved teacher allocation. The deployment of teaching staff in the school, the range of subjects offered and ultimately the quality of teaching and learning are in the first instance a matter for the school management authorities.

In terms of the position at individual school level the key factor for determining the level of resources provided by my Department is the pupil enrolment at 30 September 2008. The annual process of seeking this enrolment data from schools took place in the autumn and the data has since been received and processed in my Department enabling the commencement of the processes by which teaching resources are allocated to schools for the school year that begins next September.

Initial allocation letters have issued to Post Primary Schools and Vocational Educational Committees. The final position for any one school will depend on a number of other factors such as the allocation of support teachers and additional posts for schools that are developing rapidly.

In accordance with existing arrangements, where a school management authority is unable to meet its curricular commitments within its approved allocation, my Department considers applications for additional short term support i.e. curricular concessions. This concession is available as a short term support to enable essential curricular provision to continue.

The allocation processes also include appellate mechanisms under which schools can appeal against the allocation due to them under the staffing schedules. The Board of Management of a school can submit an appeal under certain criteria to an independent Appeal Board which was established specifically to adjudicate on appeals on staffing allocations in post-primary schools. This Board operates independently of my Department.

I am committed to providing information in relation to the allocation of teachers to schools as a new feature on my Department's website. The process has begun with the provision earlier this year of initial information on the allocation of mainstream classroom teachers to primary schools under the revised schedule for 2009/10.

Information on the teacher allocations to second level schools, whether enrolment related or otherwise, is currently being compiled into a format for publication on my Department's website in the coming weeks. My intention is that, just as is the case with the information provided in relation to primary schools, this information will identify the changed position for second level schools and VECs arising from the October budget decisions.

### **Third Level Institutions.**

23. **Deputy Joanna Tuffy** asked the Minister for Education and Science if he has received the revised draft strategic plan and related budget from the Grangegorman Development Agency which will provide for the relocation of the Dublin Institute of Technology from more than 30 different locations and sites in the Dublin area to a new integrated urban campus at Grangegorman, Dublin 7, catering for 27,000 students; his views on the relocation of this third level institution on the grounds of efficiency, economy and the development of excellence in the education system; when he will bring the draft strategic plan and related budget to the Cabinet for approval; and if he will make a statement on the matter. [19257/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The Grangegorman Development Agency submitted a draft Strategic Plan and Budget to my Department in October 2008 as provided in Section 12(h) of the Act. Copies of the plan and Budget were also forwarded to the Minister for Health & Children for her consideration. Following receipt of the Strategic Plan plan, my officials in consultation with the Higher Education Authority commenced an assessment of the proposals. My Department also sought the advice of the National Development Finance Agency on the funding portions of the draft Cost Benefit Analysis from the Dublin Institute of Technology and the draft Strategic Plan.

In March 2009 the Agency submitted a revised Strategic plan and budget. The revised plan takes account of the reduced prices that have materialised in the construction sector by updating construction prices to January 2009 values. The Agency also reduced enabling infrastructure costs and revised the estimated value of DIT property portfolio to reflect current market trends. The revised plan proposes to deliver the complete project in phases.

The Grangegorman Development Agency has provided the Department with a clear indication of the overall costs for the development of the Grangegorman site.

This has allowed my Department the opportunity to consider fully the costs involved in utilising the majority of the Grangegorman campus to provide for needs of DIT.

There are issues relating to the proposals that my Department is discussing with the various interested parties and when these have been fully explored, I would intend bringing proposals to Government for consideration.

#### **Pupil-Teacher Ratio.**

24. **Deputy Bernard J. Durkan** asked the Minister for Education and Science the extent to which the pupil-teacher ratio in the classroom will be affected by the budgetary cuts as proposed by his Department in 2009 and in subsequent years; and if he will make a statement on the matter. [19270/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I have consistently said that the 2009 Budget required difficult choices to be made across all areas of public expenditure. These decisions were made to control public expenditure and to ensure sustainability in the long run. In this respect Education while protected to a much greater extent than most other areas of public expenditure could not be totally spared. The various impacts at school level were included in the Budget day announcements including the projected net impact on teacher numbers in primary and post-primary schools.

Clearly a net reduction in the number of teachers, while relatively small in terms of the overall number of teachers that will continue to be employed in our schools, will of course impact to some degree on the pupil teacher ratio in a situation where enrolments are rising.

I have already put it on record that I have no difficulty in setting out for this House or for the public generally what the final impact will be on the overall changes on aggregate teacher numbers in schools for the 2009/10 school year and this applies to pupil teacher ratios as well. My Department also publishes statistical information on an annual basis an element of which includes the pupil teacher ratios.

In relation to the impact on teacher numbers my Department has written to the primary schools that are projected to have a net loss or gain in classroom teaching posts in September, 2009. As part of my efforts to ensure that relevant information is openly available to the public detailed information on the opening position for primary schools is now published on my Department’s website. This provisional list sets out the details on individual schools that, taken collectively, are projected to gain 128 posts and to lose 382 posts — a net reduction of 254

posts. It is my intention to have this information updated and ultimately to set out the final position when the allocation processes are completed.

Initial allocation letters have also issued to Post Primary Schools and Vocational Educational Committees. All the above allocations, primary and post-primary are provisional at this stage and reflect the initial allocation position. The final position for any one school at primary or post primary level will depend on a number of other factors such as the allocation of support teachers, additional posts for schools that are developing rapidly and posts allocated as a result of the appeals processes.

The final allocation to a school is also a function of the operation of the redeployment panels which provide for the retention of a teacher in an existing school if a new post is not available within the agreed terms of the scheme. The appellate process is particularly relevant at post-primary level where any specific curricular needs of the school concerned are considered. Also at post-primary there is no effective system wide redeployment scheme at present and this can mean that schools retain teachers, though over quota.

The final staffing position for all schools will therefore not be known until the autumn. At that stage the allocation process will be fully completed for mainstream classroom teachers and any appeals to the Staffing Appeals Board will have been considered.

#### **Further Education.**

25. **Deputy Willie Penrose** asked the Minister for Education and Science if he will lift the cap on the number of places available in further education colleges; and if he will make a statement on the matter. [19255/09]

**Minister of State at the Department of Education and Science (Deputy Seán Haughey):** The number of approved PLC places is determined in the context of the continuing requirement to plan and control numbers and to manage expenditure within the context of overall education policy and provision.

From September 2009, with a view to responding to increased training needs in the present economic context, resources have been redeployed to create an additional 1,500 Post Leaving Certificate (PLC) places. This will bring the total number of approved PLC places to 31,688.

The PLC programme provides successful participants with specific vocational skills to enhance their prospects of securing lasting, full-time employment, or progression to other studies. The allocation of these extra 1,500 PLC places is another step in expanding opportunities and broadening access to further education so that people can enhance their employment skills.

#### **Grant Payments.**

26. **Deputy Jack Wall** asked the Minister for Education and Science if he will reverse the abolition of grants which were paid to Protestant secondary schools out of recognition that they represent a minority community and should be afforded special consideration; his views on the comments made by a person (details supplied); and if he will make a statement on the matter. [19249/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I wish to reassure the Deputy that I, along with my colleagues in Government, recognise the importance of ensuring that students from a Protestant background can attend a school that reflects their denominational ethos.



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The Deputy will be aware that I have met with representatives of both the Church of Ireland Board of Education and the Grand Orange Lodge of Ireland to discuss the funding position of the schools referred to by the Deputy.

I briefed the representatives on funding arrangements for Protestant schools and the background to the decision in the October budget to remove certain grants from fee-paying Protestant schools.

I outlined the background to the block grant, which is expected to be €6.5 million in this school year. It covers capitation, tuition and boarding costs and is distributed through the Secondary Education Committee established by the churches concerned. Applications for assistance are made by parents to the Secondary Education Committee which, on the basis of a means test, distributes the funds to individual schools on the basis of pupil needs. This fund ensures that necessitous Protestant children can attend a school of their choice. I confirmed that there were no changes to this grant and that I would be willing to consider increasing it when the public finances permit.

At my meeting with representatives of the Church of Ireland Board of Education, led by Archbishop John Neill, I expressed my willingness to consider any proposals that might be made to my Department that would enable the available funding to be focused and adjusted to more effectively meet the twin objectives of access for individuals and sustaining the dispersed schools that they wish to attend. The Bishops are to respond on how the funding I am continuing to make available might best be deployed to meet the needs of their schools.

In this context, I wish to advise the Deputy also that my officials recently met representatives from the Secondary Education Committee to discuss future funding arrangements for Protestant schools.

I will continue to work with representatives of the Protestant educational sector to ensure that State funding made available to the Protestant community is targeted in the fairest way possible to meet the needs of their children and their schools.

### **School Curriculum.**

27. **Deputy Denis Naughten** asked the Minister for Education and Science his views on the report of the expert group on future skills needs regarding the level of achievement in maths amongst students here; if he will implement the recommendations of the report; and if he will make a statement on the matter. [19136/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The OECD PISA (Programme for International Student Assessment) 2006 survey of 15 years olds across 57 countries showed that Ireland’s mean score in mathematics was not significantly different from the OECD average. We ranked 16th of 30 OECD countries and 22nd of 57 countries. There were fewer lower achievers and higher achievers than the OECD average, with the majority of pupils scoring in the mid range of achievement. When performance levels for mathematics in 2006 are compared with those in 2000 and 2003, there are no changes for Irish students. Ireland showed a high level of equity in achievement outcomes. This is evidenced by relatively small levels of “between school” variation and comparatively good standards among lower achievers.

I have launched a major initiative, Project Maths, in second level, designed to encourage better understanding of maths, to reinforce the practical relevance of maths to everyday life, and to ensure better continuity between primary and second level, and junior and senior cycle. The initiative started in 2008 and is being piloted in 24 schools. The curriculum changes will

be phased in over three years and mainstreaming will begin in 2010, prefaced by a national programme of professional development for teachers beginning in 2009.

Project Maths will be supported by intensive investment in professional development for teachers. A Maths Support Team has been appointed and is currently supporting the project schools, as well as preparing for mainstream in-service development which will start in September 2009, followed by mainstream implementation starting in Sept 2010. Some €3m has been provided for the programme in 2009 and the investment will continue over a number of years, to at least 2013, in a rolling programme of reform.

The Report of the Expert Group calls for the introduction of bonus points for Higher Level Mathematics in the Leaving Certificate. Decisions on the award of points and admission criteria for entry to higher education programmes are, under legislation, a matter for the higher education institutions. My Department asked the Higher Education Authority to initiate a discussion across higher education institutions regarding the desirability or otherwise of awarding bonus points. The overall view emerging was that the introduction of bonus points was unlikely to dramatically increase uptake of Higher Level Maths. The Report of the Points Commission in 1999 considered the issue of bonus points and recommended against such an approach.

Providing bonus points could reinforce the perception that Maths is a difficult subject. It should be noted that when bonus points were removed in 1994 on foot of curricular reform, participation in Higher Level Maths increased. We can therefore conclude that curriculum reform has more impact than points in this area. Introducing bonus points would inevitably lead to similar demands in other subjects such as science. The education sector must cater for all students, and placing some subjects at a higher value, notwithstanding the importance of other sectors of the economy, and the abilities and interests and legitimate choices of students, could potentially be counterproductive to the overall interests of the system.

*Question No. 28 answered with Question No. 7.*

### **School Accommodation.**

29. **Deputy Mary Upton** asked the Minister for Education and Science the number of new post-primary schools that will be required from 2015 onwards when, according to the Central Statistics Office, the student post primary figures will begin to increase rapidly after 2016; and if he will make a statement on the matter. [19245/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The Central Statistics Office is one of the key bodies that my Department liaises with in relation to demographic trends in order to establish future enrolments. The Forward Planning Section of my Department is currently in the process of identifying the areas where significant additional accommodation will be required at primary and post-primary level for future school years.

Factors under consideration include population growth, demographic trends, current and projected enrolments as well as recent and planned housing developments. These factors and particularly the capacity of existing schools to meet additional demand for places will inform decisions in relation to the number of new post-primary schools that will be required to cater for the projected increase in pupil numbers referred to by the Deputy.

Data available to my Department suggest that the projected total enrolments at post-primary level will increase by approximately 51,500 pupils by the year 2016. Such an increase in pupil numbers would in theory equate to a requirement for over 51 new post-primary schools, each capable of catering for over 1,000 pupils. However, I should caution that the actual number of new schools required to cater for the increased enrolments will be less than that number as the approach of my Department in the first instance is to optimise the capacity of existing schools

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and expand them where possible. Such an approach also reduces the requirement for site purchase, which can be very considerable in the case of post-primary provision.

These factors will be examined in detail by my Department when considering the extent of new school provision required in all areas of the country.

### **Schools Refurbishment.**

30. **Deputy Martin Ferris** asked the Minister for Education and Science his plans to deal with the backlog in applications for the summer works scheme as a result of its cancellation in 2008. [19223/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I was pleased to announce on 7th May last my Summer Works Scheme for this year. €80m has been allocated to the Scheme which will enable 967 schools, primary and post-primary, to carry out much needed works to their school buildings on a devolved basis. A key principle behind the devolution of this Scheme is that responsibility for the management of the project is devolved to the school authority. The school authority can then make use of its local knowledge and presence on the ground to manage the project more effectively and ensure better value for money for the taxpayer.

The €80 million fund will finance over 1,180 small to medium-scale capital projects in these schools over the quiet summer months so that disruption is minimised. The capacity of schools to take responsibility for delivering small and medium-scale projects is a key component of the Summer Works Scheme and I’m pleased to be in a position to make funding available once again.

The Summer Works Scheme, which returns this year after a 12-month deferral period, covers school projects such as gas, electrical and mechanical works, roof replacements and repairs, window replacement, toilet upgrades, structural improvements and access works. The fund will dramatically improve structural, mechanical, electrical, gas and other works in schools right across the country. The Planning and Building Unit of my Department has contacted the schools approved for grant aid under this year’s Scheme with further details and instructions on how to proceed.

The Summer Works Scheme was first introduced by my Department in 2004. Since then, over 3,000 summer works projects have been carried out in primary and post-primary schools at a cost of almost €300 million.

The Scheme had been deferred for the 2008 year to allow the Department’s Planning and Building Unit to focus on larger-scale building projects with a particular emphasis on providing sufficient school places in developing areas, while also delivering improvements in the quality of existing primary and post-primary school accommodation throughout the country. The applications processed for this year’s Scheme were those submitted for the deferred 2008 Scheme. It is my intention that applications for a 2010 Summer Works Scheme will be invited later this year.

In addition to providing much needed improvements to school buildings this €80m investment in our schools will also create much-needed jobs in the construction sector. I am also asking schools to ensure that they get best value for money on prices for jobs in what is currently a more competitive construction market.

This year alone almost €614 million will be invested on the School Building and Modernisation Programme — the highest spend on school buildings in the history of the State.

The list of approved schools/projects is available on my Departments website at [www.education.ie](http://www.education.ie).

### Special Educational Needs.

31. **Deputy David Stanton** asked the Minister for Education and Science if he considered the recommendations and conclusions of the 2005 report of his Department's inspectorate, An Evaluation of Special Classes for Pupils with Specific Speech and Language Disorder, when he made his decision to close a large number of special classes here; and if he will make a statement on the matter. [19264/09]

**Minister for Education and Science (Deputy Batt O'Keeffe):** I wish to clarify for the Deputy that no special classes for pupils with Specific Speech and Language Disorder have closed as a result of the 2005 Evaluation of Special Classes for pupils with Specific Speech and Language Disorder (SSLD) report.

The National Council for Special Education (NCSE), through the local Special Educational Needs Organisers (SENOS), is responsible for processing applications from primary and post primary schools for special educational needs supports. This includes applications for the establishment of special classes for SSLD. The NCSE operates within my Department's criteria in allocating such support. There are currently 62 special classes in place to support children with specific speech and language disorder. Each class can cater for up to 7 children and children have access to a speech and language therapist through the HSE.

Following the publication of the evaluation report, my Department issued a circular to schools clarifying the criteria for enrolment in SSLD classes and other related matters.

A number of teachers were recently withdrawn from schools with classes for children with a mild general learning disability where the number of children in those classes had fallen below the number required for those teaching posts. This is a separate category of class to the Specific Speech and Language Disorder classes to which the Deputy refers in his question.

*Question No. 32 answered with Question No. 7.*

### School Accommodation.

33. **Deputy Liz McManus** asked the Minister for Education and Science the name of all members and their respective organisations which are represented on both the technical group and the steering group of the commission in respect to the Commission on School Accommodation reporting to his Department; and if he will make a statement on the matter. [19246/09]

**Minister for Education and Science (Deputy Batt O'Keeffe):** I have arranged for the information sought to be forwarded directly to the Deputy by my Department.

*Question No. 34 answered with Question No. 7.*

### School Placement.

35. **Deputy Seán Sherlock** asked the Minister for Education and Science if, in respect of the two community national schools operating in north County Dublin, questions regarding the country of origin of the child in addition to the parents' name, nationality and occupation are questions which are mandatory and must be answered by the parents or guardian in order to complete a valid school application form; and if he will make a statement on the matter. [19243/09]

**Minister for Education and Science (Deputy Batt O'Keeffe):** The new community national schools acknowledge and respect the diversity of values, beliefs, languages and traditions in Irish society and operate in a spirit of partnership between patron, teachers, students, parents

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and the wider community served by the school. They aim at all times to provide a caring, happy and secure atmosphere where the intellectual, spiritual, physical, moral and cultural needs of the children are identified and met. Therefore the admission form for the community national schools includes questions seeking information on country of origin, nationality, parents’ name and occupation. It is not compulsory for parents to declare such information when enrolling their children in the schools.

For operational reasons and to assist the evaluation of community national school pilot model, it is helpful to know what nationalities and cultural traditions are represented in the schools. The pilot phase provides an opportunity to test approaches to the practical issues that arise and to draw lessons from that experience that can allow the model to be developed and refined.

### **Further Education.**

36. **Deputy Brian O’Shea** asked the Minister for Education and Science if he is unable to offer first refusal to the further education sector, including the vocational education committees and the institutes of technology, on the 51,000 additional places announced in February 2009 in view of the fact they are repackaged places within FÁS and funded out of existing resources; and if he will make a statement on the matter. [19251/09]

**Minister of State at the Department of Education and Science (Deputy Seán Haughey):** FÁS, in addition to their own delivery of courses, already contract with other education and training providers for the provision of relevant courses. It is a matter for FÁS and its parent Department to determine the contracting arrangements. It is open to Vocational Education Committees (VECs) and the Institutes of Technology to bid for the provision of appropriate courses.

VECs already provide courses on behalf of FÁS under the One Step Up initiative. Examples include the Skills for Work programme delivered under the Workplace Basic Education Fund which provides education and training in basic skills at FETAC Level 3. VECs also provide courses for participants in FÁS-run Community Education schemes under the Return to Education programme. In addition, VECs provide courses under the Learning at Work and Competency Development programmes.

### **Legislative Programme.**

37. **Deputy Willie Penrose** asked the Minister for Education and Science when he expects the completion of the Student Support Bill 2008; and if he will make a statement on the matter. [19254/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The current position in relation to the Student Support Bill is that a number of amendments are currently being considered arising from a review of the Student Support Bill following the Second Stage debate and further consultations since publication. A number of legal issues have arisen in the course of preparation of the legislation which requires further advice and clarification.

A number of the amendments to the Student Support Bill are at the final stages of preparation and my Department is currently working closely with the Office of the Attorney General to finalise any outstanding matters. I hope to be in a position to have these amendments finalised shortly with a view to progressing to Committee Stage before the summer recess.

### **Schools Building Projects.**

38. **Deputy Seymour Crawford** asked the Minister for Education and Science the position regarding the plans to build a new school at Rockcorry, County Monaghan, to replace the current school as promised in 2007; when this school building will commence; and if he will make a statement on the matter. [19134/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The school to which the Deputy refers submitted an application for a new school building under the Small Schools Scheme 2007. The application was unsuccessful at that time.

The main emphasis of the School Building and Modernisation programme for the foreseeable future will be on the delivery of large scale projects to provide additionality, particularly in rapidly developing areas, where little or no school accommodation currently exists. In light of the level of demand on the Department’s capital budget for such projects, it is not possible to give an indicative timeframe as to when a project for the school in question might proceed.

Officials from my Department met with representatives of the school authority on 12 May 2009 and outlined this situation to them.

### **Further Education.**

39. **Deputy Joanna Tuffy** asked the Minister for Education and Science further to Parliamentary Question No. 230 of 29 April 2009, if the application process for post leaving certificate courses in the 2009-10 academic year has concluded; if so, the way the 1,500 places allocated to post leaving certificate providers in the 7 April 2009 budget are to be offered to the public; the way the extra places being offered are to be targeted towards the unemployed; and if he will make a statement on the matter. [19256/09]

**Minister of State at the Department of Education and Science (Deputy Seán Haughey):** The application process for the 2009/2010 Post Leaving Certificate (PLC) Programme was completed on 1 April 2009 with the allocation of approved places to Vocational Education Committees (VECs) and other providers.

As part of the process, each application is examined by my Department on its merits, taking into account current and previous allocations, current and previous demand and uptake and the overall number of places available. Regard is also had in this context to ensuring appropriate provision on a geographic basis and the necessary critical mass for delivery of a quality education service. In addition, providers must demonstrate a labour market justification for the courses being proposed.

A priority for this Government is to support those who have lost their jobs through retraining and further education and I know in this context that individual VECs will be conscious of the need to adjust provision to meet these priorities. A decision with regard to the allocation of the additional 1,500 places will be made shortly and any allocations will be considered in light of the factors set out above.

### **Departmental Funding.**

40. **Deputy Arthur Morgan** asked the Minister for Education and Science his views on whether schools will be required to apply more pressure on parents to partake in fund-raising activities as a result of budget cutbacks. [19225/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** My Department provides funding to primary and post-primary schools by way of per capita grants, which affords schools considerable flexibility in the use of these resources to cater for the needs of their pupils.

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The standard rate of capitation grant at primary level increased by €21 in the October budget to €200 per pupil, backdated to 1 September, 2008. This represents an increase of 146% in the standard rate of capitation grant since 2000, when the rate was €81.26. The Budget 2009 improvements involved an increase of more than €21 per pupil; the ancillary services grant for primary schools was also improved by €3.50 to €155 per pupil.

Taken together, these increases mean that primary schools eligible for the full ancillary services grant will get €355 per pupil — or almost €25 extra — in this school year to cover their day to day running costs, with a primary school of 200 pupils in receipt of €5,000 more. In 2000, a primary school with 200 pupils was in receipt of less than €27,000 to meet its day to day running costs. That same school under these new rates will receive €71,000. This excludes the salary of teachers and Special Needs Assistants which are paid by my Department.

Enhanced rates of capitation funding are paid in respect of children with special educational needs who attend special schools or special classes attached to mainstream schools. The current rates range from €512 to €986 per pupil.

At second level, there have been significant improvements in recent years in the level of funding for voluntary secondary schools. With effect from January 2009, the standard per capita grant was increased by €14 per pupil and now amounts to €345 per pupil. In addition, voluntary secondary schools have benefited by the increase of €8 per pupil in 2009 in the support services grant bringing that grant to €212 per pupil.

The cumulative increase of €22 per pupil in a voluntary secondary school brings the aggregate grant to €557 per pupil. These grants are in addition to the per capita funding of up to €40,000 per school that is also provided by my Department to secondary schools towards secretarial and caretaking services. For example, in the case of a secondary school with 500 pupils, this brings annual grants towards general expenses and support service to over €318,500. The corresponding figure in 2000 was approximately €147,300.

My Department has provided an estimated €18.4 million per annum in equalisation funding to date.

Budget allocations for schools in the Community and Comprehensive school sector, along with those in the VEC sector, are increased on a pro rata basis that corresponds to increases in the per capita grant paid to voluntary secondary schools. All schools are eligible for recurrent per capita grants towards special classes and curricular support grants.

While many schools supplement their income by organising fund-raising activities among parents, it is important to acknowledge the increase in State funding that has been made available to schools, and which continues to be made available.

By any standards there have been very significant improvements within a relatively short period of time, and the Government is committed to further increasing funding for schools as resources permit. While increasing resources is important, we must also focus on measures to enhance the quality of education in our schools to ensure that increased resources lead to the best possible outcomes for our children.

We are committed to investing in education but we have to invest at a level that is consistent with what we can afford and what is sustainable at the moment given economic circumstances. I am confident that as the global economy improves it will be possible to build again on the significant achievements of recent years and do so in a manner consistent with overall prudent management of the Irish economy.

### **Community Employment Schemes.**

41. **Deputy Joe McHugh** asked the Tánaiste and Minister for Enterprise, Trade and Employment if she will explain the length of time criteria for a person who was made redundant on 31 December 2008 and who is willing to participate in a community employment scheme in June 2009; and if she will make a statement on the matter. [19473/09]

**Tánaiste and Minister for Enterprise, Trade and Employment (Deputy Mary Coughlan):** Community Employment (CE) is an active labour market programme designed to provide eligible long term unemployed people and other disadvantaged persons with an opportunity to engage in useful work within their communities on a fixed term basis. CE helps unemployed people to re-enter the active workforce by breaking their experience of unemployment through a return to a work routine and to assist them to enhance/develop both their technical and personal skills.

The criteria for participating on the Community Employment programme are based on age and length of time in receipt of various social welfare payments. In general, the Part-time Integration Option is for people of 25 or over who are receiving social welfare payments for 1 year or more, and people of 18 years or over in receipt of disability-related payments. The Part-time Job Option is for people who are 35 or over and in receipt of social welfare payments for 3 years or longer.

Certain groups such as travellers and refugees aged 18 or over are eligible for both options. If a person qualifies under the criteria but does not wish to take up the option themselves, there are certain conditions under which a spousal swap can take place. The maximum duration that individuals can remain on CE is dependent on the participant's eligibility status. Typically, participants can avail of periods of between 1 and 6 years.

To cater for older workers in particular, in November 2004 the standard 3 year CE cap was revised to allow those of 55 years of age and over to avail of a 6-year period on CE (based on participation since 3rd April 2000). Subsequently, the participation limit for persons eligible for CE based on a Social Welfare disability linked payment (including those under 55) was increased by 1 year. These measures were introduced in recognition of the fact that older participants and participants with a disability may find it more difficult to progress into the open labour market.

Further information on the Community Employment Programme is available from the FÁS website [www.FÁS.ie](http://www.FÁS.ie).

### **FÁS Training Programmes.**

42. **Deputy Joe Carey** asked the Tánaiste and Minister for Enterprise, Trade and Employment her views on allocating extra resources for training and re-training opportunities for those in employment but placed on short weeks or short time in order to preserve jobs; and if she will make a statement on the matter. [19468/09]

**Tánaiste and Minister for Enterprise, Trade and Employment (Deputy Mary Coughlan):** In the Supplementary Budget of 7 April last I announced a number of specific activation measures including a pilot scheme for short-term workers, which will provide training and income support to 277 workers considered to be in vulnerable employment. This will represent a significant new approach to supporting people in vulnerable employment. Under this training programme workers who are on short time working and signing on the Live Register for the days they are not working will receive 2 days training on those days with a view to enhancing their skill levels and employability.



[Deputy Mary Coughlan.]

Discussions are ongoing between my Department and other relevant Departments and it is expected that these discussions will be finalised in the near future when further details will be available concerning this scheme.

To further assist individuals through the provision of education and training opportunities in February 2009 I announced the availability of 51,000 new training places under the FÁS Training Initiatives Strategy. These places are in addition to the 27,000 previously planned for 2009 under the Bridging Foundation Training, Specific Skills Training and Traineeships Programmes. A further 13,848 places announced in the Supplementary Budget brings the total number of short course training places available to 92,000. Combined with the other available education and training interventions provided by FÁS this brings the total available places for the unemployed to 128,000 this year.

The 92,000 training places on short courses are available to the unemployed and people on short-time work and will be delivered through three core-training initiatives, Short Courses, Night Courses and Online Courses. The courses are for people who wish to add to their existing skills level and provide an excellent option for those who need a FÁS flexible intervention and who prefer a self directed e-learning and blended learning environment.

#### **State Agencies.**

43. **Deputy Finian McGrath** asked the Tánaiste and Minister for Enterprise, Trade and Employment if she will support a matter (details supplied). [19488/09]

**Tánaiste and Minister for Enterprise, Trade and Employment (Deputy Mary Coughlan):** Day to day decisions in relation to the funding of individual Skillnets networks are a matter for the Board of Skillnets.

#### **Departmental Expenditure.**

44. **Deputy Joan Burton** asked the Minister for Finance if he will provide, by number and value, the proportion of leases for office accommodation entered into by the Commissioners of Public Works for fixed rents, that are subject to rent review clauses, and that are subject to upwards only rent review clauses; if and when the Office of Public Works ceased to agree to upwards only rent review clauses; the position adopted by the OPW in current circumstances when negotiating rent reviews in general and upwards only reviews in particular; if upwards only clauses have been successfully re-negotiated; and if he will make a statement on the matter. [19406/09]

**Minister of State at the Department of Finance (Deputy Martin Mansergh):** Over the last twenty years, it has been standard practice in the property industry for almost all medium to long-term commercial leases to incorporate an upwards only rent review clause. The vast majority of leases entered into in that time by the Commissioners of Public Works complied with this commercial norm.

Currently, the Commissioners hold over 490 leases with an annual rent in excess of €10,000. Some 90% of these, with an annual rental bill of about €120m, are subject to periodic rent review.

Since the beginning of 2009, the policy of the Commissioners has been to avoid, where possible, upwards only review clauses in negotiations on all new medium to long-term leases and the renewal of existing leases. The Commissioners have also adopted a policy of seeking, where possible, reductions on existing rents that fall due for review in 2009.

To date, no rent reviews with a 2009 date have been concluded, although two lease renewals have been agreed this year, both at reduced rents.

### **Departmental Guidelines.**

45. **Deputy Ruairí Quinn** asked the Minister for Finance the date of the last update to the rules for tendering processes issued by his Department; if the rules allow for alterations to the process for scoring tenders while the tender is open; if there is an appeals process for tender decisions; if so, the location at which details of this may be found; and if he will make a statement on the matter. [19410/09]

**Minister for Finance (Deputy Brian Lenihan):** Rules and guidelines on public tendering are revised and updated periodically in line with developments in the public procurement regime. General guidance on award of contracts issued in 2004 and detailed guidance on particular aspects has been published on the national public procurement website [www.etenders.gov.ie](http://www.etenders.gov.ie).

Guidance Notes issued for (i) public works contracts in April 2007 and (ii) appointment of consultants for construction related services in December 2006 are published on a website dedicated to construction procurement [www.constructionprocurement.gov.ie](http://www.constructionprocurement.gov.ie).

The procurement guidelines provide that criteria for the award of contracts should be made known to tenderers in advance of tendering and that new or amended criteria may not be introduced in the course of the award procedure.

Tenderers must be informed of the result of a tendering procedure without delay. A contracting authority must allow an interval (currently 14 calendar days) between the date of informing unsuccessful tenderers of its award decision and the signing of a contract to give dissatisfied tenderers an opportunity to request a review of the decision if they consider that there are grounds for seeking such a review. These provisions are set out in the published regulations implementing EU Remedies Directives, are cited in the guidelines, are widely notified and are made available on the [etenders](http://www.etenders.gov.ie) website. The review body in Ireland is the High Court and the standard notice used when advertising contracts on the Official Journal of the EU has a provision for indicating this information to potential tenderers.

These formal review procedures apply in the case of contracts covered by EU Directives (including works contracts above approximately €5 million, supplies and service contracts above approximately €130,000 for central Government sector and €200,000 for most other sectors). The guidelines also promote a policy of voluntary debriefing of unsuccessful tenderers and contracting authorities are encouraged to engage with unsuccessful tenderers on the evaluation of their bids. In many cases, this can avoid the need for recourse to formal review procedures, encourage better bids in future and generate confidence in the integrity of the process.

### **State Agencies.**

46. **Deputy Ruairí Quinn** asked the Minister for Finance further to Parliamentary Question No. 337 of 22 April 2009, if his Department is the body ultimately responsible for deciding whether the staff at An Bord Altranais are affected by the moratorium on public sector recruitment; if not, the ministry which is; and if he will make a statement on the matter. [19463/09]

**Minister for Finance (Deputy Brian Lenihan):** A general moratorium on recruitment, promotion and acting appointments in the public service was introduced with effect from 27 March 2009. This moratorium includes all agencies under the aegis of all Government Departments and Offices, with the exception of commercial semi-state bodies.

[Deputy Brian Lenihan.]

Any exceptions to this principle in the Health area, which will arise in very limited circumstances only, will require the prior approval in each case of the Department of Health and Children (who will carry out a detailed assessment of the requirement) and the prior sanction of the Department of Finance. Accordingly, it would be a matter in the first instance for the Department of Health & Children to consider if any exceptions should be considered in the Health sector.

### Tax Collection.

47. **Deputy Joe McHugh** asked the Minister for Finance if he will enumerate the Exchequer benefits of inheritance tax from the period 2000 to 2008 in tabular form; and if he will make a statement on the matter. [19480/09]

**Minister for Finance (Deputy Brian Lenihan):** I am informed by the Revenue Commissioners that the information available in respect of the yield from inheritance tax is as follows:

Year	Inheritance Tax
	€m
2000	154.7
2001	121.5
2002	128.1
2003	130.7
2004	171.3
2005	196.7
2006	299.4
2007	314.5
2008	291.8

### Tax Code.

48. **Deputy Bernard J. Durkan** asked the Minister for Finance if a refund of income tax is due in the case of a person (details supplied) in County Kildare; and if he will make a statement on the matter. [19533/09]

**Minister for Finance (Deputy Brian Lenihan):** I have been advised by the Revenue Commissioners that they have no record of payment of income tax by the person concerned in recent years. If he wishes to pursue his claim, I would suggest that he submit the relevant details, with supporting documentation, to Geraldine Morrissey, Kildare Revenue, Athy Business Campus, Castlecomer Road, Athy, County Kildare.

### Departmental Staff.

49. **Deputy Noel Ahern** asked the Minister for Finance if he will clarify the position in relation to Civil Service staff who retired early on ill health grounds; the additional concessions or facilities available to such staff and particularly in the case of Revenue Commissioners staff; if they qualify for the equivalent of the free schemes, fuel allowance and so on which would be available to those on an equivalent invalidity social welfare pension if they were in the social welfare net; and if he will make a statement on the matter. [19548/09]

**Minister for Finance (Deputy Brian Lenihan):** When a civil servant with at least five years' actual reckonable service retires on grounds of permanent ill-health, there is immediate pay-

ment of pension and lump sum. The retirement benefits may be supplemented by the award of added years, at the discretion of the Minister for Finance, the amount of which depends on the member's age and actual service. In respect of the Spouse's and Children's pension scheme, benefits are based upon the pension which would have been payable if the member had served to maximum retiring age, subject to a 40-year limit and provided that the appropriate contributions have been made. The terms of ill health retirement are set out in the Superannuation Handbooks which are available at [www.cspensions.gov.ie](http://www.cspensions.gov.ie).

Qualification for schemes operated by the Department of Social & Family Affairs is a matter for the Minister of that Department.

### Tax Code.

50. **Deputy Róisín Shortall** asked the Minister for Finance if it is correct that a person (details supplied) should be paying the income levy on income received from an Irish institution. [19572/09]

**Minister for Finance (Deputy Brian Lenihan):** I am advised by the Revenue Commissioners that the person in these particular circumstances is not liable to pay the income levy. The pension provider should refund the income levy deducted since 1 January 2009.

### Departmental Staff.

51. **Deputy Jim O'Keeffe** asked the Minister for Finance the filling of posts by Department which he has been asked to sanction and those which he has sanctioned since the introduction of the embargo on the recruitment of public servants; and if he will make a statement on the matter. [19582/09]

**Minister for Finance (Deputy Brian Lenihan):** On 27 March 2009, I announced a moratorium on recruitment and promotion in the public service (with certain exceptions in the health and education sectors). Since then my Department has received 221 applications for the filling of posts comprehended by the moratorium. To date, I have sanctioned 55 (36 are for staff in the offices of recently appointed Ministers of State). The details are set out in the following table.

Department/Office	Applications	Sanction Conveyed
Agriculture, Fisheries & Food	73	13
Arts, Sports & Tourism	1	1
Office of the Attorney General	3	3
Communications, Energy & Natural Resources	2	0
Community, Rural & Gaeltacht Affairs	10	10
Education & Science	25	0
Enterprise, Trade & Employment	26	7
Environment, Heritage & Local Government	33	0
Health & Children	12	12
Justice, Equality & Law Reform	14	0
Office of Public Works	6	4
Social & Family Affairs	6	1
Taoiseach	4	4
Transport	6	0
Total	221	55

[Deputy Brian Lenihan.]

I am also allowing the recruitment of some seasonal summer staff (e.g. life guards, guides at heritage sites, cover for term time absences and analogous cases).

### **Services for People with Disabilities.**

52. **Deputy David Stanton** asked the Minister for Health and Children if she will provide assistance to enable a child (details supplied) in County Cork to avail of personal assistance in order to attend preschool; and if she will make a statement on the matter. [19471/09]

**Minister of State at the Department of Health and Children (Deputy John Moloney):** As the Deputy's question relates to service matters I have arranged for the question to be referred to the Health Service Executive for direct reply.

### **Health Services.**

53. **Deputy Bernard J. Durkan** asked the Minister for Health and Children her proposals to meet the speech and language requirements in all schools here in 2009 without exception; and if she will make a statement on the matter. [19506/09]

**Minister of State at the Department of Health and Children (Deputy John Moloney):** The Government emphasised its commitment to people with disabilities by allocating an additional €20 million in budget 2009 for health and education services for children with special educational needs. €10 million of this allocation will be to the Health Service Executive (HSE), and €10 million to the Department of Education and Science, to enable the services provided to children with special educational needs to be enhanced and strengthened.

The additional €10 million allocated to the Health Service Executive will provide for 125 additional therapy posts in the disability and mental health services, targeted at children of school-going age. Of this, an additional 90 posts will be provided in the disability services area, to include Speech and Language therapists, Occupational therapists, Physiotherapists and Psychologists for children's disability services. There will be 35 additional posts for the Child and Adolescent mental health services, including Clinical Psychologists, Occupational Therapists, Speech and Language therapists and Social Workers for new and existing multi-disciplinary teams.

As the Deputy's question relates to service matters I have arranged for the question to be referred to the Health Service Executive for direct reply.

### **Medical Cards.**

54. **Deputy Thomas Byrne** asked the Minister for Health and Children the status of a medical card application by a person (details supplied) in County Meath. [19396/09]

**Minister for Health and Children (Deputy Mary Harney):** As this is a service matter it has been referred to the Health Service Executive for direct reply to the Deputy.

### **Hospital Waiting Lists.**

55. **Deputy Charles Flanagan** asked the Minister for Health and Children when a person (details supplied) in County Offaly will be called to Beaumont Hospital, Dublin, in respect of brain surgery; and if she will make a statement on the matter. [19411/09]

**Minister for Health and Children (Deputy Mary Harney):** As this is a service matter it has been referred to the Health Service Executive for direct reply.

### Community Care.

56. **Deputy Michael McGrath** asked the Minister for Health and Children if there are potential funding sources within her Department for a proposed community facilities project (details supplied) in County Cork. [19414/09]

**Minister of State at the Department of the Health and Children (Deputy Áine Brady):** The question of funding the facilities in question is a matter for the Health Service Executive, in accordance with the overall priorities for particular services as set out in its Service Plan. The Department has therefore requested the Parliamentary Affairs Division of the Executive to arrange to have the matter investigated and to have a reply issued directly to the Deputy.

### Health Services.

57. **Deputy Finian McGrath** asked the Minister for Health and Children if she will support a person (details supplied). [19426/09]

**Minister of State at the Department of Health and Children (Deputy John Moloney):** As the Deputy's question relates to service matters I have arranged for the question to be referred to the Health Service Executive for direct reply.

### Medical Cards.

58. **Deputy Edward O'Keeffe** asked the Minister for Health and Children if she will ascertain the position regarding a medical card application which was submitted three months ago in respect of a person (details supplied) in County Cork. [19432/09]

**Minister for Health and Children (Deputy Mary Harney):** As this is a service matter it has been referred to the Health Service Executive for direct reply to the Deputy.

### Hospital Waiting Lists.

59. **Deputy John McGuinness** asked the Minister for Health and Children if an early appointment for an assessment and knee operation will be arranged in the case of a person (details supplied) in County Kilkenny. [19439/09]

**Minister for Health and Children (Deputy Mary Harney):** The management of out-patient waiting lists is a matter for the HSE and the individual hospitals concerned. I have, therefore, referred the Deputy's question to the Executive for direct reply

60. **Deputy John McGuinness** asked the Minister for Health and Children if an assessment and operation will be provided for a person (details supplied) in County Kilkenny; and if she will expedite a response. [19440/09]

**Minister for Health and Children (Deputy Mary Harney):** The management of out-patient waiting lists is a matter for the HSE and the individual hospitals concerned. I have, therefore, referred the Deputy's question to the Executive for direct reply.

### Hospital Services.

61. **Deputy John McGuinness** asked the Minister for Health and Children if a public long stay bed will be provided for a person (details supplied) in County Kilkenny; and if she will expedite a response. [19441/09]

**Minister of State at the Department of the Health and Children (Deputy Áine Brady):** As this is a service matter it has been referred to the Health Service Executive for direct reply.

#### **Care of the Elderly.**

62. **Deputy John McGuinness** asked the Minister for Health and Children if the Health Service Executive will consider the lease or purchase of a nursing home (details supplied) in County Kilkenny for the provision of long stay public beds in respect of the care of the elderly in view of the demand in the county and neighbouring counties; if the facility which is available as a turn key project will be examined to determine the use the HSE might have for such a state of the art centre of care; if she will investigate the proposals; and if she will make a statement on the matter. [19442/09]

**Minister of State at the Department of the Health and Children (Deputy Áine Brady):** As this is a service matter it has been referred to the Health Service Executive for direct reply.

#### **Health Services.**

63. **Deputy John McGuinness** asked the Minister for Health and Children if home help will be provided in the case of a person (details supplied) in County Kilkenny; and is she will expedite an outcome to the application. [19443/09]

**Minister of State at the Department of the Health and Children (Deputy Áine Brady):** As this is a service matter it has been referred to the Health Service Executive for direct reply.

64. **Deputy Phil Hogan** asked the Minister for Health and Children if she will intervene to support the provision of additional funding for an organisation (details supplied) in County Kilkenny; and if she will make a statement on the matter. [19453/09]

**Minister of State at the Department of Health and Children (Deputy John Moloney):** The Department of Health and Children does not fund organisations working in the disability sector directly. Under the Health Act 2004, the Health Service Executive has responsibility for the management and delivery of health and personal social services. As the Deputy's question relates to service matters I have arranged for the question to be referred to the Health Service Executive for direct reply.

#### **Child Care Services.**

65. **Deputy Michael McGrath** asked the Minister for Health and Children her views on the involvement of Montessori schools in the early childhood care and education scheme (details supplied). [19457/09]

**Minister of State at the Department of Health and Children (Deputy Barry Andrews):** As the Deputy will be aware, I have responsibility for the implementation of the new scheme to provide a free Pre-School year of Early Childhood Care and Education (ECCE) which was announced recently by the Minister for Finance.

The scheme, which is being introduced from January 2010, will be open to almost 5,000 private and voluntary pre-school services, including montessori schools. The scheme will allow children to avail of a free play-school place in their pre-school year, which will be provided for three hours per day, five days per week for 38 weeks. It will also allow children in their pre-school year who are attending full day or part-time day care services to avail of a free session of two hours and 15 minutes per day, five days per week for 50 weeks.

Participating services will receive capitation of €64.50 per week where children attend for 38 weeks, and €48.50 where they attend for 50 weeks of the year. Services will receive payments at the start of each term. Where the child is attending full-day or part-time child care, the service will be required to reduce the child care fees by the amount of the capitation. A participating service may also operate a pre-school service which is not within the scheme.

Services which choose to participate in the scheme must do so on the basis that the pre-school provision is available without charge. It is, however, open to services to charge parents for additional services which they provide, including additional hours and additional activities or services, provided these are offered on an optional basis to parents and provided appropriate programme based activities are provided to children not participating in an additional activity.

To ensure that a satisfactory standard of pre-school provision is delivered, a minimum enrolment of eight children is envisaged. Exceptions will be considered where, for good reason and subject to compliance with all other contractual requirements governing the scheme, a service has an enrolment of at least five children in their pre-school year or there is a minimum enrolment of eight children of which at least three are in their pre-school year and the remainder would be eligible in the following year.

### **Housing Aid for the Elderly.**

66. **Deputy Tom Hayes** asked the Minister for Health and Children the reason capital assistance scheme funding administered by the Health Service Executive has been cancelled; when funding for an organisation (details supplied) in respect of a further 20 accommodation units under this fund will be granted, having previously been approved; the number of other projects cancelled under this scheme; if the fact that legal contracts were made, and commitments to those wishing to move into the units were made will be taken into account; and if she will make a statement on the matter. [19460/09]

**Minister of State at the Department of Health and Children (Deputy John Moloney):** From the details supplied by the Deputy it appears that the Deputy is referring to the Capital Assistance Scheme (CAS) Funding which is provided by the Department of the Environment Heritage and Local Government and drawn down through the local authorities. Accordingly, this scheme does not fall under this Department's or the Health Service Executive's remit.

### **Health Service Staff.**

67. **Deputy Ruairí Quinn** asked the Minister for Health and Children further to Parliamentary Question No. 337 of 22 April 2009, if her Department is the body ultimately responsible for deciding whether the staff at An Bord Altranais are affected by the moratorium on public sector recruitment; if not, the Ministry which is; and if she will make a statement on the matter. [19462/09]

**Minister for Health and Children (Deputy Mary Harney):** In order to implement savings measures on public service numbers, the Government has decided that, with effect from 27 March 2009 to end 2010, no post in the public sector, however arising, may be filled by recruitment, promotion, or payment of an allowance for the performance of duties at a higher grade. The decision also applies to temporary appointments on a fixed-term basis and to the renewal of such contracts. Therefore when vacancies arise, each agency must reallocate or reorganise work or staff accordingly. In the case of the health sector, any exceptions to this principle, which will arise in very limited circumstances only, require the prior sanction of both the Minister for Health and Children and the Minister for Finance.



### Hospital Staff.

68. **Deputy Joe Carey** asked the Minister for Health and Children when the appointment of two cystic fibrosis nurse specialists will be made for the mid-west at Limerick Regional Hospital; and if she will make a statement on the matter. [19469/09]

69. **Deputy Joe Carey** asked the Minister for Health and Children when the appointment of a specialist cystic fibrosis adult physiotherapist will be made for the mid-west at Limerick Regional Hospital; and if she will make a statement on the matter. [19470/09]

**Minister for Health and Children (Deputy Mary Harney):** In order to implement savings measures on public service numbers, the Government has decided that, with effect from 27 March 2009 to end 2010, no post in the public sector, however arising, may be filled by recruitment, promotion, or the payment of an allowance for the performance of duties at a higher grade. The decision also applies to temporary appointments on a fixed-term basis and to the renewal of such contracts.

Arrangements have been put in place for the health sector that aim to ensure that key services are maintained insofar as possible and there will be flexibility in relation to the filling of key frontline posts for the following grades; Hospital Consultants, Speech and Language Therapist, Occupational Therapist, Physiotherapist, Clinical Psychologist, Behavioural Therapist, Counsellor, Social workers and Emergency Medical Technicians to allow for the continued development of integrated health care, particularly primary and community care, care of the elderly and people with disabilities.

The way in which the Government decision will be applied is a matter for the Health Service Executive. My Department has asked the HSE to reply to the Deputies in relation to the specific issues raised.

### Nursing Home Charges.

70. **Deputy James Reilly** asked the Minister for Health and Children the legal position and her policy on demands by care institutions in the State that residents or clients hand over their social welfare books or pension books to these institutions; and if she will make a statement on the matter. [19483/09]

**Minister for Health and Children (Deputy Mary Harney):** The Health (Amendment) Act 2005 provides the legislative basis for the imposition of charges on residents of Health Service Executive long stay care. When residents are admitted to Health Service Executive long stay care, the resident and/or their family are informed that a charge will apply and they are advised of the different payment methods that are available to assist in paying the charge. The payment options include:

(a) Payment can be made on foot of an invoice issued to the resident or their personal representative.

or

(b) The resident's pension/social welfare entitlement may be submitted to the care unit, where the resident or their family arranges with the Department of Social & Family Affairs for the Health Service Executive to become the agent of the pension/social welfare entitlement. The Health Service Executive then makes deductions from the pension/social welfare entitlement for long stay charges with the remaining balance

either lodged to the resident's own private property account or returned to them in cash, depending on the wishes of the resident/personal representatives.

Residents of the Health Service Executive care units are not obliged to hand over their social welfare or pension books to the institution. It is at the discretion of the resident and/or their personal representative to choose which payment method is the preferred option.

### **Services for People with Disabilities.**

71. **Deputy James Reilly** asked the Minister for Health and Children if her attention has been drawn to demands for large increases in charges for disability services in a reported case (details supplied) of up to 85%; and if she will make a statement on the matter. [19484/09]

**Minister of State at the Department of Health and Children (Deputy John Moloney):** As the Deputy's question relates to service matters I have arranged for the question to be referred to the Health Service Executive for direct reply.

### **Ambulance Service.**

72. **Deputy Joanna Tuffy** asked the Minister for Health and Children the level of funding provided, in each of the past five years, for the air ambulance service operating out of Bantry General Hospital in County Cork; if there are plans to further develop this service; and if she will make a statement on the matter. [19489/09]

**Minister for Health and Children (Deputy Mary Harney):** An air ambulance service is currently provided by the Air Corps on the basis of a Service Level Agreement prepared by the Departments of Defence and Health and Children, in consultation with the Health Service Executive, the Defence Forces and the Air Corps; all of which are signatories to it. This arrangement has operated successfully for a number of years.

The air ambulance service is provided by the Air Corps for the following categories:

- Inter-hospital transfer of patients with spinal or other serious injury or illness,
- Neonates requiring immediate medical intervention in Ireland,
- Patients requiring specialised emergency treatment in the UK,
- Organ retrieval teams within Ireland, and
- Paediatric patients requiring immediate medical intervention in Ireland.

In addition, the Irish Coast Guard provides Air Ambulance inter-hospital transfers as part of its mission tasking and also provides for emergency medical evacuation from the islands around Ireland. In situations where the Coast Guard service is not available, the Air Corps will transport patients from offshore islands to mainland hospitals. The particular issue raised by the Deputy is a service matter and has been referred to the HSE for direct reply.

### **Health Service Staff.**

73. **Deputy Tom Hayes** asked the Minister for Health and Children the reason the moratorium on recruitment in the health service is affecting the newly qualified pharmacists taking up their essential pre-registration trainee placements; the number of trainees affected by this measure; the way they will get future employment without this key year; and her plans to have suitable pharmacists work in hospitals here without allowing this year in the future. [19491/09]

**Minister for Health and Children (Deputy Mary Harney):** Notwithstanding the Government decision to introduce a moratorium on recruitment across the public service, certain posts in the health sector may be filled, through the application of exemptions in the employment control framework for front line posts. In this regard, provision has been made within the employment control framework for the continuation of the normal arrangements in relation to the filling of clinical placements, rotations and training positions for health care professionals, including trainee pharmacists.

Pharmacy graduates are obliged to complete one year's post-qualification training before they are eligible to become registered pharmacists. This is to fulfil the EU obligation that pharmacy education is of a minimum of 5 years duration. Furthermore, at least 6 months of the pre-registration training must be in a clinical sitting, either in a community or hospital pharmacy. This course of pre-registration study, supervised work experience and examination is organised by the Pharmaceutical Society of Ireland (PSI).

In the past number of years there have been 28 pre-registration pharmacist practical placements available in the public hospital sector. However, the PSI is aware that pharmacy students who are expecting to graduate this year have been experiencing difficulties in securing placements in a number of these hospitals. The PSI has informed me that it is preparing a contingency plan in the event that there is a shortfall in the number of placements available this year and I welcome the initiative of the PSI in this regard.

The PSI has been in discussions with the HSE concerning the number of placements available in the hospital sector and to ascertain whether there is an opportunity to increase the throughput of students in this area. The PSI's contingency plan endeavours to ensure that all of the students are enabled to acquire a 'qualification appropriate for practice' and thereby to obtain registration as pharmacists and practice their profession. For example, to date, the majority of pre-registration pharmacy students have tended to undertake 12 months of pre-registration training in one establishment e.g. a community or hospital pharmacy. However, it is possible for students to undertake two 6 months placements, one of which must be in a community or hospital pharmacy and the second 6 months in another establishment relevant to the practise of pharmacy e.g. in the pharmaceutical industry, academia, etc.

The PSI's contingency plan requires the full support of the HSE, community pharmacies and the pharmaceutical industry, as well as tutor pharmacists across all sectors of practice, either in the community, hospital, industry, academic and regulatory sectors, if it is to succeed. I would urge all concerned to support the PSI in this initiative.

### **Medical Cards.**

74. **Deputy Bernard J. Durkan** asked the Minister for Health and Children when a medical card will issue in the case of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [19543/09]

**Minister for Health and Children (Deputy Mary Harney):** As this is a service matter it has been referred to the Health Service Executive for direct reply to the Deputy.

75. **Deputy Bernard J. Durkan** asked the Minister for Health and Children when a medical card will issue in the case of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [19544/09]

**Minister for Health and Children (Deputy Mary Harney):** As this is a service matter it has been referred to the Health Service Executive for direct reply to the Deputy.

**Health Services.**

76. **Deputy Bernard J. Durkan** asked the Minister for Health and Children when assistance will be offered to a person (details supplied) in County Kildare; and if she will make a statement on the matter. [19545/09]

**Minister for Health and Children (Deputy Mary Harney):** As this is a service matter it has been referred to the HSE for direct reply.

**Medical Cards.**

77. **Deputy Bernard J. Durkan** asked the Minister for Health and Children when a medical card application will be reviewed in the case of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [19546/09]

**Minister for Health and Children (Deputy Mary Harney):** As this is a service matter it has been referred to the Health Service Executive for direct reply to the Deputy.

78. **Deputy Bernard J. Durkan** asked the Minister for Health and Children the position in relation to an application for a medical card in the case of a person (details supplied) in County Waterford; and if she will make a statement on the matter. [19547/09]

**Minister for Health and Children (Deputy Mary Harney):** As this is a service matter it has been referred to the Health Service Executive for direct reply to the Deputy.

79. **Deputy Róisín Shortall** asked the Minister for Health and Children if she has an estimate of the percentage of over 70 year olds who hold a full medical card; and if she will make a statement on the matter. [19567/09]

**Minister for Health and Children (Deputy Mary Harney):** The HSE's medical card database shows that on the 1st April 2009 there were 334,151 medical card holders aged 70 and over.

80. **Deputy Róisín Shortall** asked the Minister for Health and Children her estimate of the cost to the Exchequer if the criteria for the means-testing of over seventy year olds was based on net income rather than gross. [19568/09]

**Minister for Health and Children (Deputy Mary Harney):** Under the new arrangements effected by the Health Act 2008, a much simplified system of assessment for eligibility was introduced in respect of persons aged 70 or over, based on the significantly higher gross income thresholds rather than the standard net income limits. The gross income thresholds are €700 per week for a single person and €1,400 for a couple, as against net income limits of €201.50 for a single person and €298 for a couple. Under the net income assessment system, allowance may be made for rent/mortgage, travel to work and childcare costs. Persons who do not qualify under the new gross thresholds can apply to the Health Service Executive (HSE) for a medical card or GP visit card under the existing net income thresholds. They can also apply for a medical card / GP visit card on hardship grounds.

My Department or the HSE do not hold data which would allow for the calculation of the affect on the numbers who would qualify for a medical card (and hence the cost) if the current method of assessing means for persons aged 70 and over was changed from gross to net.

**Health Services.**

81. **Deputy Frank Feighan** asked the Minister for Health and Children if, in relation to a

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person (details supplied) in County Roscommon, she will investigate the possibility of placement for them in order that they can receive the appropriate treatment which they require. [19580/09]

**Minister of State at the Department of Health and Children (Deputy John Moloney):** I have no function in relation to the management of St. Patrick's Hospital, James's Street, Dublin; it is an independent voluntary organisation. I have however asked the HSE to investigate the issue and reply directly to the Deputy.

#### **Road Traffic Offences.**

82. **Deputy Paul Kehoe** asked the Minister for Transport if a person (details supplied) can apply for the full licence; and if he will make a statement on the matter. [19456/09]

**Minister for Transport (Deputy Noel Dempsey):** Under the Road Safety Authority Act 2006 (Conferral of Functions) Order 2006 (S.I. No. 477 of 2006) this is a matter for the Road Safety Authority.

#### **Bus Services.**

83. **Deputy Joan Burton** asked the Minister for Transport if he will clarify the position in relation to the continued use of the Dublin Port tunnel by the 41X service run by Dublin Bus; if he will withdraw permission for this service to use the tunnel; and if he will make a statement on the matter. [19452/09]

**Minister for Transport (Deputy Noel Dempsey):** As part of the settlement of High Court proceedings brought by the operators of the Swords Express bus service, my Department undertook to carry out an investigation under Section 25(2) of the Transport Act 1958 in relation to the decision to note the re-routing through the Port Tunnel of the 41X service operated by Dublin Bus.

That investigation has been completed and copies were sent to both Swords Express and Dublin Bus who were invited to make submissions as to whether the Minister should grant consent under section 25(1) of the Transport Act 1958 Act to Dublin Bus to continue to operate the 41X service on its current route. Both parties have made submissions, which are currently being considered by my Department.

#### **Harbours and Piers.**

84. **Deputy Joanna Tuffy** asked the Minister for Transport if he has provided funding for the development of Baltimore Harbour in County Cork; the level of funding provided; when he expects work to commence on this development; and if he will make a statement on the matter. [19490/09]

**Minister for Transport (Deputy Noel Dempsey):** €1,335,000 has been allocated to Baltimore and Skibbereen Harbour Commissioners for remedial works at Baltimore Harbour in 2009. Design and preparation of regulatory permission documentation has commenced and work will commence when all these procedures are complete.

#### **Road Network.**

85. **Deputy Thomas P. Broughan** asked the Minister for Transport if he is reviewing proposals from the National Roads Authority for a bypass of Slane, County Meath; his views on

the proposals of a group (details supplied); and if he will make a statement on the matter. [19493/09]

**Minister for Transport (Deputy Noel Dempsey):** As Minister for Transport, I have responsibility for overall policy and funding in relation to the national roads programme element of Transport 21. The construction, improvement and maintenance of individual national roads is a matter for the National Roads Authority under the Roads Act 1993 in conjunction with the local authorities concerned.

#### **Departmental Responsibilities.**

86. **Deputy Fergus O'Dowd** asked the Minister for Transport the person who has responsibility for the functions formerly carried out by the National Safety Council and not taken over by the Road Safety Authority; and if he will make a statement on the matter. [19495/09]

**Minister for Transport (Deputy Noel Dempsey):** The only function of the National Safety Council not taken over by the Road Safety Authority in 2006 was Fire Safety which was transferred to the Department of Environment, Heritage and Local Government.

87. **Deputy Fergus O'Dowd** asked the Minister for Transport the responsibilities his Department has for accident prevention, such as personal accidents in public places and so on, that are not covered by the Road Safety Authority or the Health and Safety Authority; and if he will make a statement on the matter. [19557/09]

**Minister for Transport (Deputy Noel Dempsey):** Accident prevention in the maritime sector is promoted via a safety programme involving an appropriate combination of statutory regulation and enforcement. My Department also has a proactive role in raising awareness on maritime safety. Each year a safety awareness programme is undertaken in conjunction with other State bodies, the aim of which is to achieve the highest level of safety at sea and on inland waters.

Safety standards, which include health and safety at an operational level on board vessels, are enacted under Irish and international law for all vessels trading into and out of Irish ports. Vessels are required to carry appropriate certification to demonstrate compliance with, for example, the International Maritime Organisation's Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) and the International Labour Organisation's Prevention of Accidents (Seafarers) Convention.

A suite of regulations has also been implemented in relation to all categories of fishing vessels. In addition my Department recently published a revised edition of the Code of Practice for The Safe Operation of Recreational Craft. This sets out best practice for various types of recreational craft including vessel standards, equipment, safety operations, emergency procedures and current legislative requirements.

The Marine Survey Office of my Department, together with other relevant bodies, conduct regular inspections of all seagoing vessels, under the relevant inspection regimes, to ensure compliance with the conventions and regulations.

Where accidents do occur, and subsequent incident investigations result in recommendations to avoid similar marine casualties in the future by addressing any shortcomings in either the statutory basis or in relation to enforcement arrangements, such recommendations make a significant contribution to ongoing development of the maritime safety agenda.

The Air Accident Investigation Unit (AAIU) of the Department of Transport is responsible under Annex 13 to the Convention on International Civil Aviation (Aircraft Accident and

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Incident Investigation), EU Council Directive 94/56/EC (21 November 1994, and Statutory Instruments S.I. No 205 of 1997, Air Navigation (Notification and Investigation of Accidents and Incidents) Regulation, 1997, for the investigation of all aviation accidents and incidents that occur in the State and to provide technical and operational assistance to foreign States that conduct investigations into Irish Register aircraft aboard. The sole purpose of these investigations is to prevent aviation accidents and incidents. It is not the purpose of any such accident investigation and the associated investigation report to apportion blame or liability.

### **Young Offenders.**

88. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform if he, directly or in conjunction with other Departments, examined the need for the provision of accommodation for young offenders with a view to breaking the sequence of crime in which they have become involved; and if he will make a statement on the matter. [19504/09]

**Minister of State at the Department of Justice, Equality and Law Reform (Deputy Barry Andrews):** The Irish Youth Justice Service is responsible for the provision of accommodation for young offenders detained by the courts in the 4 Children Detention Schools and I am satisfied that there is adequate provision to meet the demands of the courts in this regard.

The National Youth Justice Strategy (2008-2010) was published in March 2008 and sets out a range of agreed objectives across a number of government departments and agencies. A copy of the Strategy is available on the Irish Youth Justice Service website [www.iyjs.ie](http://www.iyjs.ie). The Strategy aims to provide a partnership approach among agencies dealing with young offenders and has seen the continued development of a system focused on reducing offending and improving outcomes for both young people and communities. Based on the recent reforms in the youth justice area and the provisions of the Children Act 2001 (as amended), the Strategy aims to reduce offending behaviour by diverting young people away from the criminal justice system, promoting the use of community sanctions and ensuring that there is a safe and secure environment for those young people who have been ordered to be detained by the Courts. Where children are detained, the aim is to assist their early reintegration and to link in with appropriate services in the community on their release.

Arising from a Government decision in March 2008, new national children detention facilities are scheduled to be developed at Oberstown, Co. Dublin to provide sufficient detention places for all children under the age of 18 years ordered to be detained by the Courts and to facilitate the delivery of individualised programmes to prepare children to make a positive, productive and law abiding contribution to society. The development will increase the accommodation capacity in the children detention schools from 77 to 167 places and will include places for 16 and 17 year old boys currently detained in St. Patrick's Institution.

This project is currently at the design stage and it is expected that the tendering process for the construction phase should take place in 2010. The Deputy will be aware, however, that tendering for the construction of the new facilities will be subject to Government approval and to the necessary funding being made available.

### **Sexual Offences.**

89. **Deputy Charles Flanagan** asked the Minister for Justice, Equality and Law Reform if he will confirm the entry on the sex offenders register of the name of a convicted person (details supplied); the date the entry in the register was first made; and if he will make a statement on the matter. [19412/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** The Sex Offenders Act, 2001 contains a comprehensive series of provisions aimed at protecting children and other persons against sexual abuse and attack. The Act makes persons convicted of a range of sexual offences subject to notification requirements under Part 2 of the Act. The provisions of the Act also extend to any sex offenders who enter the State.

An Garda Síochána has a system in place for the monitoring of persons subject to these requirements. The Domestic Violence and Sexual Assault Investigation Unit monitors and manages the notification provisions. The Unit maintains all information relating to persons who have obligations under the Act. There is a nominated Garda Inspector in each Garda Division who has responsibility for the monitoring of persons subject to the requirements of the Act in their Division. As soon as the Domestic Violence and Assault Investigation Unit is advised by a relevant authority, such as the Irish Prison Service, the Courts Service or a foreign law enforcement agency, of the impending release or movement of sex offenders into their area this information is immediately passed to the nominated Inspectors, who are advised of information relevant to their Division. Should they arise, child protection issues are raised with the health authorities, as set out in the Children First guidelines.

Section 10 of the Sex Offenders Act, 2001 requires offenders to notify the Garda Síochána of their name and home address within seven days of becoming subject to the notification requirement. Notification is made at any Garda Divisional or District headquarters and may be done so in person or by post. Thereafter offenders must, within seven days of the event, notify the Gardaí of any subsequent changes to their name or address. Offenders who leave the State for an intended continuous period of seven days or more must inform the Gardaí in advance of their leaving.

I am informed by the Garda authorities that they do not provide information on individual cases, nor is information provided that might lead to the identification of individuals.

#### **Traveller Community.**

90. **Deputy Michael McGrath** asked the Minister for Justice, Equality and Law Reform if there are potential funding sources within his Department for a proposed community project (details supplied) in County Cork. [19449/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** I can inform the Deputy that there is no funding source within my Department for the proposed community project as allocations have already been made for 2009 and there are no plans to consider new applications. The Deputy might also wish to note that my Department's funding allocations for 2009 Traveller Interagency projects have also been decided. The relevant funds are allocated through the Traveller Interagency Groups, which can be contacted through the Community and Enterprise Section of each Local Authority.

#### **Garda Investigations.**

91. **Deputy Finian McGrath** asked the Minister for Justice, Equality and Law Reform if he will support the case of a person (details supplied) in Dublin 9. [19451/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** I am informed by the Garda authorities that the incident referred to by the Deputy was not reported at the time it occurred but later the same day to Clontarf Garda Station, where the incident is currently under investigation. Statements have been taken from parties involved in the incident, and an investigation file is being prepared for submission to the Law Officers for direction on possible



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criminal proceedings. I am further informed that the person referred to by the Deputy will be informed by An Garda Síochána of the outcome of the investigation.

### **Garda Deployment.**

92. **Deputy Thomas P. Broughan** asked the Minister for Justice, Equality and Law Reform the number of gardaí attached to Coolock Garda station; if a Garda clinic is operating at Clongriffin town square; the regularity with which policing of Clongriffin, Belmayne and Bunnell in the north fringe area of Dublin is being carried out; and if he will make a statement on the matter. [19464/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** The personnel strengths of Coolock Garda Station and Coolock Garda Division, at the latest date for which figures are readily available, were 122 and 252 respectively.

I am informed by the Garda Commissioner that Senior Garda management in the Dublin Metropolitan Region, North Division, are satisfied that a full and comprehensive policing service is being delivered to the Clongriffin and surrounding areas. There is a dedicated Community Policing Unit, comprising four members, allocated specifically to the area. These members patrol on foot and mountain bike, supplemented by other patrols by uniform and plain-clothes personnel, including the District Detective and Drug Units, the Divisional Crime Task Force and Traffic Corps personnel.

At present there is no Garda Clinic operating at Clongriffin Town Square. Responsibility for the allocation of Garda personnel in the DMR North rests with the local Divisional officer. Resource levels are constantly monitored, in conjunction with crime trends and other demands made on An Garda Síochána.

### **Gender Equality.**

93. **Deputy Tom Hayes** asked the Minister for Justice, Equality and Law Reform if he will provide a breakdown of the €4.982 million under the Revised Estimates for gender mainstreaming and positive action; the allocation for the implementation of the national women's strategy and for the equality for women's measure, EWM; the amount and when it will be allocated with the EWM for the four strands that were announced, access to employment, development of female entrepreneurship, career development for women in employment and fostering women as decision makers; and when there will be a public announcement on funding to all those who applied by July 2008, in view of the fact that this is making the work done by many groups uncertain until further clarification. [19492/09]

**Minister of State at the Department of Justice, Equality and Law Reform (Deputy John Moloney):** The first strand of the Equality for Women Measure (Access to Employment) was launched in Summer 2008 and it attracted a high level of interest, with over 150 applications being received. All the project proposals have been appraised but the extremely difficult Exchequer position has made it difficult to commit funding, and the matter continues to be kept under review. My Department is now in the process of completing its review and the decisions taken on the outcome will be made known in the near future.

### **Citizenship Applications.**

94. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the current or expected position in relation to an application for citizenship in the case of a person (details supplied) in Dublin 7; and if he will make a statement on the matter. [19520/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** Officials in the Citizenship Division of my Department inform me that there is no record of an application for a certificate of naturalisation from the person referred to in the Deputy's Question.

### **Asylum Applications.**

95. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in regard to residency and family reunification in the case of a person (details supplied) in County Louth; and if he will make a statement on the matter. [19521/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** The person concerned applied for asylum on 15 January 2004. Her application was refused following consideration of her case by the Office of the Refugee Applications Commissioner and, on appeal, the Refugee Appeals Tribunal.

Subsequently, in accordance with Section 3 of the Immigration Act, 1999 (as amended), the person concerned was informed, by letter dated 30 September 2005, that the Minister proposed to make a Deportation Order in respect of her. She was given the options, to be exercised within 15 working days, of leaving the State voluntarily, of consenting to the making of a Deportation Order or of making representations to the Minister setting out the reasons why she should be allowed to remain temporarily in the State. Representations were submitted on behalf of the person concerned at that time.

The person concerned was subsequently notified of her entitlement to apply for Subsidiary Protection in the State in accordance with the European Communities (Eligibility for Protection) Regulations 2006 (S.I. No. 518 of 2006). The person concerned has submitted an application for Subsidiary Protection in the State in accordance with these Regulations and this application is under consideration at present. When consideration of this application has been completed, the person concerned will be notified in writing of the outcome. In the event that the Subsidiary Protection application is refused, the case file of the person concerned, including all representations submitted, will then be considered under Section 3(6) of the Immigration Act, 1999 (as amended) and Section 5 of the Refugee Act, 1996 (as amended) on the prohibition of refoulement. When this latter consideration has been completed, the case file of the person concerned is passed to me for decision.

I am advised that the application for family reunification which related to the person concerned has been withdrawn.

96. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform if a review can or will be undertaken in the case of an application for residency in the case of a person (details supplied) in County Dublin; and if he will make a statement on the matter. [19522/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** I refer the Deputy to Parliamentary Questions Nos. 179 of Thursday 11 December 2008 and 836 of Tuesday 8 July 2008 and the written Replies to those Questions.

The person concerned applied for asylum on 1 April 2006. Following investigation by the Office of the Refugee Applications Commissioner, it was established that the person concerned had previously made an asylum application in France and, as such, in accordance with the provisions of the Dublin II Regulations, it was determined that his asylum claim should be examined by the French authorities. This determination was upheld following an appeal to the Refugee Appeals Tribunal.

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Consequently, a Transfer Order was signed in respect of the person concerned, on 1 August 2006, obliging him to present himself at the Offices of the Garda National Immigration Bureau (GNIB), on 22 August 2006, to make arrangements for his transfer to France. The person concerned ‘presented’ as requested on this occasion and a flight was arranged for his formal transfer on 30 August 2006. However the person concerned ‘evaded’ his transfer and thus became illegally present in this State. The person concerned continued to evade his transfer to France with the consequence that the Transfer Order expired and Ireland became responsible for processing his asylum application.

At this point, in early 2008, the person concerned was admitted into the asylum process in this State. The person concerned was invited to attend for interview at the Offices of the Refugee Applications Commissioner on 21 January 2008 but failed to attend as required. Therefore, in accordance with the provisions of Section 13(2) of the Refugee Act, 1996 (as amended), the Refugee Applications Commissioner refused him a declaration of refugee status.

Based on the recommendation of the Refugee Applications Commissioner, and in accordance with the provisions of Section 3 of the Immigration Act, 1999 (as amended), the person concerned was informed, by letter dated 11 June 2008, a copy of which was sent to his legal representative, that the Minister proposed to make a Deportation Order in respect of him. He was given the options, to be exercised within 15 working days, of leaving the State voluntarily, of consenting to the making of a Deportation Order or of making representations to the Minister setting out the reasons why he should be allowed to remain temporarily in the State. In addition, he was notified of his entitlement to apply for Subsidiary Protection in the State in accordance with the European Communities (Eligibility for Protection) Regulations, 2006 (S.I. No. 518 of 2006).

The person concerned, through his legal representative, submitted an application for Subsidiary Protection in the State in accordance with these Regulations and this application is under consideration at present. When consideration of this application has been completed, the person concerned will be notified in writing of the outcome. In the event that the Subsidiary Protection application is refused, the case file of the person concerned, including all representations submitted, will then be considered under Section 3(6) of the Immigration Act, 1999 (as amended) and Section 5 of the Refugee Act, 1996 (as amended) on the prohibition of refoulement. When this latter consideration has been completed, the case file is passed to me for decision.

In relation to the Deputy’s contention that the person concerned did not receive the letter issued to him on 11 June 2008, it should be noted that, in accordance with Section 9(4A)(a) of the Refugee Act, 1996 (as amended), an applicant for asylum in the State has a duty to inform the Refugee Applications Commissioner of his or her address and of any change of address within five working days. I am advised that the letter referred to by the Deputy was issued to the last known address of the person concerned. Furthermore a copy of this letter was issued to his legal representative at the same time. Consequently, I am satisfied that the notification of 11 June 2008 was duly served in accordance with the relevant statutory provisions.

**97. Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in relation to an application for residency in the case of a person (details supplied) in County Dublin; and if he will make a statement on the matter. [19523/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** I refer the Deputy to the Reply given to his Parliamentary Question No. 831 on Wednesday 24 September 2008. The status of the person concerned remains as set out in that Reply. The person concerned

has continued to meet his presentation requirements with the Garda National Immigration Bureau (GNIB). He is due to present again today Thursday 14 May 2009. The enforcement of the Deportation Order is an operational matter for the GNIB.

98. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in relation to an application for residency in the case of a person (details supplied) in County Louth; and if he will make a statement on the matter. [19524/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** I refer the Deputy to the Reply given to his Parliamentary Question No. 526 on Thursday 17 April 2008. The status of the person concerned remains as set out in that Reply. The person concerned has continued to meet his presentation requirements with the Garda National Immigration Bureau (GNIB). He is due to present again on Thursday 21 May 2009. The enforcement of the Deportation Order is an operational matter for the GNIB.

#### **Residency Permits.**

99. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the reason stamp four was not renewed for a person (details supplied) in Dublin 15; and if he will make a statement on the matter. [19525/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** I refer the Deputy to my reply to Parliamentary Question No. 327 of 31 March 2009. My Department has no record of any renewal of the permission granted being sought recently.

#### **Refugee Status.**

100. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the status of a person (details supplied) in Dublin 22; and if he will make a statement on the matter. [19526/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** The person concerned (a daughter) was granted refugee status with her parents on the 14 August 2002.

#### **Residency Permits.**

101. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the status of persons (details supplied) in Dublin 6; and if he will make a statement on the matter. [19527/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** I refer the Deputy to his recent Parliamentary Question, No. 274 of Tuesday 31 March 2009, and the written Reply to that Question. The position in the State of the person concerned is as set out in that Reply.

#### **Asylum Applications.**

102. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in relation to an application for residency in the case of a person (details supplied) in Dublin 22; and if he will make a statement on the matter. [19528/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** The person concerned applied for asylum on 28 June 2004. Her application was refused following consideration of her case by the Office of the Refugee Applications Commissioner and, on appeal, the Refugee Appeals Tribunal. The person concerned, through her legal representative, initiated

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Judicial Review Proceedings in the High Court, challenging the decision of the Refugee Appeals Tribunal in her case. The High Court refused the Judicial Review Leave Application with the consequence that the earlier decision of the Refugee Appeals Tribunal stood.

In accordance with the provisions of Section 3 of the Immigration Act, 1999 (as amended), the person concerned was informed, by letter dated 13 November 2006, that the Minister proposed to make a Deportation Order in respect of her. She was given the options, to be exercised within 15 working days, of leaving the State voluntarily, of consenting to the making of a Deportation Order or of making representations to the Minister setting out the reasons why she should be allowed to remain temporarily in the State. In addition, she was notified of her entitlement to apply for Subsidiary Protection in the State in accordance with the European Communities (Eligibility for Protection) Regulations, 2006 (S.I. No. 518 of 2006).

The person concerned submitted an application for Subsidiary Protection in the State in accordance with these Regulations and this application is under consideration at present. When consideration of this application has been completed, the person concerned will be notified in writing of the outcome. In the event that the Subsidiary Protection application is refused, the case file of the person concerned, including all representations submitted, will then be considered under Section 3(6) of the Immigration Act, 1999 (as amended) and Section 5 of the Refugee Act, 1996 (as amended) on the prohibition of refoulement. When this latter consideration has been completed, the case file of the person concerned is passed to me for decision.

103. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in relation to the application for residency in the case of a person (details supplied) in Dublin 8; and if he will make a statement on the matter. [19529/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** I refer the Deputy to my detailed Reply to his recent Parliamentary Question, No. 266 of Tuesday 3 March 2009. The position in the State of the person concerned is as set out in that Reply.

104. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in relation to the application for subsidiary protection in the case of a person (details supplied) in County Waterford; and if he will make a statement on the matter. [19530/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** The person concerned applied for asylum on 22 September 2006. His application was refused following consideration of his case by the Office of the Refugee Applications Commissioner and, on appeal, the Refugee Appeals Tribunal.

Subsequently, in accordance with Section 3 of the Immigration Act, 1999 (as amended), the person concerned was informed, by letter dated 11 March 2008, that the Minister proposed to make a Deportation Order in respect of him. He was given the options, to be exercised within 15 working days, of leaving the State voluntarily, of consenting to the making of a Deportation Order or of making representations to the Minister setting out the reasons why he should be allowed to remain temporarily in the State. In addition, he was notified of his entitlement to apply for Subsidiary Protection in the State in accordance with the European Communities (Eligibility for Protection) Regulations, 2006 (S.I. No. 518 of 2006).

The person concerned submitted an application for Subsidiary Protection in the State in accordance with these Regulations and this application is under consideration at present. When consideration of this application has been completed, the person concerned will be notified in

writing of the outcome. In the event that the Subsidiary Protection application is refused, the case file of the person concerned, including all representations submitted, will then be considered under Section 3(6) of the Immigration Act, 1999 (as amended) and Section 5 of the Refugee Act, 1996 (as amended) on the prohibition of refoulement. When this latter consideration has been completed, the case file is passed to me for decision.

105. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform when an application for residency will be determined in the case of a person (details supplied) in Dublin 22; and if he will make a statement on the matter. [19531/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** The person concerned, and her three children, applied for asylum on 30 March 2000. Her children were included in her application for asylum. Her asylum application was refused following consideration of her case by the Office of the Refugee Applications Commissioner and, on appeal, the Refugee Appeals Tribunal.

In accordance with the provisions of Section 3 of the Immigration Act, 1999 (as amended), the person concerned was informed, by letter dated 13 May 2002, that the Minister proposed to make Deportation Orders in respect of her and her children. She was given the options, to be exercised within 15 working days, of leaving the State voluntarily, of consenting to the making of Deportation Orders or of making representations to the Minister setting out the reasons why she and her children should be allowed to remain temporarily in the State. Representations were received on her behalf at that time.

Following consideration of her case, under Section 3(6) of the Immigration Act, 1999 (as amended) and Section 5 of the Refugee Act, 1996 (as amended) on the prohibition of refoulement, Deportation Orders were signed in respect of the person concerned and her three children on 28 October 2003. Notice of these Orders was served by registered letter dated 4 December 2003 which placed a legal requirement on the person concerned and her children to present themselves at the Offices of the Garda National Immigration Bureau (GNIB) on 11 December 2003 in order to make travel arrangements for their deportation from the State.

The person concerned initiated Judicial Review proceedings, challenging the decision of the Minister to sign Deportation Orders in respect of her and her children. Based on the decision of the Supreme Court in the 'Nwole' case, these proceedings were ultimately 'settled' which resulted in the Deportation Orders in respect of the person concerned and her three children being quashed with the children being re-admitted to the asylum process in their own right.

On 15 December 2008, in accordance with the provisions of Section 3 of the Immigration Act, 1999 (as amended), the person concerned was informed that the Minister proposed to make a Deportation Order in respect of her. She was given the options, to be exercised within 15 working days, of leaving the State voluntarily, of consenting to the making of a Deportation Order or of making representations to the Minister setting out the reasons why she should be allowed to remain temporarily in the State. Representations were received on behalf of the person concerned.

The person concerned was subsequently notified of her entitlement to apply for Subsidiary Protection in the State in accordance with the European Communities (Eligibility for Protection) Regulations, 2006 (S.I. No. 518 of 2006). The person concerned submitted an application for Subsidiary Protection in the State in accordance with these Regulations and this application is under consideration at present. When consideration of this application has been completed, the person concerned will be notified in writing of the outcome. In the event that the Subsidiary Protection application is refused, the case file of the person concerned, including

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all representations submitted, will then be considered under Section 3 (6) of the Immigration Act, 1999 (as amended) and Section 5 of the Refugee Act, 1996 (as amended) on the prohibition of refoulement. When this latter consideration has been completed, the case file of the person concerned is passed to me for decision.

### **Visa Applications.**

106. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform further to his reply to Parliamentary Question No. 137 of 5 March 2009, if it is possible that the application can be made to the embassy in South Africa in the case of the application for family reunification in respect of a person (details supplied); and if he will make a statement on the matter. [19532/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** Further to my reply to Parliamentary Question No. 137 of 5 March 2009, I wish to inform the Deputy that the person concerned may apply for a visa to enter the State from the Irish Embassy in South Africa. However, I would point out that the position with regard to family reunification remains unchanged from that stated in previous replies to the Deputy.

### **Residency Permits.**

107. **Deputy Denis Naughten** asked the Minister for Justice, Equality and Law Reform if a second level student with more than 12 months to their leaving certificate can have their stamp 2A permit changed to stamp 2; and if he will make a statement on the matter. [19554/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** Stamp 2 is granted to non-EEA students who are engaged in courses that are listed on the Internationalisation Register operated by the Department of Education and Science. Students on Stamp 2 are allowed to work in a casual capacity. Non-EEA students who are studying at second level education are among those who are granted Stamp 2A which does not carry with it a right to work. There are no immediate plans to extend the work concession to non-EEA second level students although this matter can be kept under review.

### **Residency Permits.**

108. **Deputy Mary O'Rourke** asked the Minister for Justice, Equality and Law Reform if he will review again the case of a person (details supplied) in County Westmeath who has applied for stamp four. [19578/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** Officials in the Long-Term Residency Section of my Department inform me that an application for long-term residency was received from the person referred to by the Deputy on 29 May, 2007. Processing of this application was completed in March 2009 and a letter advising the applicant of the outcome was issued on 19 March, 2009. It is open to him to submit another application once he has completed sixty months legal residency in the State based on work permit/work authorisation/working visa conditions.

### **Liquor Licensing Laws.**

109. **Deputy Noel Ahern** asked the Minister for Justice, Equality and Law Reform the position regarding, and the difficulties being faced by, night clubs since changes to drink hours, extensions, theatre licences and so on were made; if his attention has been drawn to the finan-

cial effects of such changes on nightclubs; if he will offer solutions or advice; and if he will make a statement on the matter. [19579/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** The widely welcomed legislative reforms introduced in the Intoxicating Liquor Act 2008 were directed towards tackling the significant public order problems associated with binge drinking in this country. They were based on recommendations made by the Government Alcohol Advisory Group. As recommended by the Group, the 2008 Act addressed a legislative loophole whereby premises operating under a theatre licence were able to sidestep the normal requirement to obtain special exemption orders from the courts in order to remain open beyond normal licensing hours. The result is that all premises wishing to remain open beyond normal licensing hours now require a special exemption order from the District Court in order to do so.

While nightclubs are currently reliant on special exemption orders in order to remain open beyond normal licensing hours, I intend to make provision for a nightclub permit in the forthcoming Sale of Alcohol Bill. The Government Legislation Programme published on 22 April provides for the publication of this Bill in 2009. The increase in fees applicable to special exemption orders provided for in the District Court (Fees) Order 2008 (SI 202 of 2008) was the first such increase since 2004.

#### **Tribunals of Inquiry.**

110. **Deputy Joe Costello** asked the Minister for Justice, Equality and Law Reform the number of tribunals that are sitting; the date that each was established; the cost to the Exchequer of the legal representation of each tribunal to date; the number of lawyers that are employed by the State on tribunal work; if there is a daily rate paid to these lawyers; the rate of same; if some lawyers are employed on a retainer and not actually participating in the tribunal; if they are paid a daily rate; if so, the rate; and if he will make a statement on the matter. [19768/09]

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** There is currently one sitting Tribunal of Inquiry which comes under the aegis of my Department. The Smithwick Tribunal was established pursuant to the Tribunals of Inquiry (Evidence) Acts 1921-2002, to enquire into suggestions that members of the Garda Síochána or other employees of the State colluded in the fatal shootings of RUC Chief Superintendent Harry Breen and RUC Superintendent Bob Buchanan in 1989. The Tribunal was established by the Oireachtas in May 2005 arising from the Weston Park Agreement between the Irish and British Governments in 2001. The Tribunal is chaired by Judge Peter Smithwick.

The Tribunal's legal team comprises two Senior Counsel, one Junior Counsel and one Research Counsel. The Senior and Junior Counsel are paid at daily rates in accordance with the Government Decision of December 2004. Following the recent application of an 8 per cent reduction, these daily rates (exclusive of VAT) are €927.36 for a Senior Counsel, €618.24 for a Junior Counsel and €231.84 for a Research Counsel. The total in fees for the Tribunal's legal team to date is €2.147 million. The Tribunal's solicitor is on secondment from the Office of the Chief State Solicitor and is paid in accordance with the Principal Solicitor salary scale.

#### **Sports Funding.**

111. **Deputy Tom Hayes** asked the Minister for Arts, Sport and Tourism when payment will issue in respect of sports capital grants to a club (details supplied) in County Tipperary; and if he will make a statement on the matter. [19394/09]



**Minister for Arts, Sport and Tourism (Deputy Martin Cullen):** Satisfactory documentation in respect of the grants in question has recently been received by my Department and is currently being processed. Payment of the outstanding amounts will issue shortly.

112. **Deputy Michael McGrath** asked the Minister for Arts, Sport and Tourism if there are potential funding sources within his Department for a proposed community project (details supplied) in County Cork. [19446/09]

**Minister for Arts, Sport and Tourism (Deputy Martin Cullen):** The Department operates a number of funding schemes and programmes, including most notably the Sports Capital Programme, Local Authority Swimming Pool Programme and Arts and Cultural Capital Enhancement Support Scheme (ACCESS). None of these is currently open for applications. The timings of further rounds of funding under these schemes and programmes have yet to be decided. They will then be published nationally. In the interim, details of these schemes and programmes, including eligibility criteria, are available on the Department's website at [www.dast.gov.ie](http://www.dast.gov.ie).

### **Community Development.**

113. **Deputy Michael McGrath** asked the Minister for Community, Rural and Gaeltacht Affairs if there are potential funding sources within his Department for a proposed community facilities project (details supplied) in County Cork. [19413/09]

**Minister for Community, Rural and Gaeltacht Affairs (Deputy Éamon Ó Cuív):** My Department funds, and in some cases administers, a range of programmes to enable members of communities to be active participants in identifying and meeting their own development needs, working alongside the Statutory Agencies and others involved in local development initiatives. Details of all of the programmes and schemes operated by my Department, including guidelines and criteria, are available on the Department's website at [www.pobail.ie](http://www.pobail.ie). The Deputy will appreciate that eligibility for grants available depends on the nature of the grant sought and details of the group seeking them.

114. **Deputy Michael McGrath** asked the Minister for Social and Family Affairs if there are potential funding sources within her Department for a proposed community facilities project (details supplied) in County Cork. [19415/09]

**Minister for Social and Family Affairs (Deputy Mary Hanafin):** The Family and Community Services Resource Centre (FRC) Programme is operated by the Family Support Agency which is under the auspices of my Department. There are currently 107 Family Resource Centres nationwide. Having examined the details of the community facilities project, supplied by the Deputy, it does not appear that the criteria of the FRC Programme would be met by this project. In any event, as part of the Government's collective approach to controlling short-term expenditure in the interests of Ireland's future prosperity, with the exception of an FRC in Duiska, Galway City, no further FRCs will open.

### **Tax and Social Welfare Codes.**

115. **Deputy Michael Ring** asked the Minister for Social and Family Affairs the regularity with which payments from England are reviewed in view of fluctuating exchange rates (details supplied). [19425/09]

**Minister for Social and Family Affairs (Deputy Mary Hanafin):** Pensioners who are in receipt of a retirement pension from the UK and who reside permanently in the Republic of Ireland

may also qualify for a State Pension (Non Contributory) payment subject to satisfying a means test. Changes in the value of a British pension, due to currency fluctuation, may well be offset by annual increases received since entitlement was last reviewed and consequently the customer's State Pension (Non Contributory) payment may be unchanged or even reduced as a result of a review. In general, such payments are reviewed every four years to take account of annual increases in the rate of the British pension payment. Claims are not reviewed specifically because of movements in exchange rates. However, it is open to pensioners who believe, they may be entitled to an increase in the rate of their State Pension (Non Contributory) payment to seek to have their means reviewed.

### **Social Welfare Benefits.**

116. **Deputy Emmet Stagg** asked the Minister for Social and Family Affairs the reason for the delay in awarding jobseeker's allowance to a person (details supplied) in County Kildare. [19433/09]

**Minister for Social and Family Affairs (Deputy Mary Hanafin):** The person concerned applied for Jobseeker's Allowance on 18 February 2009. The application is currently with a Social Welfare Inspector for investigation and she will be notified of the outcome as soon as possible. While the Department makes every effort to process claims in a timely and efficient manner, the timescale involved can vary depending on the volume of claims received.

### **Social Welfare Fraud.**

117. **Deputy Joe McHugh** asked the Minister for Social and Family Affairs when she will roll out the appointment of social welfare inspectors to investigate and prevent fraud; the measures she has introduced in the past few months to combat welfare fraud in Border areas; and if she will make a statement on the matter. [19479/09]

**Minister for Social and Family Affairs (Deputy Mary Hanafin):** Having regard to the increase in the Live Register, and consequent demands being made on the resources of the Social Welfare Inspectorate, I sought and received approval for 16 additional assignments to the grade of Social Welfare Inspector. These 16 Inspectors are to be assigned on the basis of 2 per Region. 14 officers are now in situ in the following locations; Finglas x 2, Tallaght, Clondalkin, Drogheda, Enniscorthy, Carlow, Tralee, Galway, Castlebar, Tullamore, Limerick, Buncrana, and Letterkenny. This increases the number of general inspectors to 376. The remaining 2 Inspectors will be located at Cork and Mullingar and these assignments are being actively pursued at this time. In addition, the Department has a further 87 inspectors working full-time on control in the Special Investigation Unit (SIU).

The issue of cross Border fraud is the primary focus for control activity for Regions in close proximity to the Border areas. This targeted approach to the control focus is twofold prevention and detection. In the first instance, preventative measures have been put in place to deal with all claims from persons who on registering as unemployed indicate that they were formerly resident in Northern Ireland. A revised and more rigorous set of checks and balances have been initiated at claim registration for all such cases. These cases will be thoroughly investigated through home visits and clear proof of residency must be established by the individual concerned.

With regard to detection and deterrence, since late 2008 the Department participates in multi-agency vehicle checkpoints with other agencies, including the Gardaí, Traffic Corps and Revenue Commissioners. Each agency has specific control and compliance briefs. In Border areas, individuals who may be non-resident and claiming Social Welfare payments have been

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identified. In the case of Revenue this principally relates to evasion of Vehicle Registration Tax, and the Gardaí have identified road traffic offences. The approach facilitates a platform whereby all agencies can maximize the benefits and comprehensively identify individuals engaged in either vehicle tax evasion, road traffic irregularities and cross Border social welfare fraud in one concentrated location. The other agencies involved are fully aware of the priority and importance accorded by DSFA to cross Border claiming and it forms an integral part of this combined operation.

### **Social Welfare Benefits.**

118. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs when restoration of mortgage supplement will be reviewed and restored to the previous level in the case of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [19535/09]

**Minister for Social and Family Affairs (Deputy Mary Hanafin):** The supplementary welfare allowance scheme, which includes mortgage interest supplement, is administered on behalf of the department by the community welfare division of the Health Service Executive. Mortgage interest supplement provides short-term support to eligible people who are unable to meet their mortgage interest repayments in respect of a house which is their sole place of residence. The supplement assists with the interest portion of the mortgage repayments only.

Where two people enter into a joint mortgage agreement there is an obligation on both parties to meet repayments, as agreed with the financial institution. Where the person seeking assistance is a joint mortgage holder, a mortgage interest supplement payment is generally considered in respect of half of the interest on the mortgage. The Executive has advised that it awarded a mortgage interest supplement to the person concerned based on the full interest payable on the mortgage from May 2008 to March 2009. Following a review of entitlement, it came to light that the loan in question was a joint mortgage.

Payment to the person concerned was suspended pending clarification on the details of the mortgage. The Executive has advised that it has now re-instated payment of mortgage interest supplement to the person concerned, based on 50% of the interest payable on the loan and taking account of reduced interest rates. It is open to the person concerned to appeal this decision to a designated appeals officer of the Executive.

119. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs when unemployment assistance will be awarded in the case of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [19539/09]

**Minister for Social and Family Affairs (Deputy Mary Hanafin):** The person concerned claimed jobseeker's benefit on 29 October 2008. A decision on his claim was delayed as he had failed to provide certification of his casual employment. In December 2008 the person concerned advised the local office that he was returning to Lithuania on holidays for 2 weeks. When he failed to contact the office in January 2009 his claim was closed. He made a further claim for jobseeker's benefit on 04 March 2009. He advised that he had been hospitalized in Lithuania up to 28 February 2009. He was asked to submit a doctor's note confirming that he is now fit for work. To date a doctor's note has not been received.

120. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs when supplementary welfare allowance will be awarded in the case of persons (details supplied) in County Kildare; and if she will make a statement on the matter. [19541/09]

**Minister for Social and Family Affairs (Deputy Mary Hanafin):** The Health Service Executive has advised that the entitlement of one of the persons concerned to supplementary welfare allowance, is as communicated to the Deputy on 31 March 2009, 28 April 2009 and 6 May 2009. Entitlement to payment of this allowance is currently under review by an Appeals Officer of the Executive. The other person concerned has not made a claim to supplementary welfare allowance.

121. **Deputy Noel Ahern** asked the Minister for Social and Family Affairs if she will clarify the position regarding the entitlement to rent allowance for persons from other EU countries and from Romania and Bulgaria; the reason Romanian nationals are qualifying for rent allowances when they have not worked here, are not habitually resident here, do not qualify for social welfare benefits and so on; if they are applicants for asylum since prior to January 2004; and if she will make a statement on the matter. [19553/09]

**Minister for Social and Family Affairs (Deputy Mary Hanafin):** Since 1 May 2004, all applicants regardless of nationality are required to be habitually resident in the State in order to qualify for supplementary welfare allowance, including rent supplement. The effect of this condition is that a person whose habitual residence is elsewhere is not qualified for rent supplement. Once-off exceptional and urgent needs payments may be made to eligible applicants without reference to the habitually resident condition.

EU legislation prohibits discrimination between nationals of EU Member States in the context of freedom of movement of workers and their access to social security or social assistance entitlements. An EEA national who is engaged in genuine and effective employment in Ireland is regarded as a worker under EU law and may be treated as habitually resident for the purpose of any claim to supplementary welfare allowance, including rent supplement.

Special provisions apply to Romanian and Bulgarian nationals who may engage in self-employment but are not permitted to engage in insurable employment within the State from 1st January 2007. However, Romanian and Bulgarian nationals who have an employment permit or are free to work without an employment permit by virtue of having had twelve months continuous employment in the State or who were working in Ireland at the date of accession (1 January 2007) in accordance with Immigration Stamp No. 4 for at least 12 months, may be regarded as a worker under EU law and so may be treated as habitually resident for the purpose of any claim to supplementary welfare allowance, including rent supplement. All other Romanian and Bulgarian nationals are subject to the habitually resident condition.

People who have been given permission to remain in Ireland on the basis of being the parents of Irish born children or for any other reason are entitled to seek employment in the State. In addition any person who has been through the asylum process and has been granted refugee status can also seek employment. In the event of being unable to secure work or having secured work and subsequently become unemployed, these people may qualify for Jobseeker's or other social assistance payments, such as rent allowance, on the same basis as any Irish resident, subject to the normal eligibility conditions.

Asylum seekers who arrived in this country since 10 April 2000 have their accommodation needs and other basic living facilities met through the direct provision services operated by the Department of Justice, Equality and Law Reform. Following changes in social welfare legislation which came into effect on 27 May 2003, rent supplement is not payable where a person is not lawfully in the State, or where a person has made an application for asylum under the Refugee Act, 1996 or an application to remain in the State under the Aliens Act, 1935, and is awaiting a decision by the Minister for Justice, Equality and Law Reform on that application.

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Asylum seekers choosing not to avail of direct provision facilities are not eligible for rent supplement and must meet their accommodation needs from their own resources.

### **Tax and Social Welfare Codes.**

122. **Deputy Róisín Shortall** asked the Minister for Social and Family Affairs the rationale behind only allowing a half-rate illness benefit payment in the case of an employee who takes sick leave when a similar employee who is not a widow may qualify for a full payment. [19573/09]

**Minister for Social and Family Affairs (Deputy Mary Hanafin):** The social welfare system is primarily a contingency-based system, with entitlement based on defined contingencies, such as sickness, unemployment, old age or widowhood. Primary social welfare legislation provides that only one social welfare payment is payable at any one time. While it can happen that a person may experience more than one contingency at the same time — for example, an unemployed person may become sick — a general principle applies whereby even if a person experiences more than one of the contingencies at any one time, he or she only receives one of those payments. This principle is common to social security systems across the world.

However, the legislation also provides that regulations may be made to enable more than one of the payments to be paid concurrently and, where applied, it is usually in the context of short-term benefits. For instance, persons in receipt of widows/widowers pension can, at the same time, receive short-term social insurance benefits such as illness benefit or unemployment benefit, at half rate.

The current overlapping payment arrangements were introduced in whole or in part in the early nineteen fifties. At that time, there were only ten individual social welfare schemes. As the Deputy is aware, the system has been gradually developed over the intervening years with the result that there is now a significantly greater number of separate schemes in place. As a result, the number of possible combinations of concurrent contingencies has increased greatly and it is realistic and prudent to maintain the underlying principle of entitlement to one payment only at any one time. To do otherwise could potentially involve very significant additional expenditure involving not only widows and widowers but also other categories of welfare recipient.

### **Social Welfare Appeals.**

123. **Deputy Michael Ring** asked the Minister for Social and Family Affairs when an appeal will be completed and the result known regarding carers allowance for a person (details supplied) in County Mayo. [19575/09]

**Minister for Social and Family Affairs (Deputy Mary Hanafin):** Further to my response to PQ 11834/09 on 24 March 2009, I am advised by the Social Welfare Appeals Office that there is no update on the position in respect of the appeal from the person concerned. The Social Welfare Appeals Office is an office of the Department that is independently responsible for determining appeals against decisions on social welfare entitlements.

### **Community Development.**

124. **Deputy Michael McGrath** asked the Minister for the Environment, Heritage and Local Government if there are potential funding sources within his Department for a proposed community project (details supplied) in County Cork. [19448/09]

**Minister for the Environment, Heritage and Local Government (Deputy John Gormley):** There is no funding in my Department for this purpose.

#### **Electoral Franchise.**

125. **Deputy James Bannon** asked the Minister for the Environment, Heritage and Local Government his plans to extend the electoral franchise to Irish citizens living abroad, in line with the practice in other countries such as Australia, Switzerland, Italy and the US; and if he will make a statement on the matter. [19459/09]

**Minister for the Environment, Heritage and Local Government (Deputy John Gormley):** In order to be able to vote at elections and referenda in this jurisdiction, a person's name must be entered in the register of electors for a constituency in the State in which the person ordinarily resides. Postal voting is provided for in electoral law in respect of certain categories of person who are entered in the register of electors. The Electoral Act 1992 provides for postal voting by wholtime members of the Defence Forces, members of the Gardaí, and Irish diplomats serving abroad and their spouses.

Subsequent legislation enacted by the Oireachtas has extended postal voting to other categories: electors living at home who are unable to vote because of a physical illness or a physical disability (the Electoral (Amendment) Act 1996); electors whose occupation, service or employment makes it likely that they will be unable to vote in person at their local polling station on polling day. In these cases, the law provides for completion of the necessary voting documentation at a Garda station (the Electoral Act 1997); full-time students registered at their home who are living elsewhere while attending an educational institution in the State (the Electoral Act 1997); certain election staff employed at the poll outside the constituency where they reside (the Electoral (Amendment) Act 2001); and electors who because of the circumstances of their detention in prison pursuant to an order of a court are likely to be unable to go in person on polling day to vote (the Electoral (Amendment) Act 2006). While electoral law is subject to ongoing review, there are no proposals to alter the existing arrangements along the lines referred to in the Question.

#### **Aquaculture Development.**

126. **Deputy Seán Sherlock** asked the Minister for the Environment, Heritage and Local Government if he and the national parks and wildlife service support the policy to develop aquaculture as outlined in the seafood industry strategy known as the Cawley report; if every effort should be made to maintain and develop a sustainable industry which produces up to €100 million in vital exports and supports more than 2,000 jobs in peripheral coastal areas producing top quality food; if he, his Department and agencies are committed to ensuring the fastest and most cost-effective measures are taken at national and EU level to address the ECJ ruling of December 2007 on Ireland's failure to implement the Natura 2000 Directive in marine areas; if he will work in full co-operation with his Ministerial colleagues in the Department of Agriculture, Fisheries and Food to quickly remove the long-standing logjams in aquaculture licensing, to restore vital grant aid lost to the sector and to re-open long-established mussel seed areas; and if he will make a statement on the matter. [19467/09]

**Minister for the Environment, Heritage and Local Government (Deputy John Gormley):** The Cawley Report noted that the aquaculture industry is critical for the sustainable economic and social development of coastal communities and that the industry depends on sustainable fish stocks and a healthy marine environment.

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In December 2007, the European Court of Justice found that Ireland's consent processes for aquaculture did not meet certain provisions of the Habitats and Birds Directives and were therefore not providing adequate environmental protection for the Natura 2000 sites in which a significant proportion of aquaculture and inshore fishery activities take place. My Department is working closely with the Department of Agriculture, Fisheries and Food and the European Commission to bring Ireland's aquaculture and wild fishery consent systems into compliance with the requirements of EU law. This will ensure a much higher standard of environmental protection for these important sites and help to safeguard the long-term prospects and sustainability of these industries in line with the objectives of the Cawley Report.

### **Environmental Policy.**

127. **Deputy Noel Ahern** asked the Minister for the Environment, Heritage and Local Government if he will clarify the position in relation to the rights of householders to have trees on private property and overlooking their property pruned or removed; the rights which exist under planning law, the law on rights and so on; and the agency or process which should be used to vindicate such rights. [19550/09]

**Minister for the Environment, Heritage and Local Government (Deputy John Gormley):** There is no legislation in Ireland that places restrictions on the height of hedges or trees. Planning legislation does not make any particular provision for recognition of a right to light or remedy from any other nuisance which may be caused by trees in an urban residential area. Complaints relating to matters such as trees or shrubs overhanging a property are normally addressed, where necessary, under civil law between the parties concerned.

### **Departmental Programmes.**

128. **Deputy Phil Hogan** asked the Minister for the Environment, Heritage and Local Government the responsibilities his Department and the local government system has for accident prevention, such as personal accidents in public places, house fires and so on, that are not covered by the Road Safety Authority or the Health and Safety Authority; and if he will make a statement on the matter. [19556/09]

**Minister for the Environment, Heritage and Local Government (Deputy John Gormley):** My Department is responsible for the promotion of fire safety at a national level. Promotional material focussing on fire safety in the home and advertising campaigns, which include television, national and local radio, on-line, public transport and outdoor advertising are used to promote key fire safety messages. The main focus of these activities arises during National Fire Safety Week, which takes place in October each year. Community Fire Safety programmes, such as the primary schools "Safety Team" pack programme for third class pupils and the Community Smoke Alarm Scheme, under which my Department funds the purchase of smoke alarms by local authorities for installation in vulnerable households, are also in place.

With regard to fire accidents generally, Section 18(2) of the Fire Services Act 1981 places a duty on every person having control over premises to which this section applies to take all reasonable measures to guard against the outbreak of fire on such premises and to ensure as far as it is reasonably practicable the safety of persons on the premises in the event of the outbreak of fire".

Irish Water Safety, which operates under the aegis of my Department, is the statutory body established to promote water safety. Through water safety education, training in swimming, lifesaving and rescue it promotes a stronger water safety ethos and culture in order that the

public will have a water safety attitude, skills and the behaviour necessary safely to use and enjoy the aquatic environment.

### **Planning Issues.**

129. **Deputy Willie Penrose** asked the Minister for the Environment, Heritage and Local Government if legislative provisions apply to a person who wishes to erect advertising signs on movable platforms on a person's own land; if they are so permitted; and if he will make a statement on the matter. [19563/09]

**Minister for the Environment, Heritage and Local Government (Deputy John Gormley):** Section 3 of the Planning and Development Act 2000 provides that where any structure or other land, or any tree or other object on land, becomes used for the exhibition of advertisements the use of the land will be taken as having materially changed and planning permission will be required. However, Section 4(2) of the Act provides that certain classes of development may be exempted by regulations and, in this regard, Article 6 and Part 2 of the Second Schedule of the Planning and Development Regulations 2001 provide that certain classes of advertisements are exempt from the requirement to obtain planning permission. These classes include advertisements relating to the sale or letting of any structure or other land on which they are exhibited, subject to certain conditions, and advertisements relating to elections provided they are not left in place for more than 7 days after the date of the election.

Under section 20 of the Litter Pollution Act 1997 a local authority may serve a notice on the occupier of land requiring the removal of an advertisement exhibited on any structure or land that is visible from a public place if it appears to the local authority that it is in the interests of amenity or of the environment that the advertisement be removed. However the section also provides that it is a defence in any action for failure to comply with such a notice to show that the exhibition of the advertisement concerned was in accordance with a planning permission.

### **Special Areas of Conservation.**

130. **Deputy Frank Feighan** asked the Minister for the Environment, Heritage and Local Government the position on the sale of bog land under the special areas of conservation in respect of a person (details supplied) in County Leitrim; and when payment will issue. [19571/09]

**Minister for the Environment, Heritage and Local Government (Deputy John Gormley):** The contracts of sale in this case were signed on my behalf in October 2008 and the relevant monies were returned to the Chief State Solicitor's Office (CSSO) along with the executed contracts. I also understand that the vendor signed the contracts in December 2008. The CSSO requested the necessary closing documents from the vendor's legal representative in December and in January last. However, these documents have yet to be provided. The CSSO cannot complete the sale until such time as all relevant documents are provided.

### **Fire Stations.**

131. **Deputy Bobby Aylward** asked the Minister for the Environment, Heritage and Local Government the status of the application for a new fire station at a location (details supplied) in County Kilkenny; and when this application is expected to be sanctioned. [19583/09]

**Minister for the Environment, Heritage and Local Government (Deputy John Gormley):** Approval to the inclusion in the fire services capital programme of the construction of a replacement fire station at Castlecomer was conveyed to the fire authority in 2005. The auth-



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ority subsequently invited tenders in respect of the construction of the station and following an assessment, in April 2009, of the tenders received, the authority wrote to my Department requesting sanction to accept a recommended tender. My Department is currently examining the request and a response will issue shortly to the authority.

### **Tribunals of Inquiry.**

132. **Deputy Joe Costello** asked the Minister for the Environment, Heritage and Local Government the number of tribunals that are sitting; the date that each was established; the cost to the Exchequer of legal representation of each tribunal to date; the number of lawyers that are employed by the State on tribunal work; if there is a daily rate paid to these lawyers; the rate of same; if some lawyers are employed on a retainer and not actually participating in the tribunal; if they are paid a daily rate; if so, the rate; and if he will make a statement on the matter. [19766/09]

**Minister for the Environment, Heritage and Local Government (Deputy John Gormley):** The Tribunal of Inquiry into Certain Planning Matters and Payments was established by order of the Minister for the Environment, Heritage and Local Government to inquire into and report on various planning matters, set out in Resolutions passed by Dáil Eireann and Seanad Eireann on 7 and 8 October, 1997 respectively.

The legal costs of the Tribunal as at 12 May 2009 are €59,921,925 broken down as follows:

- Cost of the Tribunal's legal team: €46,955,332;
- Costs of external Counsel engaged in respect of litigation involving the Tribunal: €2,578,146;
- Legal costs paid to third parties: €10,388,446.

There are currently 1 Senior Counsel, 5 Junior Counsel (2 employed as Legal Researchers) and 3 solicitors on the Tribunal's legal team. They are paid a daily rate, as follows:

- Senior Counsel: €2,070;
- Junior Counsel: €1,380;
- Legal Researchers: €552;
- Solicitors: €920.

There are no Counsel employed on a retainer.

The fees reflect the recent Government decision to reduce fees payable to professionals by 8%.

### **Telecommunications Services.**

133. **Deputy Joe McHugh** asked the Minister for Communications, Energy and Natural Resources when the Culdaff exchange, County Donegal, of the DSL broadband via Eircom to Ballyharry will be enabled; if he will expedite this in order to facilitate local business; and if he will make a statement on the matter. [19416/09]

**Minister for Communications, Energy and Natural Resources (Deputy Eamon Ryan):** The enabling of exchanges for broadband purposes is a matter for the owners of the relevant

exchanges. It is anticipated that the facilitation of greater competition via the introduction of broadband from different technology platforms should encourage the more rapid enabling of exchanges for broadband.

While an area may not be served by fixed landline broadband, otherwise known as Digital Subscriber Line (DSL) or broadband over telephone lines, broadband services are available from competing service providers over multiple platforms including cable, fixed wireless, satellite and mobile. I understand that fixed wireless broadband is available in the Ballyharry area.

134. **Deputy Frank Feighan** asked the Minister for Communications, Energy and Natural Resources the position on the provision of broadband in the area of Corrigeenroe, County Roscommon and in the area of Cootehall, County Roscommon. [19569/09]

**Minister for Communications, Energy and Natural Resources (Deputy Eamon Ryan):** My Department has entered into a contract with “3”, a Hutchison Whampoa company, for the delivery of the National Broadband Scheme (NBS). 3 will be required to provide services to all residences and businesses that are within the NBS area and who seek a service.

The Corrigeenroe and Cootehall areas of County Roscommon will be covered by the NBS.

3 is currently planning the construction and rollout of the infrastructure required for the provision of the service. Challenging roll out targets have been agreed with 3. Services were launched in a small number of rural areas at the end of April 2009 and the entire NBS area must be covered by September 2010. However, 3 is not in a position, at this juncture, to predict the progression of site rollout in advance of obtaining the necessary planning permissions. One month prior to the NBS being launched in any given area, 3 will implement a marketing campaign to announce the forthcoming service availability. The campaign will include, inter alia, local press and outdoor advertising.

Details of the areas to be covered by 3 under the NBS are available at [www.three.ie/nbs](http://www.three.ie/nbs).

#### **Fisheries Protection.**

135. **Deputy Joe McHugh** asked the Minister for Agriculture, Fisheries and Food the actions his forces have taken to combat the plunder and over-exploitation of the Irish Mussel seed resource by UK fleets; if he has plans to address this issue; and if he will make a statement on the matter. [19482/09]

**Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith):** The Mussel Seed Fishery is managed on an All-Island basis involving the Bottom Grown Mussel Forum (BGMF) which is comprised of elected aquaculture industry representatives from around the coast as agreed by the authorities of both jurisdictions.

Responsibility for the control and enforcement of these All-Island management measures, within this jurisdiction, rests with the Sea-Fisheries Protection Authority (SFPA) & the Naval Service.

The SFPA is an independent agency of the Irish State, established under the Sea-Fisheries and Maritime Jurisdiction Act 2006, in whose operational functions and activities I have no remit. Equally, I have no remit with regard to the operational activities of the Naval Service.

If the Deputy has any knowledge of illegal fishing he should make such information available to the SFPA.

#### **Harbours and Piers.**

136. **Deputy Martin Ferris** asked the Minister for Agriculture, Fisheries and Food when he

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will release funds for the new deep water harbour at Rossaveal Harbour, County Galway.  
[19581/09]

**Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith):** The recommended development option at Ros an Mhíl consists of three main phases. Phase one, the dredging of the inner harbour to cater for the passenger ferry operation and for a small boat harbour, commenced in December 2004 and was completed in 2005.

The current stage of the development involves the construction of pontoons which will enable the separation of fishing and ferry activities. This will address many health and safety issues associated with the present operation and reduce congestion in the harbour. Full planning was received in November 2006 and work commenced in 2008 with a total investment of €1.7 million. €6.9 million has been allocated for the completion of the pontoons in 2009. It is expected that the pontoons will be operational by July 2009.

Further development at the harbour will be considered subject to available Exchequer funding and overall national priorities.

#### **Grant Payments.**

137. **Deputy Noel J. Coonan** asked the Minister for Agriculture, Fisheries and Food when a forestry payment will issue to a person (details supplied) in County Tipperary; the breakdown of the amount to be awarded; and if he will make a statement on the matter. [19408/09]

**Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith):** The forestry premium was paid to this applicant on 5th May 2009. The amount paid was €4,186.48.

#### **Farm Waste Management.**

138. **Deputy Seán Fleming** asked the Minister for Agriculture, Fisheries and Food when an inspection under the farm waste management scheme will be carried out for a person (details supplied) in County Carlow. [19429/09]

**Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith):** The arrangements for payment of grants under the Farm Waste Management Scheme on a phased basis have been confirmed with 40 per cent being paid this year as claims are approved. A further 40 per cent will be paid in early January 2010 and the remaining 20 per cent in January 2011. I have also announced that a special ex-gratia payment not exceeding 3.5 per cent of the value of the deferred amount will be made to farmers whose Farm Waste Management grants have been partially deferred. This payment will be made in January 2011 along with the final instalment.

My Department is currently processing the application concerned and a farm inspection will be arranged as soon as possible.

#### **Grant Payments.**

139. **Deputy Denis Naughten** asked the Minister for Agriculture, Fisheries and Food the reason for the delay in making an organic farm payment to a person (details supplied) in County Roscommon; when payment will issue; and if he will make a statement on the matter. [19450/09]

**Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith):** Upon receipt of the documentation which my Department has requested from the person named, payment will issue within 15 days.

### Farm Waste Management.

140. **Deputy Paul Kehoe** asked the Minister for Agriculture, Fisheries and Food the status of the application under the farm waste management scheme in respect of a person (details supplied); when their inspection will be carried out; and if he will make a statement on the matter. [19458/09]

**Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith):** The arrangements for payment of grants under the Farm Waste Management Scheme on a phased basis have been confirmed with 40 per cent being paid this year as claims are approved. A further 40 per cent will be paid in early January 2010 and the remaining 20 per cent in January 2011. I have also announced that a special ex-gratia payment not exceeding 3.5 per cent of the value of the deferred amount will be made to farmers whose Farm Waste Management grants have been partially deferred. This payment will be made in January 2011 along with the final instalment.

My Department is currently processing the application concerned and a farm inspection will be arranged as soon as possible.

141. **Deputy Jim O’Keeffe** asked the Minister for Agriculture, Fisheries and Food the reason for the delay in payment of a farm waste management grant to a person (details supplied) in County Cork; and if he will arrange payment. [19465/09]

**Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith):** The arrangements for payment of grants under the Farm Waste Management Scheme on a phased basis have been confirmed with 40 per cent being paid this year as claims are approved. A further 40 per cent will be paid in early January 2010 and the remaining 20 per cent in January 2011. I have also announced that a special ex-gratia payment not exceeding 3.5 per cent of the value of the deferred amount will be made to farmers whose Farm Waste Management grants have been partially deferred. This payment will be made in January 2011 along with the final instalment.

My Department is currently processing the application concerned and a decision will be made as soon as possible.

### Harbours and Piers.

142. **Deputy Joe McHugh** asked the Minister for Agriculture, Fisheries and Food if he will evaluate and address safety concerns at Greencastle Harbour in view of funding withdrawals from capital works due to possible work cessation at the location; his views on whether works started should be completed if safety concerns are raised, in view of the harbour’s role as a major ferry crossing port; and if he will make a statement on the matter. [19481/09]

**Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith):** Greencastle Harbour is owned by Donegal County Council and responsibility for its operation, maintenance and development rests with that local authority.

The recommended development option for Greencastle consists of three main phases. The first phase of the development is the construction of a 290m long breakwater to give shelter to the new harbour, the second phase is the construction of a berth for the mussel dredgers that operate in the harbour and the final phase is the construction of a deep water berth inside the harbour.

The first phase of the project is being managed by my Department on behalf of Donegal County Council and is being jointly funded by my Department (75% of expenditure), Donegal County Council (12.5% of expenditure), and the Department of Community, Rural and Gaeltacht Affairs (12.5% of expenditure).

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€1.6 million has been committed to this project in 2009 to continue phase 1 of the development and my Department will also continue to ensure that Health and Safety will not be compromised on the Breakwater Development at Greencastle. In this regard appropriate measures are being taken to ensure that the breakwater will be suitably armoured and protected as its construction is advanced seawards from the shore.

Other control measures being taken include deployment of navigational markings, diver survey inspections of constructed breakwater works, issue of Marine Notice (No. 6 of 2009), warning all Shipowners, Agents, Shipmasters, Fishermen, Yachtsmen and Seafarers in relation to the breakwater construction site and to the changed tidal current patterns in the Greencastle area. In this regard it is incumbent on all Shipowners, Agents, Shipmasters, Fishermen, Yachtsmen and Seafarers to proceed with due diligence and care while navigating in the vicinity of the breakwater which is under construction and while entering Greencastle harbour.

Future funding for phase 1 of the Greencastle Harbour development project will be considered in the context of funding commitments from Donegal County Council, available Exchequer Funding and overall national priorities.

#### **Grant Payments.**

143. **Deputy Michael Ring** asked the Minister for Agriculture, Fisheries and Food when a person (details supplied) in County Mayo will be granted REP scheme three. [19496/09]

**Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith):** The application for payment has been approved and payment will issue in the next 15 days.

#### **Departmental Agencies.**

144. **Deputy Denis Naughten** asked the Minister for Agriculture, Fisheries and Food the position with regard to the restructuring of the agriculture offices in Roscommon town; the impact that this will have on the services provided to the farming community; the impact it will have on staff displacement and the potential decentralisation of staff from Dublin and other centres to the Property Registration Authority in Roscommon town; and if he will make a statement on the matter. [19497/09]

**Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith):** My Department is currently reviewing its local office structure.

No decisions have been taken regarding the future of any local office, other than the Dublin local office, already announced and in respect of which arrangements are being made to relocate the work to Naas.

#### **Grant Payments.**

145. **Deputy Tom Hayes** asked the Minister for Agriculture, Fisheries and Food when payment will issue under the forestry premium scheme to a person (details supplied) in County Waterford. [19555/09]

**Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith):** The forestry premium was paid to this applicant on 5th May 2009.

#### **Tribunals of Inquiry.**

146. **Deputy Joe Costello** asked the Minister for Education and Science the number of tri-

bunals that are sitting; the date that each was established; the cost to the Exchequer of legal representation of each tribunal to date; the number of lawyers that are employed by the State on tribunal work; if there is a daily rate paid to these lawyers; the rate of same; if some lawyers are employed on a retainer and not actually participating in the tribunal; if they are paid a daily rate; if so, the rate; and if he will make a statement on the matter. [19466/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I wish to advise the Deputy that, in relation to my Department, the only such body currently sitting is the Commission to Inquire into Child Abuse, which was formally established in May 2000, under the terms of the Commission to Inquire into Child Abuse Act, 2000. Under the terms of this legislation, the Commission is entirely independent in the performance of its functions.

In terms of the cost to the Exchequer of legal representation, the Commission’s legal expenses to date is €14,460,760. In relation to my own Department, the cost is €3.4 million.

There are currently 4 members of the legal profession employed by the Commission, only one of whom is paid on a per diem basis. The daily rate payable is €531.

There are currently no lawyers employed on a retainer basis and not actually participating in the Commission.

### **Schools Building Projects.**

147. **Deputy Seán Connick** asked the Minister for Education and Science the proposed schedule for the commencement and completion of construction of the new secondary school in Gorey, County Wexford; and if he will make a statement on the matter. [19398/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The new post primary school project for Gorey, County Wexford is included in the list of seven schools which I approved for inclusion in the 3rd Bundle of schools to be procured via Public Private Partnership in December 2008.

This Bundle is in the pre procurement stage. Detailed output specifications and Public Sector Benchmark are being prepared and outline local authority planning permission applications are being prepared where necessary.

On successful completion of this process, it is my intention that the Bundle will be handed over to the National Development Finance Agency (NDFA) for procurement. The indicative timeframe for the delivery of a PPP school currently stands at approximately 4 years from the date the Bundle is announced.

### **School Enrolments.**

148. **Deputy Seán Connick** asked the Minister for Education and Science if his attention has been drawn to the fact that his Department has granted an exemption since 2005 to a school (details supplied) in County Wexford; and if he will make a statement on the matter. [19399/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** As an exceptional measure, my Department allowed particular pupils outside the catchment area of the post primary school to which the Deputy refers to enrol in the school over recent years because these pupils had a reasonable expectation that they would be enrolling in the school and did not have sufficient notice to secure an alternative placement within their own catchment area.

The Department made it clear to the Principal of the school in February 2007 that this arrangement would terminate after three years i.e. in 2010, which would give adequate notice

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for pupils leaving the primary school to which the Deputy refers to secure places in their own catchment area.

I am not aware of pupils being denied enrolment in the school in September 2009 as the arrangement will still be in force at that time.

### **Schools Building Projects.**

149. **Deputy Ruairí Quinn** asked the Minister for Education and Science when a secondary school (details supplied) in County Offaly will be allowed proceed to phase two of its school building project; when he expects the start date for the proposed extension of the school to be announced in view of the fact that the school was burnt down eight years ago and is worthy of special consideration as a result; and if he will make a statement on the matter. [19400/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** Following a fire at the school to which the Deputy refers, the insurance proceeds were used by the management authority for the installation and rental of a significant amount of temporary accommodation, reinstatement works and for the upgrading of external areas. The temporary accommodation in question is of a very high quality and has a long life span. Consequently the Department purchased it outright.

To assist with the maintenance of the present buildings my Department has provided funding for roof repair works, an upgrade of the gas system and funding for certain demolition works for health and safety reasons.

I can confirm that this school has made an application to my Department for large scale capital funding. The application has been assessed in accordance with the published prioritisation criteria for large scale building projects and assigned a band 1 rating. The schedules of accommodation have been accepted by County Offaly VEC.

This project was not included in my announcement in February therefore it is unlikely it will be progressed in 2009. The progression of all large scale building projects, including this project, from initial design stage through to construction phase will be considered in the context of my Department’s multi-annual School Building and Modernisation Programme. However, in light of current competing demands on the capital budget of the Department, it is not possible to give an indicative timeframe for the progression of the project at this time.

### **Special Educational Needs.**

150. **Deputy Pat Breen** asked the Minister for Education and Science if he will visit a school (details supplied) in County Clare; and if he will make a statement on the matter. [19401/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** As the Deputy will be aware, the National Council for Special Education (NCSE), through the local Special Educational Needs Organisers (SENOs), is responsible for co-ordinating special needs education provision at local and national level and arranging for the delivery of special education services.

I understand that the school referred to by the Deputy has been in contact with my Department indicating that the children in question have a different category of disability. Different resource parameters apply to different disability categories and my officials have advised the school to make contact with the SENO so that the case can be re-examined in that context.

I wish to advise the Deputy that I do not visit every school or class where the level of staffing or level of funding has been adversely affected by the application of various policies. Not only

would it be physically impossible for me to visit every school where a teaching post is being suppressed, I would suggest that this would not represent the best use of a Minister's time.

### **School Staffing.**

151. **Deputy Mattie McGrath** asked the Minister for Education and Science the number of permanent wholetime appointments sanctioned in each VEC nationwide over the past ten years; and if he will make a statement on the matter. [19402/09]

**Minister for Education and Science (Deputy Batt O'Keeffe):** The number of permanent teaching posts available in VEC schemes at any one time is determined in accordance with the agreed criteria relating to the application of the pupil teacher ratio. It is a matter for the individual VEC scheme, as employer, to determine whether any particular post when vacated may be filled on a permanent basis. The number of permanent wholetime appointments in each VEC over the past ten years is therefore not readily available within my Department.

I am committed to providing information in relation to the allocation of teachers to schools and VEC's as a new feature on my Department's website. The process has begun with the provision earlier this year of initial information on the allocation of mainstream classroom teachers to primary schools under the revised schedule for 2009/10.

Information on the teacher allocations to second level schools and VEC's, whether enrolment related or otherwise, is currently being compiled into a format for publication on my Department's website in the coming weeks. My intention is that, just as is the case with the information provided in relation to primary schools, this information will identify the changed position for second level schools and VECs arising from the October budget decisions.

152. **Deputy Mattie McGrath** asked the Minister for Education and Science the number of permanent wholetime appointments sanctioned in the non-VEC secondary sector nationally over the past ten years; and if he will make a statement on the matter. [19403/09]

**Minister for Education and Science (Deputy Batt O'Keeffe):** The information recorded on the database for secondary and community / comprehensive schools indicates that there were 14,870 appointments to permanent posts in the 2000/2001 school year in Secondary and Community/ Comprehensive schools.

In recent years the school managerial authorities have awarded contracts of indefinite duration to whole time and regular part-time teachers employed in their schools to comply with the agreed terms of the Fixed Term Act, 2003. In the current school year there are 1,559 holders of such contracts of indefinite duration appointments in secondary and community/comprehensive schools. There are 13,780 permanent appointments recorded at present.

When deciding on the number of teaching posts, if any, which may be filled in a permanent capacity in a particular school year, the school authorities must take account of the approved teacher allocation for the school for that year, the number of permanent teachers currently employed, including those on approved leave, the overall limits as to the level of permanency as agreed from time to time and the need for flexibility to cater for the needs of all of the pupils attending the school. The assignment of teachers to individual classes within the overall approved allocation is a matter for the authorities of the school concerned.

153. **Deputy Mattie McGrath** asked the Minister for Education and Science the teacher allocation relevant to the sectors (details supplied); and if he will make a statement on the matter. [19404/09]



**Minister for Education and Science (Deputy Batt O’Keeffe):** The information requested by the Deputy in relation to the allocation to each individual VEC and non-VEC secondary school over the past ten years is not readily available within my Department and would involve an inordinate amount of administrative time to compile.

However, I am committed to providing information in relation to the allocation of teachers to schools as a new feature on my Department’s website. The process has begun with the provision earlier this year of initial information on the allocation of mainstream classroom teachers to primary schools under the revised schedule for 2009/10.

Information on the teacher allocations to second level schools, whether enrolment related or otherwise, is currently being compiled into a format for publication on my Department’s website in the coming weeks. My intention is that, just as is the case with the information provided in relation to primary schools, this information will identify the changed position for second level schools and VECs arising from the October budget decisions.

### **State Examinations.**

154. **Deputy John Perry** asked the Minister for Education and Science if he will intercede with the State Examinations Commission to ensure that a person (details supplied) in County Sligo is provided with a scribe for their junior certificate examinations in view of the medical circumstances involved; and if he will make a statement on the matter. [19405/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The State Examinations Commission has statutory responsibility for operational matters relating to the certificate examinations including organising the holding of examinations and determining procedures in places where examinations are conducted including the supervision of examinations.

I can inform the Deputy that the Commission operates a scheme of Reasonable Accommodations in the certificate Examinations. Applications for such accommodations are submitted by schools on behalf of their students.

In view of this I have forwarded your query to the State Examinations Commission for direct reply to you.

### **School Transport.**

155. **Deputy Michael Creed** asked the Minister for Education and Science if provisions will be made to transport a person (details supplied) in County Cork by taxi; and if he will make a statement on the matter. [19427/09]

**Minister of State at the Department of Education and Science (Deputy Seán Haughey):** My Department is examining the background to the case, referred to by the Deputy, in the details supplied. The Deputy will be advised of the position when this examination is complete.

### **Departmental Funding.**

156. **Deputy Michael McGrath** asked the Minister for Education and Science if there are potential funding sources within his Department for a proposed community project (details supplied) in County Cork. [19447/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** In light of the recent economic downturn the Government has had to make a number of difficult and challenging decisions in Budget 2009, which have seen a number of spending cuts across the Education sector.

Regrettably, it is not possible for my Department to consider supporting any new projects at this time.

### **Higher Education Grants.**

157. **Deputy Ruairí Quinn** asked the Minister for Education and Science if he will reconsider offering a higher education grant to a person (details supplied) in County Meath in view of the fact that the original grounds for refusal, that the applicant had no evidence of place of residence, is no longer applicable; and if he will make a statement on the matter. [19454/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** In order to be assessed as an independent mature candidate, the candidate must provide the relevant assessing authority with adequate proof of independent residence from 1st October preceding their entry to an approved course. In the case of the candidate referred to by the Deputy this is 1st October 2006.

The new documentation referred to by the Deputy has been considered in this case. As it relates to a current date 4th March 2009 and is therefore not acceptable proof of independent residency at the relevant date.

### **Schools Building Projects.**

158. **Deputy Joanna Tuffy** asked the Minister for Education and Science the position in relation to the need for a permanent school building in respect of a school (details supplied) in County Dublin; and if he will make a statement on the matter. [19455/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The provision of a new building for the school to which the Deputy refers necessitates the acquisition of a site. I am pleased to inform the Deputy that County Dublin VEC has agreed to make a site available to my Department for this purpose. The Department is awaiting legal documents in relation to this from the VEC.

Once the site is acquired, consideration can be given to the inclusion of a building project for the school in the School Building and Modernisation Programme. However, in light of the current level of demand on the Department’s capital budget, it is not possible to give an indicative timeframe as to when a building project for this school might progress.

159. **Deputy Joe Carey** asked the Minister for Education and Science if he will give approval to a school (details supplied) in County Clare; and if he will make a statement on the matter. [19472/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The Deputy will be aware that on 12 February, 2009, I announced details of 25 high priority projects to commence architectural planning. The project for the school in question was included in this announcement. It will involve the construction of a new school on a greenfield site.

The project is currently at the earliest stage of architectural planning and is awaiting the appointment of a Design Team.

160. **Deputy Michael McGrath** asked the Minister for Education and Science when a design team will be formally appointed for a planned new primary school building (details supplied) in County Cork. [19478/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I am pleased to inform the Deputy that a project for a new 16 classroom building for the school to which he refers, was

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included in the list of 25 major school building projects which I announced on the 12 of February last to enter into architectural planning.

Officials in my Department are currently assessing the most appropriate construction model for this project. I anticipate that my officials will be in contact with the school authorities shortly.

### **Special Educational Needs.**

161. **Deputy Finian McGrath** asked the Minister for Education and Science if he will support a matter (details supplied). [19487/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** As the Deputy will be aware, the National Council for Special Education (NCSE) is responsible, through its network of local Special Educational Needs Organisers (SENO) for allocating resource teachers and special needs assistants to schools to support children with special needs. The NCSE operates within my Department’s criteria in allocating such support. When pupils move to a different school or progress to post-primary level, the new school must apply to the local SENO for SNA and resource support. The SENO will then process the application in the context of the existing levels of support in the second school.

All schools have the names and contact details of their local SENO. Parents may also contact the SENO directly to discuss their child’s special educational needs, using the contact details available on [www.ncse.ie](http://www.ncse.ie).

### **Higher Education Grants.**

162. **Deputy Bernard J. Durkan** asked the Minister for Education and Science the basis on which a higher education grant has been refused in the name of a person (details supplied) in County Kildare; and if he will make a statement on the matter. [19498/09]

181. **Deputy Bernard J. Durkan** asked the Minister for Education and Science when a higher education grant will be awarded in the case of a person (details supplied) in County Kildare; and if he will make a statement on the matter. [19519/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I propose to take Questions Nos. 162 and 181 together.

The decision on eligibility for a higher education grant is a matter for the relevant local authority as appropriate. If an individual applicant considers that she/he has been unjustly refused a maintenance grant, or that the rate of maintenance grant awarded is not the correct one, she/he may appeal, in the first instance, to the relevant local authority.

Where an individual applicant has had an appeal turned down, in writing, by the relevant local authority and remains of the view that the body has not interpreted the schemes correctly in his/her case, an appeal form outlining the position may be submitted by the applicant to my Department. No appeal has been submitted to date in this case.

### **Special Educational Needs.**

163. **Deputy Bernard J. Durkan** asked the Minister for Education and Science when he expects to meet in full the requirement in respect of special needs teachers and assistants in all schools here with particular reference to speech and language therapy requirements, remedial, resource or other special needs; the optimum number of positions waiting to be filled in this regard; and if he will make a statement on the matter. [19499/09]

180. **Deputy Bernard J. Durkan** asked the Minister for Education and Science the extent to which he proposes to meet in full remedial, resource, special needs teachers and classroom assistants in respect of the various schools here; and if he will make a statement on the matter. [19518/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I propose to take Questions Nos. 163 and 180 together.

I wish to advise the Deputy that there is no difficulty with the allocation of additional resource teaching and/or special needs assistant posts at present. Schools, which have enrolled pupils with special educational needs that are eligible for such support, apply to the National Council for Special Education (NCSE) for the allocation of the necessary resources. The Special Educational Needs Officers (SENOs) of the NCSE assess such applications in the context of the resources already available in the school. Where there is a need for additionality, in accordance with my Department’s circulars, the SENO authorises additional posts.

The Deputy will be aware that the Health Service Executive (HSE) provides speech and language therapy services. It is intended that a proportion of the additional €10m provided to the health service this year will target the speech and language therapy needs of children attending school. There are currently 62 special classes in place to support children with specific speech and language disorder. Each class can cater for up to 7 children and children have access to a speech and language therapist through the HSE.

I want to take this opportunity to emphasise that priority will continue to be given to provision for children with special educational needs. Significant progress has been achieved in recent years, which has seen a huge increase in resources for pupil’s with special educational needs. The NCSE will continue to support schools, parents, children and teachers. Along with all other areas of expenditure, provision is dependent on the resources available to the Government.

### **School Staffing.**

164. **Deputy Bernard J. Durkan** asked the Minister for Education and Science the number and location of schools here which are expected to lose teachers in the next two years arising from recent budgetary cutbacks; and if he will make a statement on the matter. [19500/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I am committed to providing information in relation to the allocation of teachers to schools and as a new feature on my Department’s website. The process has begun with the provision earlier this year of initial information on the allocation of mainstream classroom teachers to primary schools under the revised schedule for 2009/10.

In terms of the position at individual primary school level the key factor for determining the level of resources provided by my Department is the pupil enrolment at 30 September 2008. The annual process of seeking this enrolment data from schools took place in the autumn and the data has since been received and processed in my Department enabling the commencement of the processes by which teaching resources are allocated to schools for the school year that begins next September.

My Department has written to the primary schools that are projected to have a net loss or gain in classroom teaching posts in September, 2009. As part of my efforts to ensure that relevant information is openly available to the public detailed information on the opening position for primary schools is now published on my Department’s website. This provisional list sets out the details on individual schools that, taken collectively, are projected to gain 128

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posts and to lose 382 posts — a net reduction of 254 posts. It is my intention to have this information updated and ultimately to set out the final position when the allocation processes are completed.

The final position for any one school will depend on a number of other factors such as additional posts for schools that are developing rapidly and posts allocated as a result of the appeals processes. The operation of redeployment arrangements also impacts on the final position as a teacher can remain in his or her existing school where a suitable redeployment position does not exist.

The final staffing position for all schools will therefore not be known until the autumn. At that stage the allocation process will be fully completed for mainstream classroom teachers and appeals to the Staffing Appeals Board will have been considered.

Information on the teacher allocations to second level schools, whether enrolment related or otherwise, is currently being compiled into a format for publication on my Department’s website in the coming weeks. My intention is that, just as is the case with the information provided in relation to primary schools, this information will identify the changed position for second level schools and VECs arising from the October budget decisions.

### **School Curriculum.**

165. **Deputy Bernard J. Durkan** asked the Minister for Education and Science if all grant commitments made to various second level schools here towards the encouragement of sciences in the junior and senior syllabus have been met to date; if not, the reason for same; and if he will make a statement on the matter. [19501/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** A revised syllabus in Junior Certificate Science was implemented on a phased basis starting in September 2003, supported by an investment of some €16m in resources and facilities for schools. The National Council for Curriculum and Assessment is currently engaging in a consultation process with schools relating to the revision of science subjects at senior cycle, but revised syllabuses in these areas have not as yet been submitted to my Department.

As part of the multi-annual school building programme, the Government has invested heavily in the modernisation of school facilities throughout the country including science facilities in post-primary schools. Provision of science facilities is an intrinsic part of all major projects at post-primary level. Typically this investment involves the provision of modern science facilities in new post-primary schools or the upgrading of science facilities in existing schools either as part of a school building project or as a dedicated investment to facilitate the teaching of science.

Schools have also received funding under the Summer Works Schemes 2004 -2007 to refurbish science laboratories. Over 60 schools were approved for funding in 2006 and 2007 under my Department’s Summer Works Scheme to enable them to refurbish science laboratories on a devolved basis.

Expenditure on science laboratories and science equipment in schools will continue to arise for consideration in the context of the funding available for my Department’s multi-annual School Building and Modernisation Programme.

In the budget of October 2008 it was announced that a number of separate grant payments to second-level schools would be abolished from 2009, including the grant for Physics and Chemistry. All commitments in this area for 2008 have been met. The capitation grant to schools for 2009 has been increased.

The Strategy for Science Technology and Innovation 2006 to 2013 recommended that the provision of laboratory assistance for schools for science, which had been costed in the 2002 Report of the Task Force on Physical Sciences at €18.8m per annum, should be revisited. Provision of assistants in this area would undoubtedly lead to demands for similar assistance across other areas of the curriculum where there is a strong practical component, and resources for this are not available at present. The availability of laboratory technicians has not been a universal feature of support for science teaching in second-level schools and, in some countries that do provide this type of resource, it is confined to certain types of schools.

### **Schools Building Projects.**

166. **Deputy Bernard J. Durkan** asked the Minister for Education and Science when he expects the schools building programme to reflect the needs of areas experiencing a rapid increase in population; and if he will make a statement on the matter. [19502/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** As the Deputy will be aware the Programme for Government contains a commitment to establish a Developing Areas Unit (DAU) to liaise with local authorities, identify where new schools are needed and ensure that they are delivered in the fastest possible timeframe. This Unit was established early in 2008 and delivered 27 major building projects last year in areas experiencing rapid population growth.

In addition to the establishment of the DAU, the Planning and Building Unit has restructured to reflect the changing environment in which it now operates. In the Deputy’s own constituency in County Kildare there are currently major building projects on site or progressing to site in Athgarvan, Athy, Kilcock, Kill, Maynooth, Naas, Newbridge, Nurney and Straffan. I’m sure the Deputy will agree that all of these projects are necessary and are meeting increased demands from areas experiencing rapid population growth in County Kildare.

Applications for school building projects are initially recorded and given a band rating to determine their order of priority. Projects with a band rating of 1 (generally projects in areas experiencing rapid growth) are given priority over projects with lower band ratings. Where funding permits other projects with lower band ratings are progressed on the school building programme. These projects would include refurbishment projects, extensions etc. Every school deserves to be treated equally and seek to have the best possible facilities available to their staff and pupils. If funding was limited to only those areas experiencing rapid population growth then there would be a regional imbalance in the school building programme which would be contrary to the Government’s spatial strategy. The current process ensures fairness and equity in the system and allows for a regional balance in the school building programme.

### **Psychological Service.**

167. **Deputy Bernard J. Durkan** asked the Minister for Education and Science his proposals to meet psychological needs and assessments as identified by the various school authorities here; and if he will make a statement on the matter. [19503/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I can inform the Deputy that all primary and post primary schools have access to psychological assessments either directly through my Department’s National Educational Psychological Service (NEPS) or through the Scheme for Commissioning Psychological Assessments (SCPA) which is administered by NEPS.

In common with other psychological services NEPS encourages a staged assessment process whereby each school takes responsibility for the child’s/pupil’s initial assessment, educational planning and remedial intervention, in consultation with their assigned NEPS psychologist.

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Only if there is a failure to make reasonable progress in spite of the school’s best efforts, will a child be referred for individual psychological assessment. This system allows the psychologists to give early attention to urgent cases and also to help many more children indirectly than could be seen individually.

The introduction of the General Allocation model for primary schools in 2005/06 means that children with high incidence special needs now longer have to wait for an individual assessment before they can get access to extra support.

Children who manifest very special or urgent needs in school and who have not been previously assessed by a psychologist and are brought to the attention of a NEPS psychologist by the Principal teacher will usually be assessed by the psychologist within that school term. Normally, principals of schools prioritise those children in need of psychological assessment in consultation with the assigned psychologist.

In the case of schools that do not currently have dedicated NEPS psychologists assigned to them, as I already mentioned, such schools have access to psychological assessments through the SCPA. Under this Scheme, schools can commission assessments from a member of the panel of private practitioners approved by NEPS, and NEPS will pay the fees directly to the psychologist concerned.

Should school authorities have specific difficulties with regard any of the foregoing I would suggest that they should contact the relevant local NEPS Regional Director, for whom contact details are also available on my Department’s website.

I can inform the Deputy that there are currently 158 psychologists employed in my Department’s NEPS service which represents an increase of some 20 posts on last years numbers.

I am satisfied that these processes adequately answer the underlying need of children within our education system. However in regard to further improving the service to schools I was pleased to announce recently, in the context of Budget 2009, an increase in the funding available to NEPS which will allow for an expansion of up to 50 additional psychologists. Recruitment of these psychologists is currently underway from an existing panel of qualified Personnel and upon its depletion discussions will commence between my Department and the Public Appointments Service in relation to the establishment of a new panel in this regard.

The number envisaged represent an increase on the numbers provided for under the T2016 Agreement and will, upon realisation, enable the expansion of the NEPS service to all schools in the country.

### **Adult Education.**

168. **Deputy Bernard J. Durkan** asked the Minister for Education and Science his plans to address the issue of provision of facilities for adult literacy here; the budget for same; and if he will make a statement on the matter. [19505/09]

**Minister of State at the Department of Education and Science (Deputy Seán Haughey):** My Department funds adult literacy services through annual grants to Vocational Education Committees (VECs) which deliver the services locally. The disbursement of funds is a matter for each VEC, which, subject to its budget, decides the nature and extent of the services to be provided in its area and the manner in which funds for these services should be spent. Annual funding for adult literacy increased from €1 million in 1997 to over €30 million in 2008. In the same period, the annual number of participants increased from 5,000 to almost 49,000. In 2009, funding is being maintained at similar levels to 2008. A number of initiatives have also been developed to tackle adult literacy. These include the Intensive Tuition in Adult Basic Education

Programme, which provides up to six hours of tuition per week to learners instead of the normal two hours; a family literacy pilot scheme to address poor literacy from an intergenerational family perspective; and a workplace literacy programme (the Return to Learning Scheme) in all Local Authority areas for outdoor workers. Participants on Community Employment Schemes can avail of intensive literacy tuition provided by the VECs. There are other special funding projects including literacy for deaf people, for people with dyslexia and for native Irish speakers in Gaeltacht areas. Finally, in partnership with the National Adult Literacy Agency my Department has provided funding for several successful TV series to raise awareness around adult literacy issues.

### **School Accommodation.**

169. **Deputy Bernard J. Durkan** asked the Minister for Education and Science if health and safety regulations are achieved by all schools here with particular reference to accommodation requirements resulting in the occupation of landings, hallways, passageways or other accommodation not designed for classroom use; if his attention has been drawn to such situations; the way he will address the issue; and if he will make a statement on the matter. [19507/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The requirement for a Health and Safety Statement for the work place is governed by the Safety, Health and Welfare at Work Act 2005. This Act, which is regulated by the Health and Safety Authority, sets out the main provisions for securing and improving the safety, health and welfare of people at work which includes the control of safety and health at work, the management and organisation of systems of work necessary to achieve these goals and the responsibilities and roles of employers, employees and others. Under the Act, school authorities are responsible for managing safety, health and welfare in schools and for having a safety statement in place in their schools, to identify possible hazards, assess the risks to health and safety and put appropriate safeguards in place. In practical terms, individual school authorities are best placed to assess the detail of their own health and safety requirements and there are many information sources such as Codes of Practices, guidelines, legislation and standards available to support them in this task. It is a matter for schools to decide whether or not to employ an expert to carry out this work on their behalf and to meet the cost of so doing.

My Department is involved in developing health and safety guidelines to support post-primary schools in meeting their obligations under the prescribed legislation. This project is being undertaken in collaboration with the Health and Safety Authority, the State Claims Agency and the School Development Planning Initiative. Provision is built into the School Building and Modernisation Programme to enable schools address urgent health and safety problems. Under the annual Minor Works Grant, around €27 million was paid last December to primary schools throughout the country to enable thousands of small scale works to be completed without the need to interact with my Department. Individual primary schools received a grant in the sum of €5,500 plus €18.50 per pupil. The Summer Works Scheme, which was introduced during 2004, provides capital grants for smaller scale refurbishment works at primary and post-primary schools. Responsibility for the delivery of the projects is entirely devolved to the schools and their design teams. The scope of works covered under this scheme is intended to address Health and Safety issues in all schools as well as improvement works to the existing fabric of the buildings. My Department also sets aside a contingency sum each year to deal with emergency works in primary and post-primary schools, including health and safety works. Urgently required health and safety works relating to asbestos removal, radon mitigation or dust extraction may be grant-aided under the remediation programmes operated by the School Building Section of my Department.



### **Bullying in Schools.**

170. **Deputy Bernard J. Durkan** asked the Minister for Education and Science the number of incidents of school bullying made known to his Department in the past 12 months; the action taken arising therefrom; if this represents an increase, decrease or same in each of the previous three years to date; and if he will make a statement on the matter. [19508/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** Responsibility for tackling bullying falls to the level of the individual school as it is at local level that an effective anti-bullying climate must be established. Individual school management authorities are not required to report to my Department on incidences of bullying. I am, however, anxious to support schools in tackling bullying. For that reason, a number of supports have been put in place in recent years. Each school is required to have in place a policy which includes specific measures to deal with bullying behaviour, within the framework of an overall school Code of Behaviour and Discipline. Such a code, developed through consultation with the whole school community and properly implemented, can be the most influential measure in countering bullying behaviour in schools. My Department has issued guidelines as an aid to schools in devising measures to prevent and deal with instances of bullying behaviour and to increase awareness among school management authorities of their responsibilities in this regard. These guidelines were drawn up following consultation with representatives of school management, teachers and parents, and are sufficiently flexible to allow each school authority to adapt them to suit the particular needs of their school. In 2007, my Department published on its website policy templates for post-primary schools in five key areas, including anti-bullying. The template documents are not prescriptive, but rather highlight possible approaches and potential material for inclusion in school policies and takes account of more recent legislative and regulatory changes. Reference is also made to issues of contemporary concern such as the need to tackle text bullying, cyber-bullying and homophobic bullying.

The National Educational Welfare Board has developed further guidelines for schools on Codes of Behaviour, as provided for under section 23 of the Education (Welfare) Act 2000. These guidelines have been informed by broad consultation. I have previously indicated that once schools have had an opportunity to familiarise themselves with the board’s guidelines, my Department will commence the process of revising and updating its own guidelines. This review will commence shortly and will take into account issues such as legislative developments, the involvement of the support services available to schools, technological advancements such as use of the Internet, e-mail, mobile phones and camera phones and the latest developments in international best practice on dealing with bullying behaviour. The National Behaviour Support Service (NBSS) was established in 2006 in response to the recommendation in “School Matters”, the report of the Task Force on Student Behaviour in Second Level Schools. The NBSS is currently working with 50 Post Primary Schools to promote and support positive student behaviour.

The National Centre for Technology in Education’s Internet safety initiative, “Webwise”, includes an integrated educational programme. An integrated educational programme was developed in partnership with the SPHE Support Service. The programme, “Be Safe-Be Webwise”, is delivered in the context of the SPHE module on personal safety by the SPHE second level support service. The NCTE delivers Internet safety seminars to parents in schools in partnership with the National Parents Council (Primary). Over 150 seminars have been held since 2007. Continuing professional development training, on the subject of Internet safety, is being provided to teachers. The Watch Your Space awareness campaign, which was launched in February 2007, seeks to raise awareness and promote safe, responsible practice by young people when on-line. The campaign has a strong peer-to-peer perspective and centres on an interactive on-line service, [www.watchyourspace.ie](http://www.watchyourspace.ie), which has been developed by the NCTE. The site offers practical tips and advice and supports teenagers who use the web. A key feature

is the advice given from teenagers to teenagers on how to cope with the fall-out from abuses and misuse of social networking and picture -sharing websites.

Earlier this year, the NCTE launched a social marketing campaign, combining blanket and targeted messages delivered through a wide range of media channels and involving children and young people themselves, to the promotion of effective responses to cyber-bullying by young people. This campaign is ongoing and is supported by traditional and on-line media services including RTE, SKY, Nickelodeon, MTV, City Channel, Google, Microsoft, Eircom, Meteor, and Bebo. Dealing with bullying has also been incorporated in training for principals through the Leadership Development for Schools programme. I have stressed to the teacher unions the importance not only of having a written policy on bullying but also of fostering a climate in which it is not tolerated in any form and in which children know that if they make a teacher aware of bullying, it will be dealt with. The education of students in primary and post-primary schools in relation to anti-bullying behaviour is part of the SPHE curriculum. SPHE is now a compulsory subject both at primary level and in the junior cycle of post-primary schools.

### **Pupil-Teacher Ratio.**

171. **Deputy Bernard J. Durkan** asked the Minister for Education and Science the action he will take to ensure ready and available access for children at primary and second level whose parents have recently moved to County Kildare having particular regard to classroom overcrowding, pupil-teacher ratios and data available from the national census of population and the various county development plans; and if he will make a statement on the matter. [19509/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The forward planning section of my Department is in the process of identifying areas where significant additional accommodation will be required at primary and post-primary level for future school years. Factors under consideration include population growth, demographic trends, current and projected enrolments, recent and planned housing developments and capacity of existing schools to meet demand for places. Having considered these factors, decisions will be taken on the means by which emerging needs will be met within an area. Primary and post-primary accommodation requirements in the Kildare area, and any subsequent issues which may arise, will be considered in this regard.

### **School Staffing.**

172. **Deputy Bernard J. Durkan** asked the Minister for Education and Science the number of submissions he has received from various schools here seeking the provision of extra teaching staff in order to reduce class sizes in each of the past three years; the number of requests that were approved, rejected or pending in the same period; and if he will make a statement on the matter. [19510/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I assume the Deputy is referring to appeals to the Primary Staffing Appeals Board, details of which I am enclosing for the Deputy’s information. It is open to any Board of Management to submit an appeal under certain criteria to an independent Appeal Board which was established to adjudicate on appeals on mainstream staffing allocations in primary schools. Details of the criteria and application dates for appeal are contained in the staffing schedule, Circular 0002/2009, which is available on my Department’s website. The criteria are also available in Circular 0024/2007 (Appeal Board for Mainstream Staffing in Primary Schools) which is also available on the website. The Appeal Board meets in May, July and October of each year to consider cases submitted. Appeals must be submitted to Primary Allocations Section, Department of Education and

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Science, Athlone, on the standard application form, clearly stating the criterion under which the appeal is being made. The standard application form is available from Primary Allocations Section or on my Department’s website. Closing dates for receipt of staffing appeals in the current year are 29 April, 29 May and 9 October 2009. The Appeal Board operates independently of the Department and its decision is final.

### **School Accommodation.**

173. **Deputy Bernard J. Durkan** asked the Minister for Education and Science if he will accelerate the school building programme with a view to ensuring the early provision of adequate accommodation and facilities in permanent buildings for all children attending primary and second level schools here and keeping in mind the need to follow best international practice; and if he will make a statement on the matter. [19511/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** In 2009, almost €614 million will be spent on school infrastructure. It represents a significant investment in the school building and modernisation programme. As the Deputy will appreciate, the climate within which the 2009 Budget has been framed is very different to that of recent years. The Government has been faced with very difficult choices across all areas of public spending. This level of funding for the building programme, at a time of great pressure on public finances, is a sign of the very real commitment of this Government to investing in school infrastructure and will permit the continuation of progress in the overall improvement of school accommodation. The progression of all large scale building projects from initial design stage through to construction phase is considered on an on-going basis in the context of my Department’s Multi-Annual School Building and Modernisation Programme. The particular emphasis in 2009 is on providing sufficient school places in developing areas, while also showing the Government’s commitment to delivering improvements in the quality of existing primary and post-primary school accommodation throughout the country. In this context I recently announced an €80 million fund to provide a major Summer Works Scheme this year. The €80 million fund will finance over 1,180 small to medium-scale capital projects in 967 schools over the quiet summer months so that disruption is minimised. The capacity of schools to take responsibility for delivering small and medium-scale projects is a key component of the Summer Works Scheme and I’m pleased to be in a position to make funding available once again. The Summer Works Scheme covers school projects such as gas, electrical and mechanical works, roof replacements and repairs, window replacement, toilet upgrades, structural improvements and access works. The fund will dramatically improve structural, mechanical, electrical, gas and other works in schools right across the country.

174. **Deputy Bernard J. Durkan** asked the Minister for Education and Science the extent to which he will prioritise the replacement of temporary or prefabricated school buildings in the course of 2009; the name, number and location of these schools which he will prioritise in 2009 for same; and if he will make a statement on the matter. [19512/09]

178. **Deputy Bernard J. Durkan** asked the Minister for Education and Science if he will address the ongoing issue of temporary classroom accommodation in 2009; and if he will make a statement on the matter. [19516/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I propose to take Questions Nos. 174 and 178 together.

It is the policy of my Department to provide a permanent accommodation solution in so far as possible to meet accommodation demands presenting in schools. However, the time span involved in architectural design and obtaining planning permission processes effectively means

that, in all instances, it may not be possible to provide a permanent accommodation solution as soon as it is required and in these cases temporary accommodation is provided as an interim measure. In 2009 almost €614 million will be spent on school infrastructure. It represents a significant investment in the school building and modernisation at a time of great pressure on public finances and is a sign of the very real commitment of this Government to investing in school infrastructure and will permit the continuation of progress in the overall improvement of school accommodation. In July of 2008, I introduced a new scheme which allows those schools with an urgent and pressing need for additional accommodation which is likely to last for more than 3 years, and who are being given approval for grant aid, to avail of the option of using their grants either to purchase prefabs or to construct permanent classrooms for the same amount. I am also introducing a new pilot project aimed at replacing rented prefabs with permanent modular buildings. This project will be targeted at schools that have older rented prefabs and need long-term additional accommodation.

### **Special Educational Needs.**

175. **Deputy Bernard J. Durkan** asked the Minister for Education and Science his proposals to extend and improve facilities in mainstream education for children with autism; if he has evaluated precisely such needs at various schools here; the extent to which he has received representations from school authorities setting out their optimum requirements; when he expects to meet in full such needs; and if he will make a statement on the matter. [19513/09]

176. **Deputy Bernard J. Durkan** asked the Minister for Education and Science the number and location of primary schools in County Kildare at which special facilities have been provided for children with autism; the number of children attending in each case; the extent to which the facilities in question are adequate to meet requirements; if he has proposals for augmentation; and if he will make a statement on the matter. [19514/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** I propose to take Questions Nos. 175 and 176 together.

The Deputy is aware of the Government’s commitment to ensuring that all children with special educational needs, including those with autism, can access an education appropriate to their needs, preferably in school settings through the primary and post-primary school network. This facilitates access to individualised education programmes, fully qualified professional teachers, special needs assistants and the appropriate school curriculum. My Department has put in place a training programme for teachers in autism-specific interventions including TEACCH, PECS and ABA through the Special Education Support Service. The support service facilitates a partnership approach involving support teams of practising teachers, Education Centres, the Inspectorate, the National Educational Psychological Service, the National Council for Curriculum and Assessment, the National Council for Special Education, Third Level Colleges, Health Board Personnel, Teacher Unions and other relevant bodies and services.

Parents of children with autism have three distinct choices available to them depending on the needs of the child. Their child can attend a mainstream class in their local school with additional supports as required, they can attend a special class in a mainstream school or they can attend a special school. While some children with autism can thrive in a mainstream class, special classes in both mainstream and special schools have been specifically designed to meet the needs of those who require more intensive support. My Department’s Inspectorate carried out an Evaluation of Educational Provision for Children with Autistic Spectrum Disorders (ASD) which was published in 2006. The report looked at the education that is provided for children with autism in a variety of settings nationwide, including mainstream classes supporting children with autism. I am satisfied with the current policy of providing schools who have

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special classes for children with autism with qualified teachers, low pupil teacher ratios, a minimum of two special needs assistants per class, access to professional development as well as training courses in autism specific interventions, enhanced capitation and grants for specialist equipment and furniture, if required, together with special school transport arrangements. Educational provision in schools will be generally augmented by my intention to continue the recruitment of additional NEPS psychologists.

The Deputy will be also be aware that the National Council for Special Education (NCSE) is responsible, through its network of local Special Educational Needs Organisers, for allocating resource teachers and special needs assistants to special and mainstream schools to support children with special needs. The NCSE operates within my Department’s criteria in allocating such support. I have asked the council to supply the Deputy directly with the location of primary schools in County Kildare with special facilities for children with autism. However, the number of children attending in each case may not be readily available.

### **School Accommodation.**

177. **Deputy Bernard J. Durkan** asked the Minister for Education and Science the extent to which his attention has been drawn to classroom overcrowding at the present time; the action he proposes to take to address this issue in early date; and if he will make a statement on the matter. [19515/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The Forward Planning Section of my Department is in the process of identifying the areas where significant additional accommodation will be required at primary and post-primary level for future school years. Factors under consideration include population growth, demographic trends, current and projected enrolments, recent and planned housing developments and capacity of existing schools to meet demand for places. Having considered these factors, decisions will be taken on the means by which emerging needs will be met within an area. In terms of class sizes, almost 80% of primary pupils were in classes of less than 30 pupils during the last school year. With over 20,000 individual classes spread across all primary schools throughout the country, there will always be differences in individual class sizes. Some schools can have class sizes of greater than 27 or 28 but this is often because of a local decision by a school to use its teaching resources to have smaller numbers in other classes. Indeed, when a particular school has a class of over 30 in a particular grade, it is often because there is another class in the same school with just 20 pupils or so. I appreciate that an even distribution and splitting classes may not always be an option for a particular school, because for example there might be a large group in junior infants and a small group in sixth class and so on. Where possible, I believe that principals should consider the benefits of having smaller multi-grade classes as against having particularly large differences in class sizes at different levels in the school.

*Question No. 178 answered with Question No. 174.*

### **Pupil-Teacher Ratio.**

179. **Deputy Bernard J. Durkan** asked the Minister for Education and Science his plans to bring pupil-teacher ratios into line with best practice in other EU jurisdictions; and if he will make a statement on the matter. [19517/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** The Deputy has introduced the issue of comparability of Irish pupil-teacher ratios with the position in schools internationally. Given the momentous challenges that most countries are facing to cope with economic recession, and in the case of some countries to even maintain financial solvency, raising the

matter of educational comparisons misses the point. The first priority for Governments throughout the world at present is to ensure economic survival. Ensuring that public services like education can be maintained at a reasonable level is but a subset of that greater priority of securing national solvency. Without economic and fiscal stability, it is axiomatic that public services like education will suffer. The Government is about the business of securing Ireland's future. It is the number 1 priority. In the budget we tried to shelter education services as best we could. Some changes to how schools are to be staffed from next September were unavoidable. Of course it would be desirable to make improvements as originally intended, let alone have to take a step back. However, this is a changed world. It would be sheer folly to allow the overall number of teachers to spiral upwards as if nothing had changed. I have faith in the quality of our teachers and our schools and in their capacity to deliver as well from September 2009 as they did just over a year ago from a similar level staffing and class size position. We need to come through this difficult period. Only then can we look at what further improvements we can make in how we staff schools and reduce class sizes. As the full extent of the global crisis seeps into public consciousness, I believe parents will accept that taking difficult decisions now to secure future economic prosperity and secure employment for them and ultimately their children is the first imperative of the Government.

*Question No. 180 answered with Question No. 163.*

*Question No. 181 answered with Question No. 162.*

#### **Physical Education Facilities.**

182. **Deputy Noel Ahern** asked the Minister for Education and Science if he will clarify the position in relation to a school (details supplied) in Dublin 5; the position in relation to the provision of a sports hall; the length of time the request is with his Department; the general policy with regard to the provision of same; if grants are provided to rent sports facilities off site and so on; if a request has been made for ceiling repairs; if same will be funded under the summer works programme; if the school will be inspected from a health and safety aspect to ascertain the situation; and if he will make a statement on the matter. [19551/09]

**Minister for Education and Science (Deputy Batt O'Keeffe):** The school to which the Deputy refers applied to my Department for large scale capital funding for the provision of a PE Hall in 1998. All applications for large scale capital funding are assessed against published prioritisation criteria which were formulated following consultation with the Education Partners. Under the criteria, each project is assigned a Band Rating which reflects the type of works required and the urgency attaching to them. There are four Band Ratings in all, with Band 1 being the highest and Band 4 the lowest. A Band 4 rating has been assigned to the project in question in line with the criteria. Projects are progressed in accordance with the Band rating assigned to them and as they are ready to proceed. In light of current competing demands on the Department's capital budget, it is not possible to give an indicative timeframe for the progression of the project at this time.

With regard to my Department's policy on the provision of sports facilities generally, my Department is committed to funding the provision of PE, general purpose and outdoor play areas in schools as part of the school building and modernisation programme. This is being addressed in the context of available resources and the published criteria for prioritising school building projects, which I have referred to above. The provision of PE Halls at post-primary level is considered an integral part of the design stage for any major refurbishment programme of existing school buildings, providing that the site is of sufficient size, or where a new school on a greenfield site is being built. My Department does not have a budget stream for the rental

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of sports facilities as many schools, particularly those in large urban areas, can have the use of adjacent local facilities, including public parks, playing fields and swimming pools.

With regard to the Summer Works Scheme, the Deputy will be aware that, under the terms and conditions of this Scheme, schools are required to identify their highest priority projects. Under the current Scheme, the school in question applied for funding for an upgrade to its external environment. I am pleased to inform the Deputy that funding for this has been approved. My Department has no record of an application for funding for ceiling repairs under this Scheme. Apart from the Summer Works Scheme funding recently granted, the school received funding in excess of €32,000 last November for gas installation works.

### **School Staffing.**

183. **Deputy Frank Feighan** asked the Minister for Education and Science if he will guarantee that the present complement of special needs assistants will be retained in schools in County Roscommon and County Leitrim; and if he will provide a breakdown of the number in each school. [19570/09]

**Minister for Education and Science (Deputy Batt O’Keeffe):** As the Deputy will be aware, the National Council for Special Education (NCSE) is responsible, through its network of local Special Educational Needs Organisers, for allocating resource teachers and Special Needs Assistants (SNAs) to schools to support children with special needs. The NCSE operates within my Department’s criteria in allocating such support. Applications for SNAs may be considered by the NCSE where a pupil has a significant medical need for such assistance and where there are identified care needs arising from a diagnosed disability. A pupil’s level of care may diminish over time as the child matures. Pupils may move to a different school or to post-primary school. In such situations, the NCSE will review and adjust the SNA support required in the school. This may mean that some pupils who had previously been supported by a full time SNA may have their needs met through the shared support of an SNA or perhaps they may have no need for SNA support. All schools have the names and contact details of their local SENO. Parents may contact their local Special Educational Needs Organiser directly to discuss their child’s special educational needs, using the contact details available on [www.ncse.ie](http://www.ncse.ie). There are 55 and 126 whole-time equivalent SNAs in primary and post-primary schools in counties Leitrim and Roscommon respectively. My Department will be in further contact with the Deputy in relation to a more detailed breakdown.