



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Thursday, 25 June 2009.

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IMLEABHAR 686

VOLUME 686

Déardaoin, 25 Meitheamh 2009.
Thursday, 25 June 2009.

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

Paidir.
Prayer.

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 our economic stability posed by continued Government ineptitude as highlighted by the latest report of the International Monetary Fund, which claims that the Irish economy is the most overheated of all advanced economies with the collapse of tax revenue potentially pushing the deficit to 12% of national income and Irish banks facing losses of €35 billion by next year.

Deputy Johnny Brady: Georgie Porgie.

Deputy Bernard J. Durkan: You could address the issue involved Deputy Brady.

(Interruptions).

Deputy Martin Ferris: I seek the adjournment of the House under Standing Order 32 to discuss the arrival of the *Solitaire* at Broadhaven Bay yesterday afternoon to begin laying a pipe for the Corrib gas field, the fact that there is strong local opposition to the project for

[Deputy Martin Ferris.]

health, safety and economic reasons and the fact that local campaigners, some of whom were arrested last night, have been recently targeted in a series of sinister and violent attacks.

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.

Deputy James Bannon: This discredited Government should resign.

Deputy Noel Dempsey: Does the Deputy even know what IMF stands for? What does it stand for?

Order of Business.

Minister for Finance (Deputy Brian Lenihan): It is proposed to take No. 25, Criminal Justice (Surveillance) Bill 2009 — Report and Final Stages (resumed); No. a1, Nursing Homes Support Scheme Bill 2008 — amendments from the Seanad; No. 26, Housing (Miscellaneous Provisions) Bill 2008 [*Seanad*] — Order for Report, Report and Final Stages. It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 4.45 p.m. today and business shall be interrupted on the conclusion of Question Time; the proceedings on the resumed Report and Final Stages of No. 25 shall, if not previously concluded, be brought to a conclusion at 1.30 p.m. today by one question which shall be put from the Chair and which shall, in relation to amendments, include only those set down or accepted by the Minister for Justice, Equality and Law Reform; the proceedings on No. a1 shall, if not previously concluded, be brought to a conclusion after 60 minutes and any amendments from the Seanad not disposed of shall be decided by one question which shall be put from the Chair, and which shall, in relation to amendments to the Seanad amendments, include only those set down or accepted by the Minister for Health and Children; the Report and Final Stages of No. 26 shall be taken today and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 6.30 p.m. today by one question which shall be put from the Chair and which shall, in relation to amendments, include only those set down or accepted by the Minister for the Environment, Heritage and Local Government; Question Time today shall be taken on the conclusion of No. 26 for 75 minutes and in the event of a Private Notice Question being allowed, it shall be taken after 45 minutes; and the order shall not resume thereafter.

An Ceann Comhairle: There are five proposals to be put to the House. Is the proposal that the Dáil shall sit later than 4.45 p.m. today agreed to?

Deputy Richard Bruton: I challenge this move to adjourn. Yesterday, a vital report was produced by the IMF which requires urgent consideration by the House before it adjourns for the summer. People did not need to be told that the pain they are now enduring is entirely due to domestic policy failures on the part of this Government. The report singles out, in particular, the 2008 budget introduced by the current Taoiseach. People already knew that. What is really worrying about the IMF report is the very significant number of pitfalls it identifies in the Government's strategy relating to banking. The notion that this House would rise without having examined these in great detail is a serious affront to its role.

The IMF has reported that the deficit in the banks by 2010 will be €35 billion. That will be more than the aggregate of their capital reserves and retained earnings. The report also takes considerable issue with elements of the strategy regarding NAMA. A prominent economist has said there are those who do not know and those who do not know that they do not know.

People who do not know something look for advice, but what do people who do not know that they do not know do? They push ahead and brook no opposition. They have no debate, do not evaluate the options and proceed without an opportunity for proper scrutiny.

An Ceann Comhairle: It cannot be debated now.

Deputy Richard Bruton: The trouble is that the Government is falling into that position.

An Ceann Comhairle: Deputy Bruton has made his point. He has been given a great deal of latitude.

Deputy Richard Bruton: It is important to realise that the IMF has indicated there are serious pitfalls with several critical elements of legislation that is due to be brought before the House in September. These relate to how the pricing will be dealt with, whether banks that are below the water line should be nationalised, whether non-development loans should be included, whether good development loans should be excluded——

An Ceann Comhairle: The Deputy has made his point.

Deputy Richard Bruton: ——and whether there should be a bank resolution scheme. There are pitfalls across the board that could pose significant risks for the taxpayer. It is our obligation to scrutinise the proposals before an interim board makes substantial commitments on behalf of the Irish people that we have not examined.

An Ceann Comhairle: A proposal by the Minister on how items are to be dealt with is a technical proposal of very narrow scope, and the merits and demerits of the item do not arise at this stage. I will allow brief statements, not long statements.

Deputy Eamon Gilmore: Before we can agree any business today we must hear from the Government when the House will have an opportunity to debate the two reports that were published yesterday, by the IMF and the OECD, respectively. Both are extremely critical of the Government and are at variance with——

Deputy Brian Lenihan: They are not. The Deputy should read the reports.

Deputy Eamon Gilmore: I cannot imagine a Minister for Finance in any other country who, having received such a damning report on the economic and financial performance of a Government of which he has been part for the past 12 years, would say he welcomed it——

(Interruptions).

Deputy James Bannon: They are the laughing stock of Europe.

A Deputy: Right, James.

Deputy Eamon Gilmore: ——that it had nothing to do with him, that he really was not part of of the Government at all, that he was some kind of distant supporter of the Government.

Deputy Paul Kehoe: Like Jackie Healy Rae. A distant supporter.

Deputy Eamon Gilmore: This report on the economy is very serious. It is quite at variance with the Government's take on the economy. Only a month ago, admittedly before the elections, the Taoiseach told a meeting in Slane in County Meath that the economy would return to rapid growth as early as 2010.

Deputy Dinny McGinley: The green shoots.

Deputy Eamon Gilmore: Does the Government still believe the economy will return to rapid growth in 2010?

An Ceann Comhairle: We cannot debate that now, Deputy Gilmore.

Deputy Eamon Gilmore: These are issues——

An Ceann Comhairle: I will not have statements about it.

Deputy Eamon Gilmore: That is my point. I appreciate that I will not have the opportunity of ventilating these matters to the extent to which they should be ventilated in this session today. That is why I am looking for a debate, why I ask the Government what type of arrangements it will allow for us to debate and discuss these issues. The take adopted by the IMF and the OECD on the state of our economy is quite different from the stated take of the Government. We must assess that.

Second, their assessment of what the Government is doing in respect of the banking system is at variance with what the Government proposes to do, which is still vague. We still do not know when this legislation will be published and considered by the House. Meanwhile, events continue apace. Before we go into recess for the summer we need to have a proper and serious debate about the state of the economy based on these two reports. I will not agree anything on today's Order of Business until I receive a commitment from the Minister for Finance that the House will have such a debate.

Deputies: Hear,hear.

Deputy Caoimhghín Ó Caoláin: There should be no surprise that the Minister for Finance, Deputy Lenihan, saw no problem whatsoever with the reports because the interpretation he quite rightly might put on them is that they exonerate him in his current role as Minister and lay the blame firmly and squarely on the former Minister for Finance, the current Taoiseach. What a wonderful way to start the day, particularly when sitting in the Taoiseach's chair. He might fancy that prospect for the future.

The fact is there was collective responsibility. The current Minister for Finance cannot wash his hands of responsibility as he tried to do this morning on "Morning Ireland".

An Ceann Comhairle: We cannot have this now.

Deputy Caoimhghín Ó Caoláin: He made a stoic effort to do so but failed because the truth is there is collegiality and collective responsibility. The IMF report is damning on the stewardship of this Government——

An Ceann Comhairle: Deputy Ó Caoláin, you must keep to the proposal before the House as must others.

Deputy Caoimhghín Ó Caoláin: ——going back to 1997 when this Government, under Fianna Fáil, came into office.

An Ceann Comhairle: You have made your point now.

Deputy Caoimhghín Ó Caoláin: That is a fact. I join with other colleagues in requesting confirmation that we will have the opportunity to address properly the content of the IMF and

OECD reports and that both will be accommodated. It should be happening today but is not on the Order Paper. What we need is confirmation that we will have a thorough opportunity in the coming week to address both reports and that this Government will step up to the mark in terms of its responsibility for the plight it has imposed on the lives of ordinary citizens up, down and across the State.

Deputy Brian Lenihan: A debate on this subject is a matter for the Whips. Clearly, Members of the Opposition have to read the report before we can have a debate on it.

Deputies: Hear, hear.

Deputy Brian Lenihan: The IMF states that the Government's policies are the right ones.

Deputy Brian Hayes: Just like the PricewaterhouseCoopers report.

Deputy Brian Lenihan: I refer Deputies to paragraph 45 of the report which states that on the two fronts that matter most, the authorities have moved in the right direction.

Deputy Brian Hayes: Did the Minister read the next paragraph?

Deputy Pat Rabbitte: That is like Albert Reynolds.

Deputy Brian Lenihan: The two priority areas referred to——

(Interruptions).

Deputy Brian Lenihan: The Deputies do not like it when it is pointed out to them. The two priority areas referred to are the banking systems and fiscal policy.

Paragraph 3 of the report——

Deputy Richard Bruton: Read paragraph 25.

Deputy Seymour Crawford: He cannot.

An Ceann Comhairle: Listen to what the Minister has to say, for goodness sake.

Deputy Brian Lenihan: ——states the Government has moved with resolve to counter the severe economic and fiscal shocks. The IMF supports the establishment of NAMA. In paragraph 21 it describes NAMA——

Deputy Joan Burton: Read paragraph 25.

Deputy Brian Lenihan: ——as pivotal to the orderly restructuring of the financial sector and the limiting of long-term damage to the economy. According to paragraph 45, which Deputy Burton wishes me to read out——

Deputy Joan Burton: Paragraph 25.

Deputy Seymour Crawford: He cannot read paragraph 25.

Deputy Brian Lenihan: ——NAMA offers the prospect of extracting the stressed assets from the banks, a pre-condition for their return to healthy functionality.

The IMF also agrees that NAMA can be self-financing if it is well managed.

Deputy Brian Hayes: Has the debate started, a Ceann Comhairle?

An Ceann Comhairle: I can assure Deputy Hayes I did not start it. Let him finish now.

Deputy Brian Lenihan: The IMF supports the important steps to stabilise the financial system taken by the Government. I point out to Deputy Burton that the IMF states the Government is making the right choices in budgetary policy.

Deputy Bernard J. Durkan: Dream on.

Deputy Brian Lenihan: Paragraph 33 states that the basic approach and elements of the plan are appropriate.

Deputy Joan Burton: Can the Minister go back to paragraph 25?

Deputy Brian Lenihan: Paragraph 51 of the report states that the initial reliance on increases in income tax in the October and April budgets were appropriate. The increases are described as “a necessary process of returning tax rates to more normal levels”. That is in paragraph 33 of the report.

Deputy Fergus O’Dowd: He is born again.

Deputy Brian Lenihan: What is needed now——

(Interruptions).

An Ceann Comhairle: Hold on a second.

Deputy Paul Kehoe: The Minister is reeling in the years now.

Deputy Brian Lenihan: Clearly, the Deputies opposite have a lot of reading to do.

An Ceann Comhairle: I will throw Deputies out of the House if this continues.

Question, “That the proposal that the Dáil shall sit later than 4.45 p.m. today be agreed to,” put and declared carried.

Deputy Pat Rabbitte: I have not seen anything like that since Albert Reynolds read the first few pages of the Beef Tribunal report and then stopped.

An Ceann Comhairle: Is the proposal for dealing with No. 25 agreed?

(Interruptions).

An Ceann Comhairle: I call on Deputy Ó Caoláin on this proposal.

Deputy Dermot Ahern: Did the Deputy find it under the printing press?

An Ceann Comhairle: Never mind the printing presses now.

Deputy Caoimhghín Ó Caoláin: It is proposed to guillotine the Criminal Justice (Surveillance) Bill 2009 at 1.30 p.m. today. Very many important amendments remain to be addressed in respect of this legislation. We also have before us two other Bills, the proceedings on both of which it is proposed to guillotine. It is absolutely disgraceful. There is importance in the subject matter of each piece of legislation before the House, the Criminal Justice (Surveillance) Bill, the Nursing Homes Support Scheme Bill and the Housing (Miscellaneous

Provisions) Bill. This is a scandalous approach on the part of this Government to the conduct of business in the House. The House is literally being asked to rubber stamp whatever the Government wishes to present to this and the other Chamber. It is not the way to do business. Critical amendments which people have put a great deal of time and effort into preparing will not now be addressed.

Deputy Billy Kelleher: Was the Criminal Justice (Surveillance) Bill not addressed by Deputy Ó Snodaigh?

Deputy Caoimhghín Ó Caoláin: We oppose the imposition of the guillotine in respect of the Criminal Justice (Surveillance) Bill.

An Ceann Comhairle: I call on the Minister on proposal No. 2.

Deputy Brian Lenihan: This Bill was considered by the Select Committee on Justice, Equality and Law Reform in considerable detail. Report Stage was conducted last night and it is a matter of some urgency that we have the necessary powers to deal with criminal activity in the State. It is proposed to conclude the debate today.

Question, "That the proposal for dealing with No. 25 be agreed to," put and declared carried.

An Ceann Comhairle: Is the proposal for dealing with No. a1 agreed to?

Deputy Jan O'Sullivan: It is not agreed. A guillotine is being imposed on health legislation again. Yesterday, we objected to a guillotine that only allowed us one hour to discuss amendments to another health Bill. We had not even finished dealing with the first group of amendments when the time concluded. This is not an adequate amount of time to deal with a considerable number of Seanad amendments to important legislation. I can envisage considerable debate on at least one amendment. The guillotine is being used randomly on legislation. I am unsure about whether the Government has even read the Seanad's amendments. Perhaps it has, but the ten amendments are substantial and there is no way to deal with them adequately in the time allocated.

Deputy Brian Lenihan: The Bill has passed through both Houses of the Oireachtas since last year and has seen extensive debate on its provisions.

Deputy Michael D. Higgins: We have a right to discuss it.

Deputy Brian Lenihan: We are dealing with amendments agreed upon by the Seanad, which are constructive changes to the legislation suggested in both Houses. The various changes are contained in the Seanad amendments, which are before the House today. It is important that we have this nursing home support scheme in place so that the proper legislative structure exists and that the funds voted for this purpose can be applied.

Deputies: Hear, hear.

Deputy Jan O'Sullivan: We have only just received the amendments.

Question, "That the proposal for dealing with No. a1 be agreed to," put and declared carried.

An Ceann Comhairle: Is the proposal for dealing No. 26, Order for Report, Report and Final Stages of the Housing (Miscellaneous Provisions) Bill 2008, agreed to?

Deputy Emmet Stagg: It is not agreed.

Deputy Richard Bruton: The House cannot support this. I understand that there are approximately 170 amendments. While the Minister may have been able to offer some justification in respect of the previous two proposals, namely, that there are issues of urgency and immediacy and that the House has had ample time to debate, the same defence cannot be offered in this case where there is a great deal of new Government and Opposition material. The House is entitled to debate the amendments properly. The imposition of a guillotine in this case is inappropriate. Indeed, it is generally inappropriate and flashing guillotines everywhere is unhelpful to Dáil business.

Deputy Emmet Stagg: What we are witnessing is quite extraordinary. It is not just an end of term guillotine being applied to important Bills. This guillotine will allow one minute and 20 seconds for each amendment tabled. Our assembly is supposed to debate and correct legislation.

Deputy Michael D. Higgins: That is right.

Deputy Emmet Stagg: It is not for the Minister to say that something is urgent legislation and that the Government is fed up listening to the Opposition's discussion of it. Doing that in the Chamber is our job.

Deputy Michael D. Higgins: Hear, hear.

Deputy Emmet Stagg: We are constitutionally required to do it. What the Government is doing is unconstitutional, as there is no case to be made for the guillotines. They were applied last week to issues that did not require them, which is what we told the Government, and debates collapsed because there were not sufficient speakers.

Deputy Pat Carey: That was not the Government's fault.

Deputy Emmet Stagg: For three hours last week there was no debate at all. The House closed down for the want of business.

Deputy Mary Hanafin: The Opposition had nothing to say.

Deputy Emmet Stagg: Next week will see seven guillotines. I have asked the media to examine the matter and to highlight the fact that the Government is bulldozing legislation through the House. It is legislating in name only——

Deputy Ruairí Quinn: We are being dictated to.

Deputy Emmet Stagg: ——because there is no debate in the House. It is a requirement of the Constitution and the Standing Orders that the House would debate, examine and, if necessary, correct legislation.

Deputy Michael D. Higgins: That is right.

Deputy Emmet Stagg: It is not the function of the Executive to make law and tell the Dáil to rubber stamp it in a couple of minutes. The Government is allowing one minute and 20 seconds per amendment. This is simply not acceptable. The Government has been doing it and will do it again next week by ordering all Stages of a number of Bills to be taken in just a few minutes. Seven guillotines will be applied to legislation, not just debates.

Earlier this year, there was a full week in which legislation was not mentioned because the Government had no legislation ready. It was the Government's fault, not this Assembly's. It is

the Executive's job to introduce legislation. We debated matters like motherhood and apple pie, more or less.

Deputy Noel Dempsey: At the request of the Opposition.

(Interruptions).

Deputy Emmet Stagg: It is something that the Government proposed to make itself look good. We did that week after week during the last session.

Deputy Noel Dempsey: All at the request of the Opposition.

Deputy Emmet Stagg: Now, seven guillotines are being applied to legislation in one week and six in the next. It is not acceptable.

Deputy Caoimhghín Ó Caoláin: The Sinn Féin Deputies also oppose the imposition of the guillotine on the Housing (Miscellaneous Provisions) Bill, as we did each of the previous proposals on legislation. It was only one week ago that the Dáil was unable to perform its duties properly when the Government failed to provide the necessary business to fill the day's work and the Dáil was suspended for over three hours.

Deputy Billy Kelleher: None of Sinn Féin's Deputies contributed to the debate. They have no one to blame but themselves.

Deputy Caoimhghín Ó Caoláin: Here we are with important legislation to which many amendments have been tabled, yet we are not being provided with the time to participate properly. I join other voices in urging the Government to lift the guillotine and allow the process to take its natural course.

Deputy Brian Lenihan: I am glad that Deputy Ó Caoláin acknowledged the importance of the legislation. It was published on 27 July 2008 and initiated and discussed extensively in Seanad Éireann. It has been before the Dáil since the new year. Its purpose is to provide for a modern framework for social housing, which is an important subject.

Deputy Emmet Stagg: Some 100 new sections were stuck into it one week ago. The Minister should not pretend that the Bill has been debated for a year.

Deputy Brian Lenihan: I will deal with that in a moment.

Deputy Ruairí Quinn: It is totally misleading.

An Ceann Comhairle: Let the Minister finish.

Deputy Brian Lenihan: The Bill deals with an important social purpose in the current economic climate.

Deputy Emmet Stagg: There is a method for making law, but it is not the Executive dictating.

Deputy Brian Lenihan: A large number of amendments have been tabled, but many of them are technical in character and do not——

Deputy Michael D. Higgins: That is for us to judge.

Deputy Emmet Stagg: This is not a dictatorship.

Deputy Brian Lenihan: —fundamentally change the core issues, which have been extensively discussed.

Deputy Michael D. Higgins: That is not for the Government to say.

Deputy Emmet Stagg: It has no right.

An Ceann Comhairle: Please, Deputies.

Deputy Brian Lenihan: It is for me to suggest why the Government is being reasonable. Regarding Deputy Stagg's constitutional point, the Constitution provides that all questions in the House are determined by a majority of the Members present when voting.

Deputy Emmet Stagg: Bulldozer.

Deputy P. J. Sheehan: That was a brilliant comment.

Question put: "That the proposal for dealing with Item No. 26 be agreed to."

The Dáil divided: Tá, 71; Níl, 63.

Tá

Ahern, Dermot.
 Ahern, Michael.
 Ahern, Noel.
 Andrews, Barry.
 Andrews, Chris.
 Ardagh, Seán.
 Aylward, Bobby.
 Blaney, Niall.
 Brady, Áine.
 Brady, Cyprian.
 Brady, Johnny.
 Browne, John.
 Byrne, Thomas.
 Calleary, Dara.
 Carey, Pat.
 Collins, Niall.
 Conlon, Margaret.
 Connick, Seán.
 Cregan, John.
 Cuffe, Ciarán.
 Cullen, Martin.
 Curran, John.
 Dempsey, Noel.
 Dooley, Timmy.
 Finneran, Michael.
 Fitzpatrick, Michael.
 Fleming, Seán.
 Gogarty, Paul.
 Grealish, Noel.
 Hanafin, Mary.
 Harney, Mary.
 Haughey, Seán.
 Healy-Rae, Jackie.
 Hoctor, Máire.
 Kelleher, Billy.
 Kenneally, Brendan.

Kennedy, Michael.
 Killeen, Tony.
 Kirk, Seamus.
 Kitt, Michael P.
 Kitt, Tom.
 Lenihan, Brian.
 Lenihan, Conor.
 McEllistrim, Thomas.
 McGrath, Mattie.
 McGrath, Michael.
 Mansergh, Martin.
 Martin, Micheál.
 Moloney, John.
 Moynihan, Michael.
 Nolan, M.J.
 Ó Cuív, Éamon.
 Ó Fearghail, Seán.
 O'Brien, Darragh.
 O'Connor, Charlie.
 O'Flynn, Noel.
 O'Hanlon, Rory.
 O'Keeffe, Batt.
 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.

Broughan, Thomas P.
 Bruton, Richard.
 Burke, Ulick.

Níl—*continued*

Burton, Joan.	McGrath, Finian.
Byrne, Catherine.	McHugh, Joe.
Clune, Deirdre.	McManus, Liz.
Connaughton, Paul.	Morgan, Arthur.
Coonan, Noel J.	Neville, Dan.
Costello, Joe.	Noonan, Michael.
Crawford, Seymour.	Ó Caoláin, Caoimhghín.
Creed, Michael.	O'Donnell, Kieran.
Creighton, Lucinda.	O'Dowd, Fergus.
D'Arcy, Michael.	O'Keeffe, Jim.
Deasy, John.	O'Mahony, John.
Deenihan, Jimmy.	O'Shea, Brian.
Durkan, Bernard J.	O'Sullivan, Jan.
Enright, Olwyn.	Perry, John.
Feighan, Frank.	Quinn, Ruairí.
Ferris, Martin.	Rabbitte, Pat.
Flanagan, Charles.	Reilly, James.
Flanagan, Terence.	Ring, Michael.
Gilmore, Eamon.	Shatter, Alan.
Hayes, Brian.	Sheahan, Tom.
Hayes, Tom.	Sheehan, P.J.
Higgins, Michael D.	Sherlock, Seán.
Hogan, Phil.	Shortall, Róisín.
Kehoe, Paul.	Stagg, Emmet.
Lee, George.	Stanton, David.
Lynch, Ciarán.	Tuffy, Joanna.
McCormack, Pádraic.	Upton, Mary.
McEntee, Shane.	Wall, Jack.
McGinley, Dinny.	

Tellers: Tá, Deputies Pat Carey and John Cregan; Níl, Deputies Paul Kehoe and Emmet Stagg.

Question declared carried.

An Ceann Comhairle: I call Deputy Bruton on the Order of Business.

Deputy Richard Bruton: I want to raise three matters. We have all noted there are social partnership discussions about a job subsidy. Will this require legislation? If so, is it intended to introduce it before the House rises for the summer?

The Minister indicated this morning on a radio programme that the Government had approved the heads of the National Asset Management Agency legislation. Will he use the procedure available to him to present the heads of the Bill to the Oireachtas for consideration so it can have an early opportunity to have an input?

With regard to the reform of the regulatory structure of the Central Bank and Financial Regulator, the Minister indicated responsibility for consumer information would be transferred elsewhere. What will happen regarding consumer protection under the new structure and when will we see the legislation? It is feared that consumers will be squeezed as the Central Bank regains total control over regulation. The consumer protection element, which is needed, now seems to be downgraded to simply an information role.

Deputy Brian Lenihan: On the jobs protection initiative, regarding which the Government is in discussion with the social partners, no legislation is required at this stage.

The position on NAMA is that work has commenced on the preparation of the legislation. I am glad the Deputy asked about the heads of the Bill. The heads are approved by the Government but not the crucial head on valuation because we are still receiving technical

[Deputy Brian Lenihan.]

advice on the valuation procedures. When the heads are finalised by the Government, I will consider the Deputy's suggestion. It is my intention to publish the legislation later in July.

On the question on the regulatory structure, legislation will be required to give effect to the various proposals involved. The reason the Government took a decision at this stage was to expedite the recruitment process for a head of financial regulation. Clearly, a job description is required for this role and in this regard the Government has engaged Sir Andrew Large, a former Deputy Governor of the Bank of England, to assist in the recruitment of a new independent regulator of the banking system. It was essential to have a Government decision on the legislative framework. It is not the intention to devalue the consumer function of the new Central Bank of Ireland commission. However, half the staff of the regulatory office were involved over the years on consumer work and this was a distraction from the essential banking stability and supervision work that any regulator must do.

11 o'clock

Deputy Richard Bruton: When will we see that legislation?

Deputy Brian Lenihan: It will be later in the year.

Deputy Eamon Gilmore: There are three matters I wish to raise. In response to my earlier question on the need for a debate in the House on the IMF and OECD reports, the Minister said he would leave it to the Whips to arrange. Can I take it from this reply that the Government is, therefore, agreeing there will be a debate on those reports in the House prior to the summer recess and that it is now left to the Whips to arrange the time therefore?

A year ago today the Government published the heads of a proposed Bill on civil partnerships. We have not seen any progress since. When will it be finalised and published?

The Minister for Communications, Energy and Natural Resources, Deputy Eamon Ryan, indicated publicly there will be a climate change Bill introduced by the Government prior to Christmas. However, when Deputy McManus and I asked the Taoiseach about it this week, he did not seem to know anything about it. He told us no proposal for such a Bill had been brought to the Government. Will the Government introduce a climate change Bill? If it is not in a position to do so, will it accept the Labour Party's Private Members' Bill, which is on the Order Paper, and consider it in Government time?

Deputy Brian Lenihan: It is a matter for the Whips to determine whether time can be allowed for a debate on the OECD and IMF reports. It is not for me to dictate to them the position on it.

Deputy Emmet Stagg: We are agreeable; it is a question of agreement on the Government's side.

Deputy Brian Lenihan: I am happy to leave the matter to the Minister of State at the Department of the Taoiseach to deal with it.

Deputy Ruairí Quinn: It is the Government that organises business. The Minister should stop talking nonsense.

Deputy Brian Lenihan: I am not talking nonsense but explaining the position.

Deputy Ruairí Quinn: He is.

Deputy Emmet Stagg: He is talking rubbish.

Deputy Joan Burton: That is like the Minister for Enterprise, Trade and Employment, Deputy Mary Coughlan, on the radio——

Deputy Brian Lenihan: The Whips can discuss this issue. We have a very busy schedule for the rest of this session.

Deputy Ruairí Quinn: That is nonsense, the Government decides what happens in Government time.

Deputy Brian Lenihan: If the Deputies opposite are willing to facilitate some Government business in that schedule, we will be quite happy to facilitate them with a debate on the IMF report, which I would of course welcome.

Deputy Emmet Stagg: The Government will deny it.

Deputy Brian Lenihan: On the question of the civil partnership Bill, the Government approved the text at its meeting this week and publication is imminent. It will take place within the next few days.

On climate change legislation, discussions are still under way with a view to bringing proposals before Government on the matter.

Deputy Eamon Gilmore: To clarify the first matter, the Government organises the schedule of the House and orders the business that is to be taken therein. The Whips will make arrangements on the timing of a debate but they must do so within the context of the business ordered by the Government. Will the Minister state whether the Government is ordering a debate on the IMF and OECD reports? There is no point in hiding behind the Whip.

An Ceann Comhairle: The issue is whether such a debate is promised. Is such a debate promised?

Deputy Brian Lenihan: No such debate is promised.

Deputy Pat Rabbitte: There can be no question of the House adjourning for the summer without a debate on the most profound issue impacting on the lives of the people. To give fair notice, we will not co-operate with business for the rest of this session unless the Government makes a commitment that the IMF and OECD commentaries will be debated in this House.

An Ceann Comhairle: That has not been excluded. It is a matter for discussion between the Whips.

Deputy Pat Rabbitte: It is being evaded.

An Ceann Comhairle: The debate has not been promised at this time and, therefore, I cannot allow this discussion within Standing Orders.

Deputy Ruairí Quinn: Stop the nonsense. The Minister can say “Yes” or “No”.

An Ceann Comhairle: The Minister said it is a matter for debate between the Whips, which it is. I can allow specific questions on a promise made, but when a promise is not made the debt does not remain unpaid.

Deputy Emmet Stagg: On a point of order, a debate among the Whips is a vacant exercise unless the Chief Whip has the authority of the Government to allow for the debate we request.

Deputy Dermot Ahern: Deputy Stagg is not that vacant.

An Ceann Comhairle: I am sure Deputy Stagg is more than capable of making his point at the Whips' meeting. The matter can be raised again.

Deputy Dermot Ahern: Deputy Stagg is a long time serving as a Whip. He has not given himself enough credit after all these years.

Deputy Ruairí Quinn: We have just had one of the most damning economic reports on circumstances that will do extraordinary damage to this country. Is the Minister for Finance so pusillanimous and afraid that he cannot even recommend that the House have a debate?

An Ceann Comhairle: The situation is straightforward. The matter can be discussed between the Whips and it has not been excluded.

Deputy Ruairí Quinn: It is not a matter for the Whips.

An Ceann Comhairle: The Deputy should understand I cannot proceed in this fashion. I am being very reasonable.

Deputy Micheál Martin: The Ceann Comhairle is being too reasonable.

Deputy Eamon Gilmore: We have had two very serious reports on the economy.

An Ceann Comhairle: I know that.

Deputy Pat Rabbitte: I ask the Minister for Foreign Affairs, Deputy Martin, what is so funny?

Deputy Eamon Gilmore: People are hurting.

Deputy Pat Rabbitte: What is so funny?

Deputy Micheál Martin: The Deputy is the jester in this House.

An Ceann Comhairle: The difficulty is that the Minister has promised that the Whips will discuss the matter.

Deputy Charles Flanagan: This is probably the Minister's big break.

An Ceann Comhairle: The matter has not been determined and it has not been promised and therefore it is not in order to ask about it on the Order of Business. That is the difficulty.

Deputy Jan O'Sullivan: Can he not promise it now?

Deputy Eamon Gilmore: I do not want us to play word games with this.

An Ceann Comhairle: Neither do I.

Deputy Eamon Gilmore: These are two very serious reports. The economy is in a serious state. A total of 400,000 people are out of work. There are huge problems about which we all know. There are two sitting weeks left for the Dáil before it rises. The Taoiseach confirmed to me yesterday that it will rise on 10 July. We must debate the two reports that have been published as part of a serious debate on the economy.

I interpreted the Minister's first reply, when he said that he would leave it to the Whips, benignly as meaning that there would be a debate and that the Whips would arrange the time for it. In his second reply he is pulling back from that and saying that it is not promised but it can be arranged if the Whips can find time and so on. I take it that he would be the Minister leading the debate on this issue. Will we have the opportunity to debate these reports in the House? It is not acceptable to the Labour Party that we will not have a serious debate and discussion on those major reports in the Dáil. That is what we are here to do.

An Ceann Comhairle: The Deputy has made his point.

Deputy Eamon Gilmore: I need a commitment from the Minister for Finance.

Deputy Richard Bruton: Lest our silence be taken as assent to the Government's approach I want to make it clear that we believe that these reports are of huge importance and do need to be debated. We take a similar view to that of the Labour Party in respect of co-operation with business if we do not get the opportunity for reasonable debating time on these matters.

An Ceann Comhairle: A debate has not been promised. The Minister for Finance has stated that the Whips will discuss it. Of course it is also open to the parties in the House——

Deputy Charles Flanagan: The Minister knows that the Whips are driven by the Department.

An Ceann Comhairle: It is open to the parties to utilise their own remedy which is to raise the matter in Private Members' time.

Deputy Joan Burton: I have not had an opportunity to speak.

An Ceann Comhairle: Deputy Gilmore has made Deputy Burton's point.

Deputy Joan Burton: Paragraph 43 of the report says that the economic situation here will be an episode of the most severe economic distress since the Second World War.

An Ceann Comhairle: All those points have been made.

Deputy Joan Burton: The Minister did not read paragraph 43.

An Ceann Comhairle: The Deputy can read that to him some other time.

Deputy Joan Burton: This will be the most severe period of economic distress since the Second World War and the Minister will not have a debate on it.

An Ceann Comhairle: I call on the Minister for Finance to bring finality to the question of a debate.

Deputy Joan Burton: Not since Pontius Pilate have we had a Minister who washes his hand of his own economic history and his own Government.

Deputy Micheál Martin: That was before the Second World War.

An Ceann Comhairle: Biblical analogies can be brought up elsewhere.

Deputy Brian Lenihan: Of course I would welcome a debate on the IMF and OECD reports.

Deputy Charles Flanagan: Then the Minister should direct his Whip.

Deputy Brian Lenihan: I would welcome a debate on these reports especially given the warm endorsement of current Government policy contained in the IMF report.

Deputy Bernard J. Durkan: The Minister is deluding himself.

Deputy Brian Lenihan: I am not in a position to allocate Government time. I have suggested that the Whips discuss this matter.

Deputy James Reilly: The Minister's sense of temperature is considerably impaired.

Deputy Joan Burton: Does the Minister want a star for going on for about 20 minutes on RTE this morning? He sounded like the Tánaiste not the Minister for Finance as he rambled on.

An Ceann Comhairle: I might have to ask Deputy Burton to leave if this keeps up.

Deputy Dermot Ahern: Thankfully it was not Deputy Burton on the radio this morning.

Deputy Joan Burton: He rambled about how he was nothing to do with the Government but merely a supporter.

An Ceann Comhairle: Deputy Burton will have to leave if that keeps up.

Deputy Joan Burton: Does he want a kindergarten star?

Deputy Brian Lenihan: I would welcome a debate on the report which would allow for the consideration of it in a far more——

(Interruptions).

An Ceann Comhairle: He will answer if there is a debate in respect of it.

Deputy Eamon Gilmore: He welcomed the report this morning and said he had nothing to do with the Government.

Deputy Charles Flanagan: The Minister is welcome to the real world.

Deputy Eamon Gilmore: The Minister has just told us that he is not in a position to make a commitment as to whether we will have a debate. May I respectfully suggest to him that he is in a position to do that.

Deputy Ruairí Quinn: Absolutely.

Deputy Eamon Gilmore: He is the Minister leading for the Government on the Order of Business this morning.

Deputy Ruairí Quinn: The Minister has that authority and he should use it.

Deputy Eamon Gilmore: The Government orders the business of the House. That is why we have a session called the Order of Business to discuss what business the House will do.

Deputy Micheál Martin: The disorder of business.

An Ceann Comhairle: The Whips will discuss that matter. Then the Deputy can return to it.

Deputy Eamon Gilmore: No. We want a commitment.

An Ceann Comhairle: We will return to it.

Deputy Eamon Gilmore: We want a commitment.

An Ceann Comhairle: I cannot force it.

Deputy Eamon Gilmore: If the House was going to be meeting for the next month or six weeks we could accept that but there are only two weeks left. The Government proposes to cram a lot of business into those two weeks. I want a commitment from the Minister that there will be a debate and the Government will provide time for that.

Deputy Seán Barrett: “Yes we can.”

Deputy Eamon Gilmore: The Minister is in a position to do that because he is leading for the Government this morning and will be leading that debate.

Deputy Ruairí Quinn: He should just do it.

Deputy Eamon Gilmore: The Minister for Finance seems to think that no matter what he says, provided he says it sweetly enough everybody will accept it.

An Ceann Comhairle: The Minister for Finance has stated that he is not in a position to promise a debate.

Deputy Emmet Stagg: He is. We do not accept that.

Deputy Ruairí Quinn: The Minister can change his mind. He should find his courage.

An Ceann Comhairle: Standing Order 26 unfortunately ends the matter. It is open to the Opposition parties if the Whips do not agree the debate to raise the matter in Private Members' time. There is no difficulty with that.

(Interruptions).

An Ceann Comhairle: I cannot put it any further.

Deputy Pat Rabbitte: The Minister for Finance is the acting head of Government this morning. He has parcelled up and despatched the Tánaiste somewhere and that is fine but he is the acting head of Government. He has the authority to commit to a debate, not to come in here as some disinterested bystander and say he would welcome a debate. He is the Minister for Finance and the acting head of Government but one would think he was not in Government when this disaster was caused. He was at the Cabinet table, not just a member of Government. He was the super junior Minister at the time.

An Ceann Comhairle: I will have to adjourn the House if this keeps up. I have ruled on the matter.

Deputy Joan Burton: The Minister is just a camp follower.

Deputy George Lee: In respect of the urgency of this debate, the Central Statistics Office has just reported that in the past 12 months 160,000 jobs have been wiped out and that the economic debate on this is much more important and more urgent.

An Ceann Comhairle: The Chair's ruling must be respected at this stage.

Deputy George Lee: We have never lost so many jobs for so many people in so short a time and the idea that——

An Ceann Comhairle: That is the end of that, Deputy Lee.

(Interruptions).

Deputy Joan Burton: If the Minister for Finance cannot make a simple decision, can we adjourn for 20 minutes while he telephones the Taoiseach to ask whether the Taoiseach agrees to a debate?

Deputy Charles Flanagan: He was able to debate it on the radio.

Deputy Micheál Martin: The Opposition is wasting time. This is a parliamentary charade. They should do a bit of work.

Deputy Eamon Gilmore: The Minister for Foreign Affairs should do a bit of work.

Deputy Charles Flanagan: We do not often see the Minister for Foreign Affairs around here.

An Ceann Comhairle: It cannot be put any further than that.

A Deputy: On a point of order.

An Ceann Comhairle: There will be no more points of order now. I must proceed.

(Interruptions).

An Ceann Comhairle: It is clear we will not be able to proceed with business. I am adjourning the House for ten minutes.

Sitting suspended at 10.28 a.m. and resumed at 10.38 a.m.

An Ceann Comhairle: I call Deputy Michael D. Higgins on the Order of Business.

Deputy Eamon Gilmore: I am sure the Deputy will be happy to give way to me.

Deputy Michael D. Higgins: Yes.

Deputy Eamon Gilmore: The simple solution to the difficulty we have is for the Minister for Finance to promise a debate on the IMF and OECD reports. While I would be happy to have the arrangements for such a debate agreed among the Whips, we must have a definitive answer from the Minister indicating a debate will take place and the Government will provide time for it. If we receive such a commitment, we can proceed with the rest of the business. Without such a commitment, we will have a slight problem which will probably detain us for some time.

Deputy Richard Bruton: The entire House has an interest in having business conducted in an orderly fashion and issues of national importance debated in a timely manner. The Opposition seeks no more than that. If the Government is not willing to meet us half way on this issue, it will jeopardise co-operation on pairs and the timing of business for the remainder of the session. Let us have a debate on a vital issue rather than bogging down the House in procedural wrangles which are not of any help to the House.

Deputy Aengus Ó Snodaigh: This an urgent matter which requires urgent address. If it is necessary for the House to sit longer hours or additional days, we should consider doing so.

Given that additional and late sittings are scheduled for next week and proposed for the following week, it should be possible to commence a debate on the matter under discussion. If such a debate cannot be concluded in the next two weeks, the House should, if necessary, consider extending the session.

Deputy Brian Lenihan: No approach was made to the Government requesting this debate prior to the Order of Business today.

Deputy Damien English: We should not have to request a debate.

Deputy Brian Lenihan: May I finish, please? A request was made in the course of the Order of Business. I am dealing with the Order of Business and am, therefore, aware that the Government has a busy timetable in the next fortnight in relation to essential legislation. For this reason, I am unwilling to give a promise for a debate, although I indicated at all stages that I would welcome a debate. One of the advantages of the disorder fomented by Labour Party Deputies was that it gave me the opportunity, on the suspension of the House by the Ceann Comhairle, of surveying Government business for the next fortnight.

Deputy Joan Burton: Did the Minister phone a friend?

Deputy Brian Lenihan: I am pleased to advise the House that time can be made available next Friday. The Whips should now discuss the matter.

Deputy Jim O’Keeffe: The Minister has found a convenient way to run up the white flag.

(Interruptions).

Deputy Eamon Gilmore: Lest I appear ungracious, I thank the Minister for agreeing to a debate.

An Ceann Comhairle: We have sweetness and light.

Deputy Michael D. Higgins: I hope I do not dispel them.

An Ceann Comhairle: I do not doubt the Deputy’s capacity to do so.

Deputy Michael D. Higgins: For some weeks, I have sought information on promised off-shore licence legislation and received a helpful reply from the Office of the Taoiseach in that regard. It is urgent that the Minister with responsibility for the marine clarify the conflict which arises between those who enjoy fisheries licences and those who claim to have a licence to engage in pipe-laying. I refer here to Broadhaven Bay.

While I rarely stray from the strict matter of promised legislation, in an attempt to avoid confusion and unnecessary conflict it is important that the Minister for Justice, Equality and Law Reform clarify what will be the role of the Garda Síochána when a contradiction arises between fisheries licences and other licences. For whom will the State seek to act in such circumstances?

An Ceann Comhairle: The Deputy must find another way to raise the matter.

Deputy Michael D. Higgins: Will it seek to act on one side or the other? The involvement of the Naval Service also arises in such circumstances. The matter would be made much easier for the Ceann Comhairle and me if we had a Department and Minister for the marine. At present, there is a contradiction that is capable of creating conflict before the House meets again.

An Ceann Comhairle: The House may not discuss the matter the Deputy raises on the Order of Business.

Deputy Michael D. Higgins: I ask for an urgent statement clarifying the issue I raise so as to avoid conflict.

An Ceann Comhairle: The Deputy may raise the matter by way of the Adjournment debate or by tabling a parliamentary question.

Deputy Ruairí Quinn: Is the Minister in a position to indicate when the Government will honour its commitments under the George Mitchell scholarship scheme? Legislation was promised as recently as last May when the Taoiseach, in an aside to some of the people present at a function welcoming the George Mitchell scholars, indicated that “Batt” would see to the matter before the end of the session. Was he referring to Batman or a Cabinet Minister? We are not shy about travelling to the United States on St. Patrick’s Day with a begging bowl and outstretched hand. It is a disgrace that the relevant legislation has not been introduced. What is going on the Department of Education and Science?

Deputy Brian Lenihan: Publication of the legislation is expected this year. I understand preparatory work on the heads of the Bill is ongoing.

Deputy Ruairí Quinn: It is an absolute disgrace and an insult to our so-called friends in America.

Deputy Michael Creed: Having observed the appropriate recipe for securing a Dáil debate, I hope I do not have to embark on the same route. The food and drinks industry report published earlier this week highlighted, among other issues, that 2,000 jobs have been lost in the food industry so far this year. Yesterday, the Joint Committee on Agriculture, Fisheries and Food heard a prediction that as many as 140,000 jobs could be lost in the sector in the next two years. Allied to this, we have a crisis at the farm gate in many sectors, particularly the dairy industry. Will the Government make available time before the Dáil rises for the summer recess to hold a debate on the crisis in the agrifood industry?

An Ceann Comhairle: I assume that is a matter for the Whips.

Deputy Brian Lenihan: Yes.

Deputy Michael Creed: If the Minister for Finance were to indicate a willingness to hold such a debate, the Whips could be——

An Ceann Comhairle: It is also out of order for the Deputy to request a debate, as I indicated earlier. I would not have had to suspend proceedings otherwise.

Deputy Michael Creed: I note that disorder provided the Minister with an opportunity to tweak the——

An Ceann Comhairle: It also resulted in the suspension of the House. I am sure the Deputy would not like me to suspend proceedings again.

Deputy Michael Creed: The Ceann Comhairle should not tempt me.

An Ceann Comhairle: I do not propose to do so.

Deputy Charles Flanagan: I raise two matters in respect of essential legislation, as the Minister for Finance describes it. On Thornton Hall, it now appears the construction of prisons proceeds by way of Government press release. I understand arrangements have been made by the Cabinet to proceed with a scaled down version of Thornton Hall.

An Ceann Comhairle: The Deputy will have to find another way to raise the matter.

Deputy Charles Flanagan: I put it to the Minister that such a move would require special legislation to be enacted in the House. The Ceann Comhairle will recall that by virtue of the fact that the Thornton Hall development obviated the planning process, it proved necessary for the House to enact specific and peculiar legislation dealing with plans for the prison. Given that the Minister has changed these plans by press release, legislation will be required and must be processed in the House. Will the Minister for Finance confirm that is the case?

An Ceann Comhairle: Is legislation promised in this area?

Deputy Brian Lenihan: No legislation is promised but should it be required, it will be introduced.

Deputy Charles Flanagan: In that case, will the Minister confirm that the Thornton Hall development cannot proceed owing to the failure of the Government to promise and process legislation?

Deputy Dermot Ahern: Deputy Flanagan is being pedantic.

An Ceann Comhairle: He is also being provocative and mischievous.

Deputy Charles Flanagan: On a number of occasions this morning, the Minister for Finance referred to the heavy Dáil schedule for the next two weeks and invited the Opposition to facilitate the passing of legislation. The Fine Gael Party will co-operate with the Government on passing the Defamation Bill, which is particularly relevant having regard to the events of the past 24 hours. Will the Minister for Finance have a word with his colleague seated beside him, the Minister for Justice, Equality and Law Reform, and explain that the only contentious issue in the Defamation Bill, the only hurdle to be surmounted, is the Minister's personal crusade to introduce a new crime of blasphemy.

An Ceann Comhairle: We cannot discuss personal crusades, Christian crusades or other crusades.

Deputy Charles Flanagan: The Minister for Finance will be aware that blasphemy was not included or referred to in the original legislation he, as then Minister for Justice, Equality and Law Reform, produced.

An Ceann Comhairle: The House may not discuss the detail of the matter.

Deputy Charles Flanagan: The inclusion of this provision is an act of folly on the part of the Minister for Justice, Equality and Law Reform.

An Ceann Comhairle: There are to be no crusades.

Deputy Charles Flanagan: If the Government decides not to proceed with that act of folly, we will facilitate the passage of the legislation.

An Ceann Comhairle: The Minister should respond on the Defamation Bill. There are to be no crusades and no crusading.

Deputy Dermot Ahern: Deputy Flanagan wants us to ignore the Constitution. He is in error.

Deputy Brian Lenihan: There is a very disturbing tendency in this House of late wilfully to disregard the advice of Attorneys General.

Deputy Michael D. Higgins: We are a nation of blasphemers.

Deputy Brian Lenihan: As far as this legislation is concerned, the Government would be delighted to facilitate its rapid enactment if the Opposition wishes to co-operate.

Deputy Charles Flanagan: Will the Government excise the portion of that Bill which represents the personal crusade of the Minister for Justice, Equality and Law Reform?

Deputy Dermot Ahern: Deputy Flanagan is play-acting and he knows it, or else his law degree does not mean much.

Deputy David Stanton: Yesterday at Question Time the Minister for the Environment, Heritage and Local Government announced far-reaching legislation that will require people to register with their local authority or a private operator to ensure their refuse is collected. The implication is that those who do not register may be pursued and possibly fined. The Minister also indicated that a regulator of waste management will be appointed. Will the Minister for Finance confirm this legislation is promised and indicate when it will be introduced? Or was the Minister for the Environment, Heritage and Local Government just winging it?

Deputy Brian Lenihan: I will have to come back to the Deputy on this matter with the identification of a more precise legislative norm.

Deputy David Stanton: I expected the Minister might say that.

Deputy Terence Flanagan: The Multi-Unit Developments Bill 2009, which is long overdue and is currently before the Seanad, deals with the regulation of property management companies. Will it be brought before the Dáil in this session? In light of media reports that home buyers who bought into developments in Carrickmines and Santry will be refunded only 1% of their deposits following the collapse of the property development company, does the Government plan to extend the HomeBond guarantee scheme from two years to up to five years?

An Ceann Comhairle: Deputy Reilly has a question on the same issue.

Deputy James Reilly: The deposits these people paid have disappeared because there is no legislation to protect them. When will the Property Services (Regulation) Bill 2009 be brought before the House? Will it provide security for deposits so that people's money is safeguarded and not taken by greedy developers?

An Ceann Comhairle: The Deputy may ask when legislation will be taken in the House but he cannot discuss its contents.

Deputy Brian Lenihan: Both of the Bills referred to by the Deputies are currently before Seanad Éireann on Committee Stage. I cannot pre-empt the deliberations of Seanad Éireann. As I understand it, the Fine Gael Whip was advised of the progress of this legislation.

Deputy Joan Burton: When the Dáil passed the Financial Measures (Miscellaneous Provisions) Bill 2009 earlier this week, the Minister for Finance promised to bring a scheme before the House in regard to the extension of the financial institutions guarantee scheme. I do not want to raise details of the IMF report before that debate takes place, but the report points out that the guarantee will potentially cost the taxpayer €35 billion, more than all the taxes that will be collected this year, if the Minister is lucky to get that much. I will repeat a question I put to the Minister on previous occasions. Will the scheme be brought to the House before the recess? Will it be introduced before the NAMA legislation?

In regard to the NAMA legislation, will there be a White Paper setting out the structure of what the IMF predicts will be one of the most costly guarantee schemes in the world? The IMF points to the history of Japan and its lost decade——

An Ceann Comhairle: There should be no more references to the IMF report. A debate has been promised on that issue.

Deputy Joan Burton: Will the Minister for Finance set out the framework for the scheme he promised in regard to extending the financial institutions guarantee scheme? In respect of the NAMA legislation, will he publish not just the heads of the Bill but a White Paper so that we can work out the Government's intentions?

Deputy Brian Lenihan: Work is ongoing on the scheme which is required under the Financial Measures (Miscellaneous Provisions) Bill 2009, which is being taken in the Seanad today. Liaison must be completed with the European authorities in Brussels before I am in a position to advise on a date on which it can be submitted to the House. It will be either later this session or early next session.

No White Paper is promised in regard to the NAMA legislation. It seems I will have to prepare a Ladybird version of the IMF report for Deputies opposite.

Deputy Emmet Stagg: It is the Minister who requires a Ladybird version.

Deputy Bernard J. Durkan: A special short version would be useful for the Government.

Deputy Joan Burton: It seems the Minister is looking for a kindergarten star. Does he want me to go over and give him three little gold stars because he huffed and puffed his way through an RTE interview this morning?

An Ceann Comhairle: I will have to give Deputy Burton a couple of black stars if she keeps this up.

Deputy Joan Burton: The Minister has not read the report.

An Ceann Comhairle: I have called Deputy Broughan.

Deputy Joan Burton: Nobody in their right mind could say it is favourable to the Government. On the contrary, the report calls into question the Government's competence.

An Ceann Comhairle: The Deputy can have a chat about that another time. I call Deputy Broughan.

Deputy Thomas P. Broughan: The Minister for Finance should be wearing an L plate on his back, as Deputy Lee told us earlier in the week. We are facing totally unnecessary industrial action at Bus Éireann in the coming days.

An Ceann Comhairle: That issue has been raised on the Adjournment and will be allowed tonight.

Deputy Thomas P. Broughan: I asked the Ceann Comhairle whether it was possible to have a Private Notice Question whereby the Minister for Transport would come into the House and tell us——

An Ceann Comhairle: The Deputy will have an opportunity to address this issue when it is discussed on the Adjournment.

Deputy Thomas P. Broughan: This matter must be ventilated in the House.

An Ceann Comhairle: It will be discussed tonight. The opportunity is being afforded to the Deputy to do so. There is no point in duplication.

Deputy Thomas P. Broughan: Some 200 jobs were lost yesterday in Coolock and in Rathmore in Kerry. This was partly blamed on the——

An Ceann Comhairle: The Deputy should table this matter for debate on the Adjournment.

Deputy Aengus Ó Snodaigh: It is a very serious matter.

An Ceann Comhairle: I understand the seriousness of all these issues.

Deputy Thomas P. Broughan: Some of these job losses are in the Ceann Comhairle's constituency.

An Ceann Comhairle: This matter cannot be discussed on the Order of Business.

Deputy Aengus Ó Snodaigh: The Chair does not have to worry about matters in his constituency.

Deputy Thomas P. Broughan: These losses are being blamed partly on the euro-sterling differential. There have been claims that perhaps tens of thousands of Irish jobs have been lost——

An Ceann Comhairle: That cannot be discussed.

Deputy Thomas P. Broughan: I want to ask the Minister for Finance about the national recovery plan.

An Ceann Comhairle: The Deputy must ask about legislation.

Deputy Thomas P. Broughan: Does the Minister intend to include in that plan a provision for companies such as Cadbury Ireland which claim that the strength of the euro is a fundamental cause of our loss of competitiveness and the loss of tens and thousands of jobs?

An Ceann Comhairle: This issue cannot be discussed on the Order of Business.

Deputy Thomas P. Broughan: Will the Minister reflect on that?

An Ceann Comhairle: I have called Deputy Varadkar.

Deputy Leo Varadkar: It has been suggested that the programme for Government will be reviewed. It is of particular relevance to this House that such a review, if it takes place, should be addressed and debated. I am especially interested in the commitment in the programme for

Government to eliminate the national debt, following on from a commitment in the Fianna Fáil election manifesto.

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

Deputy Leo Varadkar: The national debt has doubled since the Minister for Finance came to office.

An Ceann Comhairle: That cannot be discussed on the Order of Business.

Deputy Leo Varadkar: I understand he intends to double it again. Will the Minister advise the House when the programme for Government will be reviewed——

An Ceann Comhairle: Deputy Varadkar will have to find another way to raise that issue.

Deputy Leo Varadkar: ——and what specific changes are proposed?

An Ceann Comhairle: Deputy Varadkar is being mischievous. I have called Deputy Sherlock.

Deputy Seán Sherlock: My questions relate to more pedestrian matters. When will Committee Stage of the Fines Bill be taken? Why has the animal health and welfare Bill not been published? If the Minister for Finance is not in a position to give me an answer, I ask for some written direction as to when it will be published. We have been waiting for more than two years for this Bill. It is turning into a farce.

Deputy Brian Lenihan: Public consultation has been ongoing on the animal health and welfare Bill, and I understand the submissions are being examined. There is no date as yet for publication. The Fines Bill is in committee and it is a matter for the committee to order its business in conjunction with the Whips.

Deputy Pat Rabbitte: Did the Minister for Finance say earlier that the NAMA legislation will be published before the end of July?

Deputy Brian Lenihan: Yes.

Deputy Pat Rabbitte: Will he indicate when the House will be reconvened to take it?

Deputy Dermot Ahern: Is Deputy Rabbitte planning his holidays?

Deputy Brian Lenihan: I cannot indicate at this stage when the House will be recalled.

Deputy Bernard J. Durkan: I had intended to ask about the explosives Bill, but in view of the Government's dazed condition in the wake of the publication of the IMF report, it would be unwise to do so. Instead, I will deal with equally serious matters. The Taoiseach gave an indication in the House of his intention to expedite two Bills relating to the protection of children. One of these is to provide for the collection and exchange of information in regard to the endangerment, sexual exploitation, sexual abuse or risk thereof of children. The second is to protect vulnerable persons against sexual exploitation. The latter one is No. 77 and the earlier one is No. 70. Has any progress been made on either Bill, given their urgency and the urgency the Taoiseach previously accorded to them?

Regarding the collective investment scheme legislation which is also promised, in view of recent experiences it might also be regarded as being of some urgency.

12 o'clock

Deputy Brian Lenihan: The Child Care Bill, as I understand, is for this session. Work is progressing on the heads of the Bill. The legislation is very complex and has potential constitutional implications. The other legislation on collective investments is expected to be published next year.

Deputy Bernard J. Durkan: There are two Child Care Bills. One is No. 77 and the other is No. 70.

Deputy Brian Lenihan: There is no date for the Sexual Offences Bill.

Deputy Bernard J. Durkan: What do you mean there is no date?

An Ceann Comhairle: There is no date. We only have an hour and a half left for the Criminal Justice (Surveillance) Bill.

Deputy Bernard J. Durkan: The Taoiseach indicated previously, in respect of both Bills, that there was an urgency and I am merely asking if that urgency has been reflected in activity in the meantime.

An Ceann Comhairle: The Minister can only give an answer if he has one. That is all he can do. He cannot do any more.

Deputy Bernard J. Durkan: He does not know.

An Ceann Comhairle: He has given the Deputy the answer.

Deputy Bernard J. Durkan: There is no urgency.

Deputy Andrew Doyle: Deputy Creed mentioned the food and drinks industry report earlier. The witnesses that were present at the joint committee on agriculture yesterday all highlighted the fact that since the groceries order was abolished, practices have taken place in this country in regard to the groceries sector that are totally unacceptable. Will the Government accept that it needs to introduce fair trade legislation?

An Ceann Comhairle: Is legislation promised in this area?

Deputy Brian Lenihan: There is not.

Deputy Andrew Doyle: I urge the Minister to reconsider.

Criminal Justice (Surveillance) Bill 2009: Report and Finals Stages (Resumed).

Debate resumed on amendment No. 12:

In page 6, to delete lines 44 and 45 and substitute the following:

“5.—(1) An application under *section 4* for an authorisation and under *section 6* for a variation or renewal of an authorisation—

(a) shall be made *ex parte* and shall be heard otherwise than in public, and

(b) may be made to a judge assigned to any district court district.”.

—(Minister for Justice, Equality and Law Reform, Deputy Dermot Ahern).

Deputy Pat Rabbitte: I was surprised at why the amendment was necessary. If it were tabled by the Opposition, the Minister would say it is self-evident and not required in the Bill. I am not entirely clear on why it is necessary.

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): It is for the avoidance of doubt.

Amendment agreed to.

Acting Chairman (Deputy Seamus Kirk): Amendments Nos. 13 and 23 are related. Amendment No. 23 is an alternative to amendment No. 20. Also alternative to amendment No. 20 are amendments Nos. 21 and 22 and amendments Nos. 24 to 27, inclusive. Amendments Nos. 17 and 18 are related to amendments Nos. 24 and 25. Amendment No. 19 is related to amendment No. 26. Therefore, amendments Nos. 13 and 17 to 27, inclusive, may be discussed together by agreement.

Deputy Pat Rabbitte: I move amendment No. 13:

In page 7, line 34, after “place” to insert the following:

“and may authorise interference with private property for the purpose of installing or operating such surveillance device without the consent of the owner of such property”.

As I understand it, we are not conferring powers of surveillance on the Garda. It already has that power. We are seeking to regulate it and make material so gathered admissible in evidence. The purpose of the Bill is to regulate surveillance, as distinct from authorising it. In that regard, I argued on Committee Stage that there is a lacuna in the Bill as it stands, insofar as while it regulates the act of surveillance and, to some extent, entry onto private property, it does not regulate interference with private property. I drew attention to the fact that the UK legislation, which I have glanced at since, expressly does so.

I do not know why it is not necessary for us to do it, which was the point of my intervention on the previous amendment. The Minister said it is for the avoidance of doubt, which I anticipated he might say, and I understand that. However, I would have thought that for the avoidance of doubt we would need to take care that the provision expressly regulates interference with property. We caught sight of a note prepared for the Minister for Government earlier, which drew attention to the problem of malicious damage. Notwithstanding that, we are not seeking to address it. I tried to address this on Committee Stage. I will not delay the House on it, but I thought for the avoidance of doubt the Minister should take it on board.

Deputy Aengus Ó Snodaigh: I have tabled a number of amendments. The first in my name in this grouping is amendment No. 17, which seeks to insert three additional points which would be required for the record of approval, namely, the grounds on which the approval was granted, the less intrusive or other means considered and determined insufficient and the efforts made to secure an emergency judicial hearing.

It does not take away from the intent. It is to make sure that consideration of alternative measures was given before approval was granted. We recognise the need for the Garda to be able to, on occasion, issue its own authorisation for surveillance in exceptional, urgent cases, but it is a major power to grant and, as such, the primary legislation underpinning it must contain safeguards. The three additional safeguards would not overburden anybody in granting an authorisation and writing up the record. We want to make sure that the Garda Síochána does not get into the habit of issuing its own authorisations unnecessarily and that the issuing garda must go through a number of steps.

Mr. Justice Morris and others have looked at the other areas where gardaí have issuing powers of similar gravity, such as the power to extend detention and issue search warrants in urgent circumstances. He was critical in his report of the practice of senior gardaí in these

[Deputy Aengus Ó Snodaigh.]

matters, and noted that they seemed to operate as little more than a rubber-stamp whenever a request was submitted by investigating officers. As we are discussing interfering with some fundamental rights and the right to privacy, it important that senior gardaí actively consider the merits of the request and whether the surveillance is truly necessary and proportionate.

Amendment No. 18 proposes an additional safeguard and to insert, in page 9, line 17, after the word “hours”, the phrase “he or she will then produce a written record of the variation and the reasons for same”. It is a matter of seconds, but we would ensure that the garda in question has sat and thought about the determination before making it. The advantages of that would then stand up in court.

Regarding amendment No. 19, as it stands unless a complaint is made there is no independent oversight of this significant garda power. As the nature of covert surveillance is secretive, in many cases a person will not know to complain, even if his or her rights are being abused by an unlawful use of this power. For this reason, there should be some type of independent oversight of this power. We are creating oversight with regard to many other issues and in this instance we seek to ensure that the designated judge has an oversight power.

Amendment No. 20 deals with tracking devices. The Human Rights Commission believes tracking devices should not be singled out and treated differently from other forms of surveillance.

Amendment No. 21 refers to section 8. Section 8(1) refers to a period of four months whereas the rest of the Bill refers to a period of three months. The amendment seeks to standardise this because I do not see why there should be a difference in the timeframe. Even though this section refers to tracking devices, three months is a sufficient period and the permission can be renewed thereafter if necessary, although obviously with the safeguards.

On amendment No. 22, it is not clear why paragraphs (b) and (c) are required. I suggest we should insert paragraph (a) with (b) and (c). It is welcome that gardaí requesting permission to use a tracking device have reasonable grounds for believing the device is proportionate to its objectives and used for the duration that is reasonably required. However, she or he should also have grounds for believing that it is the least intrusive means available. The amendment is proposed as a matter of ruling out whether there are other alternatives.

Amendment No. 24, in my name also, is similar to the amendment I proposed to section 7. While I will not go back over the issue again, the amendment seeks to ensure that the powers are conditional on ensuring a proper record is kept.

Amendment No. 25 is self-explanatory and seeks to add an additional safeguard. Amendment No. 26 is similar to what I have already argued in regard to amendment No. 19. Amendment No. 27 again seeks to standardise the period of months from four to three.

Deputy Finian McGrath: I welcome the Bill, which is essential in the current climate, particularly given the events of recent days when there has been slaughter on the Malahide Road and young men in their 20s have been shot down and murdered, and there have been other gangland killings, particularly on the northside of Dublin.

I strongly support amendments Nos. 13 and 19. However, we also have a duty, as legislators, to consider the amendments very closely. Amendment No. 13 in the name of Deputy Rabbitte states: “and may authorise interference with private property for the purpose of installing or operating such surveillance device without the consent of the owner of such property.” There are serious issues at play here. I strongly believe this type of policing must be intelligence-led policing. The Minister for Justice, Equality and Law Reform, Deputy Dermot Ahern, is aware this is key in any strategy and knows we must have such policing if we are to tackle these

issues. However, there are pitfalls of which we must be very careful, and issues of which we must remain conscious.

It is an issue I come across in my constituency. When people give me information about gangs, drugs or similar issues, they are very conscious when telling me the information that if there is any way it can be traced to them, their house, family or car will be burned out. This is the reality for many parents, particularly in very disadvantaged communities. I know many Deputies find at local clinics and during walkabouts in their constituencies that these are the kinds of issues which people whisper privately in one's ear, and the Deputies then pass on the information when meeting gardaí. However, ensuring our citizens are safe is the priority and must be an important part of the strategy.

A recent example which concerns the surveillance issue relates to amendment No. 13 and deals specifically with private property. We must be very careful, if private property is being used for intelligence observations of gangland figures, that those associated with that private property are not under threat themselves. In my constituency, gardaí often want to use schools as observation points for observing drug dealing. However, if the word goes out that the school or a particular classroom is being used by gardaí, that school will not last 24 hours without being burnt down. We have a duty to ensure the safety of our citizens at all times. I have direct experience of this. I know particular schools that turned down Garda requests in regard to surveillance because they were worried they would not have a school there when they came in on the Monday morning. This is a reality we must face and the people involved in justice and security issues must wake up to this situation.

Intelligence-led policing is the way to tackle gangland crime but there should never be a restriction of fair trial rights, which is not a contradiction. Trials are another way of tackling gangland crime, although this is often an issue people complain about, particularly those on the extreme right in this country. They say that those of us who jump up and down about human rights do not care about the human rights of the victims, which is rubbish. We are strongly in favour of the human rights of all our citizens and of having them treated on an equal basis. In this situation, the right to life takes priority, which is why I will be supporting the legislation. We cannot have young men in their 20s being shot down like dogs on the Malahide Road, as happened in recent days, and other incidents across the city, of which many Deputies have experience. There are those who advocate the role of the Special Criminal Court but this would do nothing whatsoever to tackle the problem of witness intimidation.

As I said, the key to the issue is good, intelligence-led policing and quality management of the Garda. I have seen excellent examples of good practice in regard to these issues. Where there is a good sergeant, a good drugs squad team and a good operation, much work can be done, much crime prevented and, more importantly, deaths can be prevented. There is not enough focus on preventing the loss of life. There is a big hurrah and reaction when somebody is shot down on a street but when it comes to trying to prevent this, not enough recognition is given to those involved, such as the gardaí involved in Operation Anvil, for example, who are preventing deaths, crimes and serious intimidation. It is an issue of which we should be very conscious and there are some fine examples of good practice in this regard. Surveillance is very important in preventing the loss of life and the sale of drugs.

While we are having this broad debate in regard to surveillance, I suggest there should be more surveillance of those involved in the purchase of drugs. We hear a lot of talk about those who distribute the drugs, which is important, but I am talking about the posh, middle class people who go looking for their little bit of cocaine on a Friday or Saturday night. They should be hammered because they are part of the problem, which is that there is a market for these drugs. Drug dealers do not make money unless there is a huge market. There is a reluctance

[Deputy Finian McGrath.]

with regard to certain people but they should be hammered. People in Irish life, including so-called celebrities who are involved in that trade and who sniff their bit of cocaine at the weekend, should be hammered and used as an example. It is very easy to get the young fellow from Coolock or the inner city and hammer him for doing something related to drugs. However, there are many people who are very well off, who have money and who generate a market for drugs and I have no mercy or sympathy for such people. I refer specifically to those involved in the music industry, the media, television and such people, whom we all know and some of whom joke or brag about it. That issue must be addressed. There is a market and I urge the Minister for Justice, Equality and Law Reform to hammer them.

Regarding gangs, communities alienated from the police and society must be turned around and won over from the point of view of the Garda. I recall when the late Tony Gregory was involved in the drugs issue in the north inner city. The Garda and especially the drugs squad should not seek the respect of the community, they must earn that respect and when they do so, they will have the full support of the community. That is a very important part of any strategy related to the broader debate. I welcome amendments Nos. 13 and 19.

Deputy Dermot Ahern: I thank the Deputies for their remarks. I refer to Deputy McGrath's comments on hammering people who create a demand by taking recreational drugs. While I am inclined to agree with him, I do not wish to paint everyone with the same brush. He mentioned several professions.

Deputy Charles Flanagan: Even Ministers were involved we are told.

Deputy Dermot Ahern: It would be unfair to say that all members of the media or the music profession indulge. However, I agree with his overall sentiment that some people fuel demand and clearly people are filling that gap. It is the job of all of us to ensure that the proper legislation is in place and sufficient resources are given to the Garda, the Defence Forces, the Revenue Commissioners and the Customs and Excise to stamp it out as much as possible.

I refer to the proposed amendments of which there are several and I have a long explanatory note. It is best to stick to the note because it answers many of the questions raised. Some of these issues were raised on Committee Stage and were examined. I refer to amendment Nos. 13 and 23 moved by Deputy Rabbitte. We examined these and consulted with the Office of the Attorney General. The belief was the text in sections 5(7) and 8(5) is already broadly drafted and deliberately wide enough to encompass different places and ways in which surveillance may be initiated. To use the words "installing or operating a device", the term proposed in the amendment, would be more restrictive and could, therefore, have the inadvertent effect of narrowing the scope of the provision by suggesting an officer may only enter private property when he is installing or operating a device. Otherwise, by implication, if he wishes to do something other than install or operate, he would have no right of entry. This is the view of the Parliamentary Counsel.

Similarly, the definition of "place" in the interpretation section is sufficiently broad to include private property. A judge already has discretion under the Bill to attach conditions to the authorisation as does a senior officer who issues an approval under sections 7 or 8. Earlier, Deputy Ó Snodaigh referred to tracking devices and suggested that other than someone making a complaint there is no oversight for tracking devices. This is not correct and there is provision to have oversight of all surveillance including tracking devices and non-tracking devices in the legislation. This is covered in section 12.

The procedure governing the right of entry to a place, whether private property or otherwise, and the initiation of surveillance in whatever form would be the subject of conditions imposed

by a judge when issuing an approval under sections 7 or 8. My view, supported by the Office of the Attorney General, is that the text is sufficiently broad and already encompasses the Deputy's two proposals.

I refer to Deputy Ó Snodaigh's amendments Nos. 17, 18, 24 and 25 which seek to provide for the inclusion of additional information in the written records of approval given by superior officers under sections 7 or 8 and to produce a written record of any variation to approvals given under the sections. Sections 7 and 8 already provide for approvals of surveillance in cases of urgency and for the use of tracking devices respectively. Judicial authorisation is not required. Instead a superior officer of the relevant agency must approve any such action. Under the legislation the officer must operate and determine whether it is necessary to use such instruments based on the criteria for a judge to give authorisation for a non-tracking device. He must then make a written record of the approval granted. It must provide details of the facts pertinent to the approval including such practical details as the type of device used, the subject of surveillance, the duration of the surveillance and any conditions attached. The written record is not intended as the basis on which to grant an approval. The justification for the request and the type of device envisaged will be included in the application for approval. Section 7 would only apply in cases of extreme urgency and in which it would be not operationally practical to apply for a judicial authorisation. I do not believe the additional information proposed by the Deputy is appropriate in this context.

With regard to written records and reports, provision is made in both sections for the superior officer granting the approval to make a report as soon as possible and, in any case, not later than seven days after the surveillance concerned has been completed, in which he or she must specify the grounds on which the approval was granted. This would, by its very nature, include details of any variation sought or granted and such a report must be made by a Garda officer of the rank of at least assistant commissioner, or a similar rank in the other two organisations.

I refer to Deputy Ó Snodaigh's amendments Nos. 19 and 26, which provide that reports made in the case of every approval granted under section 7 or 8 should also be made to the designated judge. The function of the designated judge is to keep under review the operations of sections 4 to 8. The judge may investigate any case in which an authorisation or approval has been granted, varied or renewed and, to this end, has access to all written records of approvals, reports and other relevant documents. I do not believe the requirement whereby a report of every approval granted should be furnished to the designated judge is appropriate nor do I believe it would be operationally efficient. The system for the review and the requirements to provide information to the designated judge, set out in section 13, are based on similar provisions in the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993. The legislation is based on the 1993 Act because it has been in operation for more than 15 years and the oversight provision is considered efficient and effective.

I refer to Deputy Ó Snodaigh's amendment No. 20, which provides for the deletion of section 8 dealing with tracking devices in its entirety. I further refer to amendment Nos. 21, 22 and 27 which propose to reduce the four month maximum duration provision to three months and to amend section 4(5)(a) which a device considered for use should be the least intrusive means available when making the application for the use of a tracking device.

The effect of amendment No. 20, that is, the deletion of section 8, would be to make the use of tracking devices by the Garda Síochána subject to judicial authorisation rather than the system of approval currently provided for in the Bill. The use of tracking devices is regarded as a less intrusive means of surveillance to other surveillance devices. Tracking devices are defined for the purposes of the Bill as devices which provide information regarding the location of a person, vehicle or thing. In providing for a system of approval rather than authorisation

[Deputy Dermot Ahern.]

the Bill seeks to achieve a balance between the necessity for fast action in the placing of tracking devices and the provision of an effective regulatory framework for their use. It is subject to oversight as per section 13. Tracking devices monitor the movements of persons, vehicles or things. The opportunity for and timing of their placement is critical if they are to be used successfully. A tracking device can be attached to a package, for example, a suspected drugs shipment as it arrives in port or to a vehicle. In many cases its placement will be required at short notice otherwise the opportunity to prevent or solve a crime can be lost because the vehicle or package will have moved on. As with approval for surveillance in cases of urgency, it is imperative that the Bill provides for an efficient and practical system which can be used by the Garda Síochána and which does not result in unnecessary delay while a court application is being sought. Such a delay might hinder or jeopardise the investigation. As a counter-balance, the Bill provides for a stringent system of control for the use of tracking devices which includes rules on record keeping and reporting where such an approval is given.

In the case of amendments Nos. 21 and 27, I appreciate the Deputy's concerns about the period of four months but if considered necessary, the Minister may, by regulation, and in the interests of the protection of the privacy and other rights of a person and other issues such as the security of the State, be given the means to review that period of four months. We will keep this provision under review. The discussions with the Garda Síochána indicate that a period of four months is not unreasonable for the purpose and use of tracking devices. The use of a tracking device is regarded as a less intrusive means of surveillance than other surveillance devices and therefore it is not appropriate it should be included in the matters to which a superior officer would have regard when considering whether to grant an approval. While I understand some of the sentiments expressed by Members and while I understand the thinking behind Deputy Rabbitte's amendments, that he is trying to assist in suggesting that it be for the purpose of installing or operating, our strong advice is that if we are to restrict it to the issue of installing and operating, it would inadvertently restrict the Garda Síochána in the operation of the devices.

Deputy Pat Rabbitte: The purpose of my amendment No. 13 is not in any way to restrict the Garda Síochána in carrying out this function. On the contrary, what I have been seeking to do is to make clear for the avoidance of doubt that this particular issue would be protected. I will not press the issue but I am genuinely confused by the Minister's reply. The Minister says he is rejecting the amendment on advice that it would otherwise impede entry by a member of the Garda Síochána, a member of the Revenue Commissioners or a member of the Defence Forces. I find this difficult. It is plain to me that what is being authorised in subsection (7) is a person, accompanied by another person if necessary, to enter, if necessary by the use of reasonable force, any place for the purpose of initiating and carrying out the authorised surveillance. The language used in my amendment is "for the purpose of installing or operating such a surveillance". I do not know if there is a difference in terms of carrying out surveillance as distinct from operating surveillance. I am genuinely puzzled that this is the reason for rejecting the amendment. The British legislation is clear. If the Minister thinks he is secured against challenge on it, in respect of private property or damage to private property, I will take his word for it but I am unable to see what he has explained as being the reason for not accepting my amendment.

Deputy Dermot Ahern: The provision "initiating or carrying out the authorised surveillance" is broadly drafted in order to catch every circumstance. If the words, "installing or operating" were to be included, my advice from the Garda Síochána is that this would be somewhat restrictive in operation. I ask the Deputy to agree that the way in which it has been drafted is

better from a grammatical and linguistic point of view. The word, “installing” describes a particular action, whereas “initiating” may well be a broader action. I ask the Deputy to accede to my request.

Deputy Pat Rabbitte: I will do so.

Amendment, by leave, withdrawn.

Acting Chairman (Deputy Seamus Kirk): Amendment No. 14 has already been discussed with amendment No. 12.

Deputy Dermot Ahern: I move amendment No. 14:

In page 7, between lines 37 and 38, to insert the following:

“(9) Subject to any conditions imposed by the judge under *subsection (5)*, an authorisation shall have effect both within the district court district to which the judge is assigned and in any other part of the State.”.

Amendment agreed to.

Deputy Aengus Ó Snodaigh: I move amendment No. 15:

In page 8, between lines 3 and 4, to insert the following:

“(3) The information on oath supporting the application shall include a copy of the written record of approval concerned, a summary of the results of the surveillance carried out and the reasons why varied or continued surveillance is required.”.

This amendment is similar to my other amendments. It provides for an additional safeguard. I will not labour the point. The Minister does not as yet seem inclined to take on any of the additional safeguards we have suggested. I ask him to consider this amendment.

Deputy Dermot Ahern: The amendment provides that the application to vary or renew an authorisation should be accompanied by a copy of a written record of approval, a summary of the result of the surveillance and the reason continued surveillance is required. However, section 6 deals with applications to vary or renew authorisations granted under section 5. It does not provide for the renewal of approvals granted in emergency situations under section 7 and where a written record of approval is made. Continuation of an approval granted under section 7 is provided for by the authorisation procedure in subsection (4) of section 4 and the documentation to be provided is specified in that subsection on the basis that it is an authorisation following an emergency approval. Where an application is made for a variation or approval of the existing authorisation under section 6, it will be at the judge’s discretion to request such information as he or she considers necessary. In practice the applicant will be obliged to disclose all relevant matters. I do not think this amendment is necessary.

Amendment, by leave, withdrawn.

Amendments Nos. 16 to 27, inclusive, not moved.

Acting Chairman: Amendments Nos. 28, 31 and 57 are related and may be discussed together.

Deputy Aengus Ó Snodaigh: I move amendment No. 28:

[Deputy Aengus Ó Snodaigh.]

In page 11, between lines 29 and 30, to insert the following:

“(12) All regulations made pursuant to *subsection (11)* shall require the prior approval of the Dáil.”.

I have proposed similar amendments to a number of justice Bills. The amendment will give greater scrutiny to the House when making or changing regulations. In a number of places this Bill gives the Minister power to make regulations. Amendments Nos. 28 and 31 seek to make those regulations subject to prior approval by the Dáil.

Amendment No. 57 proposes a more fundamental change to section 16. The amendment would substitute a paragraph so that regulations would not merely be laid before the Houses but would be subject to the prior approval of the relevant Oireachtas committee, currently the Select Committee on Justice, Equality, Defence and Women’s Rights.

The amendments would make the Minister more accountable to the Houses of the Oireachtas. Given that the Minister usually has the support of Members on the Government side, this should not present a problem. However, the amendments would allow the House, on a regular basis, to review what is happening and ensure that regulations are proportionate.

Deputy Charles Flanagan: There is considerable merit in amendment No. 28, not only for this Bill but for the manner in which the Executive treats the Legislature. In recent years, we have become accustomed to legislation by regulation. The power vested in Ministers has been expanded and developed in a way that was not intended by the Constitution.

This debate is broader than these amendments to the Bill. When a Minister is in office for the best part of 20 years, one can see how the Legislature can become an incumbrance or nuisance. We have legislation by regulation, which is wrong. I hope we will have a broader debate on this issue in the context of Dáil reform and the manner in which this Assembly is treated by the Executive. This is true of all Departments and not only of the Department of Justice, Equality and Law Reform. Regulations are introduced on a weekly basis which never come before the House and whose import is unknown until a problem arises. We then see that there has been no input whatsoever by the Legislature and matters are dealt with by way of Executive diktat and regulation.

This has been commented upon by the courts. Recently, we have seen how the courts are prepared to seek out the intention of the Legislature to determine what is meant by a particular piece of legislation, whether a subsection or section of an Act. The attention of the court is sometimes drawn to the intention of the legislators. This difficulty also applies to guillotined legislation. If Dáil Éireann is silent on a matter, it is difficult to determine what its intention was at any given time. This is what will happen to this and every other Bill passed between now and the end of this session because they will be enacted by way of guillotine and determined in some cases without any debate.

The same is true of regulations. The Minister knows the extent to which regulation is now used, compared to what was the case some decades ago. This is another feature of the arrogance of Ministers and their Departments. They seem to think they can proceed by way of regulation and the Dáil will remain in enforced silence on the matter. This applies to more than just today’s legislation. It is a matter which needs to be adverted to in a serious way, perhaps by the Whips.

Deputy Dermot Ahern: Deputy Flanagan is talking more broadly about the issue of how we address regulation. The provision in subsection 16(3) is the standard one used for all legislation. It states:

Every regulation under this section shall be laid before each House of the Oireachtas as soon as may be after it has been made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Deputy Flanagan claims that regulations are being used more and more. In fact, they are not. As a result of a number of court decisions, more and more Ministers err on the side of caution by introducing primary rather than secondary legislation. I can think of a case in point. Legislation relating to the retention of data will, I hope, soon be published. Originally, it was felt that would be done by regulation and that we had the power to do so. On the advice of the Attorney General, it was felt that we should introduce primary legislation. My experience in the past number of years is the opposite of what Deputy Flanagan says. Ministers are not using secondary legislation more and more. On marine matters, of which I have experience, for decades Governments of every colour used regulations at quick remove.

Deputy Charles Flanagan: It was the courts that stopped that.

Deputy Dermot Ahern: It was the courts that said regulation should not be used, particularly for serious issues. Government and the Legislature have responded to that.

I cannot accept the amendment. I believe we should proceed on the basis of what we are doing currently in all legislation. In the context of Dáil reform we may find a better way of looking at regulations. Regulations often deal with fairly unimportant issues and facilitate legislation which has already been put in place and which is operating. I would worry that waiting for regulations might impede the implementation of legislation which we have already passed.

Deputy Aengus Ó Snodaigh: The courts would be happy if regulations were subject to some type of oversight and debate in the House rather than simply placed in the Oireachtas Library. The intention is not to delay. The Minister is correct that some of these amendments are not contentious. The amendment seeks to give more powers to the House. There is nothing to prevent a series of these regulations being made, given that a number of provisions in the Bill permit regulations to be made by the Minister. The Minister can schedule all of them together. It is similar to how the European scrutiny committee deals at present with approximately 400 European regulations, directives and so forth. Some of them go through with no major scrutiny by the committee but are agreed on the basis of the advice of the officials and the related documentation. At any stage, however, a member of the committee, or any Member of the House who attends the meeting, can call a halt and seek scrutiny or clarification of the measure. That is the type of system that should be in place given the number of regulations.

The Minister might be correct in terms of the weight of legislation versus regulation but virtually every recent legislative measure from the Department of Justice, Equality and Law Reform that has come before the House has given the Minister power to make regulations. These are important measures. Sometimes the teeth of the legislation can be contained in the regulations that are made afterwards, and we do not have an opportunity to review them in every case. That is the basis for proposing these amendments. It is not an effort to delay the legislation or to prevent the objective of the Bill coming into effect. In fact, the opposite is the case. It is to ensure that the collective wisdom of the House is brought to bear to ensure the best regulations are put in place.

Acting Chairman: Is the Deputy disposed to withdraw the amendment?

Deputy Aengus Ó Snodaigh: The Minister has indicated he will not accept it. I will withdraw it rather than delay proceedings.

Amendment, by leave, withdrawn.

Deputy Aengus Ó Snodaigh: I move amendment No. 29:

In page 11, line 36, after “prosecution” to insert the following:

“, Garda Síochána Ombudsman investigation, civil case”.

We discussed this amendment on Committee Stage. The amendment is to ensure that any Garda Síochána Ombudsman Commission investigation or civil case is taken into account when making these decisions. I mentioned a case on Committee Stage, which I will not outline in detail now, where the Garda Síochána Complaints Board destroyed all its records despite the fact that there was an outstanding civil case which was dependent on the records. When such a decision is made about material, there should be an effort to ensure that the information is not still required by, for example, the Garda Síochána Ombudsman Commission if it is carrying out an investigation. It is a matter of having a checklist before information is destroyed. There could be a civil case by an individual who has been subject to this type of surveillance and is dependent on the records to prove his or her case. We must ensure the legislation does not hamper justice being done.

Deputy Dermot Ahern: Yes, we discussed this on Committee Stage and I brought forward an amendment to subsection (5). The subsection reads, “The Minister may authorise in writing the retention of any of the documents referred to in this section where he or she considers it necessary to do so having regard to(d) the interests of justice.” That would be the criterion under which the documentation could be retained generally. We had a discussion about the Garda Síochána Ombudsman Commission earlier as to whether it should have surveillance powers. We drafted the provision in line with emerging human rights law internationally and believe it will cater for the situation outlined by the Deputy.

Amendment, by leave, withdrawn.

Deputy Dermot Ahern: I move amendment No. 30:

In page 12, line 12, after “The” to insert “relevant”.

This amendment provides that an authorisation for the retention of documents where it is considered necessary can be made by the relevant Minister rather than the Minister for Justice, Equality and Law Reform. This means, in effect, that Ministers for Justice, Equality and Law Reform, Finance and Defence will make decisions on retention.

Amendment agreed to.

Amendment No. 31 not moved.

Deputy Dermot Ahern: I move amendment No. 32:

In page 12, between lines 39 and 40, to insert the following:

“(3) Notwithstanding *section 13*, the Minister may make regulations respecting the disclosure or non-disclosure, to the person who was its subject or other persons whose interests are materially affected by it, of the existence of an authorisation or an approval under *section 7* or *8*, provided that any disclosure authorised by such regulations is—

(a) consistent with the purposes for which the authorisation or approval concerned was issued or granted,

(b) consistent with the security of the State, the protection of persons' privacy and other rights and the aims of preventing and detecting the commission of arrestable offences, and

(c) unlikely to hinder the investigation in the future of such offences.

(4) Any regulation made under *subsection (3)* may—

(a) require consultation by the Minister, in any particular case of disclosure, with such classes of persons as may be prescribed,

(b) prescribe categories of persons (other than the subjects of the authorisations or approvals) whose interests are materially affected by authorisations or approvals, to whom disclosure is to be made, and

(c) permit the imposition of terms and conditions limiting the extent or detail of disclosure as necessary, having regard to the matters referred to in *subsection (3)*.”.

Section 10 provides for the restriction of disclosure of the existence of authorisations and other documents. The amendment provides for the making of ministerial regulations relating to the disclosure or non-disclosure of the existence of authorisations or approvals to the person who is the subject of the authorisation or approval or to other persons whose interests are materially affected by it in certain specified circumstances. Disclosure would be provided for only where it would be consistent with the purposes for which the authorisation or approval was issued, with the security of the State, with the protection of the person's privacy and other rights and where it would be unlikely to hinder the investigation. Any such regulations may require consultation by the Minister with relevant parties and may set out those categories of persons whose interests may be materially affected by the authorisations or approvals for surveillance. The regulations may also provide for the terms and conditions limiting the extent of disclosure.

This amendment takes account of European Court of Human Rights jurisprudence, which has found that a provision allowing disclosure in at least certain circumstances is required and that it is an important safeguard where an improper use of surveillance might occur. A proposal along these lines was suggested by the Irish Human Rights Commission in its observations on the Bill on the basis that it provides for the balance between the operational needs of the agencies involved in carrying out surveillance and the protection of the rights of the individual.

I commend the amendment to the House.

Deputy Charles Flanagan: I understand the reason for the amendment. There are circumstances where such regulations would be not only important but also necessary in the context of certain types of surveillance and the protection of the individual. Is it the Minister's intention to introduce such regulations? It might not be, and this amendment might be no more than window dressing. He said the Minister may at some future date make regulations respecting the disclosure and non-disclosure. Is he in favour of such regulations?

Deputy Dermot Ahern: I have no hard and fast views on it. We are providing for the power to do it. Obviously, we must wait and see how the legislation operates. The intention would be there if it was found necessary. There is no ulterior motive. We are providing for the power in the event of it appearing necessary in certain instances.

Amendment agreed to.

Acting Chairman: Amendment No. 35 is related to amendment No. 33. Amendments Nos. 33 and 35 may be discussed together.

Deputy Dermot Ahern: I move amendment No. 33:

In page 13, line 11, to delete “applicant” and substitute the following:

“applicant, and any other person whose interests are materially affected by the relevant contravention.”.

Section 11 provides for complaints procedures where a person who believes he or she might be the subject of an authorisation can apply to the complaints referee. As currently drafted, section 11(4) allows the referee, following an investigation which concludes that a relevant contravention has taken place, to notify the applicant of that conclusion. This amendment extends the notification procedure to include any other person whose interests are materially affected by the relevant contravention. This ensures that collateral subjects, that is, persons who have been monitored in the course of the surveillance operation directed at another person, will be also notified by the referee where there has been a relevant contravention.

Section 11 also provides for situations where the complaints referee, following an investigation into a complaint, is of the opinion that it would not be in the public interest to inform the applicant that there has been a relevant contravention. It allows the referee to decline to notify the applicant in those circumstances. The amendment provides that, following an investigation which results in the conclusion there has been a relevant contravention, the referee can decline to notify the applicant or the other person of that conclusion if he is of the view that it would not be in the public interest to do so. Again, both amendments take into account European Court of Human Rights jurisprudence in this regard.

1 o'clock

Amendment agreed to.

Acting Chairman: Amendments Nos. 34 and 36 are related and may be discussed together.

Deputy Aengus Ó Snodaigh: I move amendment No. 34:

In page 13, to delete lines 28 to 37 and substitute the following:

“(6) In the circumstances referred to in *subsection (4)*, the referee shall

(a) report the matter and any recommendation under *subsection 5(b)* to—

(i) an Garda Síochána Ombudsman Commission, in the case of a contravention by an Garda Síochána,

(ii) the Ombudsman for Defence Forces, in the case of a contravention by the Defence Forces,

(iii) the Office of the Ombudsman, in the case of a contravention by the Revenue Commissioners, and

(b) report the matter and any recommendation under *subsection 5(b)* to the judge designated under *section 12*.”.

This is to ensure that the referee shall, rather than “may”, in the case of circumstances referred to in subsection (4), where the referee finds a material contravention, report on this, and shall do so to the relevant bodies. The Bill mentions the Garda Síochána Ombudsman Commission

in the case of a contravention by a garda. We have an Ombudsman for the Defence Forces. In this case, if there were to be a contravention by members of the Defence Forces, it should be referred to that person. In the case of a contravention by the Revenue Commissioners, it should be referred to the Office of the Ombudsman. It is the intention that the relevant ombudsmen should be contacted when there is a contravention by a member of the Garda, the Defence Forces or the Revenue Commissioners. The amendment is also to ensure that the referee must — as in “shall” — make the report to those bodies. That is all.

Amendment No. 36 allows for the decision to be appealed to the District Court and gives the public an appeal mechanism which is available at the referee’s decision, at a lower rather than a higher level in the courts. As far as I recall, that is the level of the designated judge. This keeps the process accessible to the public.

Deputy Dermot Ahern: The Deputy’s amendments propose to refer complaints in respect of the Defence Forces and the Revenue Commissioners to the Ombudsman for the Defence Forces and the Office of the Ombudsman, respectively. Concerning complaints made by the public in respect of the Garda, the section already provides that complaints regarding the Garda Síochána are referred by the complaints referee to the Garda Síochána Ombudsman Commission.

However, with regard to the Ombudsman for the Defence Forces, that ombudsman investigates complaints into internal matters by members and former members of the Defence Forces. It does not provide any remit with regard to complaints by members of the public and I do not believe it is the appropriate body in that context for the complaints referee to report to in respect of the Defence Forces.

Similarly, the Office of Ombudsman investigates complaints against administrative actions of Departments. The Ombudsman is empowered to make recommendations only. Her findings are not binding and, therefore, I believe it is more appropriate that any report regarding the Revenue Commissioners should be made to the Minister for Finance.

With regard to the Deputy’s proposal to provide for appeals to the District Court, the complaints procedure in the Bill mirrors equivalent provisions in the Interception of Postal Packages and Telecommunications Messages Act 1993. The complaints referee will be the holder of the Office of Complaints Referee, under the interception legislation. In any event, I see no need to provide for a special appeals mechanism against a decision of the complaints referee. The making of an application to the complaints referee does not preclude the applicant from pursuing other legal remedies available.

Amendment, by leave, withdrawn.

Deputy Dermot Ahern: I move amendment No. 35:

In page 13, to delete line 40 and substitute the following:

“(a) notify, under *subsection (4)(a)*, the applicant or the other person, if any, of a conclusion”.

Amendment agreed to.

Amendment No. 36 not moved.

Acting Chairman: Amendments Nos. 37 and 47 are related and may be discussed together.

Deputy Dermot Ahern: I move amendment No. 37:

[Deputy Dermot Ahern.]

In page 14, lines 20 to 21, to delete “The Referee may, on his or her own initiative, also investigate” and substitute the following:

“(11) The Referee—

(a) may, on his or her own initiative, and

(b) shall, where a case has been referred to him or her by the designated judge under *section 12(8)*, investigate”.

Section 11(11) allows the complaints referee to investigate a relevant contravention in respect of the Bill, on his or her own initiative. Section 12 provides for the designation of a High Court judge to provide judicial oversight of the Bill. These amendments allow the designated judge in the course of an investigation under subsection (12)(4) to refer a case for investigation to the complaints referee where he or she is of the opinion that it would be in the interests of justice to do so. They provide that where such a referral is made the referee must investigate the matter. The Bill already allows the referee to report a matter to the designated judge. In this amendment, the referral by the designated judge to the referee was suggested by the Irish Human Rights Commission in that body’s observations on the Bill. These amendments will build on the safeguards we already have in the Bill.

Amendment agreed to.

Acting Chairman: Amendment No. 38 was already discussed with amendment No. 1.

Deputy Dermot Ahern: I move amendment No. 38:

In page 14, lines 27 and 28, to delete all words from and including

“Interception” in line 27 down to and including “1993;” in line 28 and substitute “Act of 1993;”.

Amendment agreed to.

Acting Chairman: Amendment Nos. 39 and 40 are related and may be discussed together.

Deputy Aengus Ó Snodaigh: I move amendment No. 39:

In page 14, line 30, to delete “8” and substitute “9”.

This is to extend the appeal mechanism, namely, that the complaints referee shall be able to investigate and adjudicate on section 9 as well as on the other sections as provided for in the Bill. “Relevant contraventions” means a contravention of provisions of sections 4 to 8. It extends the meaning to deal with the retention of materials related to applications and report. Sin an méid.

Deputy Dermot Ahern: Section 9 is a technical provision that provides for the retention of materials for three years, or until they are no longer required. I introduced amendments on Committee Stage which we believe will provide additional safeguards with regard to the destruction of this material.

The complaints referee and the designated judge have very specific remits within the legislation outside the core provisions of the Bill, sections 4 to 8, which will provide for a system of authorisation approval governing surveillance. The remit does not extend to a supervisory role

with regard to the retention of documents and therefore I do not believe it is appropriate. We already have safeguards in the legislation as amended on Committee Stage.

Amendment, by leave, withdrawn.

Amendment No. 40 not moved.

Acting Chairman: Amendments Nos. 41 to 45, inclusive, are related and may be discussed together.

Deputy Aengus Ó Snodaigh: I move amendment No. 41:

In page 14, between lines 43 and 44, to insert the following:

“(4) Reports under *subsection(3)(b)* shall include the following:

- (i) the steps taken to keep the operation of the Act under review;
- (ii) the number of individual files reviewed;
- (iii) the volume of surveillance carried out;
- (iv) whether mistakes were made in the carrying out of surveillance (such as the targeting of the wrong individual), the number and nature of these mistakes;
- (v) the findings of an evaluation test measuring compliance with European Convention on Human Rights standards; and
- (vi) any recommendations for legislative or practice changes that the designated judge considers necessary to safeguard against mistake and ensure full compliance in practice with ECHR standards.”.

The changes proposed in amendments Nos. 41 to 45, inclusive, are based on a critique made of the oversight facility and are intended to try to ensure we have the best possible oversight. The Bill draws on the oversight model contained in the Interception of Postal Packages and Telecommunications Messages Act 1993, which I believe to be grossly inadequate. In a critique of that model in the context of an article on data retention, Mr. T. J. McIntyre, a lecturer in law at UCD, and chair of Digital Rights Ireland, stated:

This oversight mechanism has been almost entirely opaque from the outset. The annual reports of the designated judge since that position was created in 1993 have consisted every year of no more than a single line stating that the operation of the Act has been kept under review and its provisions are being complied with.

For example, there has been no discussion of what steps have been taken to keep the operation of the Act under review, whether individual files were reviewed, the volume of surveillance being carried out, whether mistakes were made in carrying out surveillance, such as the targeting of a wrong individual and, if so, what steps were taken to safeguard against such mistakes in future.

Amendment No. 42 seeks to ensure that one can complain to the complaints referee about more than the authorisations under section 7 on urgent cases involving the Garda that are only approvable under section 8. What if one wants to make a complaint about the conduct of the surveillance judicially approved under section 5 or varied thereafter?

[Deputy Aengus Ó Snodaigh.]

Amendments Nos. 43 and 44 have been submitted on the back of the Irish Human Rights Commission's document presented to Deputies and seek to ensure that the report of the designated judge reveals more details. In this way, we would know whether the mechanisms were being overused. A proper facility must be provided in the House to afford us more details than have been suggested to date.

As I am unsure about the recommendation, I will revert on amendment No. 45.

Deputy Dermot Ahern: What the Deputy is endeavouring to do in these amendments is to extend the functions of the designated judge under this section. A High Court judge is designated to oversee the operation of the Act's provisions and to make regular reports to the Taoiseach on related matters. To give the judge more powers would confuse the situation. The judge's oversight function is distinct from the function of the complaints referee. Allowing complaints to be made directly to the judge instead of the referee would serve to confuse the separate oversight procedures and lessen the safeguards provided.

The Deputy will note that I am amending the Bill to allow the designated judge to use his or her discretion to refer a matter to the complaints referee for investigation. This proposal was made by the Irish Human Rights Commission, IHRC, in its observations. Our amendment to section 11 will address the types of concern that the Deputy's amendments seek to address.

Regarding amendment No. 44, provision has already been made for the designated judge to have access to information and relevant documents upon request. This is in keeping with the role of the designated judge, which is to provide oversight of the system. The role is not intended to be one of ongoing continuous assessment. Therefore, the existing provisions are sufficient to meet the needs of the designated judge in the performance of his or her function.

Regarding the period in which a report is laid before the Houses, I remind the Deputy that provision is made for the Taoiseach, after consultation with the designated judge, to exclude matters from a report that the Taoiseach considers prejudicial to the security of the State. Sufficient time must be provided to allow proper consideration to be given to this matter. As such, the six-month period before the report is laid before the Houses is appropriate.

Deputy Charles Flanagan: Will the Minister's amendment to section 11 place an obligation on the referee to report to the designated judge?

Deputy Dermot Ahern: To which amendment is the Deputy referring?

Deputy Charles Flanagan: There seems to be a shortcoming in this respect in that the designated judge may make a request for an investigation. Is the Minister stating that the referee will be obliged to communicate?

Deputy Dermot Ahern: Yes.

Deputy Charles Flanagan: That is important.

I am not sure about the precedent, but I am curious about the Taoiseach's involvement. Is the lead Minister not the Minister for Justice, Equality and Law Reform, the relevant Ministers — the Ministers for Defence and, where the Revenue Commissioners are concerned, Finance — being the other Ministers in a less leading role? I note the Taoiseach's involvement. Has other legislation involved the Taoiseach in the submission of reports or in liaising with a designated judge? Should the lead Minister not be the one to communicate with the judge if, from time to time, communication was considered desirable? The Taoiseach's involvement is curious. There may be a simple answer, but is this the norm?

Deputy Dermot Ahern: Due to the serious nature of the matter and particularly given the fact that three Ministers are involved, it was felt that the designated judge should liaise with the Taoiseach as the overall person with responsibility for the Government and the State's security. This provision elevates the seriousness of what we are doing in this legislation, namely, invasive surveillance of persons and private property. It gives the Taoiseach a key role in the issue's oversight.

Amendment, by leave, withdrawn.

Amendments Nos. 42 to 46, inclusive, not moved.

Deputy Dermot Ahern: I move amendment No. 47:

In page 15, between lines 17 and 18, to insert the following:

“(8) Where the designated judge investigates a case under *subsection (4)* and is of the opinion that it is in the interests of justice to do so, he or she may refer that case to the Referee for an investigation under *section 11(11)*.”.

Amendment agreed to.

Bill recommitted in respect of amendment No. 48.

Deputy Dermot Ahern: I move amendment No. 48:

In page 15, line 21, after “8,” to insert the following:

“including any information or documents obtained as a result of such surveillance,”.

This is a technical amendment that makes clear that the word “information” includes information or documents obtained as a result of the surveillance.

Amendment agreed to.

Bill reported with amendment.

Amendment No. 49 not moved.

Deputy Dermot Ahern: I move amendment No. 50:

In page 16, to delete lines 1 and 2 and substitute the following:

““authorised person” means—

- (a) a person referred to in section 62(4)(a) of the Garda Síochána Act 2005,
- (b) the Minister for Defence,
- (c) the Minister for Finance, and
- (d) a person the disclosure to whom is—

(i) authorised by the Commissioner of the Garda Síochána, the Chief of Staff of the Defence Forces or a Revenue Commissioner, or

(ii) otherwise authorised by law;”.

[Deputy Dermot Ahern.]

Authorised persons are currently defined as persons referred to in section 62(4)(a) of the Garda Síochána Act 2005. This amendment expands the list of authorised persons to whom information may be disclosed in order to include the Ministers for Defence and Finance, persons authorised by the Garda Commissioner, the Chief of Staff of the Defence Forces and the Revenue Commissioners.

As indicated on Committee Stage, the amendment also allows disclosure where it is otherwise authorised by law to ensure that the disclosure can also be made to the relevant law enforcement, defence and Revenue personnel or their equivalents in other jurisdictions. This may arise in respect of surveillance conducted in the context of international agreements entered into by the agencies in question.

Amendment agreed to.

Deputy Charles Flanagan: May I move amendment No. 51 on behalf of Deputy Rabbitte? Perhaps the Minister might respond.

Deputy Dermot Ahern: I can supply a response. Is moving the amendment allowable?

Acting Chairman: It must be formally moved.

Deputy Aengus Ó Snodaigh: May I move it on Deputy Rabbitte's behalf?

Acting Chairman: No. It must be moved by the Deputy. Unfortunately, it is his prerogative.

Deputy Charles Flanagan: It might be recorded that we attempted to give our colleague a dig out.

Acting Chairman: I would like to allow the amendment, but I am afraid that I am constrained.

Deputy Charles Flanagan: I am in the Chair's hands.

Amendment No. 51 not moved.

Acting Chairman: Amendments Nos. 52 and 54 are cognate and will be discussed together.

Deputy Dermot Ahern: I move amendment No. 52:

In page 16, lines 26 and 27, to delete "are admissible" and substitute "may be admitted as evidence".

In the interests of accuracy on amendment No. 51, we asked the Parliamentary Counsel to look at it but our view was that we should leave the reference.

Amendment No. 52 is a technical amendment that is being made as a consequence of an amendment to section 14(1), which was agreed on Committee Stage.

Amendment agreed to.

Acting Chairman: Amendment No. 55 is related to amendment No. 53 and they may be taken together by agreement.

Deputy Pat Rabbitte: I move amendment No. 53:

In page 16, between lines 35 and 36, to insert the following:

“(i) the rights of the community and of the victim (if any) of the crime being investigated;”.

By moving this amendment, I am trying to strike a balance with the rights of the community and the victims of crime. We discussed this on Committee Stage and the Minister was of the view that it is adequately provided for as matters stand. I wanted, however, to be clear that where the court has a discretion to allow or exclude evidence, the rights of the defendant must be considered but so must the rights of society and the innocent victim. The Minister said he would consider that idea before Report Stage.

Deputy Dermot Ahern: We looked at it and I appreciate what the Deputy wants to achieve here. We must, however, take into account the constitutional rights of citizens, the European Convention on Human Rights and privacy issues. Deputy Noonan rightly stated last night that there is a balance between protecting the rights of the wider community while defending the rights related to the privacy of particular individuals and we believe we have struck the right balance in the Bill. Sections 14(3) and 14(4) set out the criteria a judge must consider in deciding to admit evidence attained in circumstances where there has been an error or omission on the face of an authorisation or approval, or where there has been a failure to comply with a requirement of the authorisation or approval.

The proposed amendment provides that in addition to the criteria listed, the court should also have regard to the rights of the community and the victim, if any, of the crime being investigated when determining if evidence may be admitted. We have considered this amendment in consultation with the Attorney General and we have been advised that the Deputy's proposal would be inappropriate in this context. The court's primary concern in this instance is to decide if the evidence would be of use in the case to be tried. To introduce a third element with regard to the victim's rights at this point might prejudice the outcome and would be inappropriate in that respect.

The court must decide whether the action taken was in good faith and whether it was in the interests of justice to admit the evidence, having regard to certain matters — if the error was serious or merely technical, the nature of any rights infringed, any circumstances of urgency, the possible prejudicial effect of the information concerned and the probative or conclusive value of the information. The presiding judge in the decision on admission of evidence would take into account the rights of the community and the victim of the crime in question.

Amendment, by leave, withdrawn.

Deputy Dermot Ahern: I move amendment No. 54:

In page 17, lines 3 and 4, to delete “are admissible” and substitute “may be admitted as evidence”.

Amendment agreed to.

Amendments Nos. 55 to 58, inclusive, not moved.

Bill reported with amendments and received for final consideration.

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

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I thank Deputies for their assistance in the passing of this legislation. I thank the Labour Party for giving us

[Deputy Dermot Ahern.]

the benefit of its previous legislation. This is an important piece of the jigsaw in the fight against crime.

Deputy Charles Flanagan: On behalf of Fine Gael, I was pleased to facilitate the passage of this legislation. It was originally a “covert surveillance” Bill but the word “covert” was put to one side since publication.

When the Minister talks about pieces of the jigsaw, however, resources and enforcement are other important components. We can pass all the legislation the Government wants but until the legislation is accompanied by appropriate resources and enforcement practices, there will be a gap in the crack down on criminal gangs and the mayhem they perpetrate.

Deputy Pat Rabbitte: I agree with the sentiments expressed by the Minister and Deputy Flanagan. I will be glad to see the Bill enacted. The Minister has acknowledged its similarity to the Bill I published on behalf of the Labour Party out of the conviction that intelligence gathering by the Garda Síochána is the best way to deal with this phenomenon that is growing worse. I hope we will see results from the legislative changes we have made in the Bill which will allow material gathered to be admissible in court, hopefully leading to a higher rate of convictions of those serious criminals who are attacking our society.

Deputy Flanagan is right. The Department of Justice, Equality and Law Reform is continuing with the tradition of heavy legislative output, with significant numbers of new laws being enacted when the most important factor is the application of the law and its enforcement. It is no longer easy to point to major *lacunae* in the law as being the reason that these gangland figures still hold sway in some communities.

Whenever the Garda Síochána (Powers of Surveillance) Bill was published by the Labour Party, I published the Witness Protection Programme (No. 2) Bill to put the witness protection programme on a statutory footing, as was advised by the superior courts. That will hopefully make a contribution whereby some of the more serious gangland figures will be more likely to be put behind bars on the evidence of one of their own gang members. We have not progressed in that regard but I agree it is not a gap in the law generally that means we have such a problem in so many parts of the country. Much of the problem is driven by the drugs trade, which affects my part of Dublin very seriously. The entire west of Dublin is under enormous pressure owing to drug pushing. New gangs are emerging all the time and it is a very serious problem. My sympathy is with the Minister for Justice, Equality and Law Reform in seeking to contain the problem but it must be realised it is doing terrible damage to some of our communities. I hope the Bill we enact today will make a contribution towards better enforcement.

Deputy Aengus Ó Snodaigh: We have done a good day’s work. We welcome the Bill despite our concerns. We tried, through our amendments, to have a better Bill. I hope the new powers will be used to good effect to ensure criminals are targeted and brought to justice within the boundaries set out in the legislation and that the legislation will be of benefit to An Garda and society as a whole. We set down in law the powers available to An Garda. I hope the concerns we raised will not prove to have been well founded. If they are, I hope we will deal with any shortfall as quickly as possible.

This Bill could be a useful tool in the fight against crime and, as Deputy Rabbitte stated, particularly in the fight against drug dealers, who seem to operate with impunity in some areas. The powers we have granted to An Garda can be used if the force is properly resourced to tackle major criminal gangs in this city and elsewhere throughout the State.

Question put and agreed to.

Nursing Homes Support Scheme Bill 2008: From the Seanad.

The Dáil went into Committee to consider amendments from the Seanad.

Seanad amendment No. 1:

Section 7: In page 13, subsection (5), lines 6 and 7, to delete all words from and including “by” in line 6 down to and including “Executive)” in line 7 and substitute the following:

“by persons (who may be employees of the Executive)”.

Minister for Health and Children (Deputy Mary Harney): This amendment was accepted in the Seanad. Instead of having the legislation refer to only one “person”, it now refers to the plural, “persons”. Clearly there will be a number of different persons involved in the multi-disciplinary team. Members of the Seanad felt the use of the singular term “person” was inadequate and we were happy to accept the amendment.

Seanad amendment agreed to.

Acting Chairman (Deputy John Cregan): Amendments Nos. 2 to 5, inclusive, and 8 and 9 are related and may be discussed together.

Seanad amendment No. 2:

Section 17: In page 22, lines 31 to 34, to delete subsection (2) and substitute the following:

“(2)(a) Where the Executive has received a request for payment of ancillary State support and the Executive is satisfied that it is appropriate that payment of such support be made, the Executive shall make an order in accordance with this section.

(b) The Executive shall not make a payment in respect of ancillary State support prior to the making of an order by the Executive charging the interest in the relevant chargeable asset with the secured amount.”.

Deputy Mary Harney: Amendments Nos. 2 and 3 ensure the legal basis is explicit and beyond doubt and that the Property Registration Authority can make and register the charge. These amendments were tabled after a submission was received from the Property Registration Authority. The provisions are to ensure there is legal certainty, which the authority felt was desirable.

Amendment No. 4 is to ensure that, in keeping with the policy in the legislation, money can be recovered. Amendment Nos. 5 and 9 ensure the order can be released when the money is paid. Amendment No. 8 ensures the format of the receipt, in addition to the format of the application, can be prescribed by regulation. These amendments, which all refer to charging orders, are technical and were suggested to us by the Property Registration Authority.

Deputy James Reilly: These amendments are all we are discussing today. Will there be an opportunity to vote on the Bill as a whole?

Acting Chairman: One can vote only on the amendments.

Deputy James Reilly: While some of these amendments may appear innocuous, issues arise in respect of some of them, certainly amendment No. 4 on the mortgage issue. If a mortgage pre-exists the mortgage holder’s entry into a nursing home and there are payments still due, will it be the first debt to be paid? This is not clear. One could be left with a property whose mortgage value exceeds the equity value, particularly in the current climate. If a patient who

[Deputy James Reilly.]

enters a nursing home passes away three years later and 15% of the fee has been paid up front, what will occur if that patient's property was worth €450,000 on his or her entering the nursing home but is only worth €250,000 at the time of his or her death? How will the bill be calculated in this case?

With the Acting Chairman's permission, may I make a few broader points? I am deeply unhappy with the Bill. Many of the issues we raised have not been addressed, particularly that of independent financial assessment. Issues arise over the valuation of patients' houses and assets. A person's bank shares, stock or dividends could be assessed as valueless at the time he or she enters a nursing home.

The issue concerning the rights of siblings at the time of application has not been addressed. I refer to siblings who may have been living together all their lives. A sister in such circumstances may have decided to stay at home to mind the house. Such arrangements are not uncommon in Irish society.

Two issues arise over capping, one of which pertains to capping in respect of the scheme itself. If money runs out, what happens to the assessments? The medical assessment is not independent and this has not been addressed. The HSE is to provide care and assess people for care. Will the threshold move up and down? Although we discussed this before, it is important to highlight the matter.

Age Action Ireland is distinctly unhappy about this Bill and the manner in which it is less than clear on the position of those who are charged for being placed in a hospital bed for a long period because there is not a more suitable place for them in the community. The issues associated with geography and the National Treatment Purchase Fund have not been addressed, including the National Treatment Purchase Fund's absolute right to omit or admit a particular nursing home from or to the scheme, depending on whether the home can arrange a reasonable fee. Far too much power is being given to the HSE.

I received an e-mail only yesterday from a lady who has been living all her life with her cousin. They live as sisters but a cousin is not regarded by the legislation as a connected person. The lady, to whom the house is left, believes she may well end up in a nursing home and precede her cousin in death, thereby leaving the cousin seriously discommoded and disadvantaged.

There is still no cap pertaining to assets. The sop that the Minister made in an amendment on an earlier Stage, referring to circumstances in the event of sudden illness, was totally turned over by the caveats in section 8, which bound a person to his or her business in that he or she must have been involved, for the greater part of his or her working days, in that business before taking ill. He or she must continue to be bound to the business for the foreseeable future. As I stated on Report Stage, the requirement that one be bonded to the land or a business smacks of feudalism.

The definitions are characterised by laxity. "Sudden illness" is not defined. Is it a stroke or cancer? How is it defined? Is it of sudden onset and, if so, what does this mean? Is it the last element of a well-known illness, multi-infarct dementia? In this case a patient may be managing the illness but finally receives the small insult to the brain that changes his or her circumstances. I am deeply unhappy about all these issues and am of the view the Bill must be opposed. If this is only opportunity afforded me to do so I will vehemently oppose amendment No. 4 and unless some concessions are given on it amendment I will press to a vote.

Deputy Jan O'Sullivan: I do not have difficulties with some of the technical amendments in this group but I have concerns about amendments Nos. 2 and 4. The time to debate this

legislation is limited and we spent a great deal of time engaging with the Minister on the earlier Stages in the Dáil but this is our first opportunity to discuss these amendments from the Seanad.

The Minister said that these further amendments have been tabled at the suggestion of the Property Registration Authority. What legal advice has she received on them? I presume she sought and received legal advice because they raise tricky legal and constitutional issues particularly in respect of amendment No. 4. It states that the HSE “may” but the implication is that any court of competent jurisdiction can, in accordance with the legislation, award money to the HSE in respect of ancillary State support for properties which are subject to a mortgage.

I am not a legal expert — none of us here is — but that appears very complicated in respect of property rights and the Constitution. It is even more complicated for a family farm. On Committee Stage many members of the Oireachtas Select Committee on Health and Children raised concerns about the family farm and this legislation. The problem also affects the family home and property in general because property involves complicated family relationships. If one family member must go into long-stay care, whether in a public or private bed, it appears that this ancillary State support gets first call on any money available. I may not be interpreting this correctly but the legislation seems to intend that this money will be paid before anything else is paid or settled or anybody else receives his or her share of the property, or the mortgage is paid.

I am also concerned about amendment No. 2 because it states that no ancillary State support will be paid out until such time until the property has been lodged as security for the charges. I am not sure what legal and constitutional issues arise but generally speaking when there is a problem about property after a death people have equal rights to whatever money is available. This amendment seems to intend that the ancillary State support grant will have a greater right than others to recoup money.

We have expressed our general concerns about the Bill on its various Stages. We are particularly concerned about the cap on resources. What happens for example, if somebody qualifies for nursing home support who has also applied for ancillary State support and the process of claiming rights on the property commences but the money in the general part of the scheme has run out for that year? The person may not be able to exercise his or her right because it is curtailed by the lack of money.

What is the general policy on long-stay beds? There is a greater dependence on the private sector and a growing number of private nursing homes, many of which benefit from tax breaks. When the Select Committee on Health and Children dealt with the Estimates it learned that the 2008 target for long-stay public beds had not been reached. Under this legislation there will be a greater dependence on the private sector and I have a fundamental difficulty with that move. I would like an assurance that public policy on health care will be to maintain and grow the number of public long-stay beds in accordance with the 2001 strategy document, part of which commits to increasing not only acute hospital beds but also long-stay beds.

I share Deputy Reilly’s concerns about assessing the value of the property and ensuring that it is fair. Property values go up and down and have varied widely in the past year. Will the Minister clarify how that will affect the ancillary State support grant when it comes back from the property?

These are our main concerns about these amendments but we have more general concerns about the Bill which we have already expressed. I would be slow to pass amendments such as these without being certain that those legal difficulties do not exist and that we are protecting the rights of the person who needs the long-stay beds and of all the family members who have an interest in the family property. I too am particularly concerned about amendment No. 4.

Deputy Mary Harney: There seems to be some misunderstanding. Deputy Reilly's example could not happen. If one does not own the property there is no question of the HSE being in a position to make a charge against that property. If, for example, the property is 80% mortgaged that is a priority. At the time of registration the priorities are dealt with. At any time if somebody's financial circumstances change or the property values change that can be reassessed. For example, where dividends from bank shares form part of one's income and banks do not pay out dividends, as they have not done here recently, that would greatly affect one's income stream but that can be reassessed at any stage.

The Irish Farmers Association has genuinely and warmly welcomed the changes we have made. I met it recently and what applies to farms applies equally to other businesses. It is not exclusive to farms but the case was initially put forward because of concerns in the farming community and among its representatives.

In respect of the National Treatment Purchase Fund, we are going over the main provisions of the Bill. I am happy to do so. The National Treatment Purchase Fund was given the remit because it is independent of the HSE. An organisation independent of the organisation charged with supporting and providing public health services would be responsible for procuring from the private nursing home sector. It is generally acknowledged that it has a good track record in this regard.

To be able to participate in the scheme, which is voluntary, the nursing home must be approved from the financial cost point of view by the National Treatment Purchase Fund. The taxpayer will fund 70% to 80% of the cost of this care throughout the country and the purpose of these provisions is to ensure that we get high quality and reasonable value for money. The new regulations come into effect next week. The new independent inspectorate starts on July 1, which is next Wednesday, and from here on public and private nursing homes will be inspected on the same basis.

With regard to Deputy O'Sullivan's query on capacity, this year 790 new long-term beds and 317 replacement beds will come on stream. Much of the investment over the past two years has been to upgrade current facilities and, in many cases, substantially reduce the number of beds because as Deputies are aware, many of our long-stay facilities are 120 years old. They are former workhouses and totally unsuitable to the standards we are entitled to expect in 2009. A huge amount of the investment is in replacement, which often leads to a substantial reduction in the number of beds. That is important for the quality of life of the residents and so that we meet the standards that are now the law. Existing facilities have a number of years to meet those standards.

If it was not for the participation of the private nursing home sector and the provisions introduced by Deputy O'Sullivan's party colleague and former Minister for Health, Deputy Brendan Howlin, in 1993, when nursing home subvention for the private sector first came into operation here, we would have been in a very difficult situation because the vast majority of older people in long-term care — I believe the figure is 13,000 or 14,000 — are in facilities funded by private providers.

The concern of the State has to be the financial supports that we give and at present 90% of the care costs in the public sector is paid by the Exchequer or those for whom a bed has been procured in the private sector. Those who had to procure their own beds must pay on average 50%, 60% or 70% of the cost and that is grossly unfair and inequitable. The purpose of the fair deal is to bring equity to those situations.

I accept that some Deputies would prefer all of the care to be paid for, there are very few countries if any where long-term care is treated on the same basis as acute care. I know those who represent older people and some geriatricians have concerns about the fact that we will

put a charge against the home of the older person where they have ownership or part ownership of the home. However, unless we do so we will not be able to introduce this equitable scheme and, as I stated, very few countries treat long-term care the same as acute care and if people live at home they have care costs.

Resources are capped and, as I stated on many occasions in this House and regardless of who is or has been in this position, there was never unlimited resources and there never will be. No country in the world has unlimited resources. The resources are capped but we believe the Estimates we have made to begin the operation of the scheme in the autumn of this year are realistic to cover the demand.

The people who speak to me must be different to those who speak to Deputy Reilly; we get more calls on this issue from family members of older people in care than on any other issue. This morning we received calls from people wondering when it will happen and when will it be passed.

Deputy James Reilly: Does the Minister receive calls from Age Action Ireland?

Deputy Mary Harney: Yes and on Second Stage I acknowledged that it has some reservations about the charge on the home. However, at present people are forced to sell their homes and run down their assets to pay for their care. This ends all of that and creates an equitable situation. Perhaps in an ideal world we would love to do some things differently but this will provide a radical change to how long-term care is supported and it is an important measure. With regard to connected persons, on Committee and Report Stages in this House we made a change to include siblings so the sister relationship mentioned by Deputy Reilly will be covered under the definition of connected persons.

Specifically on the amendment, the property registration authority wanted to make it clear and put it beyond doubt that a charge can be made; it is a legal technicality and we took the advice of the Attorney General on the matter. The purpose of Seanad amendment No. 4 is to ensure there are no technicalities to prevent the HSE being able to have its money returned to it and the reference to “mortgage” is to the ancillary loan. There is no question of this loan, when it is registered, coming ahead of other mortgages on the House or whatever the case may be. Seanad amendments Nos. 5 and 9 are tidying up amendments to bring more closely together matters in various sections of the Bill. Seanad amendment No. 5 removes the reference to the release of charging orders from section 17(14) while Seanad amendment No. 9 ensures the relevant reference is reflected instead in section 28. It is a technical legal tidying up arrangement.

Deputy Jan O’Sullivan: Why was it necessary to include Seanad amendment No. 4? I assume that if a debt is owed to anybody that he or she is free to go to court and have the debt paid in so far as it can be paid. In her initial contribution the Minister stated that it is the policy that loans be repaid; of course it is the policy that loans be repaid. However, it is also the policy in the banking sector that loans be repaid but many people are not repaying their loans at present and it is costing the taxpayer a fortune as a result. There should not be any need to include a stronger ability to get the money back in the case of elderly people in long-stay beds as than to get money back from people who borrowed from banks in any other way.

What is the effect of the words, “as a simple contract debt in any court of competent jurisdiction”? Does it mean that somehow or other the HSE has a prior claim on money to anybody else who might have a claim with regard to a deceased person? Perhaps I did not express it very well but that was one of the questions I asked in my initial contribution. There seems to be a stitching-in of the HSE getting its money before anybody else who may be as equally entitled or equally in need of the money when somebody is deceased. I am concerned that

[Deputy Jan O'Sullivan.]

other people may have an equal right but a greater right is being conveyed on the HSE which, generally speaking, one cannot do with regard to property rights.

Deputy James Reilly: I appreciate the Minister commenting on the NTPF but the problem is whether there is an appeals process or an independent arbitrator in a case where there is no agreement on a fee between a nursing home and the NTPF. There is no cap on the assets or no recognition for a case where one of two or three siblings who have lived together on a farm for all their lives goes into care for ten years and accumulates a bill of €300,000 and to pay it the farm must be sold. The value of the farm may have increased or decreased, we have seen huge variations in land prices.

There is no regard for somebody with a rightful expectation of inheriting the farm, for example a nephew who worked on it. The same goes for business, as this is not just related to farming, where the relevant elderly people live over the business and a nephew or niece runs the business below, have an expectation and is remunerated by the people concerned with that in mind. Many stories have been recorded in well-written novels in this country of the disappointment and hardship people suffer when expectation is not met. This could turn into a nightmare for some people. If the Minister were able to offer some comfort on the issue, the Fine Gael Party would be less inclined to object to it.

Deputy Mary Harney: I am not able to give the Deputy any comfort or expectation. I recently met a nursing home owner who, having cared for an elderly gentleman for a number of years without payment, lived on the expectation that, on the death of the said individual, the nursing home would be able to reclaim its charges. The home owner later discovered, however, that the person in question left his farm and property to an animal welfare organisation, if memory serves me correctly. I cannot legislate for expectation.

Deputy James Reilly: I am more concerned about cases involving relatives who work on the individual's farm.

Deputy Mary Harney: The Deputy makes a legitimate point. This is the reason we introduced exclusions for farms and businesses. We are trying to encourage the early passing on of businesses and farms to a younger generation. This has been the policy of the farm organisations for many years and it is the reason they welcomed the five-year rule on when one starts to tick the financial box against a farm or business. This cannot happen, however, if a person suddenly falls ill at a relatively young age, can no longer run the farm, requires someone else to run it on his or her behalf and needs care. A person aged 45, 55 or even 60 years cannot reasonably anticipate such an eventuality and an exception has been made for such circumstances.

On Deputy O'Sullivan's point, the relevant provision has been introduced to ensure the Health Service Executive is able to get its money back through contract law, irrespective of whether the mortgage is secured. That is not to say the HSE will have a prior claim. Priority is decided at the time the loan is advanced and registered. For example, a mortgage on a property will clearly have first priority. Moneys owed elsewhere that are registered will be the next priority and so forth. The priority is decided at the point of registration and the HSE claim does not supersede other entitlements.

I emphasise that the scheme is voluntary. The HSE will advance an interest-free loan, known as the ancillary State support, to pay for care. It is capped at three years and, in the case of a couple, the maximum payable is 7.5% of the value of the property. The property's value can be reassessed at any stage if it is in the interests of the care recipient or their representatives

to do so and I have no doubt revaluations will occur. When the legislation was being drafted it was assumed property values would increase, whereas the opposite has occurred.

Seanad amendment agreed to.

Seanad amendment No. 2:

Section 17: In page 22, lines 31 to 34, to delete subsection (2) and substitute the following:

“(2) (a) Where the Executive has received a request for payment of ancillary State support and the Executive is satisfied that it is appropriate that payment of such support be made, the Executive shall make an order in accordance with this section.

(b) The Executive shall not make a payment in respect of ancillary State support prior to the making of an order by the Executive charging the interest in the relevant chargeable asset with the secured amount.”.

Seanad amendment agreed to.

Seanad amendment No. 3:

Section 17: In page 23, subsection (7), line 13, to delete “of such land.” and substitute the following:

“of such land, and the Property Registration Authority shall on application being made to it register such order affecting the land concerned.”.

Seanad amendment agreed to.

Seanad amendment No. 4:

Section 17: In page 23, lines 14 to 17, to delete subsection (8) and substitute the following:

“(8) Any amount paid by way of ancillary State support, whether or not it is the subject of a mortgage arising by reason of this section, may, without prejudice to any other power in that behalf, be recovered by the Executive as a simple contract debt in any court of competent jurisdiction.”.

Seanad amendment put.

The Committee divided: Tá, 67; Níl, 58.

Tá

Ahern, Dermot.
Ahern, Michael.
Ahern, Noel.
Andrews, Barry.
Andrews, Chris.
Ardagh, Seán.
Aylward, Bobby.
Behan, Joe.
Blaney, Niall.
Brady, Áine.
Brady, Cyprian.
Brady, Johnny.
Browne, John.
Byrne, Thomas.
Calleary, Dara.
Carey, Pat.
Collins, Niall.
Conlon, Margaret.

Connick, Seán.
Cregan, John.
Cuffe, Ciarán.
Cullen, Martin.
Curran, John.
Dempsey, Noel.
Dooley, Timmy.
Finneran, Michael.
Fitzpatrick, Michael.
Fleming, Seán.
Gogarty, Paul.
Grealish, Noel.
Hanafin, Mary.
Harney, Mary.
Hoctor, Máire.
Kelleher, Billy.
Kenneally, Brendan.
Kennedy, Michael.

Tá—continued

Kirk, Seamus.	O'Flynn, Noel.
Kitt, Michael P.	O'Hanlon, Rory.
Kitt, Tom.	O'Keefe, Batt.
McEllistrim, Thomas.	O'Keefe, Edward.
McGrath, Mattie.	O'Rourke, Mary.
McGrath, Michael.	O'Sullivan, Christy.
Mansergh, Martin.	Power, Seán.
Martin, Mícheál.	Ryan, Eamon.
Moloney, John.	Sargent, Trevor.
Moynihan, Michael.	Scanlon, Eamon.
Nolan, M.J.	Smith, Brendan.
Ó Cuív, Éamon.	Treacy, Noel.
Ó Fearghaíl, Seán.	Wallace, Mary.
O'Brien, Darragh.	White, Mary Alexandra.
O'Connor, Charlie.	Woods, Michael.
O'Dea, Willie.	

Níl

Bannon, James.	Lynch, Kathleen.
Barrett, Seán.	McCormack, Pádraic.
Broughan, Thomas P.	McEntee, Shane.
Burke, Ulick.	McGinley, Dinny.
Byrne, Catherine.	McGrath, Finian.
Clune, Deirdre.	McHugh, Joe.
Connaughton, Paul.	Morgan, Arthur.
Coonan, Noel J..	Neville, Dan.
Costello, Joe.	Noonan, Michael.
Crawford, Seymour.	Ó Caoláin, Caoimhghín.
Creighton, Lucinda.	Ó Snodaigh, Aengus.
D'Arcy, Michael.	O'Donnell, Kieran.
Deasy, John.	O'Dowd, Fergus.
Deenihan, Jimmy.	O'Shea, Brian.
Doyle, Andrew.	O'Sullivan, Jan.
Durkan, Bernard J.	Penrose, Willie.
English, Damien.	Perry, John.
Enright, Olwyn.	Rabbitte, Pat.
Feighan, Frank.	Reilly, James.
Ferris, Martin.	Ring, Michael.
Flanagan, Charles.	Sheehan, P.J.
Flanagan, Terence.	Sherlock, Seán.
Gilmore, Eamon.	Shortall, Róisín.
Hayes, Tom.	Stagg, Emmet.
Higgins, Michael D.	Stanton, David.
Hogan, Phil.	Tuffy, Joanna.
Kehoe, Paul.	Upton, Mary.
Lee, George.	Varadkar, Leo.
Lynch, Ciarán.	Wall, Jack.

Tellers: Tá, Deputies Pat Carey and John Cregan; Níl, Deputies Paul Kehoe and Emmet Stagg.

Seanad amendment agreed to.

Seanad amendment No. 5:

Section 17: In page 24, lines 5 to 10, to delete subsection (14) and substitute the following:

“(14) Where an order under this section made in electronic form purports to have been made by an authorised person it shall be presumed by the Property Registration Authority that such electronic document was made and transmitted by the person by whom it purports to have been made and transmitted.”.

Seanad amendment agreed to.

An Ceann Comhairle: Seanad amendments Nos. 6, 7 and 10 are related and will be discussed together.

Seanad amendment No. 6:

Section 21: In page 28, subsection (5), lines 38 to 40, to delete all words from and including “having” in line 38 down to and including “section.” in line 40 and substitute the following:

“, having regard to—

(a) the expressed wishes (if known) of the relevant person concerned, and

(b) the circumstances of the relevant person concerned,

the court may appoint a person to be a care representative in accordance with this section.”.

Deputy Mary Harney: A number of amendments were made which related to representatives for applicants of diminished mental capacities. Section 21 of the Bill provides for the appointment by the Circuit Court of care representatives. A care representative is required if a person of diminished mental capacity wishes to apply for ancillary State support. Amendment No. 6 amends section 21 of the Bill. It obliges the court to have regard to the wishes of the person who is the subject of the application when appointing a care representative.

The amendment represents a further safeguard within the scheme for the person. It is also consistent with the guiding principles contained in the proposed mental capacity legislation. The reference to “medical practitioner” is included so that the proprietor of a nursing home is ruled, on the basis that it would constitute a conflict of interest. It was decided in the Seanad to add the medical practitioner who did the care assessment for similar reasons.

Deputy James Reilly: I welcome these amendments. They add to the Bill. It is only right and proper that persons of diminished capacity should still have a say in indicating who they feel might be best positioned to represent them when they become of that state of mind. In other words, a person’s wishes may have been expressed before he or she was no longer *compos mentis*. The definition of “*compos mentis*” is to understand the value of one’s property, the consequences of one’s action and the implications for oneself.

Even though a person may not have such understanding, he or she may still have a sense of who is best fit to represent them, given a lengthy relationship over many years before a sad occurrence happens. I have no issue with the second part. The Minister is correct and the Seanad was wise to add the term “the medical practitioner who has carried out the assessment”. The less room for a conflict of interest the better. I have no issue with these amendments.

Deputy Jan O’Sullivan: These amendments are sensible and we all want to ensure a person would, if possible, have his or her wishes fulfilled. This is the appropriate way to do it. It is a good idea to have the medical practitioner as a person whose views can be considered reliable in this regard. Many people — Deputy Reilly may not be able to say this because he might be accused of a conflict of interest — tell their GPs a lot of things they might not tell anybody else. They open their hearts at times to their GPs. Registered medical practitioners can include other practitioners. Often they will be appropriate persons who can best interpret the wishes of the persons concerned. I have no problem with these amendments.

Seanad amendment agreed to.

Seanad amendment No. 7:

Section 21: In page 29, subsection (12), lines 27 to 30, to delete paragraph (i) and substitute the following:

“(i) a person, other than a person who is—

(i) the proprietor of a nursing home in which the relevant person resides or is likely to reside, or

(ii) one of the registered medical practitioners who examined the relevant person and prepared a report referred to in *subsection (18)* in respect of such person, and who appears to the court to have a good and sufficient interest in the welfare of the relevant person.”.

Seanad amendment agreed to.

Seanad amendment No. 8:

Section 28: In page 40, subsection (4), line 3, to delete “An application under *subsection (3)*” and substitute the following:

“A receipt under *subsection (1)* and an application under *subsection (3)*”.

Seanad amendment agreed to.

Seanad amendment No. 9:

Section 28: In page 40, between lines 4 and 5, to insert the following subsection:

“(5) Where an application under *subsection (3)* is made to the Property Registration Authority in electronic form which purports to have been made by an authorised person it shall be presumed by the Property Registration Authority that such electronic document was made and transmitted by the person by whom it purports to have been made and transmitted.”.

Seanad amendment agreed to.

Seanad amendment No. 10:

In page 54, lines 1 to 4, to delete subsection (1) and substitute the following:

“47.—(1) Subject to *subsections (2), (4) and (9)*, a specified person may act on behalf of another person in relation to any matter under this Act, including, but not limited to, any application, appeal, review or the giving of consent under *section 7 (13)*, where that other person is not of full mental capacity.”.

Seanad amendment agreed to.

Seanad amendments reported.

Housing (Miscellaneous Provisions) Bill 2008: Report and Final Stages.

Minister of State at the Department of the Environment, Heritage and Local Government (Deputy Michael Finneran): In the text of the Bill as amended in the select committee there are a number of incorrect references to sections of the Bill. I ask the Acting Chairman, Deputy John Cregan to instruct the clerk of the Dáil to make the following corrections to the text of the Bill:

In page 48, line 2, to delete “section 39” and substitute “section 46”.

In page 48, line 3, to delete “section 39” and substitute “section 46”.

In page 48, line 30, to delete “section 41” and substitute “section 49”.

In page 48, line 35, to delete “section 41” and substitute “section 49”.

In page 49, line 46, to delete “section 41” and substitute “section 49”.

In page 50, line 15, to delete “section 40 [subsection] (6) or (7)” and substitute “section 48 [subsection] (5) or (6)”.

In page 51, line 23, to delete “section 40” and substitute “section 47”.

In page 51, line 32, to delete “section 40” and substitute “section 47”.

In page 67, line 6, to delete “section 8” and substitute “section 57”.

A list of the requested corrections is available and can be given to the Members if necessary.

Acting Chairman (Deputy John Cregan): Amendment No. 1 is consequential on amendment No. 27. Amendments Nos. 17 and 20 are related. Amendments Nos. 1, 17, 20 and 27 will be discussed together.

Deputy Ciarán Lynch: I move amendment No. 1:

In page 7, line 7, after “PLANS” to insert “AND HOMELESS ACTION PLANS”.

There has been a lot of debate in the House on the time apportioned to debating the Bill this evening. I withdraw amendments Nos. 21 to 25, inclusive, amendments Nos. 41 to 43, inclusive and amendments Nos. 46 and 47. These are amendments which were also debated on Committee Stage. I do not believe they will be successful in the House today given the Government’s majority and, in order to facilitate additional amendments or amendments not given appropriate time on Committee Stage, I will withdraw them later, if that is agreeable to the House.

Acting Chairman: Agreed.

Deputy Ciarán Lynch: The substantive amendment with regard to amendments Nos. 1, 17 and 20 is amendment No. 27. As the House is aware, when the Bill was first drafted, it contained no mention of homelessness. It was not until the Bill reached the Seanad that we saw the inclusion of the issue of homelessness. Amendment No. 27 proposes that:

Each housing authority shall establish a process ... within its administrative area for the purposes of developing and implementing a local homeless action plan. Each local homeless forum shall include approved bodies . . .

The Minister of State made reference to this matter on Committee Stage. As I believe some of the aspects of the Minister’s strategy on Committee Stage were deficient, I will be pressing this amendment.

Deputy Michael Finneran: The effect of Deputy Lynch’s proposed amendments has already been provided for by the more comprehensive and far-reaching amendments I presented to the select committee to place the making of homelessness action plans on a statutory basis. I presume the Deputy does not wish to press these amendments in favour of my own substantive amendments which have been strongly endorsed by the MakeRoom alliance. I would, therefore, ask the Deputy to withdraw his amendments.

Amendment, by leave, withdrawn.

Acting Chairman: Amendments Nos. 2 and 3 are related and may be discussed together.

Deputy Michael Finneran: I move amendment No. 2:

In page 7, lines 27 to 34, to delete all words from and including “TO PROVIDE” in line 27 down to and including “INTEREST;” in line 34.

These are two technical amendments to change the Long Title. The first changes the Long Title to reflect the fact the earlier amendments in the Bill as published make certain changes to the existing affordable housing schemes and the shared ownership scheme, which have now been superseded by the introduction on Committee Stage of new affordable dwelling purchase arrangements under Part V. Amendment No. 3 references the Social Welfare Consolidation Act 2005 rather than the Social Welfare Acts as it is the 2005 Act that is being amended. I commend the amendments to the House.

Deputy John Deasy: The Minister of State referred to the shared ownership scheme, which is germane, so it might be appropriate at this point to mention the progression of a particular element of housing policy dealt with while this Bill has been making its way through the Oireachtas. I refer specifically to the long-term leasing arrangements with which the Minister of State and his officials are dealing and which they are finalising for local authorities in Waterford and elsewhere.

When I spoke on the Bill, I made reference to the 20% social and affordable housing provisions and my strong belief that the measure has been innovative and effective, not just from the standpoint of housing but also from that of social inclusion and integration. I understand a number of circulars regarding long-term leasehold arrangements between local authorities, voluntary groups and developers are being drafted and finalised. These measures are timely and demonstrate the necessary flexibility considering the economic times in which we find ourselves.

I thank the Minister of State, Deputy Finneran, for considering and developing the approach to long-term leasing. The bottom line is that the money is not available to build units in the traditional manner so we need to figure out alternative methods to finance the construction of local authority housing and, in doing so, start money moving around again in the local economies. All one need do is look at the Standard and Poor’s report that came out yesterday which highlights the stark situation with regard to our housing market. It is good there has been a development and an extension of the N3 circular that came out late last year or early this year. The different long-term leasing arrangements being drawn up constitute a significant shift in Government policy.

I thank the Minister of State for considering and adopting these approaches and I look forward to their implementation over the course of the next few months. I know that view is shared by local authority officers dealing with housing throughout the country. I also thank the officials for briefing me on this issue.

Deputy Michael Finneran: While we are not dealing directly with this issue, I try to be as open as possible with Deputies and Senators in dealing with the legislation, which will be seen from the number of Government amendments. I recall that Deputy Deasy during the Second Stage debate indicated his support for a variant of the long-term lease. I am pleased we are moving in that direction and I have also accepted suggestions from other Deputies. Deputy Deasy is clearly identified with the proposal in regard to the long-term lease. We are now

considering variants and hopefully, at the end of the day, it will be helpful to the housing authorities throughout the country. I thank the Deputy for his comments.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 3:

In page 7, line 40, to delete “THE SOCIAL WELFARE ACTS” and substitute “THE SOCIAL WELFARE CONSOLIDATION ACT 2005”.

Amendment agreed to.

Acting Chairman: Amendments Nos. 4 to 6, inclusive, are consequential on amendment No. 175, and amendment No. 177 is related. The amendments may be discussed together.

Deputy Michael Finneran: I move amendment No. 4:

In page 8, line 5, after “Act” to insert “(other than *section 100*)”.

These amendments provide for the insertion of a small number of changes to the Residential Tenancies Act 2004. The main change is being made to put beyond doubt that the scope of the Act does not extend to owner-occupied leasehold dwellings such as apartment owner-occupiers where the relevant lease is in excess of 35 years. As matters stand, section 3(2) of the Residential Tenancies Act 2004 lists certain dwellings which fall outside the remit of the Act. That list is exhaustive and cannot be supplemented without legislative amendment. Therefore, unless a dwelling falls outside the remit of the Act pursuant to section 3(2), the dwelling may be deemed to be an appropriate dwelling under the Act for the purposes of dispute resolution, subject to certain other conditions under the Act being satisfied.

This could mean, for example, that a dispute over service charges between a management company and an owner-occupier in an apartment block, who also happens to be a leasee, could fall for resolution by the Private Residential Tenancies Board in the same way the normal landlord-tenant disputes do. Of course, it was never the intention that the Act would have application to owner-occupiers of apartments. The amendment I propose will put that matter beyond doubt.

Deputy Ciarán Lynch: I note that amendment No. 175 at paragraph (5) states:

The Act of 2004 is amended by inserting the following section after section 147:

147A.—The Board [namely, the Private Residential Tenancies Board] shall, at such intervals as are specified by the Revenue Commissioners, disclose to the Revenue Commissioners information contained in the register the disclosure of which to the Revenue Commissioners is reasonably necessary for the performance by the Revenue Commissioners of their functions.

I understand this was proposed by my colleague, Deputy Róisín Shortall, and was also referred to in a recent parliamentary question to the Minister of State. If my interpretation of this is correct, it is a welcome addition to the Bill in that it allows for tax compliance and other measures to be carried out between the Revenue Commissioners and the Private Residential Tenancies Board.

Deputy Michael Finneran: The Deputy is correct. The insertion of the new section 147A into the Residential Tenancies Act gives effect to a recommendation made by the Committee of

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Public Accounts in regard to taxation of rental income. It provides for an improved flow of information from the PRTB to the Revenue Commissioners to enable access to the full landlord records held by the PRTB for the purpose of enabling tax compliance checks. These amendments will take effect immediately on the enactment of the Bill.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 5:

In page 8, between lines 7 and 8, to insert the following:

“(3) *Section 100* and, in so far as it relates to that section, this section shall be construed as one with the Residential Tenancies Acts 2004 and 2009 and shall be included in the collective citation “Residential Tenancies Acts 2004 and 2009”.”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 6:

In page 8, line 8, after “Act“ to insert “(other than *section 100*)”.

Amendment agreed to.

Acting Chairman: Amendments Nos. 7 and 28 are related and may be discussed together by agreement.

Deputy Ciarán Lynch: I move amendment No. 7:

In page 9, between lines 39 and 40, to insert the following:

““persons with a disability“ shall mean persons with a disability within the meaning of section 2 of the Disability Act 2005.”.

These amendments relate to the issue of disability. There was an oversight related to homelessness in the Bill when it was first published. I have received representations from organisations on behalf of the disability sector. The Bill provides a very good opportunity to put in place legislation to give true recognition to the matter of disability. However, the absence of relevant measures is similar to the absence of addressing homelessness in an earlier draft and it should be corrected at this stage.

I realise the Minister is in discussions with disability groups but discussions continue on an ongoing basis and one should not draw a line at the end of discussions and suggest they will no longer continue, especially in the area of disability. The discussions are at a stage at which the amendments proposed are worthy of inclusion in the Bill. Any further consultation between the Minister of State and such groups may be examined another time and amendments may be put accordingly, as the Minister of State has indicated. Nevertheless, there is a clear opportunity this afternoon to address a deficiency within the Bill and for disability to be recognised. I call on the Minister of State to support the amendment.

Deputy Michael Finneran: There was a lengthy and interesting discussion on issues related to the housing support needs of people with disabilities at the select committee meeting. I welcome the Deputy’s keen interest in the matter, which reflects my interest in the issue, and his desire to ensure the needs of people with disability are at the heart of support offered by

housing authorities. However, the specific proposals suggested by the Deputy run the risk of pre-empting the important work currently underway to develop a national housing strategy for people with disabilities. The national advisory group tasked with developing the strategy is due to complete its work by the end of 2009. As I indicated at the select committee meeting, upon completion of the strategy it may prove necessary to incorporate some of the specific recommendations into law but I do not believe it would be appropriate to do so at this time. Therefore, I do not propose to accept the amendment.

Amendment put and declared lost.

Deputy Michael Finneran: I move amendment No. 8:

In page 10, line 36, after “areas,” to insert the following:

“apartment complexes (within the meaning of *section 50*),”.

Section 3 contains general powers in respect of the making of regulations by the Minister. Section 3(2)(b) provides that regulations may apply generally or to specific housing authorities or areas. They may also apply to any specified class of matters, including designated apartment complexes which come under the scope of part 4 of the Bill. The subsection also provides that the different provisions of any such regulations may apply to different housing authorities or areas or different classes of matters. Amendment No. 8 provides, in common with all other matters individually specified in the subsection, that different provisions of the regulations may be expressed to apply in respect of the different classes of apartment complexes coming within the scope of part 4. I commend the amendment to the House.

Amendment agreed to.

Acting Chairman: Amendments Nos. 9 to 14, inclusive, are related and may be discussed together by agreement.

Deputy Ciarán Lynch: I move amendment No. 9:

In page 11, after line 41, to insert the following:

“PART 2

AMENDMENT OF RESIDENTIAL TENANCIES ACT 2004.

10.—In this Act, “the Principal Act“ means the Residential Tenancies Act 2004.”.

Amendments Nos. 9 to 14, inclusive, relate to significant changes to the Residential Tenancies Act 2004. On Committee Stage, the Minister indicated there would be a review of the Residential Tenancies Act and the Private Residential Tenancies Board and that these matters could be examined another time. The Minister also indicated there was some merit to the series of amendments on Committee Stage as they have been related here.

In the context of my previous comments to the Minister of State, we have already seen that there will be changes to the Residential Tenancies Act 2004 as a result of the Bill. I believe other changes could be made too and there is no obvious reason why they should not be made. The series of amendments allow for the creation of a national deposit scheme in which the Residential Tenancies Act would be significantly changed and a national treasury account would be created to establish at least €500,000 in holding deposits of tenants as part of a tenant landlord agreement. At present, when one hands over a deposit to a landlord there is no legislation governing what takes place to that deposit. A landlord may lodge it in his or her

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bank account or credit account. He or she may keep it in a jam jar or in a biscuit tin at home or may go to a shopping centre to buy a sofa or to Las Vegas if he or she so wishes.

Ultimately, the money handed over by the tenant belongs to him or her and the landlord only has custody of that money for the duration of the tenancy. Reports from Threshold and the PRTB show a significant amount of their workload relates to the matter of disputed deposits. These amendments create a clear mechanism to ensure such disputes are dealt with in a speedy fashion. The PRTB will come before the an Oireachtas committee next week and to discuss the 18 month backlog of disputes. The cost of this backlog is approximately between €700 and €900 per day. There would be an immediate saving to the State by simply clearing the backlog.

Yesterday, in answer to a parliamentary question the Minister stated there are in excess of 200,000 private residential tenancies registered with the PRTB. I believe more exist which are not registered. However, if we tied the registration process to the holding and safekeeping of a deposit, it would create greater and more far-reaching compliance with the PRTB registration process. It would also provide protection for tenants and their deposits. It would create a significant amount of money for the State and approximately half a billion euro could be held on account as a result.

If the amendments were carried there would also be a direct saving for the State because there are approximately 80,000 rental allowance contracts. Community welfare officers hand over a sum of money to a landlord on behalf of a tenant for which everyone in the State pays. The amendments create the possibility for that sum to be notionally lodged with a treasury account. If there is a breach of the tenancy agreement, the landlord can avail of the deposit but, most importantly, the State need not outlay the money in the first instance. By a modest reckoning if the amendment were agreed to it would create an immediate saving of approximately €80 million for the State. I realise some €35 billion is involved in NAMA and so on but €80 million remains a significant sum of money by any account. Any legislation that generates such a saving for the Exchequer should not be ridiculed.

Much work has gone into these amendments. They also consider deposits which operate in the voluntary and housing co-operative sectors. I call on the Minister to accept the amendments. They do not set any precedents. Although they may represent new legislation in Ireland other countries in Europe and elsewhere in the western hemisphere have such measures as a standard practice in tenancy agreements.

Deputy Terence Flanagan: Although not specifically related to the amendment, my point related to deposits in general. There have been reports in the media about deposits for new apartments which, unfortunately, were never built. It relates to the homebond guarantee which is only valid for two years. I ask the Minister of State to review that situation.

Deputy Michael Finneran: Amendments Nos. 9 to 14, inclusive, were discussed on Committee Stage. As I said on that occasion I see merit in what Deputy Ciarán Lynch has proposed but I do not propose to accept the amendments at this time. However, my Department is currently progressing a review of the Residential Tenancies Act and I have asked my officials to consider Deputy Lynch's proposals in the context of that review.

Deputy Ciarán Lynch: I thank the Minister of State for his reply and for his expression that there is merit to the proposal. The Minister of State has stated in replies to parliamentary questions and on Committee Stage that the Residential Tenancies Act is under review. That is not to say that the Residential Tenancies Act cannot be amended this evening as it has been

amended by the Minister already. I do not see any reason for not accepting this amendment even with the current review. I will be pressing the amendment.

Amendment put and declared lost.

Deputy Ciarán Lynch: I move amendment No. 10:

In page 11, after line 41, to insert the following:

“10.—In this Act and in the Principal Act, “deposit” means any money intended to be held (by the landlord or otherwise) as security for—

(a) the performance of any obligations of the tenant, or

(b) the discharge of any liability of the tenant,

arising under or in connection with a tenancy.”.

Amendment put and declared lost.

Deputy Ciarán Lynch: I move amendment No. 11:

In page 11, after line 41, to insert the following:

“10.—(1) Where a landlord requires a tenant, on entering into an agreement for a tenancy or lease, to pay a deposit, the deposit shall be paid by the landlord to the Board at the time of application for registration of the tenancy under Part 7 of the Principal Act and shall be held by the Board until—

(a) an application is made under *subsection (3)*, or

(b) a dispute is referred to the Board for resolution under section 76 of the Principal Act.

(2) A landlord who contravenes *subsection (1)* is guilty of an offence.

(3) Where a landlord and a tenant jointly apply in the prescribed form for the repayment of a deposit by the Board to—

(a) the tenant,

(b) the landlord, or

(c) in part to the tenant and in part to the landlord,

the Board shall promptly repay the deposit in the manner specified in the application.

(4) Section 78 of the Principal Act is amended, in subsection (1), by substituting the following for paragraph (a):

“(a) the repayment of a deposit held by the Board to the tenant or the landlord or in part to each of them,”.

(5) A dispute in respect of matters referred to in section 78(1)(a) of the Principal Act that is referred to the Board for resolution shall be determined in accordance with the following principles:

[Deputy Ciarán Lynch.]

(a) no amount of the deposit concerned shall be required to be repaid to the tenant if, at the date of referral of the dispute to the Board, there is a default in—

(i) the payment of rent and the amount of rent that is in arrears is equal to or greater than the amount of the deposit, or

(ii) compliance with section 16(f) of the Principal Act and the amount of

the costs that would be incurred by the landlord, were he or she to take them, in taking such steps as are reasonable for the purposes of restoring the dwelling to the condition mentioned in the said section 16(f) is equal to or greater than the amount of the deposit;

(b) where, at the date of the referral of the dispute to the Board—

(i) there is a default in the payment of rent or compliance with the said section 16(f), and

(ii) *subparagraph (i) or (ii)*, as the case may be, of *paragraph (a)* does not apply, then there shall be repaid—

(I) to the landlord, the amount of rent that is in arrears or, as appropriate, the amount of the costs that would be incurred in taking steps of the kind referred to in *paragraph (a)(ii)*,

(II) to the tenant, the difference between the amount referred to in *subparagraph (i)* and the deposit;

(c) where neither *paragraph (a)* or *(b)* apply, the deposit concerned shall be repaid in full to the tenant.

(6) No provision of any lease, tenancy agreement, contract or other agreement entered into after the commencement of this Act may operate to vary, modify or restrict in any way this section.

(7) Section 12 (1) (d) and (4) of the Principal Act are repealed.

(8) Section 115 of the Principal Act is amended by substituting the following for *paragraph (i)*:

“(i) in the special circumstances of a dispute heard under this Part, a direction that the whole or part of the costs or expenses incurred by the adjudicator or the Tribunal in dealing with the dispute shall be paid by one or more of the parties,

(j) a direction that a specified amount of damages be paid for unreasonably refusing to agree to a joint application for the repayment of a deposit under section 2(3) of the Residential Tenancies (Amendment) (No. 2) Act 2009.“.”.

Amendment put and declared lost.

Deputy Ciarán Lynch: I move amendment No. 12:

In page 11, after line 41, to insert the following:

“10.—(1) Section 92 of the Principal Act is amended by inserting the following after subsection (4):

“(5) For the purposes of this section, and in particular to enable the Board to clarify for itself and for the parties any issue arising in relation to a dispute referred to it, the Board may—

(a) inquire into any relevant aspect of the dispute concerned,

(b) require either party to furnish to it, within a specified period, such documents or other information as it considers appropriate, and

(c) provide to, and receive from, each party such information as is appropriate.”.”.

Amendment put and declared lost.

Deputy Ciarán Lynch: I move amendment No. 13:

In page 11, after line 41, to insert the following:

“10.—(1) The Board shall establish an investment account (the “account”) into which deposits paid to it under this Part shall be deposited.

(2) The National Treasury Management Agency (“the Agency”) shall manage the account on behalf of the Board.

(3) Moneys in the account shall be invested and the investments shall be realised or varied as occasion requires and the proceeds of any such realisation, and any dividends or other payments received in respect of moneys invested under this section, shall be paid into the Exchequer: provided that the Agency shall ensure that there is always within the account a sufficient amount of money to enable the Board to repay deposits to tenants and landlords under this Part.”.

Amendment put and declared lost.

Deputy Ciarán Lynch: I move amendment No. 14:

In page 11, after line 41, to insert the following:

“10.—(1) (a) The Health Service Executive shall not make a payment of a supplement towards the amount of rent payable by a person in respect of his or her residence where the tenancy has not been registered in accordance with the provisions of Part 7 of the Principal Act, unless the tenancy is one which is not required to be registered under that Part, in particular because the tenancy is one with an approved housing body in the co-operative or voluntary housing sector.

(b) Paragraph (a) does not prevent the payment by the Health Service Executive—

(i) of such a supplement upon the creation of a tenancy, or

(ii) of assistance in the form of a deposit prior to the registration of the tenancy.”.

Amendment put and declared lost.

Deputy Terence Flanagan: I move amendment No. 14a:

[Deputy Terence Flanagan.]

In page 12, between lines 4 and 5, to insert the following:

“10.—Any communications to a tenant or applicant in relation to any service or requirement under this Act shall be so communicated in writing and by electronic form where the tenant or applicant has provided a valid electronic address for receipt of such communication.”.

Deputy Michael Finneran: I thank the Deputy for resubmitting this amendment about which we had some discussion on Committee Stage. As I indicated then I do not believe that we need to go down the road of placing a statutory requirement on housing authorities to communicate with their tenants or customers in writing and electronically. These are matters about which an authority is more than capable of deciding for itself according to the local circumstances and individual cases. I do not propose to accept the amendment.

Amendment, by leave, withdrawn.

Acting Chairman: Amendments Nos. 15 and 29 are related and may be discussed together by agreement.

Deputy Ciarán Lynch: I move amendment No. 15:

In page 12, between lines 30 and 31, to insert the following:

“(xi) the provision, adaptation or improvement of housing for persons with a disability,”.

The purpose of amendments Nos. 15 and 29 is to ensure adequate provision for promoting the independence of persons with a disability. The Bill goes some way to rectifying situations where significant sums of money are spent on the disabled persons grant scheme. The Bill will now facilitate a clawback for moneys expended in that area. The issue of dealing with disability in the area of housing should not be to create a segregated approach nor should it mean the creation of modifications to mainstream housing. The amendment proposes that as part of housing planning, there would be integration of housing programmes for people with disabilities into mainstream housing developments so that such persons would have an independent living arrangement within the housing programme. I will be pressing the amendment and I look forward to the Minister of State’s response.

Deputy Pádraic McCormack: I ask the Minister of State to clarify whether a regulation exists that all newly built houses must provide wheelchair access. I understand there is such a regulation but it is honoured more in the breach than in the observance. Many new houses, either one-off houses or houses in estates, have inadequate wheelchair access. Have penalties been imposed on developers or those building one-off houses when they are not making necessary provision for wheelchair access? In some cases I have seen beautiful ramps up to front doors and then two steps to get into the house which renders the ramp useless. What is the regulation in this regard?

Deputy Michael Finneran: Amendments Nos.15 and 29 were also covered in our discussions on disability and housing related issues. I do not believe these amendments are necessary as their effect is essentially already comprehended by the Bill as it stands. I do not therefore propose to accept them. On the matter raised by Deputy McCormack, new houses are obliged to have wheelchair accessibility. I remind the Deputy that this is a planning matter.

Deputy Pádraic McCormack: What penalty exists where that condition is not met? Is it solely a matter for the planning authority to say that it is unauthorised development? Is this matter followed up when it occurs? It is a matter which inconveniences wheelchair-users and drives them crazy that this regulation is not being enforced. It is not good enough for the Minister of State to say it is a matter for the planning authority if it was a condition of the planning permission that wheelchair access should be provided. Has the Department any regulation in place? I have recently seen a number of planning applications where there is no condition about wheelchair access. If it is a requirement for the planning authorities they are not putting it in their conditions for granting planning permissions.

Deputy Michael Finneran: I did not state that it was a matter for the planning authorities, I said it was a planning matter. It is a planning matter and it has nothing to do with this Bill.

Deputy Pádraic McCormack: I do not wish to labour the point but who takes responsibility for the implementation of the regulation? Who is the responsible body to ensure this condition is included?

Deputy Michael Finneran: I suggest the Deputy put down a parliamentary question on the matter.

Deputy Pádraic McCormack: I will do so.

Amendment put and declared lost.

Acting Chairman: Amendments Nos 15a and 26a are related and may be discussed together by agreement.

Deputy Terence Flanagan: I move amendment No. 15a:

In page 15, between lines 31 and 32, to insert the following:

“(4) Local authorities shall review housing services plans on a six monthly basis.”.

Deputy Michael Finneran: This legislation places considerable demands on housing authorities in terms of strategic planning through the development of housing service plans and housing action programmes. The making of rent and allocation schemes, statutory requirements on anti-social behaviour strategies and homelessness action plans and new purchase schemes in the form of incremental purchase, tenant purchase of apartments and affordable dwelling purchase arrangements. I am making statutory provision for these and other areas because they will provide a modern and efficient framework to assist housing authorities in meeting their housing responsibilities. However, I recognise that their implementation will be onerous. I do not propose to accept the amendment No. 15a proposed by the Deputy which would add unnecessarily to the workload without any obvious benefit. I am satisfied with the review provisions set out in section 17 which will provide sufficient flexibility in this area which the Deputy wishes to delete by way of an amendment No. 26a. I ask that both amendments be withdrawn.

3 o'clock

Amendment, by leave, withdrawn.

Deputy Ciarán Lynch: I move amendment No. 16:

In page 16, to delete lines 4 and 5 and substitute the following:

[Deputy Ciarán Lynch.]

“(b) the demand for social housing a outlined in the assessment of need in its administrative area conducted in accordance with *section 21*;”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Deputy Ciarán Lynch: I move amendment No. 17:

In page 16, between lines 5 and 6, to insert the following:

“(c) the homeless action plan in its administrative area;”.

Amendment put and declared lost.

Deputy Ciarán Lynch: I move amendment No. 18:

In page 16, between lines 10 and 11, to insert the following:

“(e) the needs of persons with a disability in its administrative area;”.

Deputy Michael Finneran: I believe this amendment is unnecessary as the intention is already accommodated within the text as it stands. Therefore, I do not propose to accept the amendment.

Amendment put and declared lost.

Deputy Ciarán Lynch: I move amendment No. 19:

In page 16, to delete lines 27 to 31 and substitute the following:

“(2) (a) A housing services plan shall also have regard to the following and shall include such further information and priorities related to the following as the Minister may direct:”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Deputy Ciarán Lynch: I move amendment No. 20:

In page 16, line 32, after “supports” to insert the following:

“including but not limited to, tenancy services, supported housing tenancy sustainment, tenancy support and settlement, advice, advocacy and mediation services”.

Amendment put and declared lost.

An Ceann Comhairle: Amendments Nos. 21 to 25, inclusive, are related and may be discussed together.

Deputy Ciarán Lynch: I move amendment No. 21:

In page 17, line 6, after “to” to insert “ and seek responses from”.

Deputy Michael Finneran: These amendments to section 16 are unnecessary as the current formulation of paragraph (g) is sufficiently broad to cover the groups the Deputy's amendments would explicitly reference. In addition, the new paragraph (e) inserted on Committee Stage specifically provides that a home consultative forum will form part of the consultative process where a housing services plan is being drafted. I do not propose to accept the amendments.

Deputy Ciarán Lynch: A broad range of organisations and groups come under the classification in this section. I propose that the range be broadened as much as possible and that the inclusion, as outlined in the amendments, be accepted by the Minister of State.

Deputy Michael Finneran: It would not help the formulation of the Bill to go to unnecessary lengths to draw from the text matters which it implicitly contains. I do not propose to accept the amendments. I refer the Deputy to paragraph 16(g) where the bodies to be consulted are clearly listed.

Amendment, by leave, withdrawn.

Amendments Nos. 22 to 25, inclusive, not moved.

Deputy Ciarán Lynch: I move amendment No. 26:

In page 17, between lines 23 and 24, to insert the following subsection:

“(2) Where the proposals submitted by bodies referred to in *subsection (1)* are not incorporated into the housing services plan, the housing authority shall furnish outline reasons for not incorporating those proposals.”.

When proposals are invited by an agency acting on the public's behalf, the proposals are listed and the agency may find it agrees with some of the proposals while disagreeing with others. The amendment places a responsibility on a statutory agency, in this case a local authority, when it disagrees with a submission to outline its reasons for doing so. This requirement goes beyond good manners. It places a level of accountability on local authorities to read reports and to give a clear position as to why suggestions are not being adopted.

Under the Part 8 structure, reports are already done in that way. The pros and cons are thrashed out, summarised and included in a copy of the report so that local public representatives can inform themselves before they vote on the report in the council chamber. I have come across Part 8 proposals with which local officials may have disagreed but whose validity was upheld in the council chamber. This amendment is a model of good practice in how to consult with the public and how local government should interact with the general public. I ask the Minister of State to accept it.

Deputy Michael Finneran: The addition of a statutory requirement on a housing authority to supply explanations for the reasons it might have for not fully taking on board proposals submitted during consultation on a housing services plan would not be appropriate. It would not serve any useful purpose in this instance.

It is important to strike the right balance between ensuring transparency in the forward planning processes of housing authorities and giving authorities the appropriate powers to do that effectively. The Bill as it stands strikes that balance and I do not propose to accept the Deputy's amendment.

Deputy Pádraic McCormack: I support the amendment in the interests of openness and transparency. To notify the public of its deliberations in this regard is the least a local authority

[Deputy Pádraic McCormack.]

should do. This stands to reason and I do not know why the Minister of State is not accepting the amendment. It seems to me to be common sense that a local authority would be obliged to give its reasons to the bodies concerned. I do not think it would harm anyone if the amendment were accepted. It would copperfasten the requirement for local authorities to give explanations for their deliberations.

Deputy Michael Finneran: It is the role of a housing authority to plan ahead for the provision of housing supports in its administrative area. I assume we all agree on that.

While we must provide for the maximum transparency in the strategic planning process and seek an input into the wider range of important issues and voices in the housing area, we must be also careful not to erode or over complicate the ability of a housing authority to plan ahead.

The important characteristic of this provision is that it will be undertaken in a public way and with appropriate consultation. There will be executive assessment by the manager and debate and adoption by elected members of the council. The Minister may for stated reasons require the housing authority to amend the draft plan so that the adopted plan takes full account of the matter specified in section 15. The adoption plan must be made available for public inspection, including on the Internet. In those circumstances, I ask Deputy Ciarán Lynch to withdraw his amendment.

Amendment put and declared lost.

Amendment No. 26a not moved.

Deputy Ciarán Lynch: I move amendment No. 27:

In page 19, between lines 8 and 9, to insert the following:

“19.—Each housing authority shall establish a process (in this section referred to as a “local homeless forum”) within its administrative area for the purposes of developing and implementing a local homeless action plan. Each local homeless forum shall include approved bodies involved in the provision of housing and homeless services within the administrative area. Within 12 months of the passing of this Act and every 3 years thereafter, the local authority shall adopt a local homeless action plan. The plan shall be produced by the local homeless forum in each administrative area and shall:

(a) contain measures for the prevention of homelessness; the elimination of rough sleeping; the elimination of long term homelessness; the meeting of long term housing needs; the provision of effective provision of services for homeless people; co-ordinated funding arrangements;

(b) contain an overall vision, objectives, actions, output targets, timescales for achievement, indicative costs and proposed funding arrangements;

(c) be formally reviewed by the homeless forum on an annual basis;

(d) cover a three year period;

(e) in its preparation, approval, purpose, scope and structure be consistent with policies aimed at: eliminating long term homelessness; minimizing the risk of a person becoming homeless through effective preventative policies and services; ensure when a person becomes homeless they are assisted into appropriate long term housing.”.

Amendment put and declared lost.

Deputy Ciarán Lynch: I move amendment No. 28:

In page 19, between lines 8 and 9, to insert the following:

“19.—Each housing authority shall establish a disability housing forum within its administrative area for the purposes of developing and implementing a local disability housing action plan. Each local disability forum shall include approved bodies involved in the provision of housing and housing support services within the administrative area. Within 12 months of the passing of this Act, the local authority shall publish a local action plan for housing people with a disability. The plan shall be produced by the local disability housing forum in each administrative area and:

(a) have four key aims; comprehensive assessment of the extent and nature of housing need; the meeting of unmet housing need, including support needs; the effective provision of services for persons with a disability in housing need; co-ordinated funding arrangements;

(b) contain an overall vision, objectives, actions, output targets, timescales for achievement, indicative costs and proposed funding arrangements;

(c) be formally reviewed by the disability housing forum on an annual basis;

(d) cover a three year period;

(e) take into account the national housing strategy for people with disability when that strategy comes into operation.”.

Amendment put and declared lost.

Deputy Ciarán Lynch: I move amendment No. 29:

In page 19, between lines 18 and 19, to insert the following:

“(c) ensure adequate provision of housing to promote the independence of persons with a disability;”.

Amendment put and declared lost.

Amendments Nos. 30 and 31 not moved.

An Ceann Comhairle: Amendments Nos. 32 and 33 are related and may be discussed together.

Deputy Ciarán Lynch: I move amendment No. 32:

In page 20, between lines 14 and 15, to insert the following:

“(2) (a) For the purposes of this Act a “homeless person” shall be defined as—

(i) a person who has no accommodation available to them other than a night shelter, a public place or external space,

(ii) a person who has no accommodation available to them other than a homeless hostel, transitional or temporary accommodation, sheltered accommodation; a person

[Deputy Ciarán Lynch.]

who has been released from state institutions such as penal, medical or care institutions; a person who has had to leave or cannot remain in their home due to domestic violence,

(iii) a person who has no accommodation available to them other than temporary accommodation with family or friends; illegal occupation of land; subject to legal orders to quit rented accommodation or repossession orders of privately owned accommodation; temporary structures, dwellings unfit for habitation or dwellings deemed by the housing authority as overcrowded, or

(iv) a person who in the opinion of the authority, is unable to provide accommodation from their own resources or is occupying accommodation which is inadequate or insecure.

(b) For the avoidance of doubt it is hereby declared that a person who had to leave or cannot remain in the home because of domestic violence is considered homeless.

(c) A person homeless by reason of domestic violence is eligible for the Priority Housing List under Exceptional Social Grounds.”.

This amendment defines “homeless person”. At the risk of sounding repetitive, the absence of homelessness from the original Bill has almost become folklore. In fairness to the Minister of State, the guard has changed since the Bill was first published and as a result homelessness has been included. I commend him on taking on board the views of homeless groups and engaging with the MakeRoom campaign. However, while he has made amendments to the Bill following these consultations he has not remedied certain omissions.

I concur with the assertions of the MakeRoom campaign and homeless agencies that any strategy aimed at eliminating homelessness will have to begin by setting out a definition in legislation. It would be a glaring omission if we failed to define homelessness because local authorities will refer to the Bill. Local authority members are regularly faced with disputed figures on the numbers of homeless people in various parts of the country. My amendment would rectify that problem. As well as counting people who are living on the streets or in temporary arrangements, it offers a framework for eradicating homelessness.

Deputy Pádraic McCormack: While I would welcome a clear definition of “homeless person” I am not sure if we should accept all the definitions proposed in amendment No. 32. What is the current definition of “homeless person”? Does it merely mean a person who sleeps in a night shelter or on the street? Within a half mile of Leinster House one can see ten or 15 people asleep in doorways and other locations. Is a register kept of homeless people? We should be careful in adopting legislation which gives an overly broad definition of homelessness.

Deputy Aengus Ó Snodaigh: My amendment No. 33 is similar to amendment No. 32 and I am inclined to withdraw it in favour of that proposed by Deputy Ciarán Lynch. His amendment includes a number of additional definitions which I think would enhance the Bill. It is important that we define “homeless person”. While the Housing Act 1998 provided the earliest legal definition of homelessness, it was overly restrictive and did not place a legal obligation on local authorities to provide services for the homeless.

The definition of homelessness developed by the European Federation of National Organisations Working with the Homeless, FEANTSA, must be included in our legislation in order to comply with human rights. This is the purpose of my amendment and amendment No. 32. A home-based definition is required which classifies homeless people according to their life

situations. Such a definition should include rough sleepers, people who are threatened with eviction or suffering domestic violence and those who occupy inadequate housing. An inclusive definition would protect the most vulnerable in society.

I welcome the intervention by MakeRoom and wonder why the Government is reluctant to include a definition in the Bill. Some local authorities set good examples on dealing with homelessness but others have failed in their duties. Even the best authorities, however, cannot address the shortage of housing without adequate resources. I am aware of one family with four children in Dublin who have been on the homeless list for more than three years. They have lived in bed and breakfasts and temporary accommodation while the local authority's homeless section decided on their fate. That sort of insecurity is not good for the family, the local authority or society in general because it can lead to further problems. In the recent past, large numbers of people appeared to be sleeping rough in the Phoenix Park. There appear to be increasing numbers of people sleeping in doorways in this city. It will be interesting to learn, when the local authority statistics are compiled, how many people are sleeping rough. While this problem was being addressed there has been, as a result of the economic downturn, an increase in the number of people sleeping in cars and doorways and illegally occupying land and squats. Let us not forget this is happening at a time when a vast amount of new accommodation remains idle. It is important a definition of homelessness is provided and that from that definition flow the resources and duties required of us as a society, and of the local authority, to provide homeless persons with a roof over their heads, thus ensuring no person is homeless.

The key line missing from my amendment but included in Deputy Lynch's amendment is "a person who has had to leave or cannot remain in their home due to domestic violence". I regret there appears to be an increase in domestic violence and a growth of abuse in society. We must ensure that people facing that type of threat on a daily basis are given the opportunity to escape such circumstances. They must receive a classification which allows them to be properly and adequately housed elsewhere. I believe the definition will be enhanced by the inclusion of that provision. I hope the Minister of State will be able to accept this provision thus ensuring that a person homeless by reason of domestic violence is eligible for priority housing and does not end up languishing in a refuge for months or years before the local authority is compelled to act to house or rehouse him or her.

Deputy Terence Flanagan: It is often said that a Government is judged on how it deals with the most vulnerable people in society. Clearly, the fact that the problem of homelessness was not dealt with during the Celtic tiger years makes it more difficult to remedy the situation now.

I commend the MakeRoom campaign which has lobbied me and other spokespersons on this issue in terms of getting the Government to accept a clearer definition of homelessness. Perhaps the Minister of State will say with what part of the definitions put forward by Deputies Lynch and Ó Snodaigh he is unhappy. I commend the Minister of State on his personal interest in tackling the homelessness issue, on his vision to eliminate homelessness by 2010 and the fact that he has accepted this is an issue requiring to be tackled in this legislation.

Deputy Michael Finneran: I thank the Deputies who have acknowledged the work we have been doing through the homeless strategy, which I launched in August 2008 and which has been a work in progress since then.

On amendments Nos. 32 and 33, we discussed Deputy Lynch's amendment in some detail on Committee Stage. The amendment proposed by Sinn Féin seeks to provide a new statutory definition of homelessness. I outlined to the select committee the practical actions being taken by my Department and local authorities to alleviate the difficulties of homeless people and to

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provide a consistent basis for practical implementation of the existing definition of homelessness across all local authority areas.

In addition, work is currently being undertaken by the homeless agency, in partnership with the Centre for Housing Research, to develop a position paper on the application of a statutory definition for the Dublin area. This paper will input into the review to be taken to the cross-departmental team on homelessness in consultation with the National Homeless Consultative Committee. In that context, the Government has decided the existing definition is adequate and does not require updating.

For the benefit of the House, the existing definition of “homelessness” as contained in section 2 of the Housing Act 1988 defines a person as homeless if (a) there is no accommodation available, which in the opinion of the authority, he or she, together with any other person who resides with him or her or who might reasonably be expected to reside with him or her, can reasonably occupy or remain in occupation of or, (b) he or she is living in a hospital, county home, night shelter or other such institution, and is so living because he or she has no accommodation of the kind referred to in paragraph (a) and he or she is, in the opinion of the authority, unable to provide accommodation from his or her own resources. Generally, the definition is interpreted as including persons living in temporary or insecure accommodation, people living in emergency bed and breakfast accommodation, hostels or HSE accommodation because they have no other accommodation available to them. Rough sleepers are also included in that category as are victims of family or domestic violence.

It is important to point out that a review is under way to see how the definition of homelessness is being applied operationally and to ensure it is applied consistently across all local authorities. We have been proactive in the homeless area. Also, I should point out for the benefit of the House that there has been in recent times a decrease of 41%, down from 185 to 110, in the number of people sleeping rough. A particular aim of the homeless strategy, which it is hoped will be implemented, is that nobody will remain in emergency accommodation, such as bed and breakfast accommodation, for more than six months. That is one of the three main aims of the homeless strategy. I do not intend to accept the amendments.

Deputy Seán Barrett: Much of what the Minister of State has stated in his reply is dependent on the interpretation of the provisions by one housing official as compared with another. One often finds that one has to argue a case on behalf of a constituent. I maintain that a person who can readily show there is not available to him or her a bedroom for sleeping should be included in the homeless category. I have come across a couple of people who were forced out of rented accommodation for one reason or another. I know of a mother with three children all of whom sleep in a living room because every other room in the house is full owing to the size of the family. They are unable to go to sleep until everybody has gone to bed and as such should be categorised as homeless. The alternative is for them to sleep in the street, thus qualifying as homeless persons. This mother and three children should be treated as a special category. The fact that a person living in a hostel can be regarded as a homeless person and that a mother with three children who is forced to sleep in a living room is not regarded as homeless appears peculiar.

If the Minister of State is unable to accept the amendments I would ask that he consider issuing guidelines to local authorities that are consistent with each local authority and to ensure it is not left to individual officers to decide whether a person should be on a homeless list. We need consistency among the local authorities. It should be a policy in each of the housing areas.

I am sorry I was late but there is one more point I wish to make. Section 18(3) states: “The manager shall provide a copy of the housing action programme to the Minister, the members

of the housing authority and the members of any borough council or town council situated in the administrative area of the housing authority.” I believe a Member of the Oireachtas should be included in this. This applies to other sections of the Bill as well. People come to Members of the Oireachtas who, because the dual mandate has disappeared, may be totally unaware of changes that were made by way of regulation and so on. They should be informed automatically. The section is correct in that it is an attempt to keep public representatives informed, but it should automatically include Members of the Oireachtas in view of the fact that the dual mandate is no longer in existence.

Deputy Pádraic McCormack: We were promised that when the dual mandate was abolished but we never got it.

Deputy Aengus Ó Snodaigh: It is a pity the Minister cannot find it in himself to consider the points included in this amendment. I still do not understand the reluctance to enhance the existing definition by accepting the definition of a homeless person. The definition as presented is adequate and this is an important issue. I welcome the practical actions being taken by the Department and local authorities in addressing homelessness. I hope the figures for those sleeping rough announced by the Minister are borne out over the next number of months. It might be anecdotal, but from what I have seen there seems to have been an increase. However, it may just be that there is a greater concentration in certain areas.

This era of recession is a challenge to everyone but particularly to those who are most vulnerable in our society. We should ensure we put in place the necessary protections for people who end up homeless and ensure that they have priority service from the local housing authority.

Deputy Michael Finneran: With regard to the point made by Deputy Barrett, I cannot deal with that matter under this amendment. On the issue of homelessness, rather than getting bogged down in the semantics of how homelessness is defined, providing a consistent basis for the practical implementation of the definition across local authority areas is a more meaningful approach in terms of delivering the necessary supports for homeless people. We have made it clear in the homeless strategy and in the course of our engagement with representatives of service providers in the MakeRoom alliance that we will be reviewing the application of the definition. I have outlined my reasons for not accepting the amendments and on that basis I ask the Deputies to withdraw them.

Deputy Seán Barrett: Will this Bill be going back to the Seanad?

An Ceann Comhairle: Yes, presumably.

Deputy Seán Barrett: Could the Minister of State not table an amendment in the Seanad to have Members of the Oireachtas included in the list of persons to be circulated by the manager?

Deputy Pádraic McCormack: They are supposed to be included.

An Ceann Comhairle: In any event, Deputy Lynch wishes to reply.

Deputy Ciarán Lynch: I thank the other Members for their contributions. In response to Deputy Barrett’s comments, we are on Report Stage and there is no other chance to table an amendment, so perhaps the Minister might instruct local authority managers by means of a directive to ensure that the circular is issued to Oireachtas Members.

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There are a number of points to be addressed, but the critical one is this: if we do not have a definition for a problem, how do we know when we have solved it? It is a goal shared by everybody on all sides of the House to eradicate the problem of homelessness rather than merely dealing with it. As Deputy Ó Snodaigh said, the inclusion of a reference to domestic violence in the definition of homelessness arises from the enactment of the Domestic Violence Act 1996. The development of this Act was on one simple premise — that we must have a definition of domestic violence — and out of that definition of domestic violence a whole series of new legislation was created.

I do not accept the Minister's response that the existing definition as included in the legislation is inadequate. A series of reviews of this legislation seem to be taking place concurrently, but the place for reviews is in legislation. I do not know when we will see another Housing (Miscellaneous Provisions) Bill before the House — it could be in a couple of months' time or in a couple of years — so now is the opportune moment to deal with it. The amendment was drawn up in consultation with the MakeRoom campaign and the stakeholders have been included. It is not simply that the amendment is acceptable; it deserves to be included in the Bill. Thus, I am pressing the amendment.

Amendment put and declared lost.

Amendment No. 33 not moved.

An Ceann Comhairle: Amendment No. 34, which arises out of Committee Stage proceedings, is related to Nos. 36, 38 and 39, and these amendments may be discussed together.

Deputy Ciarán Lynch: I move amendment No. 34:

In page 20, line 22, after “support” to insert the following:

“with due regard to the desire of persons with a disability to sustain independent living”.

Amendment put and declared lost.

Deputy Ciarán Lynch: I move amendment No. 35:

In page 20, line 45, after “alternative” to insert “and appropriate”.

Amendment put and declared lost.

Deputy Ciarán Lynch: I move amendment No. 36:

In page 20, between lines 46 and 47, to insert the following:

“(f) in the case of a person with a disability, the requirement to support independent living;”.

Amendment put and declared lost.

Deputy Ciarán Lynch: I move amendment No. 37:

In page 21, line 5, to delete “A household” and substitute the following:

“Save in exceptional circumstances relating to inability to pay rent a household”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Deputy Ciarán Lynch: I move amendment No. 38:

In page 21, between lines 38 and 39, to insert the following:

“(e) the maximum period in which an applicant for social housing who is a person with a disability shall stay in accommodation unsuited to their needs.”.

Amendment put and declared lost.

Deputy Ciarán Lynch: I move amendment No. 39:

In page 21, after line 47, to insert the following:

“(9) In carrying out a social housing assessment in the case of a person with a disability, a housing authority may disregard the accommodation that person is occupying where that person is currently living with others.”.

Amendment put and declared lost.

An Ceann Comhairle: Amendment No. 40 arises from Committee Stage proceedings and is related to Nos. 44, 50 to 52, inclusive, 54 to 56, inclusive, 60 and 166. These amendments may be discussed together.

Deputy Ciarán Lynch: Is No. 53 included in the discussion?

An Ceann Comhairle: No.

Deputy Ciarán Lynch: That is fine.

Deputy Michael Finneran: I move amendment No. 40:

In page 22, line 2, to delete “before the commencement of this section” and substitute “before the coming into operation of this section”.

Amendments Nos. 40, 44, 50 to 52, inclusive, 54 to 56, inclusive, 60 and 166 are drafting amendments recommended by the Parliamentary Counsel to replace the word “commencement” with the phrase “coming into operation” in seven places in the Bill, and the word “purchasing” with the phrase “the purchase of” in three places.

Amendment agreed to.

Deputy Terence Flanagan: I move amendment No. 40a:

In page 23, between lines 20 and 21, to insert the following:

“(d) The Minister shall ensure that housing authorities allocate dwellings in a timely manner.”.

Deputy Michael Finneran: The commendable objective in this amendment is one with which everybody involved in the planning and delivery process would agree. However, it is neither

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appropriate nor necessary for inclusion as a statutory provision. I do not propose to accept the amendment.

Amendment, by leave, withdrawn.

An Ceann Comhairle: Amendments Nos. 41 to 43, inclusive, are related and may be taken together.

Deputy Ciarán Lynch: To clarify, at the opening of the debate I indicated my intention to withdraw amendments Nos. 41 to 43, inclusive, 46 and 47.

An Ceann Comhairle: That is noted.

Amendments Nos. 41 to 43, inclusive, not moved.

Deputy Michael Finneran: I move amendment No. 44:

In page 24, lines 33 to 35, to delete all words from and including “before” in line 33 down to and including “commencement” in line 35 and substitute the following:

“before the coming into operation of this section continues to have effect after such coming into operation”.

Amendment agreed to.

Deputy Ciarán Lynch: I move amendment No. 45:

In page 25, between lines 7 and 8, to insert the following:

“(18) Before making or amending an allocation scheme, a housing authority shall provide a draft of the scheme or amendment to the scheme to housing authorities, voluntary sector housing and homeless service providers and other relevant bodies, who may respond to the proposed scheme or amendment to the scheme. The housing authority may amend the proposed scheme or amendment to the scheme. If the housing authority chooses not to amend the proposed scheme or amendment to the scheme they must explain the reasons in writing to the housing authority, voluntary sector provider of housing or homeless services or other relevant body if requested.”.

This relates to an earlier amendment of mine. There is an obligation on local authorities not only to communicate correspondence to other partners in the area of social housing but to provide explanations of any submissions made. Instead of simply being presented with a finished product, there must be a draft process whereby the allocation scheme and how it is structured, if it is to be changed, can be examined by the relevant agencies and further submissions made where appropriate. It is a question of good local government practice.

If one can go so far as to describe it as a positive opportunity, the reduction in house prices has created a situation where we can look more creatively at housing strategies into the future, notwithstanding the possibility that local authorities may no longer have the resources to develop housing strategies. What is required is a dynamic between all the partners engaged in the housing sector, including homeless, voluntary and co-operative housing programmes. There must be a mechanism whereby other stakeholders can make a contribution at draft stage.

Deputy Pádraic McCormack: I support the amendment. The bodies referred to in the amendment should not be kept in the dark regarding proposed amendments to a housing allocation

scheme. Deputy Barrett made the point earlier that Oireachtas Members should also be notified of any amendments. Local authorities seem to treat Members as second class public representative simply because we do not attend council meetings and cannot take officials to task face-to-face or in the presence of the press. All public representatives, including Oireachtas Members, should be notified of any amendments to housing allocation schemes. It makes no sense that the bodies referred to in this amendment are not automatically notified of proposed draft amendments. It is only logical that they would and should have an input into any changes.

Deputy Aengus Ó Snodaigh: This is an important amendment. I have been trying for some time to encourage the Minister to deal with the various allocation schemes and schemes of lettings. For example, Dublin City Council has submitted a draft to the Minister and it has gone back and forth for some time. There must be scope for discussion in order to ensure these schemes are fit for purpose. That is what the amendment seeks to do. It makes sense that those bodies working at the coalface and which have an understanding of the process should have an opportunity to offer advice. All that is required is that the draft be circulated. I agree with Deputy McCormack that Oireachtas Members should also be included in the process. However, what is most important is that those bodies in the voluntary sector, including NABCo, Clúid and so on, understand the types of schemes the local authority is operating and can ascertain whether there are any implications for their own operations. This is a reasonable and not particularly onerous proposal. A timeframe can be imposed in order to ensure there is no undue delay between draft and completion of an allocation scheme.

Deputy Michael Finneran: The making of an allocation scheme is a reserved function of the elected members of the housing authority. As such, it is a matter for those members to agree the terms of the allocation scheme in accordance with the legislative framework set out in the section. I do not intend to interfere with that. Therefore, I do not propose to accept the amendment.

Deputy Pádraic McCormack: Nobody disputes that it is a matter for the elected members to adopt a housing allocation scheme. However, when the draft of a scheme is introduced or amendments are proposed at draft stage, there is nothing wrong in seeking representations or submissions from the bodies referred to in this amendment. In the case of county or city development plans, for instance, drafts must be made available to all interested parties before elected members adopt the scheme. It would not in any way interfere with the rights and responsibilities of elected members if the draft of a housing scheme were to be made available to various bodies, including the Oireachtas, so that there is an opportunity to make submissions before the elected members ultimately adopt the allocation regulations.

Deputy Aengus Ó Snodaigh: With regard to the allocation scheme, if it is a reserved function, why does it end up going to the Minister? Obviously, the Minister gets to insert his or her tuppence worth. We are seeking to ensure the other stakeholders in this have some say or can give advice before the local authority members and the city or county manager have the final say in the scheme.

Deputy Ciarán Lynch: The Minister's resistance to accepting this amendment appears to be based on whether it is a reserved or executive function. Ultimately, the general public, stakeholders and agencies that deal with local authorities, be it the officials or public representatives, deserve the same quality and type of approach. Consultations should take place with public representatives as much as with staff in the city or county hall. The Minister, in discriminating between one as executive and the other as reserved, is not putting up a strong enough case to reject the amendment. The objective of the amendment is to provide for good practice guide-

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lines. There should be such guidelines for elected representatives and full-time officials of local authorities.

Deputy Michael Finneran: The housing authority is the body with overall responsibility for the delivery of the housing programme, specifically with regard to assessments and allocations. The authority will undertake the assessment of need in accordance with the new arrangements to be set out in regulations. It seems appropriate that it would have full responsibility for making an allocation scheme for determining the order of priority for allocation of dwellings. An allocation scheme will be a public document. The amendment was considered and rejected by the select committee and I do not propose to accept it now.

Amendment put and declared lost.

Deputy Terence Flanagan: I move amendment No. 45a:

In page 26, between lines 15 and 16, to insert the following:

“(c) attends a pre-tenancy course as required by the housing authority on the conditions of tenancy.”.

Deputy Michael Finneran: This amendment was discussed briefly on Committee Stage when I referred to an important Government amendment, that was agreed, providing for a more comprehensive listing of housing services in section 10 of the Bill by including support other than the provision of accommodation or financial assistance to households who were formerly homeless or to tenants of dwellings of which the housing authority is the owner or dwellings which are provided under a rental accommodation type arrangement. The type of assistance envisaged is support services to assist formerly homeless tenants to sustain and continue their tenancies and supports generally to assist tenants of local authority owned dwellings. The supports would include settlement services, outreach, advice, tenant training in estate management, research support, production of tenant handbooks and the employment of tenant liaison officers. In the circumstances, I ask the Deputy to withdraw the amendment.

Amendment put and declared lost.

Amendments Nos. 46 and 47 not moved.

Deputy Ciarán Lynch: I move amendment No. 48:

In page 30, between lines 6 and 7, to insert the following:

“28.—A tenant of a local authority who whether before or after the commencement of this section purchases a fee simple from the authority may alienate the fee simple without the consent of the authority.”.

Amendment put and declared lost.

An Ceann Comhairle: Amendments Nos. 49, 69, 70, 75, 77, 78, 81 and 83 are related and will be discussed together.

Deputy Michael Finneran: I move amendment No. 49:

In page 30, line 43, to delete “*Part 3*” and substitute “*Part 3 or 4*”.

These are stylistic and drafting amendments in Parts 2 and 3 of the Bill to delete or insert commas, to improve and clarify the meaning of text, to provide more accurate references and to delete unnecessary content. They have been recommended by the Parliamentary Counsel.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 50:

In page 34, line 28, to delete “its commencement” and substitute “its coming into operation”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 51:

In page 35, line 29, to delete “before the commencement of” and substitute “before the coming into operation of”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 52:

In page 35, line 38, to delete “after the commencement” and substitute “after the coming into operation”.

Amendment agreed to.

An Ceann Comhairle: Amendment No. 53 is proposed by the Minister and Deputy Ciarán Lynch and arises from Committee Stage proceedings.

Deputy Michael Finneran: I move amendment No. 53:

In page 36, line 5, to delete “2007” and substitute “2008”.

As promised at the select committee, I examined the citation of the Health Acts in conjunction with the Parliamentary Counsel. The correct citation is the Health Acts 1947 to 2008 and this amendment provides accordingly. I thank Deputy Ciarán Lynch for bringing this matter to my attention.

Deputy Ciarán Lynch: This is probably the only success I will achieve this afternoon so I might as well make the most of it. Every day I spend in the House I am usually surprised and boggled. When I moved the amendment on Committee Stage, it was abundantly clear it was a technical amendment. I do not know what the procedures are in minute detail but I am learning them as I spend more time in the House. There was a glaring mistake in the Bill. A date was misplaced and I cannot understand why it could not simply have been corrected on Committee Stage. Obviously, there are certain procedures and blockages, but in the wider debate on Dáil reform this is a classic example of how it could reform. Although a mistake was obvious and could be rectified there and then, it was necessary to go from Committee Stage to this Stage for “2007” to be removed from the Bill and “2008” to be inserted. The amount of work that had to be done again on Report Stage to rectify this defies belief. It is bewildering. I thank the Minister for taking on board the amendment, but he had to accept it anyway. The Act was cited incorrectly.

Deputy Michael Finneran: I thank the Deputy twice.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 54:

In page 37, line 1, to delete “purchasing” and substitute “the purchase of”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 55:

In page 37, line 3, to delete “purchasing” and substitute “the purchase of”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 56:

In page 37, line 4, to delete “purchasing” and substitute “the purchase of”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 57:

In page 37, line 26, to delete “*subsection (5)*” and substitute “*subsection (5) or (6)*, as the case may be,”.

This amendment inserts in section 32(7) a reference to subsection (6) in addition to the existing reference to subsection (5) following the insertion of a new subsection (6) on Committee Stage.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 58:

In page 38, to delete line 10 and substitute the following:

“(a) sections 28, 31, 32(8) and (9), 47(4), 48(5) and (6), 75(4), 76(5), 98 and 99;”.

Section 33 provides that interest is payable on overdue payments to housing authorities in respect of specified rents, loans or clawbacks. This amendment would enable housing authorities to charge interest on overdue payments in respect of three purchase scheme transactions, namely, payments due to housing authorities from purchasers under either the incremental purchase scheme or the tenant purchase scheme of apartments, in respect of the outstanding charge on properties at the expiration of the charge period arising from suspensions of the incremental releases on the authorities’ charged share and under the tenant purchase of apartment scheme in respect of the outstanding charge on apartments following the resale and during the charge period.

Amendment agreed to.

Deputy Ciarán Lynch: I move amendment No. 59:

In page 38, between lines 30 and 31, to insert the following subsection:

“(5) Where exceptional circumstances arise such that arrangements under *section 34(2)* cannot be put in place without causing undue hardship, a housing authority may cancel the obligation of a household to pay part or all of the moneys referred to in that section.”.

Deputy Michael Finneran: I cannot accept this amendment. The provisions already in the Bill for the operation of a hardship clause provide sufficient and appropriate steps that are also sufficiently flexible to allow housing authorities to operate them in a sensible manner. I ask the Deputy to withdraw this amendment.

An Ceann Comhairle: How stands amendment No. 59?

Deputy Ciarán Lynch: I wish to press the amendment.

Amendment put and declared lost.

An Ceann Comhairle: Amendment No. 60 was discussed already with amendment No. 40.

Deputy Michael Finneran: I move amendment No. 60:

In page 39, lines 1 and 2, to delete “the commencement of” and substitute “the coming into operation of”.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 61 to 68, inclusive, and 68*a* and 68*b* are related. Amendment No. 62 is a technical alternative to amendment No. 61. Amendments Nos. 61 to 68, inclusive, and 68*a* and 68*b* will be discussed together. I call on Deputy Ó Snodaigh to move amendment No. 61.

Níl sé anseo. The amendment cannot be moved.

Amendment No. 61 not moved.

Deputy Ciarán Lynch: I move amendment No. 62:

In page 39, between lines 14 and 15, to insert the following:

“(a) the taking of rapid and effective action to terminate the tenancy of any household where a member or members of that household have engaged in anti-social behaviour.”.

Anti-social behaviour in society generally, and in local authority housing estates, has become a plague of modern living to such an extent that facilities which in other countries would be seen as of benefit to a local community have now become a considerable burden for those communities. These include facilities such as a public park, an alley way, a grove or a woodland area that should add value not only to cost of people’s homes but also to the quality of life in local communities.

The Minister of State proposes to introduce measures in the Bill to combat anti-social behaviour in local authority estates. When examined, however, those measures do nothing other than add further bureaucratic duties to local authority staff.

I propose actions that local authorities can take. These will not only create a local anti-social behaviour strategy for which an anti-social behaviour officer must tick off boxes but when that officer comes across such behaviour he or she will be able to take meaningful and direct action. I ask the Minister of State to support amendment No. 62 and the House to adopt it.

An Ceann Comhairle: If amendment No. 61 had been moved we could have discussed amendments Nos. 61 to 68, inclusive, and Nos. 68*a* and 68*b* together. It has not been moved but this does not mean the amendments are not related. We will discuss amendments Nos. 62 to 68, inclusive, and Nos. 68*a* and 68*b* together.

Deputy Pádraic McCormack: Anti-social behaviour causes grave concern in certain cases. Many neighbours feel helpless in this regard and this amendment would certainly strengthen the possibility of achieving something concrete to deal with anti-social behaviour.

The situation can arise in local authority or other housing estates where neighbours are forced to move out because of anti-social behaviour rather than the problems that affect neighbours being tackled. These matters can start very simply, among siblings of neighbours, with corrections or disputes in playgrounds. They build up to become a major problem for households when instead there should be a system of tackling them from the beginning by liaison officers, housing support agencies or agencies such as those mentioned in the amendment. These would be in a position to nip the behaviour in the bud before it develops into a major confrontation which destroys the lives, not only of those who engage in such behaviour, but also of their neighbours. Anti-social behaviour has a complete and absolute effect on the community and gives it a bad name. People say then that they would not take a house in estate X, Y or Z because there was anti-social behaviour going on and they would not like to live there. Others seek transfers out of such areas because of the anti-social behaviour.

The issue extends further. I do not know whether anything can be done about this but I raised the matter on Committee Stage. Is there any recourse for the local authority where anti-social behaviour can be proved beyond doubt and when the authority has investigated it? Eventually a tenant can be evicted for anti-social behaviour but by the time that stage is reached so much harm has been done that the problem is not resolved. Another person is made homeless and there will be repercussions against the person who reported the behaviour. If those situations could be tackled from the beginning it would be to the benefit of everybody in the estate as well as for neighbours.

There are also cases of anti-social behaviour among people on rent supplements in private estates. They receive taxpayers' money to pay their rent and if they engage in anti-social behaviour, the HSE, which supplies them with the rent supplement, has no recourse of any kind. It cannot evict anybody. I might ring up the HSE and report that in such and such a house the tenant on rent supplement is reported to be responsible for anti-social behaviour. I might ask for the situation to be investigated but I will be told the HSE can do nothing about it. It claims it neither evicts anybody nor stops the rent supplement, that it is not the business of the HSE but a matter for the Garda Síochána. Once the Garda Síochána is brought in, the job will be finished in any case because there will be no chance of reconciliation between neighbours if that happens.

However, let us consider a system whereby the health authority is able to investigate the anti-social behaviour and, if the matter is proved, can stop rent supplement for a fortnight or three weeks. The landlord would not be long coming then to sort out the anti-social behaviour if his rent were to be stopped for that period. At present, the landlord does not give a damn. He or she may live in another part of the country, or Europe, or the world and has no notion whatsoever of sorting out the anti-social behaviour as long as the rent arrives every week and the HSE continues to pay the rent supplement.

Perhaps the Minister of State cannot do anything about that in this Bill but it must be looked into at some stage. That type of anti-social behaviour must be tackled in situations where taxpayers' money is involved in paying the majority of the rent for the house in question.

I appeal to the Minister of State. This amendment may help to sort out anti-social behaviour at the beginning, which is the important time to tackle such behaviour. Amendment No. 62 and the subsequent amendments we are considering cry out for action to sort the matter out, to liaise with tenants and neighbours who start out by having small differences, such as "My Johnny hit your Rosie coming home from school" type of incident. Next, the parents are

involved and then it becomes an unstoppable avalanche, a rolling snowball that cannot be stopped. Simple intervention at the beginning would eliminate much anti-social behaviour and the causes or perceived causes of injustices practised by one neighbour on another.

Deputy Seán Barrett: The type of anti-social behaviour I shall talk about is not a matter of Johnny hitting little Mary on the way home from school. It is more serious than that in parts of Dublin.

Deputy Pádraic McCormack: Sometimes that can be the start of it.

Deputy Seán Barrett: I hope that is all that people have to contend with in Galway.

An Ceann Comhairle: It is called the city of tribes.

Deputy Seán Barrett: In some housing estates, ordinary, decent people are trying to live quiet lives in the face of drug dealing——

Deputy Pádraic McCormack: That is not limited to Dublin.

Deputy Seán Barrett: ——and gangsterism. As Deputy Ciarán Lynch stated, there is no strategy to address the problem. We need action. People should behave in a normal and reasonable way. Someone might turn music up too loud the odd time or upset people with a party, but these things happen and are not consistent. Sometimes, all one needs to do is look at a house to know. A local authority house costs a great deal of money, yet it could be in tatters and loud music could be coming from it. Drug dealing could be destroying other families in the estate. Children might not be allowed out because of intimidation.

A signed tenancy agreement is a legal document. The matter should be addressed in this respect. The agreements should be changed to oblige people to behave in a normal and reasonable way. I am not saying that someone cannot open his or her mouth. Everyone living next door to anti-social behaviour knows what it is. People attending our clinics are fearful due to intimidation. Telling them to put their complaints in writing to a local authority is all very well, but the average person wants to live a quiet life and is afraid to make a written complaint. A housing inspector should knock on the offenders' doors and warn them that, if they do not adhere to the tenancy agreements that they signed, tidy their front gardens, remove all of the rubbish and stop being nuisances to the area, action will be taken. If there is no improvement, the authorities should go to court to get eviction orders.

Why should the majority of decent, ordinary people live with such horror every day of the week? Transferring the offenders from one estate to another would do no good because they would just continue acting in the same way. People must know that they are subject to rules and regulations. It should be pointed out to them when they sign their tenancy agreements that these are conditions with which they must comply, not aspirations.

No housing authority will devise a strategy to address anti-social behaviour. The tenancy agreement should be the strategy and outline what one can and cannot do in a local authority house rented from the taxpayer. It is only fair and proper that ordinary, decent people who want to live their lives properly should not need to put up with what is, in many cases, gangsterism. Such behaviour has previously led to flying squads threatening people and taking the law into their own hands. That is not the way to solve this problem either.

I ask that the House consider this matter seriously, as it is one issue in which the Department of the Environment, Heritage and Local Government, as the housing supremo, should insist

[Deputy Seán Barrett.]

on the wording of tenancy agreements. Likewise, it should insist that local authorities adhere to agreements and take action.

Deputy Bernard J. Durkan: I agree with the sentiments expressed by previous speakers. There have been instances of appalling intimidation of ordinary, law-abiding citizens. They mind their houses and comply with every rule and regulation but are intimidated at every turn and have their houses stoned and egged and their windows broken. Crowds of gougers sit on walls throughout the night and intimidate people, including small children, womenfolk and the elderly. Many people who have lived in those estates all of their lives have left because they could not stick the situation any longer.

It is a sad reflection on society that we seem incapable of doing anything about this. I wish to put on record the types of action available for use. For example, a local authority can take action through a tenant liaison officer, but nothing ever occurs. Some estates in my constituency are virtually derelict. Like a virus, anti-social behaviour spreads from one end of an estate to the other. When the gougers realise that they can get away with it, they continue.

Deputy McCormack raised a question on private rented houses. The law exists in that respect and action can be taken through the Private Residential Tenancies Board, PRTB. For example, rent support can and has been withdrawn. The HSE has always been reluctant to withdraw rent support, but I assure the House that it has done so more than once in the face of stiff resistance. However, there is the rule of law and no one should need to put up with the antics of lunatic neighbours simply because a State institution pays the neighbours' rent. That would be crazy.

We must recognise the fact that anti-social behaviour is no longer restricted to local authority areas. It just so happens that those areas are the ones over which the Department and local authorities have most control. There is an emerging absolute disregard for the property of others, any kind of authority and anyone who is weaker, smaller, younger or older than the perpetrators. I do not know what can be done. Unless it is done soon, however, a serious issue will arise and evoke a serious reaction from ordinary, law-abiding citizens. Anti-social behaviour is appalling. Incidentally, the Department is paying for major refurbishment programmes to repair the wanton damage done by people who could not care less.

I support these well-placed amendments. However, discussing the issue is of no benefit unless we do something about it. The PRTB can take action in respect of private rented property and the HSE is bound to withdraw rent support if a complaint is valid. The Minister of State must respond in some fashion to the antics of those who want to take over local authority housing estates to pursue their own lawlessness.

Deputy Aengus Ó Snodaigh: We are dealing with amendment No. 62. Hopefully, the genius who changed the screens so that we can no longer read the amendment numbers might fix the problem through Dáil reform. I missed my previous amendment, No. 61, because of it, but the amendments under discussion address the same issues, namely, anti-social behaviour and the rights and wrongs of local authorities in that respect.

I agree with Deputy Ciarán Lynch's amendment No. 62 because a rapid system of action is necessary after the normal system of checks and balances has been used. Eviction is to be used as a last resort after preventative and other interim processes, such as warning letters, interviews and case conferences, have been exhausted. It is a question of proportionality. The rapid system must not be used as a punishment. There must be a remedy, otherwise people will

become homeless. While this will be through their own fault, society will need to address the problem.

Other jurisdictions use different schemes and we must consider how to take the best of what they do. The local authority in Glasgow made a presentation about what it does to address persistent anti-social behaviour. The family in question will be moved to a separate location and work will be done with them for a number of months until the problems are addressed.

Other Deputies have addressed the problems that can arise in detail. I could go on and on about incidents in private and public housing in my area, such as Dolphin's Barn and Rialto, which have been in the news for all the wrong reasons recently. There are even private landlords who are trying to address anti-social elements. The fact that rent supplement is not always paid to the landlord but to tenants can make landlords fearful they will lose the rent if they move against those tenants or challenge them.

There is a reluctance in some areas to allow social housing because of the reputation of some estates. The RAS scheme, where a landlord decides to take local authority tenants, often involves private estates where in the past local authorities might have bought houses.

This whole area also deals with voluntary housing schemes and how they address anti-social behaviour. The rights and responsibilities of tenants and landlords must be spelled out. Potentially one or two bad tenants can bring down an entire area so we must ensure the proper supports exist for the local authority to address this. If there is drug dealing, it is a matter for the gardaí and requires additional support.

Some of the problems can be addressed through extra resources for the local authority. In my area in some houses they were breeding vicious dogs. No one knew about it because the neighbours were not saying anything. Eventually the local estate management officers were informed and they acted quickly because the matter was covered by the tenancy agreement. The problem then arose that the family reacted against the neighbours who they presumed were the ones who "squealed" on them. It was not the neighbours, it was someone else who was concerned about animal welfare.

There is also the issue of tenants on drugs or who are drunk who destroy the property and then expect the local authority to fix it. That cannot continue. Even if the tenant is evicted, there is a huge loss to the local authority because it must spend time and money doing up that house. There are persistent offenders, with threats, robberies, joy riding, intimidation and even prostitution in some of these houses.

The promotion of good estate management is of vital importance and measures to address anti-social behaviour are key. It is important that local authorities are seen to take the sort of rapid and effective action that is called for in this amendment. If it does not happen it discourages other tenants from coming forward with information about abuse of the property of the people, paid for through their taxes. If they do not see any response from the local authority or gardaí, they will do what many people are doing, they will keep their heads down, say it is nothing to do with them and hope the matter will go away.

I urge the Minister of State to consider the amendments dealing with anti-social behaviour. They are intended to ensure local authorities are not handcuffed but that they are free to deal with the issue as effectively as possible within the confines of human rights legislation. Other tenants and neighbours, however, also have rights. There are duties incumbent on local authorities as landlords and rights and responsibilities for tenants.

Deputy Michael Finneran: On Committee Stage there was a detailed discussion of issues relating to anti-social behaviour. Today we have seen again that many Deputies have contributed because there are always strong feelings about this issue.

Section 35 of the Bill contains significant provision to strengthen existing powers to tackle anti-social behaviour, including the introduction of anti-social behaviour strategies by housing authorities to provide for co-operation between bodies, procedures for the making of complaints, initiatives for the prevention and reduction of anti-social behaviour and other amendments to the 1997 Act.

I outlined to the committee why certain Opposition amendments were inappropriate and unnecessary and why it has not been possible to bring forward further amendments in this area due to legal proceedings that are currently underway. These arguments continue to apply and I do not propose to accept any of the amendments.

Deputy Aengus Ó Snodaigh: I wish the State and the local authorities well in those cases because if the worst happens much of the good work done by local authorities will be lost. We have prepared legislation before to deal with what might arise in the event of a court case. I ask the Minister of State to ensure if the courts find against a local authority that emergency legislation is in place in order that the whole tenancy agreement system is not put at risk by an adverse court decision. Even without waiting for an adverse decision we should prepare more robust legislation to ensure that whatever happens in the court, even if it is favourable, local authorities have additional powers to address anti-social behaviour at all levels.

Amendment, by leave, withdrawn.

Deputy Ciarán Lynch: I move amendment No. 63:

In page 39, between lines 30 and 31, to insert the following:

“(a) procedures for the rapid termination of the tenancy of any household where a member or members of that household have engaged in anti-social behaviour;”.

Amendment put and declared lost.

Deputy Aengus Ó Snodaigh: I move amendment No. 64:

In page 39, between lines 37 and 38, to insert the following:

“(d) formal detail of how the housing authority plans to implement and resource its anti-social behaviour strategy;

(e) rights and responsibilities of tenants and landlords;

(f) protocols and procedures for responding to anti-social behaviour that are compliant with the European Convention on Human Rights;

(g) protocols and procedures for evictions that are compliant with the European Convention on Human Rights.”.

Amendment put and declared lost.

Deputy Aengus Ó Snodaigh: I move amendment No. 65:

In page 40, between lines 7 and 8, to insert the following:

“(d) relevant residents, community and voluntary sector organisations.”.

Amendment put and declared lost.

Deputy Seán Sherlock: I move amendment No. 66:

In page 40, between lines 8 and 9, to insert the following:

“(6) Without prejudice to any power conferred by the Act of 1997 or otherwise, a housing authority may without notice terminate the tenancy of any tenant who has engaged in anti-social behaviour.”.

Amendment put.

The Dáil divided: Tá, 54; Níl, 64.

Tá

Bannon, James.
Barrett, Seán.
Broughan, Thomas P.
Bruton, Richard.
Burke, Ulick.
Byrne, Catherine.
Clune, Deirdre.
Connaughton, Paul.
Crawford, Seymour.
Creighton, Lucinda.
D’Arcy, Michael.
Deasy, John.
Deenihan, Jimmy.
Doyle, Andrew.
Durkan, Bernard J.
English, Damien.
Enright, Olwyn.
Feighan, Frank.
Flanagan, Charles.
Flanagan, Terence.
Hayes, Brian.
Hayes, Tom.
Higgins, Michael D.
Hogan, Phil.
Kehoe, Paul.
Lee, George.
Lynch, Ciarán.

Lynch, Kathleen.
McCormack, Pádraic.
McEntee, Shane.
McGinley, Dinny.
McGrath, Finian.
McHugh, Joe.
Mitchell, Olivia.
Neville, Dan.
Noonan, Michael.
O’Donnell, Kieran.
O’Dowd, Fergus.
O’Mahony, John.
O’Shea, Brian.
O’Sullivan, Jan.
Penrose, Willie.
Quinn, Ruairí.
Rabbitte, Pat.
Reilly, James.
Sheehan, P. J.
Sherlock, Seán.
Shortall, Róisín.
Stagg, Emmet.
Stanton, David.
Tuffy, Joanna.
Upton, Mary.
Varadkar, Leo.
Wall, Jack.

Níl

Ahern, Dermot.
Ahern, Michael.
Ahern, Noel.
Andrews, Barry.
Andrews, Chris.
Ardagh, Seán.
Aylward, Bobby.
Behan, Joe.
Blaney, Niall.
Brady, Áine.
Brady, Cyprian.
Brady, Johnny.
Browne, John.

Byrne, Thomas.
Calleary, Dara.
Carey, Pat.
Conlon, Margaret.
Connick, Seán.
Cregan, John.
Cuffe, Ciarán.
Cullen, Martin.
Curran, John.
Dempsey, Noel.
Dooley, Timmy.
Finneran, Michael.
Fitzpatrick, Michael.

Níl—*continued*

Fleming, Seán.	Ó Cuív, Éamon.
Gogarty, Paul.	Ó Fearghail, Seán.
Grealish, Noel.	O'Brien, Darragh.
Hanafin, Mary.	O'Connor, Charlie.
Haughey, Seán.	O'Dea, Willie.
Hoctor, Máire.	O'Hanlon, Rory.
Kelleher, Billy.	O'Keeffe, Batt.
Kennedy, Michael.	O'Keeffe, Edward.
Kirk, Seamus.	O'Rourke, Mary.
Kitt, Michael P.	O'Sullivan, Christy.
Kitt, Tom.	Power, Seán.
Lenihan, Conor.	Ryan, Eamon.
McEllistram, Thomas.	Sargent, Trevor.
McGrath, Mattie.	Scanlon, Eamon.
McGrath, Michael.	Smith, Brendan.
Martin, Micheál.	Treacy, Noel.
Moloney, John.	Wallace, Mary.
Moynihan, Michael.	White, Mary Alexandra.
Nolan, M. J.	Woods, Michael.

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl: Deputies Pat Carey and John Cregan.

Amendment declared lost.

Deputy Ciarán Lynch: I move amendment No. 67:

In page 40, between lines 8 and 9, to insert the following:

“(6) For the purposes of this section domestic violence is included within the term anti-social behaviour, and guidelines under this section shall ensure that victims of domestic violence are not disadvantaged or put at increased risk as a result of the operation of anti-social behaviour powers.”.

Amendment put and declared lost.

Deputy Ciarán Lynch: I move amendment No. 68:

In page 40, to delete lines 11 to 16 and substitute the following:

“(7) A person against whom steps are taken to prevent or address anti-social behaviour shall not have any right of action against the housing authority in respect of any allegation that the housing authority has not complied with the anti-social behaviour strategy.”.

Amendment put and declared lost.

Deputy Terence Flanagan: I move amendment No. 68a:

In page 40, between lines 16 and 17, to insert the following:

“(8) The anti-social behaviour strategy shall make provision for the monitoring of behaviour of an applicant for a dwelling under this Act and take into account any breaches by a household, or any member thereof, of the anti-social behaviour strategy in determining their candidacy for the provision of a dwelling under this Act.”.

Amendment put and declared lost.

Amendment No. 68b not moved.

Deputy Michael Finneran: I move amendment No. 69:

In page 47, line 23, to delete “casual vacancies, re-appointment” and substitute “casual vacancies and re-appointment”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 70:

In page 48, line 47, before “where” to insert “in *subsection (1)*”.

Amendment agreed to.

Amendment No. 71 not moved.

Acting Chairman (Deputy Charlie O’Connor): Amendments Nos. 72, 102, 104, 111, 156, 158, 159 and 160 are related and may be discussed together by agreement.

Deputy Michael Finneran: I move amendment No. 72:

In page 50, to delete lines 35 to 37 and substitute the following:

“(f) such other terms and conditions relating to the sale of the dwelling as may be prescribed for the purposes of a transfer order.”.

These amendments substitute a revised provision in eight places in the Bill to make it clear that it is the Minister, not the housing authority, who will prescribe such other terms and conditions relating to the transfer order for incremental purchase, an apartment complex transfer order, an apartment transfer order, an apartment assignment order, a direct sales agreement under Part 5, an affordable dwelling purchase arrangement, an affordable dwelling transfer order and an open market dwelling.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 73:

In page 51, line 3, after “shall” to insert the following:

“, subject to such regulations as may be made under *section 49*,”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 74:

In page 51, line 37, after “purchaser” to insert “or a member of his or her household”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 75:

In page 52, line 45, to delete “*section 40(4), 48(5) or (6)*” and substitute “*section 47 or 48*”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 76:

In page 53, to delete lines 4 to 7 and substitute the following:

“(14) (a) On the occurrence of the earlier of the events specified in *subsection (4)(a)* and subject to the terms and conditions of the transfer order and of the charging order having been complied with, the housing authority or approved body, as the case may be, shall, where requested to do so by the purchaser, execute a deed of discharge in respect of the charging order.

(b) The housing authority or approved body, as the case may be, shall be liable for any expenses incurred in the execution and registration of a deed of discharge but shall not otherwise be liable for any expenses incurred by a purchaser under this section or under *section 47* or *48*.”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 77:

In page 53, line 9, to delete “, in accordance with *subsection (3)*,”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 78:

In page 53, line 13, to delete “charging order” and substitute “transfer order”.

Amendment agreed to.

Acting Chairman: Amendments Nos. 79 and 146 are related and will be discussed together.

Deputy Michael Finneran: I move amendment No. 79:

In page 53, to delete lines 28 to 36 and substitute the following:

“(3) (a) Where a housing authority or approved body has suspended the reduction of the charged share under *subsection (1)*, the housing authority or approved body, as appropriate, shall, as soon as practicable thereafter, notify the purchaser in writing of the suspension and the reasons for the suspension.

(b) The housing authority or approved body, as the case may be, shall, on the expiration of the charged period, give a statement to the purchaser in writing, in the prescribed form, indicating the amount of the charge outstanding under the charging order on the date of expiration of the charged period, which amount shall be expressed as a percentage of the market value of the dwelling, equivalent to the charged share of the housing authority or approved body, as appropriate, in the dwelling on that date calculated in accordance with *subsection (2)*.”.

These amendments relate to the provisions already set out in Part 3 and Part 4 which allow a housing authority or an approved body to suspend incremental releases to a purchaser of a dwelling of incremental purchase arrangements or a housing authority to suspend incremental

releases to a purchaser of an apartment under a new tenant purchase scheme for apartments where the purchaser or a member of the purchaser's household fail to comply with the terms and conditions of purchase.

The amendments specifically require that where a housing authority or an approved body under Part 3 or a housing authority under Part 4 invoke the suspension provisions they must notify the purchaser that releases have been suspended and of the reasons. At the end of the charge period, the housing authority or the approved body must then notify the purchaser of the amount owed by them to either the housing authority or approved body in respect of the amount of the charged share not released as a result of the suspension.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 80:

In page 53, line 40, to delete "apartment".

Section 47 deals with the suspension of the reduction of the charged share under Part 3 on the incremental purchase arrangements. Section 47(4)(b) mistakenly refers to "apartment purchaser" rather than to "purchaser" and this amendment deletes the word "apartment". The purchase of apartments is dealt separately in Part 4.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 81:

In page 53, line 46, to delete "section 45(2)(a) to (f)" and substitute "section 45(2)".

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 82:

In page 53, after line 46, to insert the following:

"(6) (a) For the purposes of this section, the market value of a dwelling shall be determined by the housing authority or approved body, as appropriate, or, where the purchaser does not agree with the market value so determined, by an independent valuer nominated by the purchaser from a panel of suitably qualified persons, established by the housing authority, who are of a class or description prescribed under section 49.

(b) The housing authority or approved body shall not be liable for any expenses incurred by the purchaser under paragraph (a)."

This amendment is necessary to extend the provision for resolving disputes on the market value of the dwelling to provisions covering the suspension of the charge in section 47. It inserts into the incremental purchase suspension process a mechanism for resolving disputes between a purchaser and housing authority or approved body over the market value of a dwelling similar to that in place in section 48 with regard to the resale of dwellings during the charge period. It provides that in such a dispute the purchaser can nominate an independent valuer from the panel of valuers established by the housing authority to determine the market value of the dwelling. The cost of the external valuation is to be borne by the purchaser.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 83:

In page 54, line 2, to delete “under *section 46*”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 84:

In page 55, to delete lines 1 to 5 and substitute the following:

“(8) (a) Subject to *paragraph (b)*, where a purchaser resells a dwelling which is subject to a charging order the charged period of which has expired and in respect of which the amount referred to in *section 47(3)* has not been paid in accordance with that section, *section 46(12)* applies.”.

This amendment substitutes a new subsection 48(8)(a) which corrects a cross-reference to section 47(3) and redrafts the provision for clarity purposes only.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 85:

In page 55, line 32, after “authority” to insert “or approved body, as the case may be,”.

The Bill provides that housing authorities and approved bodies may make dwellings available for sale under incremental purchase arrangements. Under arrangements for the resale of such dwellings the Bill provides that where a vendor does not agree with the market value as determined by the housing authority or the approved body, the vendor may seek an independent valuation from a panel of valuers. As it stands, the Bill provides that a housing authority is not liable for the expense incurred by the vendor engaging an independent valuer. Provision is now being made to ensure that the approved bodies in a similar way will not be liable for such expense either.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 86:

In page 56, line 17, to delete “*section 46(5)*” and substitute “*sections 46(5) and 47(3)*”.

The paragraph as currently drafted allows the Minister by regulation to prescribe the form of statement which a housing authority must give to a purchaser on request settling the number of incremental releases that had occurred to date. A similar power to prescribe the form of statement which an authority must give to a purchaser on suspension of the charge in accordance with section 47 is also required. This amendment allows for this provision with regard to section 47(3).

Amendment agreed to.

Acting Chairman: Amendments Nos. 90, 98 and 99 are related to amendment No. 87 and they will be discussed together.

Deputy Michael Finneran: I move amendment No. 87:

In page 56, between lines 37 and 38, to insert the following:

““apartment complex transfer order” has the meaning given to it by *section 59*”;

Amendments Nos. 87 and 90 provide for the insertion of definitions in section 50 for the terms of “apartment complex transfer order” and “apartment transfer order” rather than referencing them in section 57. This will assist the reader of Part 4 dealing with the tenant purchase of apartments. Amendments Nos. 98 and 99 are consequential.

Amendment agreed to.

Acting Chairman: Amendments Nos. 88, 89, 91 to 93, inclusive, 95, 97, 101, 103, 106, 108, 110, 113 to 115, inclusive, 118 to 121, inclusive, 123, 127, 133 to 141, inclusive, 143 to 145, inclusive, 147 and 153 are related and will be discussed together.

Deputy Michael Finneran: I move amendment No. 88:

In page 56, line 40, to delete “*section 65(1)*” and substitute “*section 65(1)(b)*”.

This large grouping contains stylistic and drafting amendments to Part 4 to delete or insert commas, improve and clarify the meaning of text, provide more accurate referencing and delete unnecessary content. They were recommended by the Parliamentary Counsel and I ask the House to support them.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 89:

In page 56, line 43, to delete “(including a community apartment)”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 90:

In page 57, between lines 9 and 10, to insert the following:

““apartment transfer order” has the meaning given to it by *section 60*”;

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 91:

In page 57, line 28, to delete “on the open market”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 92:

In page 61, to delete lines 19 to 22 and substitute the following:

“(3) The housing authority may, with or without modification, adopt the draft proposal, submitted to it under *subsection (1)*, to designate the apartment complex (in this Part referred to as a “*section 53* proposal”).”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 93:

In page 63, to delete lines 2 to 9 and substitute the following:

“

Class of apartment complex determined by the number of apartments comprised therein of which the housing authority is the apartment owner (1)	Minimum number of tenants in apartment complex willing to serve as directors of management company (2)	Minimum proportion of all tenants in apartment complex willing to serve as directors of management company (3)
--	---	---

”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 94:

In page 63, lines 34 and 35, to delete all words from and including “, in accordance” in line 34 down to and including “section,” in line 35.

The text proposed to be deleted from section 56(1) is not necessary following a Committee Stage amendment that extended section 32 to empower the Minister to make regulations on applications to purchase apartments under Part 4. I ask the House to support the amendment.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 95:

In page 64, line 28, after “apartments” to insert “in the designated apartment complex concerned”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 96:

In page 65, line 8, to delete “may” and substitute “shall”.

Section 57 deals with the establishment and objects of the management company which is a cornerstone of the apartment sales scheme. Provided that the provisions of section 56(5) have been complied with the housing authority must establish a management company for the designated apartment complex. The reference to “may” in the Bill as currently drafted implies that the housing authority has some discretion in this matter. The amendment makes it clear that once the previous steps in the process have been taken the establishment of a management company is mandatory on the authority.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 97:

In page 65, line 13, to delete “where there are at least 5 but not more than 6” and substitute “where there are not more than 6”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 98:

In page 65, line 29, to delete “made under *section 59*”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 99:

In page 65, line 36, to delete “made under *section 60*”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 100:

In page 67, between lines 4 and 5, to insert the following:

“(7) For the purposes of *subsection (2)(h)*, “shadow director” and “connected person” have the same meanings as they have in the Companies Acts.”.

The provisions of section 58 relate to the annual meetings and reports of management companies established under the Companies Acts in designated apartment complexes. However, the section does not define the expressions of “shadow director” and “connected person” used in subsection 2(*h*). The amendment proposes to reference these two terms to the definitions contained in Part IV of the Companies Act 1990.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 101:

In page 67, line 13, to delete “or demise”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 102:

In page 67, to delete lines 47 and 48 and substitute the following:

“(e) such other terms and conditions as may be prescribed for the purposes of an apartment complex transfer order.”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 103:

In page 68, line 9, after “order” to insert “for the purposes of *section 59(1)*”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 104:

In page 68, to delete lines 42 to 44 and substitute the following:

“(f) such other terms and conditions relating to the lease of an apartment to the housing authority under this section as may be prescribed for the purposes of an apartment transfer order.”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 105:

In page 68, after line 48, to insert the following:

“(5) In this section “material improvements” means improvements made to an apartment whether for the purposes of extending, enlarging or converting the apartment but does not include internal decoration and repair.”.

The expression “material improvements” is defined in section 2 for the purposes of Parts 3 and 5 of the Bill only. However, as the expression is used once in Part 4, it requires definition here also. The amendment provides accordingly.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 106:

In page 69, line 5, after “granted” to insert “to the housing authority”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 107: In page 69, line 10, to delete “authority; and” and substitute the following:

“authority, subject to any lease referred to in *section 59(2)(b)(ii)*, and”.

The transfer of ownership of a designated apartment complex by the housing authority to a management company under section 59 is specified in subsection 2(b)(ii) to be subject to any existing lease between the housing authority and the purchasers of apartments sold under section 90 of the Housing Act 1966. Section 61 sets out the steps for restoring ownership of the complex to the housing authority in the event that no apartment is sold under Part 4 within the initial selling period. The proposed amendment makes clear that this transfer of ownership is also subject to any existing leases between the housing authority and the purchasers of apartments sold under section 90 of the Housing Act 1966. The effect of the amendment is that the management company transfers back to the housing authority leases which the authority originally granted to section 90 purchasers without otherwise affecting the terms of the leases. I ask the House to support the amendment.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 108:

In page 69, line 33, to delete “referred to” and substitute “specified”.

Amendment agreed to.

Deputy Ciarán Lynch: I move amendment No. 109:

In page 70, between lines 15 and 16, to insert the following:

“(3) The Minister may by directive provide for a discount on the sale price of an apartment under this section where the sale is to a tenant who has been recorded by the council concerned as having requested the option of purchasing the apartment prior to the com-

mencement of this section but who has been precluded from doing so by the absence of legislative provision in that behalf.”.

The purpose of the amendment is to bring to a positive conclusion a long-standing problem by correcting an unjust and unfair anomaly affecting a specific group of local authority tenants. I first encountered the problem in 1992 while knocking on doors in the Ballyphehane area of Cork. A lady explained to me that she was prohibited from buying her home because it was a flat, whereas local authority tenants living in houses were able to purchase their homes. On my election to Cork City Council, I pursued the matter and quickly discovered that the problem did not reside with the council but with national legislation prohibiting certain council tenants from purchasing their homes.

In the intervening years, Deputy Kathleen Lynch and I and many others have sought to have legislation introduced to afford council tenants living in flats the right to buy their homes. A long time has passed — the Celtic tiger has come and gone, a property bubble has burst and the economy has fundamentally changed — and those who sought to buy their homes in the past have grown older and their financial circumstances have changed. The age profile of many of them prevents them from acquiring a mortgage because the minimum term of mortgages under standard arrangements is 20 years.

The amendment proposes to give tangible recognition to the campaign waged by tenants affected by the prohibition. I accept the legislation solves the overall problem by providing for the establishment of a legislative framework enabling tenants to purchase local authority flats. The Minister of State and his officials have done considerable work on the issue, as have other parties who were included in the design process for the new mechanism. Notwithstanding their efforts, however, under this legislation tenants who have been waiting for ten years or more to purchase their homes will pay exactly the same price as all other tenants who avail of the scheme. This provision is unfair and it is unfortunate the Minister did not address this anomaly in the Bill.

The inclusion in the Bill of a new mechanism enabling local authority tenants to purchase flats is due to the campaign conducted by residents of flats in Cork and Dublin seeking the right to purchase their homes. These local authority tenants have lobbied their public representatives on this issue for a decade or more. Having introduced the legislation only a couple of weeks ago, the Minister is rushing it through the House. Given the significance of the issue I raise, both in the past decade and no doubt in future years, it deserves to be debated in the House.

The legislation will radically alter the tenant purchase scheme. In the past, a tenant purchasing a home entered into an agreement with a local authority and received a discount of 3% on the property value for each year of tenancy, up to a maximum of ten years. In other words, tenants could obtain a discount of up to 30% on the value of the property. The legislation replaces the current discount mechanism with an equity discount of between 40% and 60%. As I noted, the new scheme will be available to new tenants as well as established tenants and, as such, does not take account of the years during which residents of flats were prevented from buying their homes.

As an Opposition spokesperson on housing, I am aware that I am constrained by Standing Orders in terms of the amendments I may table. For this reason, I chose not to take a prescriptive approach to this issue. The amendment was written with two considerations in mind. First, I sought to ensure it would not have financial implications that would result in it being ruled out of order, thus preventing debate on the issue and precluding the House from finding a solution to the problem. Second, I sought to give sufficient flexibility to the Minister to produce

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a satisfactory outcome. Ultimately, the amendment provides for a win-win scenario. If passed, it will provide for the establishment of a mechanism to rectify the problem I have described by allowing the Minister to introduce an appropriate discount by means of a directive.

I understand it will be some time before local authorities implement the provisions of the legislation, once enacted. The Minister has ample time to consider this amendment over the summer recess and when we return in the autumn and the sales start to go through the local authority systems, a proper discount system would be in place.

The amendment also aims to ensure a scenario does not develop whereby people who have not qualified, but who see an opportunity to slip into a programme that was not intended for them, can avail of it. The wording of the amendment is clear. It refers to those who have been recorded as having tried to make a purchase in the past, but who have been prohibited from doing so. The Minister is aware that more than 100, if not 200, test cases are pending in the courts in this regard. The issue has gone as far as the High Court. Rather than allow this issue to linger and fester on the steps of the courts, this amendment offers a clear solution. These court cases could be sidelined and the issue resolved through the acceptance of this amendment.

I welcome the overall legislative framework the Minister of State has put in place for the sale of flats. Some anomalies may arise with the operation of the legislation and further examination may be needed. However, I recognise what has been achieved overall. The Bill has been in the making for some time, but the issue has existed for many years. The framework that came to us on Committee Stage has an obvious shortcoming, it does not cater for the people who have caused this legislation to be made. The people responsible for the legislation before the House are not the Opposition Members who have put forward amendments or the Minister of State who has inserted a complete section regarding the sale of flats, but the people who have been campaigning for more than a decade for the right to buy their homes. One further piece of work remains to be done in that regard, namely, to include this amendment.

Deputy Kathleen Lynch: I do not believe there is any area in the country with a significant urban population that does not have a complex of local authority flats. These are usually three-storey blocks with ten or 12 flats in each. In Cork, the only area about which I am qualified to talk, most people who live in these local authority flats find themselves in a peculiar situation. I am aware, however, there have been several court cases with regard to flats in Dún Laoghaire and other parts of Dublin. The issue affects most major urban areas in the country.

What is unusual is that some people in Cork purchased their flats in 1994. When these people decided to purchase, the rent they had paid was taken into account, which meant most of them had little to pay to complete the purchase of their flats. A considerable number of people made an effort to purchase their flats at that stage, but were not successful because their homes were not for sale. Therefore, I do not believe it is fair for the Minister of State to say these people will be treated in the exact same manner as people who have suddenly decided now they want to purchase their flats. These people have gone to considerable effort to make their case. They could have gone to the local authority some years ago and said they wanted to move elsewhere because they were not permitted to purchase their homes. They could have decided to move to a house they could purchase. However, they did not do that. They stayed in their communities because they liked living there. They contributed to their communities and were the main contributors to the upkeep of the properties in which they live. They cut grass, contributed to the development of their community and paid rent, in the good times with the differential rent system. They paid a sizable rent, more than £100 in some cases and now well over €100.

The Minister of State cannot dismiss their case as if they were suddenly new kids on the block.

Deputy Ciarán Lynch: Hear, hear.

Deputy Kathleen Lynch: These people are entitled to be heard and recognised. They have consulted solicitors on the issue. They thought their case might be recognised through the courts or the law. They are now relying on this legislation. I ask the Minister of State to reconsider the amendment. It is the way to solve this problem. If the problem is not solved through this legislation, it will not go away. It will continue to fester and will be an issue at every election. These are determined people.

The Minister of State must note that, 20 years on, the legislation calls for these people to seek a mortgage to purchase their flats. We all know mortgages are time constrained. These people are now 20 years older. One woman, for example, has been trying to purchase her flat for the past 15 years. She had a good income and her husband had a good job, but now her husband can no longer work because of chronic arthritis. What recognition is there in the legislation for her efforts to purchase her flat? Where does it recognise that when she had the financial means to purchase her flat, she was not allowed to do so? Now she is being told that because of the financial situation, her home is beyond her reach. That is neither fair nor just. This amendment allows us a way around that.

We are not saying there should be a free for all or that everyone should be given this opportunity. What we are saying is that those who were prevented from buying their homes when they could should be given favourable consideration. It is straightforward and a matter of common justice. Above all else, that is what we should keep in mind when making legislation here. The amendment would give us a way out and I appeal to the Minister of State to give it serious consideration. If it is necessary for him to take it away for consideration, that is fine. Perhaps the officials need a second look at it. None of us would have a problem with that. However, the Minister of State must move on regardless today and leave these people sorer than they were to begin with.

Deputy Aengus Ó Snodaigh: I compliment Deputy Ciarán Lynch on this well-crafted amendment which allows the Minister of State the opportunity to address properly an issue that has over the years caused many people who live in local authority flat complexes to question the tenant purchase scheme.

The area I represent includes the south-west inner city, which has the highest concentration of local authority flats of anywhere in Europe. Many of the people in those flats are proud of their origins and of where they live, and have spent a good deal of money doing up their homes. Some of their homes resemble palaces; a similar pride in one's home might not be evident in many of the most expensive houses in the country. These people want to continue to live in their homes, but they would like to own them.

I have always had a problem with regard to the sale of local authority housing stock. The reason for my concern is that the moneys from such sales have not been properly reinvested in other local authority housing. That said, there is a way to deal with this at local authority level. Councils could take a decision that moneys returned should be reinvested or they should purchase or build 1.5 homes for every home sold. There should be a mechanism in place.

That should not prevent us from looking at all of the problems, anomalies and challenges of allowing people to purchase flats. Quite a bit of work has been done on this Bill which addresses some of those issues. There are still significant challenges out there, in terms of shared balcon-

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ies, charges and the like, and I wish those who will be dealing with them at local authority level the best in trying to deal with the intricacies of the challenges.

This is a fair mechanism within the restrictions often put in amendments to allow the Minister to examine the issue again and reward these people for their patience in trying to deal with the discrimination that has occurred. Everybody else in local authority housing was able to benefit from the Millennium scheme. I have been dealing with some who did not benefit from it and are still looking for homes to be sold to them at the price they were offered some time ago.

People have waited and have asked local authorities time and again for permission to buy. I do not know how many questions I have asked about this since I was elected in 2002, but once or twice a year I have asked what the delay was in addressing the tenant purchase scheme for flats. It is appropriate that some recognition is given to the people who went to the trouble of recording their desire to purchase the flats. Everybody else can be dealt with in the normal scheme of things set out here and that is important.

It is important we are moving to that stage because it will create a better environment in many flat complexes, where there will be a mix of those who own their own flats and those who are living in local authority housing. That mix of people has worked well in the housing schemes, such as Part V and others, across the city. It creates challenges for everyone but it is the way forward and that has been accepted by everyone.

The only alternative I can see to the discount suggested is that the Minister of State agree that the sale price be set at the market value at the time these people expressed an interest. That would create a significant burden, namely, trying to figure out what the price was on a certain date ten or 15 years ago. That is why I am inclined towards setting a discount based on the time at which the people expressed an interest. Hopefully the Minister of State will be able take to it on board, even at this late stage, because it does not force him to do anything today. Rather, he can produce a directive or a regulation to the local authorities in line with what is proposed in this amendment.

Deputy Finian McGrath: I thank the Acting Chairman for the opportunity to speak on this Bill, particularly amendment No. 109. I strongly support the amendment and I commend Deputy Lynch for tabling it. I support it because it sorts out the legislative aspect of the whole issue and debate. It is a strong, fair and decisive amendment and offers a solution to the particular problem.

In recent days there has been much talk about the property bubble and the IMF report. This is a real amendment and deals with a real problem faced by the families and tenants concerned. We do not have enough discussion in the House on the rights of tenants. This amendment puts the rights of tenants into the legislation. Our history is steeped, going back to the time of Michael Davitt, in protecting and defending the rights of tenants and in 2009 we need a Michael Davitt approach. This amendment is part of that approach and tradition. It is very important.

I also agree strongly with Deputy Ó Snodaigh when he referred to flats and the need for a mix in different complexes. That is a sensible option. In areas where it has happened, it has been a very progressive development and has also built up stronger communities. It is a very important part of the amendment.

I urge the Minister of State to listen to the different views on this side the House and support amendment No. 109. There are many positive aspects in the Bill, as I said earlier, in previous debates and outside the House. The issue of housing is still significant, despite the 12 years of the Celtic tiger, and there is still a crisis in the country. We have to face this reality politically

and examine the people and speculators out there who own many houses while there are families that cannot own, get or buy out their own dwellings. This is an absolute disgrace, after 12 years of massive wealth in the country.

In my constituency many apartments and houses are lying empty — I understand some 1,000 in Dublin North-Central — and yet many families are looking for houses. This is also part of the issue. I welcome the positive aspects of the Bill, but I urge the Minister to look again at amendment No. 109 and support it.

Deputy Catherine Byrne: I thank Deputy Lynch for tabling this amendment. The Housing (Miscellaneous Provisions) Bill is long awaited. When I served the inner city for nine years as a city councillor, there were 18 flat complexes, three of which have now been demolished. I pay tribute to the people living in those flat complexes for the way they have lived, sometimes in very difficult times, such as when they had problems with maintenance.

I always found, in all the of the complexes, genuine, decent Dubliners who were rooted in the communities where they lived and, above all, cared about each other. It is sad to think it has taken this long for an amendment such as this to be tabled in a housing Bill. When my mother and father bought their house on Thomas David Street in 1976 for £3,000, Tyrone Place was across the road. Tyrone Place is still there today and was built 47 years ago. I know people who live there — I grew up with their children — and are still paying large rents.

“Mr. B” has lived in his flat for 47 years, pays €60 per week for it and is 79 years of age. His family are all long gone and have moved on but he is still there. “Mrs. K” has lived in a flat complex for 50 years. She lives there with her husband and they are paying €92 per week. Their family is long gone.

Ashgrove Centre on Cork Street consists of maisonettes. In 1988 the council promised the residents they could buy the maisonettes. They signed the agreement papers and at the last minute the rug was pulled out from under their feet, leaving them desolate.

I have served on the city council for the last nine years, with other people such as Deputy Ó Snodaigh, and we have examined how housing and flat complexes are run. It is very sad that people were not allowed to buy their own property. It would have made a major difference to people’s lifestyles and those who have already put a lot of money into their property would have something to hand on to their children in the future.

It is a joke not to put this amendment into the Bill when we have gone this far. These people have rights. The people who live in flat complexes and maisonettes for generations have been faithful tenants of Dublin City Council and other councils. They have been left waiting on the sidelines and have not been allowed to take part in the process.

If nothing else comes out of this Bill the people who live in complexes in Dublin South-Central, including Tyrone Place, Basin Street, Islandbridge Court, Sarah Place, Mary Aikenhead House, Oliver Bond Street, Watling Street, School Street, St. Audeon’s Terrace, Meath Place, Dolphin House, Summer Street, St. Teresa’s Gardens, St. Michael’s Estate and Bernard Curtis House and a few others, should be given the opportunity to be able to invest in the property in which they have lived and from which they have built up the community. It is a reflection on how we view people in society. It is sad that people I grew up with and who were my mother’s neighbours and friends are still no further advanced in owning anything for themselves. They have been faithful tenants of the council and, above all, they have made exceptional communities, which is why people are still living in these complexes after 50 years. If nothing else is to be changed in the Bill, this is a real opportunity for the Minister of State to stand up and be counted.

[Deputy Catherine Byrne.]

I commend Deputy Ciarán Lynch for putting the amendment forward and the many Members who have spoken on it. In my short time in the Dáil in the past two years, I have raised the issue on two or three occasions. I ask the Minister of State to go back to the drawing board, to reconsider and to accept the amendment. If many people will never own their own property because they are too old, he can at least give a future to their families who are living beside them in their communities.

Deputy Pádraic McCormack: I support the amendment. What Deputy Byrne said in regard to Dublin applies equally in Galway or any other area where there are local authority flat complexes or maisonettes. The Bill has been promised for many years and I was told several times it would come to the House in the next session. Finally, it is before the Dáil. It is simply a matter of the Minister of State acceding to this amendment to allow people in those complexes who have made inquiries through their public representatives and directly to the city councils, which are the authorities generally involved, to proceed with buying out their accommodation. They were always told that legislation would have to be introduced and that the local authority could do nothing about it.

House ownership is very important to the Irish people. It is bred in their psyche and people like to have the pride of owning their homes. In my experience, even as tenants these people have looked after their homes very well and improved them, even at their own expense in many cases where they could not wait for the local authority to do the necessary repairs and, in some cases, they improved them beyond the standard the local authority would have been able to achieve. We should allow those people this opportunity through the Bill, which is the only opportunity we will have, although not all will avail of the opportunity. As I noted on Committee Stage, given the way the Bill is laid out, if more than 25% of the residents of a flat complex or maisonette area do not agree to buy out their property, they will be denied this opportunity, which is very unfair and penalises those who want to buy their property.

In my time on Galway City Council, when such matters were raised we were told it was simply not possible according to the current regulations to allow people in flats and maisonette complexes to buy out their properties. We have had to wait since that time, perhaps ten years or at least since the dual mandate was abolished, before reaching the stage where the legislation is in the Dáil. We would be letting down those who made representations to Oireachtas Members as well as to many council members if we did not support this amendment.

While I anticipate the amendment will go to a vote, I appeal to the Minister of State not to allow it to do so. He should concede this is a logical and fair amendment which would satisfy needs and give people an opportunity to purchase their homes. As Deputy Byrne said, these people have been part of their communities for perhaps ten, 20 or 30 years, and in some cases for generations. To deny them the opportunity to own and look after their own homes is a retrograde step. I make a serious appeal to the Minister of State who, though he does not represent an urban area, understands the reality of the situation in urban areas, where this mainly applies.

If this amendment is not accepted by the Minister of State, the tenants of those complexes will be treated as second class citizens compared to their counterparts in local authority housing, perhaps just across the road from them. It is clear discrimination in regard to flat and maisonette complexes. The Minister of State should be big enough to accept this amendment or, if it must be rewritten in some manner, to make a change to what is currently proposed. If this legislation goes through as it stands, the opportunity will forever be denied to those people, which is not fair.

Deputy Terence Flanagan: Like previous speakers, I am disappointed the Minister of State has not included an amendment in regard to the ownership of flats for local authority tenants. Clearly, my party fully supports the Labour Party amendment and we wish to commend and thank Deputy Ciarán Lynch for bringing it forward. It is discriminatory and very unjust that local authority tenants cannot purchase their own homes. It is a proven fact that if people own a property, they will be more respectful of it and appreciate it much more than if they rent the property. Many of my colleagues have raised this issue consistently, including Deputy Catherine Byrne and Deputy Bernard Allen from Cork, who has been very critical of the Government policy not to allow people to own their own flats.

There is clearly something wrong if the Minister of State is not willing to accept this very reasonable amendment. All we seek is fairness and for this unresolved issue to be fully dealt with.

Deputy Michael Finneran: To date, there has been no legislation on the Statute Book with regard to the purchase of flats or apartments.

Deputy Ciarán Lynch: That is correct.

Deputy Michael Finneran: There were a number of attempts over the years to put such legislation in place but they all faltered. On 1 October 2008 on Second Stage of the Bill in the Seanad, I indicated I would bring forward an amendment on Committee Stage in the Dáil to make provision for such. On 5 March 2009, I put that on the record of the Dáil on Second Stage. I was as good as my word on Committee Stage on 9 June, only a few weeks ago, when I came forward with such an amendment following many months of involvement with the Attorney General. The Bill gives, for the first time in the history of the State, the right to people living in apartments and flats to purchase them.

I do not propose to accept the amendment. It seeks to give existing tenants the option of securing discounts under the new incremental purchase scheme based on the length of tenancy. Tenancy related discounts are a feature of the existing tenant purchase scheme for houses. However, under the new incremental purchase arrangement the discount is based, within limits, on the financial circumstances of the households. This is a far more equitable way of tailoring the discount to the needs of individual applicants. Members should appreciate what is involved. The specific terms and conditions of sale to tenants, including the discounts available which will be more generous than those on offer under the existing tenant purchase scheme for local authority houses, will be determined through regulations rather than through primary legislation.

Deputy Kathleen Lynch: No.

Deputy Michael Finneran: Under this arrangement there will be a discount of between 40% and 60% and individual circumstances will be taken into consideration. This is a very generous scheme tailored for the individuals who wish to purchase.

Deputy Kathleen Lynch: However, it is tailored for everyone.

Deputy Terence Flanagan: The measures apply to new applicants but what about existing homeowners?

Deputy Ciarán Lynch: I listened to the Minister of State's response and he has missed the point. Legislation has been introduced for the sale of flats and I give credit to him for this. However, for more than ten years parliamentary questions have been put asking when this

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legislation would be delivered. The implication of all those parliamentary questions was that an inherent injustice was being done which the Minister of State will not recognise. Those people on behalf of whom the parliamentary questions were put are not recognised in the Bill. The reason the measures have been included is because of all those parliamentary questions. The Minister should not come to the House and claim to have introduced measures off the top of his head. He did not do so and the measures were included because of campaigning and as a result of no other means. The Minister of State is disguising things behind incremental purchases and other arrangements. Those who have waited for more than a decade in this State to buy their own home will pay the same price on Monday morning as someone who walks in off the street. This is unfair and the amendment would allow the Minister of State to rectify that situation.

These people did not wish to buy property for an investment such that they could take off to Spain or Portugal to establish a phone company. When investors were being given tax breaks by the Government and the property bubble was being created, these people were trying to pay for the roof over their heads and to turn their house into a home. They are still waiting to do so. These people seek a recognition that they wished to buy their own home and the House prohibited them from so doing. I call on the Minister of State to accept the amendment and acknowledge the purpose of all the parliamentary questions referred to.

The principal reason I am riled up is the absence of the Minister, Deputy Gormley. This time last year he was in Cork, running throughout the city and county when he should have been on Haulbowline Island. At the time he met with tenants in Cork city who had been campaigning to buy their flats for several years. He told them everything would be fine and that they would be looked after. However, here we are on the other side of the local elections and those tenants have been left high and dry. The Minister of State should mark my words: this issue will not conclude this evening upon the conclusion of the debate. It will run on and although it contains many positive aspects, this is the legacy of the legislation introduced by Fianna Fáil and the Green Party. Justice for those seeking the right to buy their homes should have been a core aspect of the legislation but they have now been left abandoned, high and dry.

Deputy Pádraic McCormack: I presume the Minister, Deputy Gormley, will return. Perhaps he will abstain on the vote since he made those promises to people in Cork and other areas. The Minister did not give much credit to the Minister of State when he was in Galway and he made the same point and indicated this is what he was planning.

I presume the if the Acting Chairman, Deputy Charlie O'Connor, were not in the Chair he would be on the floor advocating the acceptance of the amendment because he is a champion of the people he represents. It is a pity he is confined to important duties in the Chair rather than on this side of the House because I am certain he would speak in favour of the amendment.

Acting Chairman: Members will note the Chair should not be drawn into the discussion.

Deputy Aengus Ó Snodaigh: We know the Acting Chairman has such concerns.

Deputy Pádraic McCormack: Let me put it that I know the form and I will say no more about it. I seek clarification on the matter of 25% before the Minister of State forces a vote. Even if the amendment is not passed the Bill is not as clear as people believe because it does not lend the right to people who walk in off the street to buy an apartment, as Deputy Lynch remarked. My understanding of the Bill from Committee Stage is that 25% of tenants of any complex must sign up to enter the scheme and that there would be a plebiscite of the tenants

in a given local authority scheme. Such people might receive a ballot paper indicating if they are in favour of buying out the apartment. Some people may not fill in such forms and others may believe they are being forced to buy the apartments because of such a process. They might not vote or indicate they have no interest in buying the apartments. Such people might take the view that if they voted “Yes” they would be forced to buy the apartment. We should clarify the matter of 25% as well. What is the position if 25% of the people in any complex do not vote? I understand 25% was the figure mentioned on Committee Stage and I call on the Minister to clarify the matter. The proposal may be null and void in such circumstances and no one in such a complex would then be allowed to buy an apartment. It is a very serious matter for the tenants and if only 15% or 20% of them wish to buy out the apartments in a complex such people should be allowed to do so.

Deputy Aengus Ó Snodaigh: Is the figure 25% of the entire complex or does it only apply to a block? If it refers to a block then I would accept that. However, what if there is a block of eight and there is one on every landing?

Deputy Pádraic McCormack: I understand it is ten.

Deputy Aengus Ó Snodaigh: It is an interesting debate and it is a pity the matter has not been teased out more. However, I did not attend Committee Stage for which I apologise.

There is no recognition in what has been presented thus far of the length of time for which the individuals in question have requested purchase. They have been discriminated against from the time they expressed an interest to the council and they were blocked because the system was not in place to allow them to purchase a local authority dwelling. I use the term “dwelling” rather than home.

I refer to the 40% and 60% discounts to which the Minister of State mentioned. I understand the Minister of State has suggested the commitment is that from a given day, those who applied on that day will only receive 40% while those who previously applied would benefit in the order of 60%. That, at least, is a recognition of what we seek, that is, a recognition from the State and the local authority that those who applied prior to a given date would benefit from such an application or, at least, have been recognised. If that is not the intention of the 40% and 60% discounts then a percentage must be applied above that amount. That is the only fair and reasonable way of dealing with the anomaly created which has prevented people from purchasing local authority apartments to date.

Deputy Catherine Byrne: I was somewhat taken aback with the Minister of State’s response. Deputy Ciarán Lynch made a clear point and the remarks of the Minister of State have clarified a good deal. People do not seek charity, they seek justice. We spent the past week in the Chamber discussing justice and the case of people who had been let down by society, but we are here again doing exactly the same thing. We are letting down a certain sector of people because they live in a certain place and they have been classed as a certain kind of citizen. This is wrong and it is unjust. People are not looking for anything else but just to be rewarded for being dedicated and loyal tenants to the State and to the councils around the country. They have put up with a lot of hassle and rubbish and untidy places down through the years. This is the Minister of State’s opportunity because the ball is in his court. He has a real chance of making a bit of history here and he should grasp that opportunity with both hands this evening. This is probably one of the most important pieces of legislation to come before this House and if the Minister of State wants, he can do this and I know he will have the support of many people in his party. This is a small price to pay to allow people have an opportunity to buy their own homes.

Deputy Kathleen Lynch: There is an old saying that the Ritz is available to everyone, in other words, anyone with enough money can go into the Ritz. This Bill is a little like that old saying. The Government is offering people the chance to buy their home but there is a condition of sale which will make it impossible for them to buy. The Minister of State's reply was most disingenuous but I am not certain that I blame him. I think he has been convinced by the argument that this is a good deal but he has failed to take a serious look at the people who are now in their late 40s and early 50s, who have been trying to buy their homes for 20 years. There is no recognition of their effort. As Deputy McCormack said, when the forms come through the door from the local authority, most of those people will not fill them out for the simple reason that they filled them out 20 years ago and nothing came of it. Now they are no longer in a position to get a mortgage that will cover the entire cost of purchase. The Minister of State must recognise this fact. Even with the 40% equity, these people must also be given the 30% discount because they would have got that anyway. Someone in an apartment for the past two years and who decides to purchase will be given the same deal as those people. They have been paying rent, maintaining their properties and maintaining entire communities, as Deputy Catherine Byrne said. They could have left, they could have walked away but they did not; they stayed. If it was not for them, we would have bigger trouble than we have now in the form of anti-social behaviour.

I ask the Minister of State to take another look at this amendment and to use his common sense. He knows as well as I do that this is a good amendment that will save us all an awful lot of grief.

Deputy Michael Finneran: I appreciate the comments made by Deputies which I know are heartfelt. However, there is not a full understanding of what I am doing in this Bill——

Deputy Pádraic McCormack: The trouble is that we understand.

Deputy Catherine Byrne: That is an insult.

Deputy Michael Finneran: While discounts have been related to the length of tenancy for many years in the tenant purchase schemes for houses, I would question the logic of granting a subsidy to a person to buy a property solely on the basis of the length of time which he or she has been subsidised in renting that property. It seems to me, as Minister of State with responsibility for housing, that it is a much fairer approach to tailor the subsidy to a person's capacity to pay for the property and that is what this legislation provides for. This is worth reflecting upon. Subsequent to the legislation being enacted, I will be bringing in regulations rather than primary legislation.

Deputy Pádraic McCormack: It is a question of live horse and get grass.

Deputy Michael Finneran: Some of the comments made are way off the mark and are not up to speed on what is happening. I noted the heartfelt comments, especially from Members from the Cork area, but this legislation is tailored towards the capacity of a person to pay. The other matters regarding percentages for the plebiscite or the number of people who would buy properties were dealt with on Committee Stage. The Bill has a very generous approach to the sale of property when a person's ability to pay is taken into consideration. On that basis, I cannot accept the amendments and I will be dealing with the matter by regulation.

Deputy Pádraic McCormack: What about the 30%?

Acting Chairman: I call Deputy Lynch for a concluding contribution and without interruption.

Deputy Ciarán Lynch: The Minister of State seems to be very confused——

Deputy Michael Finneran: I assure the Deputy I am not confused at all.

Deputy Ciarán Lynch: There are two entirely separate issues which the Minister of State is combining in his responses——

Deputy Michael Finneran: I do not accept that for a moment.

Deputy Ciarán Lynch: There is the structure in which he is allowing the sale to take place and this is a radical change. The existing tenant purchase scheme of the 3% over a ten-year period, maximising to 30%, will not be available to those who buy flats, regardless of whether they have been trying to buy for the past ten years or are trying to buy it next week. This scheme is now gone and what is being introduced is a different type of tenant purchase scheme. The Minister of State is correct in that it is based on ability to pay or affordability. What is happening here is a unique and anomalous situation where people have been willing to pay for the past ten years but the councils would not take their money because the House did not provide the legislative framework to allow the money to be taken from them.

Deputy Michael Finneran: It is being provided now for the first time in history.

Deputy Ciarán Lynch: Yes, but the Minister of State should not claim the credit. I give his Department the credit for putting the Bill together but the motivation, rationale and instigation did not come from the Minister of State — far from it. It came from those people who live in Blackpool, Ballyphehane and the other parishes referred to in earlier contributions this evening. That is the reason the Bill is before the House, not because of any idea of the Minister of State. I do not expect him to understand this because this is an urban issue and he may not be familiar with urban issues——

Deputy Michael Finneran: I reject that.

Deputy Ciarán Lynch: The Minister of State's management of the issue is at question. This has been a core question related to the Bill since it came before the House. The question was when would there be a legislative framework for the sale of flats. Every Deputy who raised this question was informed that the legislative framework would be in place when the Housing (Miscellaneous Provisions) Bill was dealt with by the Dáil. That framework was not included in the Bill when it came before the Dáil; it only came in two weeks' ago. The Minister of State has not given enough time for the Bill to be debated in detail and he is covering up the absence of a proper debate on this issue. At the eleventh hour we have to appeal to him to rectify something because the Bill has been mismanaged with regard to the affordability factor. People cannot get a mortgage at this stage because they will be unable to clear that mortgage before the age of 65.

I will pause while the Minister of State confers with his officials. I refer to an anomaly with regard to incremental purchase which has been created by the Minister of State. The mortgage must be taken out over a minimum of 20 years.

Deputy Kathleen Lynch: Those people would be 70 then.

Deputy Ciarán Lynch: None of these people can get a mortgage over a 20-year period because they are too old. They have grown old waiting for this legislation. A person of 50 years of age cannot avail of incremental purchase because he or she will be unable to clear a mortgage before the age of 65. I was hoping the Minister of State would see the sense of my amendment. I regret the way in which this matter has been introduced at the eleventh hour leaving little time for debate. I made this point to the Minister of State on Committee Stage. A week later, because it took me a week to get a briefing from the Minister of State's officials, I explained the difficulty to the officials.

I had hoped the Minister of State would bring forward an amendment so I could withdraw my amendment but that has not happened. The aspirations and hope that this House would rectify a long-standing injustice have been denied. They will be unable to buy their homes. They will be forced to return to the courts instead of having the matter dealt with by legislation. The Minister who met the people concerned in various parts of the country does not have the decency to come to the House and contribute to this debate.

When Deputy Kathleen Lynch and I met a number of residents in Cork city last Monday night we told them we would be dealing with this matter in the Dáil this evening and that we hoped to bring this issue to a successful conclusion. I do not say this in an adversarial way but simply to bring common sense to the Minister.

This is a small issue. It affects no more than 200 or 300 people in the entire country. It will not create a massive cash flow problem for any Department. In fact, if the discount was to be made by way of equity it would not cost the State a penny, because it would be a notional cost.

The Minister of State has done a great deal since he came to the Department. His predecessor was chased around the House on this issue for many years and did nothing about it. Deputy Finneran has, at least, done something. Unfortunately, he has missed the key aspect of this section of the Bill, which is fair play and long overdue justice. The right to buy should be put in place and a long-standing injustice rectified. It is a great pity the Minister of State cannot see that.

Deputy Michael Finneran: There is no question of a mortgage having to be over 20 years. The Deputy is incorrect in that.

Deputy Kathleen Lynch: What is the timespan?

Deputy Michael Finneran: This is an incremental purchase scheme. It will be based on and tailored to a person's capacity to pay. That will be determined by regulation once the legislation is passed.

Deputy Kathleen Lynch: It will be determined by mortgage providers.

Deputy Michael Finneran: That is the most important part of the measure. I reiterate that. Amendment put.

The Dáil divided: Tá, 59; Níl, 65.

Tá

Bannon, James.
Barrett, Seán.
Broughan, Thomas P.
Bruton, Richard.
Burke, Ulick.
Burton, Joan.
Byrne, Catherine.

Clune, Deirdre.
Connaughton, Paul.
Costello, Joe.
Crawford, Seymour.
Creighton, Lucinda.
D'Arcy, Michael.
Deasy, John.

Tá—*continued*

Deenihan, Jimmy.
 Doyle, Andrew.
 Durkan, Bernard J.
 English, Damien.
 Enright, Olwyn.
 Feighan, Frank.
 Flanagan, Charles.
 Flanagan, Terence.
 Hayes, Brian.
 Hayes, Tom.
 Higgins, Michael D.
 Hogan, Phil.
 Kehoe, Paul.
 Lee, George.
 Lynch, Ciarán.
 Lynch, Kathleen.
 McCormack, Pádraic.
 McEntee, Shane.
 McGrath, Finian.
 McHugh, Joe.
 McManus, Liz.
 Mitchell, Olivia.
 Morgan, Arthur.

Neville, Dan.
 Noonan, Michael.
 Ó Caoláin, Caoimhghín.
 Ó Snodaigh, Aengus.
 O'Donnell, Kieran.
 O'Dowd, Fergus.
 O'Shea, Brian.
 O'Sullivan, Jan.
 Penrose, Willie.
 Quinn, Ruairí.
 Rabbitte, Pat.
 Reilly, James.
 Shatter, Alan.
 Sheehan, P.J.
 Sherlock, Seán.
 Shortall, Róisín.
 Stagg, Emmet.
 Stanton, David.
 Tuffy, Joanna.
 Upton, Mary.
 Varadkar, Leo.
 Wall, Jack.

Níl

Ahern, Dermot.
 Ahern, Michael.
 Ahern, Noel.
 Andrews, Barry.
 Andrews, Chris.
 Ardagh, Seán.
 Aylward, Bobby.
 Behan, Joe.
 Blaney, Niall.
 Brady, Áine.
 Brady, Cyprian.
 Brady, Johnny.
 Browne, John.
 Byrne, Thomas.
 Calleary, Dara.
 Carey, Pat.
 Conlon, Margaret.
 Connick, Seán.
 Cregan, John.
 Cuffe, Ciarán.
 Cullen, Martin.
 Curran, John.
 Dempsey, Noel.
 Dooley, Timmy.
 Finneran, Michael.
 Fitzpatrick, Michael.
 Fleming, Seán.
 Gogarty, Paul.
 Grealish, Noel.
 Hanafin, Mary.
 Haughey, Seán.
 Hoctor, Máire.
 Kelleher, Billy.

Kennedy, Michael.
 Kirk, Seamus.
 Kitt, Michael P.
 Kitt, Tom.
 Lenihan, Conor.
 McEllistrim, Thomas.
 McGrath, Mattie.
 McGrath, Michael.
 Martin, Micheál.
 Moloney, John.
 Moynihan, Michael.
 Nolan, M.J.
 Ó Cuív, Éamon.
 Ó Fearghail, Seán.
 O'Brien, Darragh.
 O'Connor, Charlie.
 O'Dea, Willie.
 O'Hanlon, Rory.
 O'Keeffe, Batt.
 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.

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Pat Carey and John Cregan.

Amendment declared lost.

Deputy Michael Finneran: I move amendment No. 110:

In page 70, line 20, after “proceed” to insert “(within the meaning of *section 56(7)*)”

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 111:

In page 71, to delete lines 15 to 17 and substitute the following:

“(d) such other terms and conditions relating to the sale of an apartment as may be prescribed for the purposes of an apartment assignment order.”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 112:

In page 71, lines 20 to 22, to delete all words from and including “calculated” in line 20 down to and including “refundable” in line 22 and substitute the following:

“determined in accordance with such method as may be prescribed under *section 77* which deposit, subject to *subsection (7)*, shall not be refundable”.

The intention of section 64(6) is to provide that a deposit shall not be refundable if the tenant withdraws from the sale for any reason or at any time before the expiration of six months from the date from which he or she signs the apartment assignment order. In other words, apart from subsection (7), the tenant is only entitled to a refund of his or her deposit where he or she withdraws more than six months after signing the apartment assignment order. The word “not” was inadvertently omitted from the text of the relevant amendment on Committee Stage. Amendment No. 112 will restore that text.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 113:

In page 72, lines 15 and 16, to delete all words from and including “good” in line 15 down to and including “complex” in line 16 and substitute “good estate management”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 114:

In page 72, line 23, after “lapsed” to insert “under *section 55(3)*”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 115:

In page 72, line 30, after “to” to insert “an”.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 116 and 117 are related and will be discussed together.

Deputy Michael Finneran: I move amendment No. 116:

In page 74, lines 42 and 43, to delete all words from and including “with” in line 42 down to and including “meeting” in line 43 and substitute the following:

“with the approval of a 60 per cent majority vote of the members present and voting at the meeting”.

Section 67(6)(a) refers to the apartment complex service charge being amended at a general meeting of the company’s members, with the approval of 60% of those present and voting at the meeting. Subsection (6)(b) provides that where over 75% of the members present and voting do not approve of the proposed charge, the existing charge shall remain in place until the adoption of a new charge. The provision, as drafted, could be read as implying that each member present has only one vote on the service charge. However, as section 65(3)(a) makes clear, a person who owns more than one apartment in the complex, notably the housing authority, has one vote in respect of each such apartment. Therefore, the housing authority and any other multiple apartment owners, if present, should be counted separately for each apartment it owns, for the purpose of both voting and calculating the 60% and 75% threshold. These amendments clarify this matter.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No.117:

In page 74, lines 45 and 46, to delete all words from and including “75” in line 45 down to and including “vote” in line 46 and substitute the following:

“a 75 per cent majority vote of the members present and voting at the meeting”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 118:

In page 76, line 11, to delete “established pursuant to *section 68*”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 119:

In page 76, line 18, after “incurred” to insert the following:

“, in respect of the designated apartment complex concerned”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No.120:

In page 76, to delete from “ to (c),” in line 23 down to and including “concerned.” in line 24 and substitute the following:

“to (c).”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 121:

In page 76, line 40, to delete “section” and substitute “Part”.

Amendment agreed to.

An Ceann Comhairle: Amendment No. 122 arises out of committee proceedings. Amendments Nos. 122 and 129 are related and both may be discussed together by agreement.

Deputy Michael Finneran: I move amendment No.122:

In page 76, lines 43 and 44, to delete all words from and including “applying” in line 43 down to and including “charge” in line 44 and substitute the following:

“applying the method of apportionment specified in *subsection (4)(a) or (b)*, as appropriate”.

Amendments Nos. 122 and 129 make clear that the method of apportioning the sinking fund contribution over apartments will be the same as those used for apportioning the apartment complex service charge. The amendments make clear that this applies where apartments are being sold on the complex under section 90 of the Housing Act 1966.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 123:

In page 77, line 3, to delete “over” and substitute “between”.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 124 to 126, inclusive, 128 and 130 to 132, inclusive, are related and may be discussed together by agreement.

Deputy Michael Finneran: I move amendment No. 124:

In page 77, lines 6 and 7, to delete all words from and including “being” in line 6 down to and including “subsection” in line 7 and substitute the following:

“being less than €200 or such other amount as may be prescribed for the purposes of this subsection”.

These amendments are being made to section 68, which requires the management company to establish a sinking fund for the purpose of spending on refurbishment, improvement or maintenance of a non-recurring nature, and to levy a sinking fund contribution on apartments each year. As currently drafted, the section provides that the management company shall not operate an estimate of a sinking fund contribution that, when apportioned over apartments in the complex, results in a charge on any apartment that is less than the amount prescribed by the Minister.

Amendment No. 124 introduces a threshold of €200 as the amount that may be prescribed by the Minister for this purpose. Amendments Nos. 125, 126 and 128 set the same thresholds to allow the management company, without reference to members, to adopt a sinking fund contribution that on apportionment across apartments results in the lowest charge on any apartment that is equal to €200, or an amount as may be prescribed by the Minister. However, where the company estimates sinking fund contribution results on apportionment in a charge

on any apartment that exceeds €200 or an amount that may be prescribed by the Minister, the contribution must be adopted by a general meeting of members convened for that purpose. The company members are precluded from adopting a contribution that, on apportionment, results in a charge on any apartment that is less than €200 or an amount that may be prescribed by the Minister.

Section 68(6) empowers the Minister to make a regulation in respect of classes of expenditure for items that may be financed from the sinking fund in respect of thresholds of expenditure that must be approved by members. Amendments Nos. 130 and 131 are drafting amendments to improve the clarity of subsection (6). Amendment No. 132 extends the matter the Minister may prescribe in regulations to include any other amount for the purpose of subsection (3), having regard to the average level of service charge in the designated apartment complexes.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 125:

In page 77, lines 10 to 12, to delete all words from and including “is” in line 10 down to and including “subsection” in lines 11 and 12 and substitute the following:

“is equal to €200 or such other amount as may be prescribed for the purposes of this subsection”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 126:

In page 77, lines 17 and 18, to delete all words from and including “exceeds” in line 17 down to and including “subsection” in line 18 and substitute the following:

“is more than €200 or such other amount as may be prescribed for the purposes of this subsection”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 127:

In page 77, line 22, to delete “over” and substitute “between”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 128:

In page 77, lines 25 to 27, to delete all words from and including “being” in line 25 down to and including “subsection” in line 27 and substitute the following:

“being less than €200 or such other amount as may be prescribed for the purposes of this subsection”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 129:

[Deputy Michael Finneran.]

In page 77, lines 31 to 33, to delete all words from and including “the amount” in line 31 down to and including “charge” in line 33 and substitute the following:

“the amount being apportioned between each apartment in the designated apartment complex on the same basis as the apartment complex service charge is apportioned

(a) in accordance with *section 67(7)*, or

(b) in the case of a designated apartment complex where the housing authority has sold one or more than one apartment under section 90 of the Principal Act, in accordance with *section 67(8)*”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 130:

In page 77, line 39, to delete “prescribing—” and substitute the following:

“prescribing all or any one or more of the following:”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 131:

In page 77, line 41, to delete “sinking fund, and” and substitute “sinking fund;”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 132:

In page 77, line 44, to delete “members.” and substitute the following:

“members;

(c) any other amount for the purposes of *subsection (3)* having regard to the average level of service charges in designated apartment complexes.”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 133:

In page 79, line 1, to delete “by the Minister”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 134:

In page 79, lines 15 and 16, to delete “works referred to in *section 68(1)*” and substitute the following:

“any of the works referred to in *section 68(1)(a)* to (c)”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 135:

In page 79, lines 36 and 37, to delete “the good management of the apartment complex” and substitute “good estate management”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 136:

In page 80, line 19, to delete “works to be carried out under *section 68(1)*” and substitute “works concerned”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 137:

In page 80, lines 20 and 21, to delete “works under *section 68(1)*” and substitute the following:

“any of the works referred to in *section 68(1)(a) to (c)*”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 138:

In page 81, line 17, to delete “fund” and substitute “apartment complex support fund”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 139:

In page 81, line 29, to delete “fund” and substitute “apartment complex support fund”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 140:

In page 81, line 30, to delete “fund” and substitute “apartment complex support fund”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 141:

In page 81, line 33, to delete “fund” and substitute “apartment complex support fund”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 142:

In page 83, line 39, after “shall” to insert the following:

“, subject to such regulations as may be made under *section 77*,”.

Section 74(1) provides for the making of a charging order in the prescribed form and for the period specified in the order. Section 77 provides for the Minister to make regulations in respect

[Deputy Michael Finneran.]

of the minimum period within which a housing authority shall fix the minimum period for which a charging order shall apply, which period shall not, in any case, be less than 20 years from the date of the apartment assignment order. The amendment links section 74(1) with this regulation-making power in section 77.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 143:

In page 86, lines 1 and 2, to delete “, in accordance with *subsection (2)*,”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 144:

In page 86, line 14, to delete “purchaser” and substitute “apartment purchaser”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 145:

In page 86, line 17, to delete “purchaser” and substitute “apartment purchaser”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 146:

In page 86, to delete lines 20 to 28 and substitute the following:

“(3) (a) Where a housing authority has suspended the reduction of the charged share under *subsection (1)*, the housing authority shall, as soon as practicable thereafter, notify the apartment purchaser in writing of the suspension and the reasons for the suspension.

(b) The housing authority shall, on the expiration of the charged period, give a statement to the apartment purchaser in writing, in the prescribed form, indicating the amount of the charge outstanding under the charging order on the date of expiration of the charged period, which amount shall be expressed as a percentage of the market value of the apartment, equivalent to the charged share of the housing authority in the apartment on that date calculated in accordance with *subsection (2)*.”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 147:

In page 86, line 38, to delete “(a) to (d)”.

Amendment agreed to.

Deputy Michael Finneran: I move amendment No. 148:

In page 86, between lines 38 and 39, to insert the following:

“(6) (a) For the purposes of this section, the market value of an apartment shall be determined by the housing authority or, where the apartment purchaser does not agree with the market value so determined, by an independent valuer nominated by the apartment purchaser from a panel of suitably qualified persons, established by the housing authority, who are of a class or description prescribed under *section 77*.

(b) The housing authority shall not be liable for any expenses incurred by an apartment purchaser under *paragraph (a)*.”.

This amendment inserts into the incremental release suspension process a mechanism for resolving disputes over the market value of an apartment involving an apartment purchaser and a housing authority. The mechanism is similar to that in place in section 76 with regard to the re-sale of apartments during the charge period. It should be noted that section 77(1) specifically empowers the Minister to prescribe the qualifications and experience of persons to determine the market value of an apartment within the meaning of section 75.

Amendment agreed to.

An Ceann Comhairle: As it is now 6.30 p.m., I am obliged, in accordance with an order of the Dáil of this day, to put the following question, “That the amendments set down by the Minister for the Environment, Heritage and Local Government, and not disposed of, are hereby made to the Bill, Fourth Stage is hereby completed, and the Bill is hereby passed”.

Deputy Michael Finneran: I thank Deputies for their contributions, help and suggestions along the way. I might not have been able to accept every suggestion, but we tried to accommodate them as best we could.

Question put and agreed to.

An Ceann Comhairle: The Bill which, considered by virtue of Article 22. 2. 2° of the Constitution, is a Bill initiated in Dáil Éireann, will now be sent to the Seanad.

A message shall be sent to the Seanad acquainting it accordingly.

Ceisteanna — Questions.

Priority Questions.

Job Creation.

1. **Deputy Olwyn Enright** asked the Minister for Social and Family Affairs the measures she has taken, in co-operation with other Departments, to move people from welfare to work; and if she will make a statement on the matter. [25547/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The national employment action plan, NEAP, operated jointly by the Department of Social and Family Affairs and FÁS, is the main welfare-to-work measure for jobseekers. The plan’s process is fundamental in addressing the progression needs of those on the live register. It provides a stimulus to job search and affords an opportunity to explore, under professional guidance, the full range of employment and training services offered by FÁS.

Under the plan, all persons between the ages of 18 and 65 years who are approaching three months on the live register are identified by the Department and referred to FÁS for interview

[Deputy Mary Hanafin.]

with a view to assisting them in entering or re-entering the labour market. The referral capacity under the plan has nearly doubled for 2009 from 6,500 cases per month to 12,250. In addition, the Government is now providing, through FÁS, a total of 128,000 training and activation places for unemployed people this year. There are also some 147,000 places available in further education programmes in 2009. This is a substantial increase on the number of places previously available. In response to the downturn in the construction industry sector and in recognition of the special difficulties faced by apprentices who are being laid off, the Department and FÁS are working together to facilitate them in finishing their apprenticeships.

The recent supplementary budget outlined a joint approach to activation by the Departments of Social and Family Affairs, Enterprise, Trade and Employment and Education and Science. I introduced a package of measures relating to the Department's back to work enterprise allowance and back to education allowance to facilitate better access to supports. The package put together by the Departments of Enterprise, Trade and Employment and Education and Science has some 11 proposals to provide 23,435 extra employment and training scheme places.

With the increasing number of people who are unemployed, the Government is continuing to develop and put in place new programmes to enhance the work experience and training opportunities for them. Two such initiatives, the work placement programme and a pilot short-time working training programme, were announced recently. Under both initiatives, participants will continue to receive their existing social welfare entitlements from the Department of Social and Family Affairs. These new programmes, together with those already in place, demonstrate a substantive commitment on the part of the Government to create and implement initiatives that support and assist those finding themselves without work.

Deputy Olwyn Enright: Regarding the new initiatives announced by the Minister and the Tánaiste in recent weeks, is the former satisfied with the sufficiency of the number of places? The work placement and short-time working programmes consist of approximately 2,277 places over a 52-week period whereas 3,375 jobs are being lost every seven days.

I have tabled a number of parliamentary questions regarding referrals to FÁS. The total number of referrals has almost doubled. While this sounds fantastic, looking behind the figures for the results shows a pathetic situation. Last year, the Department of Social and Family Affairs referred 60,000 people to FÁS. Some 41,000 were interviewed and 7,846 were placed in jobs, training or education. According to the Minister, 21,000 were interviewed but not placed in jobs, training or education. What occurred to those 21,000 people and what of the 12,000 who formed part of the original 41,000? They have just gone.

The figures for the first quarter of this year are even more worrying. Of those sent to FÁS, only 7% were placed in jobs, training or education. Last year, the figure for people with a successful outcome was 13%. What follow-up does the Department carry out after people are sent to FÁS to ensure that instead of just sending people for a short period or an interview, we are sending them to get something out of the opportunity? In the current climate, 7% for the first quarter is pathetic.

Deputy Mary Hanafin: The recent announcements should be viewed as a package of measures. The Deputy asked about the 2,000 work and graduate placement places. It is a new initiative and there is nothing to say that, once it is up and running and people have registered with it, we should not be able to extend it. An initial number of 2,000 places is worth the effort. They will last for six months. Some 1,000 will go to graduates and 1,000 will go to other workers, 250 of which will be reserved for people under the age of 25 years. Since it is being done through FÁS and both jobseekers and participating employers can register, a number of issues

must be teased out to make sure that there is no job displacement, that is, killing off existing positions. I would welcome the programme's expansion.

While I do not want to repeat myself, additional places have been made available in the further education sector. The Deputy did not mention the recent announcement on the expressions of interest being sought from the third level sector in a part-time course that will make 2,500 places available. They all add up.

Deputy Olwyn Enright: Not to much.

Deputy Mary Hanafin: The Deputy asked about people who are referred to FÁS. It is always interesting to note that, as soon as people get a letter about being called for interview, they leave the live register. Some 12% left immediately. They did not even go for their interviews. It could be a control measure, that is, they might not have believed that they had been on the live register legitimately. Perhaps they found other opportunities.

The Deputy asked about this year's figures. I am also disappointed that so few people have been placed in education and training. However, it was not the time of year to place people in either. For example, were one looking for places in further or higher education, one would not find them in March, April or May. I hope that the programme's take-up will increase in September when people who have been interviewed can be guided into the places in question. We must obviously keep an eye on this matter.

When people return to the live register, they are interviewed after a further three months. It is not as if they are just left there. The process is ongoing in conjunction with the education sector and FÁS. As the Deputy stated, the Local Employment Service Network, LESN, is on board throughout most of the country and is providing training and education for people who might not be picked up by other services. The LESN is running literacy, preparation for work and preparation for college courses. It is a valuable service.

Deputy Olwyn Enright: Even if the figure is not 7% by the end of the year, 87% of people referred to FÁS last year did not jump off the live register when they received their letters. What is occurring in respect of that large number? Having a referral system is easy, but the outcomes are important, as I am sure the Minister agrees. Judging by these outcomes, the system is failing.

Given the Minister's statement that people are signing back on, when will she deal with the issue of people doing short-term FÁS courses signing off and signing on? This situation causes more queues and difficulties for her Department and the people themselves.

Has it been suggested to the Department's facilitators that they should get involved in fraud control measures? It has been put to me that facilitators have been asked to spend one day per week on fraud control as opposed to facilitation work. Is this the case?

Deputy Mary Hanafin: Of the people referred this year, 36% left the live register. Some 15% did this after their interviews and 12%, the control measure people, did not turn up for their interviews. Only 9% were placed in jobs, education or training, which is the matter on which I share the Deputy's disappointment.

Deputy Olwyn Enright: The Minister should address it.

Deputy Mary Hanafin: I hope that the figure will pick up later this year.

[Deputy Mary Hanafin.]

The process is being streamlined. People who leave the live register to take on short-term work or FÁS training will have their re-applications to the social welfare system streamlined. This is important because it will free up staff and reduce queues.

I am unaware of facilitators being asked to work one day per week as described. Everyone is on the alert for reasons of fraud control. I will check out whether facilitators were asked to do that specifically.

Social Welfare Benefits.

2. **Deputy Róisín Shortall** asked the Minister for Social and Family Affairs the steps she is taking to deal with the long waiting times for the processing of claims in her Department; the target waiting period which she has set for the processing of jobseeker claims; and when she expects to meet that target. [23438/09]

Deputy Mary Hanafin: The number of people on the live register almost doubled between May 2008 and May 2009 to a total of nearly 397,000. The average processing time for claims decided in May was 3.4 weeks for jobseeker's benefit and 6.4 weeks for jobseeker's allowance. These are averages and I appreciate that waiting times are longer in some areas. In other areas they are shorter than the average.

The Government is determined to ensure that people who have lost their jobs or been put on shorter working weeks can get access to their entitlements as quickly as possible. To that end, productivity in local offices has increased, claim processing procedures have been improved and extra staff have been put in place. In the five month period to May 2009, over 222,500 claims for jobseeker payments were decided in local offices, up from 133,000 in the same period last year.

As a result of staffing reviews in 2008 and again in recent months, some 300 extra staff have been assigned to local offices, new central support units and the Department's inspectorate since May 2008. These include 90 temporary staff who have been appointed to local offices around the country pending the assignment of permanent staff. Arrangements are also in train to allocate a further 24 inspector posts.

The processing target for jobseeker's benefit is 90% of claims processed in three weeks. In May, 60% of jobseeker's benefit claims were decided within that time. For jobseeker's allowance the target is 90% in six weeks and 65% of claims were decided within this time in May. It is not possible to predict when these targets will be met while the live register continues to increase to record numbers but I am conscious that people need to get access to financial and other supports as quickly as possible and we will continue to work hard to bring processing times back in line with targets.

Deputies will be aware that anyone who is under financial pressure while awaiting a decision on their claim for a jobseeker's payment can apply for supplementary welfare allowance which is subject to a means test and other qualifying conditions.

Deputy Róisín Shortall: To say people can get supplementary welfare allowance while waiting to get their claim processed is incorrect. They cannot do that because there are waiting lists to see community welfare officers. The failure to tackle the waiting lists within the Minister's Department is putting enormous pressure on the community welfare service and organisations like MABS and the Society of St. Vincent de Paul. People are going without food and other essentials because the services cannot cope with the demand. The Minister quoted figures but

the reality is that no improvement has taken place in waiting times, the most recent figures have shown that 39 offices have waiting times of over two months for jobseeker's allowance.

Whatever about jobseeker's allowance, what about jobseeker's benefit, which is a simple matter of checking a person's social insurance record? Although no means testing is involved, waiting times in some offices are more than nine weeks. How can that be explained?

The Minister must get the finger out and get moving. There is a deluge of applications and people are being left to wait for a payment of any kind. They simply cannot survive in those circumstances. It is unacceptable that a basic public service such as social welfare is not accessible to people when they need it.

I want the Minister to tell the House exactly how many additional posts have been sanctioned for the Department. She mentioned 300 posts. Are all of those 300 in place? How many additional staff will be needed and how many have been sanctioned by the Department of Finance to date?

Can the Minister pinpoint where exactly delays exist in the Department? Are they in means testing, in assessing habitual residence or at the frontline? Where are the blockages? The Minister must be specific as she goes about tackling this problem because her efforts to date have not been sufficient.

Deputy Mary Hanafin: The Deputy drew attention to a number of issues. There are only two offices where there is a nine week wait for jobseeker's benefit, both of them in the Cork area. In fairness to the others, one might mention those offices where it can be done in less than a week or in two weeks. In the vast majority of offices, claims are processed in a much shorter time. I appreciate jobseeker's benefit can be done more speedily because it is based on the record and I hope the arrangement that started in the Dundalk office, where decisions were being made on the day on claims, can be extended to the rest of the country. Unfortunately the CPSU stopped that even though it was in everybody's interest, staff and applicant alike, because it can be done quickly.

The longest delays are in branch offices. Agreement was reached with the branch officers in April 2008 that they would be able to make decisions locally. At the moment, they take in the applications, which are then taken from them and given to the local office. Because local offices have their own demands, to date they have not given priority to branch offices. Agreement was reached with them in April 2008 that they could make their own decisions but the CPSU will not allow that because it claims it is outsourcing. We cannot cope with the flood coming from branch offices to local offices but this would free up staff in local offices and would benefit people.

Those are two key issues where we could have far greater cooperation. The Deputy asked about the third area, the community welfare officers. The sooner we can have an integrated process with the CWOs coming into the Department of Social and Family Affairs, the better. Again this has been blocked for years but it has been referred to the Labour Relations Commission and we expect a date for hearings shortly. SIPTU has agreed to participate, although so far IMPACT has not, and I hope we can secure agreement on the idea. That will lead to better service for everyone because it is not right that people should have to wait.

The 300 staff were put in place between May 2008 and May 2009. Some of those have been put in place in the last few months. At the start of the year we indicated that we wanted 300 staff this year so we will be looking for another 150 staff. Those staff are on their way from other Departments, there is no question of any blockage, but they must be trained and deployed in the right places.

Deputy Róisín Shortall: How many of them?

Deputy Mary Hanafin: We have also established the central units that are working effectively. They have no front of house contact but are solely making decisions on claims. The next central unit will open in Tallaght on 6 July. Huge progress has been made and the productivity of the staff has really improved. From January until May this year they processed 250,000 claims while in the same time last year they processed 146,000.

Through the establishment of the central units and the efforts being made all round to ensure applicants can be dealt with as speedily as possible progress is being made, although I appreciate there are delays in some areas.

Deputy Róisín Shortall: If there are industrial relations issues it is the Minister's responsibility to deal with them swiftly. Whatever about problems within the Minister's own offices, the suggestion that the problem lies with the need for the community welfare officers to transfer into the Department of Social and Family Affairs is entirely wide of the mark.

Deputy Mary Hanafin: No, it is not.

Deputy Róisín Shortall: What difference will it make if they come under a different Department? If there are not enough staff, there are not enough staff, irrespective of what they are called. The Minister should deal with the industrial relations issues and stop hiding behind them.

Deputy Mary Hanafin: Tell that to the CPSU.

Deputy Róisín Shortall: How many additional posts have been approved over and above the 300? When will they be in place?

Last year the Department of Social and Family Affairs had one of the highest rates of absenteeism, with an average of 15 sick days per year. What is the current situation and what steps is the Minister taking to deal with that?

Deputy Mary Hanafin: The transfer of the community welfare officers is central. They spend the Department's money and the Department pays the Department of Health and Children to pay them to pay the money. That is not an efficient, integrated system. The Department has no difficulty in getting staff from other Departments but there is a difficulty in the HSE, even though they have had extra places sanctioned. There are issues there, however, related to back-filling. However, although extra places have been sanctioned for the HSE, issues arise over backfilling or some other phenomenon. I am not quite sure about the intricacies of the process. It is not quite relevant here. Undoubtedly, were the officers to be part of our Department, we could ensure that we would be able to fill any vacancies if staffing difficulties arose. This is because we have powers of sanction.

I indicated at the beginning of this year that we need 300 additional staff. One hundred and fifty of those are currently in place and we expect to get the other 150. They have been placed in local offices and the central units.

Deputy Róisín Shortall: When does the Department expect to have the other 150?

Deputy Mary Hanafin: They are being recruited all the time as they are freed up from other Departments.

Deputy Róisín Shortall: What about absenteeism?

Deputy Mary Hanafin: I do not have up-to-date data on absenteeism but if the Department has it, I will facilitate the Deputy.

Financial Services Regulation.

3. **Deputy Olwyn Enright** asked the Minister for Social and Family Affairs the action she has taken to persuade lenders, other than members of the Irish Banking Federation, to sign up to the new IBF-MABS Operational Protocol: Working Together to Manage Debt; the reason she did not ensure that sub-prime lenders were made aware of and included in discussions on the new protocol; and if she will make a statement on the matter. [25548/09]

Deputy Mary Hanafin: The Money Advice and Budgeting Service, MABS, provides assistance to people who are over-indebted and need help and advice in coping with debt problems. The regulation of financial institutions, including the banks, sub-prime mortgage lenders and the credit unions, is part of the statutory remit of the Financial Regulator. Legislative issues in regard to the Financial Regulator are dealt with by the Minister for Finance.

Under the statutory code of conduct on mortgage arrears published by the Financial Regulator, all financial institutions, including the banks and sub-prime mortgage lenders, must, where circumstances warrant it, refer a borrower in difficulty for guidance to his or her local MABS office or an appropriate alternative.

The new protocol, IBF-MABS Operational Protocol: Working Together to Manage Debt, is the result of almost two years of work by MABS NDL, the national support company for the MABS network and the Irish Banking Federation, IBF, the main representative body for the banking and financial services sector. The protocol sets out an agreed process by which IBF members and the MABS money advisers will approach debt problems experienced by clients. The protocol includes a commitment that no legal action will be taken as long as there is compliance by the client with an agreed repayment plan. Thirteen financial institutions, including the main banks and building societies, have to date signed up to the protocol.

With regard to those other lenders that are not members of the IBF, such as sub-prime mortgage lenders, the MABS advisers will continue to negotiate with these creditors on an individual basis to secure better terms for MABS clients in managing the repayment of the debts.

I am encouraged by the response to the MABS-IBF initiative and the willingness of lenders, not just those who are members of the IBF, to support the protocol. In the subsequent media reports and correspondence I received, other lenders have indicated that they would be happy to support the protocol. I urge all lenders to adhere to the best-practice procedures set out in the protocol. I have asked MABS NDL to follow up on the correspondence I have received and to explore further the possibilities for other lenders.

MABS NDL has initiated work with the Irish League of Credit Unions with a view to developing a similar operating protocol with its members that would set out best practice to support MABS clients in managing debts owed to credit unions.

Deputy Olwyn Enright: At the launch of the MABS protocol on 3 June, the Minister was critical of the fact that the sub-prime lending companies had not signed up to it. Her Department finances the operation of MABS and the lenders come under its auspices in that sense. Did the Minister not believe, prior to criticising the sub-prime lenders, that it would have been better to have them involved or to ask MABS to get them involved? The main group with a high rate of personal borrowing and other financial difficulties comprises those in the sub-

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prime area. The highest rate of interest being paid is being paid by those in this category. Therefore, having the sub-prime lenders involved is of the utmost importance.

Research that the IBF presented to the Joint Committee on Social and Family Affairs yesterday shows only 40% of borrowers find debt management easy, which means 60% do not. Most of these can manage if they are careful but 15% of the 60% have cause for concern or a real problem. This problem will grow. What discussions has the Minister had with the sub-prime institutions and will she ensure that they sign up to the protocol? While they got an easy buy-out by virtue of the fact that they are not regulated, they are licensed and need to be very involved with the protocol.

Deputy Mary Hanafin: I accept they should be involved with the protocol. When launching it, I suggested this. In fairness, within two days one sub-prime lender wrote to me indicating it would sign up.

Deputy Olwyn Enright: They have never been asked to do so and they do not know about the protocol. It is very hard to sign up to it if one does not know about it.

Deputy Mary Hanafin: The IBF is a regulatory body. All the groundwork was done with the IBF and this means there is an established protocol. A financial institution that is not a member of the IBF indicated immediately that it would sign up to the protocol. Any institution can sign up to the protocol within days now that the work has been done on it. This is equally the case with the credit unions, but one should remember MABS has a very positive relationship with the credit unions anyway.

The Deputy was correct about the extended loans people have and the difficulties they face in managing them. It is very worrying to consider the average debt people have incurred. This, in itself, has increased. This time last year, it was €12,500 while it was €7,500 just before that. Now the figure has risen to €14,500. Therefore, the people who are contacting MABS this year have more extended debt in all sorts of areas than those who were doing so even last year or the year theretofore.

When one examines this debt, one notes it is not generally constituted of loans from the main mortgage lenders, as we often believe, but of personal loans. Personal credit is the main form of debt and I accept it is much more difficult for people to manage than other forms of debt. MABS is doing a very good job in this area.

I am delighted at least one sub-prime lender and another financial institution immediately took up the invitation to sign up to the protocol. We will work to ensure that the others do so also.

Deputy Olwyn Enright: While the Minister is delighted the institutions took up the invitation, should MABS not have contacted them in advance to ensure that they would sign up?

The Minister will probably be aware of the comments of the Master of the High Court. He still expects an avalanche of claims. The figure in this regard has trebled since he made his comment in February. Will the protocol be sufficient? The Master of the High Court is listening to what is being said every morning. He hears the stories of the people affected, many of whom have no legal representation, and he believes the worst has yet to come in terms of repossession cases in his court. Will the protocol prevent this? Are the comments the Master of the High Court made this week correct?

Deputy Mary Hanafin: The protocol will go some way towards preventing it, particularly if the sub-prime lenders sign up. It is not necessary that they be part of the negotiation because it is easy to formulate a protocol with one regulatory body, which is what the IBF is.

In the first quarter of this year, there were nine repossessions of owner-occupied homes. While repossession is extremely traumatic for the families concerned, there has not been the avalanche about which people talk. Where orders for repossessions have taken place, they have not necessarily been in respect of residential homes, nor have the orders been enforced.

Deputy Olwyn Enright: That is because people sold their houses to pay the debts. People are still losing their houses.

Deputy Mary Hanafin: I hope that as a result of this protocol, which has been devised after much negotiation, repossession will only occur as a last resort. As long as people make a genuine effort to stick to the repayment plan devised for them by MABS in conjunction with the credit institution, we will not see this happening.

Social Welfare Code.

4. **Deputy Olwyn Enright** asked the Minister for Social and Family Affairs if she is satisfied that the assessment procedure for social welfare benefits and entitlements is working effectively; and if she will make a statement on the matter. [25549/09]

Deputy Mary Hanafin: The Department of Social and Family Affairs, through the wide range of services it provides, touches everyone's life at some stage. Our overall goal is to provide people with the information, financial support and other services they require in a timely and customer-friendly way.

The Department administers 2 million applications for 50 different schemes each year. Last month alone, it cleared some 207,000 claims. We are committed to ensuring that claims for payment are processed and that decisions on entitlement are issued as expeditiously as possible, having regard to the eligibility conditions that apply. These conditions vary from scheme to scheme and may involve, among other criteria, the need to establish the person's social insurance record; verification of his or her medical incapacity to work; confirmation of his or her place of habitual residence; and, where appropriate, the assessment of means. Additional information may also have to be sought. These factors, along with a significant increase in the claim load of a particular scheme, can affect processing times.

There are specific performance targets set for each scheme and these are monitored closely and action is taken where appropriate. I appreciate there are delays in some areas and I have outlined to the House on another occasion the steps we are taking to improving processing times, for the jobseekers' payments in particular.

Investment in our staff and modern information communications technologies is central to improving the quality of the service we provide to the public. Our new website and text messaging service have made it easier for people to access information at a time that suits them. The Department's website recently won an e-government award for accessibility. We are also working to ensure a high quality service continues to be available by telephone, in our local offices, through the citizens information centres and by post.

There is no doubt the significant rise in applications for some schemes is presenting major challenges for the Department. I assure the Deputies that we are committed to meeting the needs of the increasing number of people who rely on our support, while also providing a high standard of service.

Deputy Olwyn Enright: I will deal with the issue of processing times later in respect of my other questions. I tabled this question because of the high rate of appeals to the Department. I am concerned about the high rate of successful appeals because if the system operated effectively there should not be such a high rate. I will cite three examples from last year. More than half of all appeals for the carer's allowance were upheld in 2007 and 2008 but the people who appealed had to wait six months for the appeals to be granted, on top of their initial application time; 40% of appeals for jobseeker's allowance last year were upheld and the people had to wait five months; 54% of appeals for disability allowance were upheld and those people also had to wait six months. What is going wrong in the initial assessment of those claims? It is not a question of medical reports because they are not all health related. That would not apply in the jobseekers area. Where are the mistakes in the initial assessments in those three examples? There are many other examples. Approximately 60%, of the areas covered by the Department have a high rate of successful appeals. What is going wrong? The processing times in the first place are a problem and so are those for the appeals as half the people who are entitled to the payments must wait several months.

Deputy Mary Hanafin: Each scheme is different and has different requirements. Where medical evidence is required it will take some time. To get the carer's allowance one must show that the person for whom one is caring is in need of full-time care which involves a medical certificate. It quite often happens that an application is made with insufficient information on means or household income and that can give rise to an appeal. The Deputy mentioned some instances where different information would be sought.

As a control measure it is probably just as well that not everyone gets everything on the first go. We try to ensure the processing times are quite quick. It is easy to focus on the jobseekers in the first instance and say that is where there are delays but given that the Department receives 2 million applications each year, some are very speedily dealt with, many within one or two weeks. The appeals and the processing times can be two separate things but there are problems in appeals too and going to oral hearings, etc.

Deputy Olwyn Enright: I would not accept in any sense that this is a good control measure because more than half the people who appealed in those three instances were found to be entitled to the payment which means that there was no issue of fraud or of trying to pull the wool over the Department's eyes. These people were entitled to the payment and had to wait the initial application time, which could have been 19 weeks in Boyle, and then had to wait five months in the case of jobseeker's allowance.

The medical documents for the carer's and disability allowances are not a problem because most people would have proved on application that the person was entitled to the benefit. I would like some figures from the Minister on why these appeals are being granted. She may be able to supply them afterwards. I do not think insufficient information accounts for all those successful appeals. Anyone in the House could give the Minister examples of appeals they have lodged for people that have nothing to do with insufficient information. It is a substantial number and it is very unfair that these people are being asked to wait.

The Minister has not answered my question about the breakdown of the initial assessment because while there are different types of payments, the people in the Department who deal with carer's allowance deal exclusively with that payment, and likewise the jobseeker's and disability allowances. They are experts in their areas so it is not a question of being a different type of payment. They know how to deal with the applications and there must be a breakdown for such a sizeable success rate in appeals. This needs to be dealt with.

Deputy Mary Hanafin: That there is an appeals mechanism in place is very important.

Deputy Olwyn Enright: I agree.

Deputy Mary Hanafin: The ones the Deputy mentioned involved medical certification.

Deputy Olwyn Enright: Jobseeker's allowance does not.

Deputy Mary Hanafin: The disability, illness and carer's allowances do. The problem with the jobseeker's allowance is that the means testing can take time.

Deputy Olwyn Enright: A total of 40% of appeals are successful. That is the point of the question.

Deputy Mary Hanafin: The point of an appeal is that it allows people the opportunity to give further information or medical evidence or go to oral hearing.

Deputy Olwyn Enright: To find the Department's mistakes.

Deputy Mary Hanafin: A total of 59% of appeals last year went to oral hearing. People got the opportunity to come in and make their cases, whatever the information was. I accept that the appeals system works and I know the Deputy is asking why the application does not work in the first instance but there can be a wide range of reasons it does not work.

Deputy Olwyn Enright: That needs to be examined.

Deputy Mary Hanafin: We are examining some of the areas where there is a high success rate on appeals to find the cause.

Pension Provisions.

5. **Deputy Olwyn Enright** asked the Minister for Social and Family Affairs the reason for the delay in the publication of the long-term pension framework; and if she will make a statement on the matter. [25550/09]

Deputy Mary Hanafin: Since the Green Paper on pensions was published in October 2007, the Government has been progressing policy in this area. We have also responded to meet the immediate difficulties facing employees, especially those in defined benefit schemes, who saw both their companies and pension schemes facing difficult situations. The collapse in equity values and the economic situation combined to create severe difficulties for people who saw significant reductions in their potential benefits as a result.

The Government moved to protect people's entitlements through measures announced last December and the recent legislation passed in the Social Welfare and Pensions Act 2009. These include the establishment of a pensions insolvency payment scheme, a reordering of wind-up priorities, provision for restructuring of pension benefits and stronger regulation with regard to remittance of pension contributions. Where decisions have been required to protect people's entitlements, the Government has moved quickly to assist pension scheme members. We have also been engaged in discussions with the social partners on key issues, including pensions.

The Government is aware that the wide and long-term pensions policy issues require a comprehensive and co-ordinated response. Following the conclusion of the successful consultation process last year, we have been considering several options to address the challenges facing our pensions system and which were raised in the Green Paper process. These issues relate to social welfare pensions, the sustainability of our pension system generally, the adequacy of

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current provision, and other complex issues around regulation, public sector pensions and retirement age.

As I have previously said in this House, it is the intention of the Government to deal with all of these issues. Over the past year, the economic environment has changed considerably and we need to ensure any decisions we make in the pensions area are robust enough to withstand new and unprecedented challenges. It is entirely appropriate that the Government takes the time to arrive at sound decisions about the future of our pension system, given the potential of such decisions to impact significantly on this and future generations. Our objective is a system which will deliver an adequate retirement income for all which is, at the same time, affordable and sustainable for the State and for those who sponsor and provide pension schemes.

The Government has responded quickly to the severe difficulties facing defined benefit schemes. We will continue to discuss further reform options for inclusion in the national pensions framework and I expect that this will be published this year as announced in the partnership talks.

Deputy Olwyn Enright: I thank the Minister. She may think it entirely appropriate that the Government takes time but it has taken 12 years with little or no progress. There has been a little progress on defined benefit and none on the overall pension problem. I am glad the Minister says the framework will be published this year but on Question Time at the end of April she told me it would be published in a couple of weeks. That was two months ago. A couple of weeks is a fortnight. The end of the year is a long time away. We are only half way through the year. Will the Minister give a more definite date?

The OECD says that 30% of Irish pensioners live in poverty. A year ago when we asked questions about this I said that fewer people were going to want to invest in a pension because of their fears about how they operate and the Minister said that would not be the case. Only a quarter of Irish people now think it is a good idea to put money aside for their retirement. The longer the Minister leaves a decision on pensions the bigger the timebomb she is creating for the country. One million people are due to retire over the next 20 years. By making progress on this issue the Minister can give them some certainty about their retirement. They do not have that now. People are terrified. What she has done so far is nothing compared with what needs to be done. Will the Minister provide the House with a more definitive date? Does she have any idea what is being considered by the Government because an element of private sector workers feel they have been ignored in what has been done so far?

Deputy Mary Hanafin: I am aware that I indicated that it might be sooner than now but the Government has decided to give it further consideration and that is its prerogative. However, the paper circulated to the social partners this week indicated that it would be done this year. As I outlined, we have genuinely been working very hard on a number of issues that are most relevant to people today and the fact that publication of the framework will be a number of months later than I had indicated should not delay its implementation because it was never going to be implemented in 2009 or 2010 anyway. I had always indicated that as in the UK it would probably start in 2012 approximately.

The number of people investing in their pensions has increased. Surprisingly, given the way the market has gone there are indications that people have started to provide even more for their future. I know that the particular age group in which we hoped to see an increase to 70% is at 61% so it is moving in the right direction.

The OECD report refers to figures from 2005 and since then the non-contributory pension has increased by 32% and the contributory pension has increased by 28%. The authors of the OECD report recognise that the increase in public pensions since 2005 will have improved the economic position of older people and they recognise that significant progress has been made in those years. As we know, the consistent poverty rate for older people has fallen to 2% from 3.7% in 2005 so progress has been made. The OECD report, while critical, has not taken into account the improvements made in the past four years.

Deputy Olwyn Enright: The improvements relate to the State pension; they do not relate to the plethora of other pension areas which have not been improved, rather have seen a disimprovement. The Minister mentioned an implementation period of 2012 and I know she stated that previously but it is much too far away. Either way, the report still needs to be published so people know what will be there and can make plans because the crucial aspects of pensions are planning and time. Does the Minister mean publication at the very end of the year or during the summer? Does she have any idea of a wider timeframe?

Deputy Mary Hanafin: I certainly do not mean during the summer but as soon as possible thereafter when we get agreement from the Government. It is crucial and it will impact on private pensions, social welfare pensions and public sector pensions——

Deputy Olwyn Enright: The Government has had 12 years. It did not come up last week.

Deputy Róisín Shortall: This delay is a disgrace.

Deputy Olwyn Enright: The value of people's pensions has been wiped.

Deputy Róisín Shortall: It is an absolute disgrace that the Minister is dragging her heels like this on such an important issue.

Deputy Mary Hanafin: As I indicated previously, a good lead-in time to the implementation time is required and I hope this will not have been affected by the fact that it has not been published.

Deputy Róisín Shortall: The Minister is twiddling her thumbs on a very important issue.

Deputy Mary Hanafin: I think that 2012 is a reasonable timescale which would allow people to prepare for it and to have the legislation and structures in place to allow it.

Deputy Róisín Shortall: It is an absolute disgrace. The Minister is dodging another important issue.

An Ceann Comhairle: We will now move on to Other Questions. I must point out that on Priority Questions only the Member who tables the question may ask supplementary questions on it under the Standing Orders.

Deputy Róisín Shortall: Are we out of time for Priority Questions?

An Ceann Comhairle: We are.

Deputy Róisín Shortall: The Ceann Comhairle stated that we had half an hour.

An Ceann Comhairle: I allowed a little leeway but I cannot be expected——

Deputy Róisín Shortall: Does Priority Question Time end after half an hour or not?

An Ceann Comhairle: What happens is that six minutes are allowed to each question and I have the discretion to allow the Priority Question to proceed a little longer to oblige the Members and I did so in the circumstances.

Deputy Róisín Shortall: With all due respect, my question was whether Priority Question Time ends after 30 minutes?

An Ceann Comhairle: Strictly speaking it does——

Deputy Róisín Shortall: Thank you.

An Ceann Comhairle: ——but the Chair has the discretion and the power to extend it to facilitate Members and I did so.

Other Questions.

Tax and Social Welfare Codes.

6. **Deputy Arthur Morgan** asked the Minister for Social and Family Affairs the expected gain to the Exchequer if the PRSI ceiling was abolished; and if she will make a statement on the matter. [23142/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The PRSI system is based on the contributory and solidarity principles. The contributory principle ensures there is a direct link between the contributions paid and the range of benefits and pensions to which the person is entitled. The solidarity principle relates to the redistributive nature of the system which ensures supports are provided to more vulnerable workers.

Current estimates indicate that the abolition of the PRSI ceiling would yield approximately €119.5 million additional contribution income in a full year.

Under the PRSI system social insurance contributions are compulsorily payable by employers, employees and self-employed workers. With regard to employees' contributions the amount payable is determined by reference to reckonable earnings in a weekly period, and is subject to a range of thresholds and an annual ceiling. Approximately 76% of workers pay PRSI Class A and Class H at the rate of 4% and accrue entitlement to a range of benefits and pensions under various social insurance schemes.

The PRSI exemption on low earnings stands at €352 per week. People with incomes at that level or below are exempt from PRSI. Once a person earns above this level their total income, up to the annual ceiling, is chargeable to PRSI but they are entitled to a PRSI-free allowance of €127 per week.

The employee PRSI ceiling is reviewed annually in accordance with the legislative stipulations of the Social Welfare (Consolidation) Act 2005. In the 2009 budget the employee ceiling was increased by €1,300 from €50,700 to €52,000; and in the supplementary budget a more substantial increase brought it to €75,036.

The Actuarial Review of the Social Insurance Fund 2005 report, published in 2007, found that paying social insurance contributions represents very good value for money in almost all circumstances. In particular, the report stated that those on lower incomes fare considerably better than those on higher incomes, with persons earning less than the gross average industrial wage paying 35% of the contributions and receiving 66% of the benefits.

This finding demonstrates the solidarity principle of the social insurance scheme whereby contributions paid by insured persons are not actuarially linked to benefits but are instead redistributed to support contributors who are more vulnerable. It is an expression of solidarity between both earning groups and generations.

Any future changes to the PRSI ceiling would have to be considered in a budgetary context.

Deputy Arthur Morgan: I thank the Minister for her reply. Why was the PRSI ceiling not abolished in the budget of 7 April? Does the Minister accept that the threshold deals only with people who could be regarded as being on reasonably high incomes? Does she consider that the €19.5 million that could have been achieved with the abolition of the ceiling is not necessary and that there is sufficient funding without it? Can the Minister give us any good reason it was not abolished in the budget? I acknowledge that the ceiling was raised in the budget but why was it not abolished?

Deputy Mary Hanafin: As I indicated, €103.5 million will be raised through the change in the ceiling this year. Abolition of the ceiling would have to be seen in the context of all other financial measures introduced in the most recent budget including the income levy. The main aim of that budget with regard to income was to ensure that money was made available to the Exchequer. Any funding through PRSI would not go to the Exchequer but to the social insurance fund. It would not have resolved the main problem that we had for that budget. Raising the ceiling impacted severely on a number of workers and achieved at least the target of €103.5 million but it has to be seen in the overall context of the other measures introduced by the Department of Finance.

Deputy Róisín Shortall: From next year there will be a shortfall in the social insurance budget so it would impact on it. I smiled when the Minister mentioned solidarity in the social insurance system. If one takes account of the large cash transfers that are taking place by way of tax relief on private pensions, there would not be too much solidarity to speak about. One must consider the wider picture.

With regard to PRSI, it came to my attention recently that certain streams of income are not subject to PRSI and certain anomalies exist. If a self-employed person has a rental income he or she must pay PRSI on it but if an employed person has rental income he or she does not have to pay PRSI. Is the Minister aware of this anomaly and does she intend to deal with it? It would make more sense to target those anomalies rather than hitting the Christmas bonus if she wanted to make savings in the social welfare system.

Deputy Mary Hanafin: I am not aware of this specific issue and I will check it out.

Deputy Róisín Shortall: Will the Minister examine the matter?

Deputy Mary Hanafin: As I stated, I will check it out.

Deputy Arthur Morgan: What will be the implications for the Department's budget when the social insurance fund runs out?

Deputy Mary Hanafin: The important issue is that it will not have any implications for workers or anyone benefiting from claims made under the social insurance fund. When a deficit arises in the fund, as it inevitably will, the fund will be subvented by the Exchequer. Sufficient money will, therefore, be available to make pension and other payments which are currently paid from the fund. This year, the Department's budget is more than €21 billion. While I hope

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demand for jobseeker's allowance and other benefits will decrease next year, the Exchequer will top up the social insurance fund when it becomes necessary.

Social Welfare Benefits.

7. **Deputy Enda Kenny** asked the Minister for Social and Family Affairs the processing time it takes for each individual social welfare office to deal with a claim in respect of jobseeker's allowance; and if she will make a statement on the matter. [23319/09]

10. **Deputy Dinny McGinley** asked the Minister for Social and Family Affairs the number of persons on a national, county and local social welfare office basis waiting in respect of their application for jobseeker's benefit to be processed; and if she will make a statement on the matter. [23334/09]

13. **Deputy Phil Hogan** asked the Minister for Social and Family Affairs the processing time it takes for each individual social welfare office to deal with a claim in respect of jobseeker's benefit; and if she will make a statement on the matter. [23325/09]

16. **Deputy Olivia Mitchell** asked the Minister for Social and Family Affairs the number of persons on a national, county and local social welfare office basis waiting for their application in respect of jobseeker's allowance to be processed; and if she will make a statement on the matter. [23338/09]

27. **Deputy Brian Hayes** asked the Minister for Social and Family Affairs the average processing time it takes for a claim in respect of jobseeker's benefit to be dealt with; and if she will make a statement on the matter. [23321/09]

32. **Deputy Charles Flanagan** asked the Minister for Social and Family Affairs the average processing time it takes for a claim for jobseeker's allowance to be dealt with; and if she will make a statement on the matter. [23304/09]

Deputy Mary Hanafin: I propose to take Questions Nos. 7, 10, 13, 16, 27 and 32 together.

The live register has increased from 207,100 in May 2008 to 396,871 at the end of May 2009, an unprecedented increase of more than 96%. I assure the House that staff in the Department are working extremely hard to process claims as expeditiously as is possible, having regard to the conditions of the schemes.

The average processing time for claims decided in May was 3.68 weeks for jobseeker's benefit and 6.35 weeks for jobseeker's allowance. This is the average nationally and there are fluctuations between offices. The length of time it takes to process claims varies depending on the complexity of the claim, the availability of the necessary documentation from the applicant or his or her employer and, in the case of jobseeker's allowance, the need to carry out additional inquires, including assessment of means and whether the claimant satisfies the habitual residence condition. Furthermore, processing times can vary from office to office for a number of reasons, including increased claim load, the number of staff vacancies, the duration of such vacancies and the turnover of staff in the office which impacts on the overall level of experience in the office.

At the end of May, a total 70,363 claims were awaiting a decision, of which 26,437 were jobseeker's benefit claims and 43,926 jobseeker's allowance claims. This compares to a total of 71,885 awaiting a decision at the end of April. I am making available tabular statements showing the number of claims awaiting a decision at the end of May and the average processing

time for claims decided in May for each local and branch office. Local offices do not operate strictly within county boundaries and customers can be served by a local office outside their county boundary where the location of the office is more convenient to them. Consequently, statistics of number of claims awaiting a decision on a county basis are not available.

As I outlined, as a result of staffing reviews in 2008 and again in recent months, some 300 extra staff have been assigned to local offices, new central support units and the Department's inspectorate since May 2008. This includes 90 temporary staff who have been appointed to local offices around the country pending the assignment of permanent staff. Arrangements are also in train to allocate a further 24 inspector posts.

At the same time, the Department has been examining all aspects of the work associated with the processing of claims and streamlining them wherever possible without compromising our scheme controls. There has been a significant increase in productivity in local offices during 2009, with almost 251,500 claims for local office schemes decided from January to May 2009 as compared to 146,500 in the same period in 2008.

As many local offices are very close to capacity as regards accommodating further staff, we have established from 25 May five central decision units in Dublin, Sligo, Finglas, Carrick-on-Shannon and, most recently, Roscommon. A further central support unit is to be established in Tallaght early next month.

While acknowledging that some claims are more complicated than others and will, therefore, take longer than the average time to decide, processing times in some areas are still too long. I assure Deputies we are doing our best to reduce them. I fully appreciate that becoming unemployed is a very difficult time in a person's life and those who become unemployed need to secure access to financial and other supports as quickly as possible.

Claims Awaiting Decision @ W/E 30 May 2009

Office	Parent Office	JA	JB & JBCO	Total
Achill SWLO	Achill	3	2	5
Apollo House SWLO	Apollo House	200	80	280
Ardee SWBO	Drogheda	257	101	358
Arklow SWLO	Arklow	281	106	387
Athlone SWLO	Athlone	316	317	633
Athy SWBO	Newbridge	279	86	365
Balbriggan SWLO	Balbriggan	407	243	650
Ballina SWLO	Ballina	339	147	486
Ballinasloe SWBO	Athlone	229	161	390
Ballinrobe SWBO	Loughrea	181	42	223
Ballybofey SWBO	Donegal CO	113	35	148
Ballyconnell SWBO	Cavan	196	86	282
Ballyfermot SWLO	Ballyfermot	393	300	693
Ballymun SWLO	Ballymun	189	83	272
Ballyshannon SWBO	Donegal CO	54	23	77
Baltinglass SWBO	Newbridge	144	31	175
Bandon SWBO	Carrigaline	227	246	473
Bantry CO SWLO	Bantry CO	33	10	43
Bantry SWBO	Bantry CO	108	33	141
Belmullet SWLO	Belmullet	31	13	44
Birr SWBO	Athlone	150	79	229

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Office	Parent Office	JA	JB & JBCO	Total
Bishop Square SWLO	Bishop Square	854	694	1,548
Blanchardstown SWLO	Blanchardstown	1,474	559	2,033
Boyle SWBO	Longford	149	63	212
Bray SWLO	Bray	383	331	714
Buncrana SWLO	Buncrana	480	121	601
Cahir SWBO	Clonmel	85	43	128
Cahirciveen SWLO	Cahirciveen	48	34	82
Carlow SWLO	Carlow	386	106	492
Carrickmacross SWBO	Dundalk	186	46	232
Carrick-on-Shannon SWLO	Carrick-on-Shannon	157	71	228
Carrick-on-Suir SWBO	Waterford	150	86	236
Carrigaline SWLO	Carrigaline	290	170	460
Cashel SWBO	Clonmel	79	42	121
Castlebar SWLO	Castlebar	160	68	228
Castleblaney SWBO	Dundalk	169	45	214
Castlepollard SWBO	Mullingar	250	122	372
Castlerea SWBO	Ballina	242	117	359
Cavan SWLO	Cavan	787	245	1,032
Claremorris SWBO	Ballina	236	87	323
Clifden SWLO	Clifden	36	10	46
Clonakilty SWBO	Carrigaline	164	144	308
Clondalkin SWLO	Clondalkin	936	1,143	2,079
Clones SWBO	Dundalk	65	14	79
Clonmel SWLO	Clonmel	121	46	167
Cobh SWLO	Cobh	45	19	64
Coolock SWLO	Coolock	490	243	733
Cork SWLO	Cork	3,080	3,000	6,080
Dingle SWBO	Tralee	52	41	93
Donegal SWBO	Donegal CO	39	35	74
Drogheda SWLO	Drogheda	1,238	394	1,632
Dun Laoghaire SWLO	Dun Laoghaire	1,077	634	1,711
Dundalk SWLO	Dundalk	591	147	738
Dunfanaghy SWLO	Dunfanaghy	41	20	61
Dungarvan SWBO	Waterford	168	153	321
Dungloe SWLO	Dungloe	67	44	111
Edenderry SWBO	Mullingar	464	163	627
Ennis SWLO	Ennis	505	249	754
Enniscorthy SWBO	Wexford	381	180	561
Ennistymon SWBO	Ennis	112	47	159
Fermoy SWBO	Mallow CO	192	255	447
Finglas SWLO	Finglas	333	175	508
Galway SWLO	Galway	1,985	1,267	3,252
Gorey SWBO	Wexford	401	144	545
Gort SWBO	Ennis	206	53	259
Kells SWBO	Navan	321	65	386
Kenmare SWLO	Kenmare	28	21	49
Kilbarrack SWLO	Kilbarrack	344	612	956

Office	Parent Office	JA	JB & JBCO	Total
Kilkenny SWLO	Kilkenny	599	125	724
Killarney SWLO	Killarney	266	66	332
Killorglin SWBO	Tralee	123	77	200
Killybegs SWBO	Donegal CO	34	35	69
Kilmallock SWBO	Newcastlewest	187	129	316
Kilrush SWBO	Ennis	91	107	198
Kinsale SWBO	Carrigaline	135	151	286
Letterkenny SWLO	Letterkenny	243	46	289
Limerick SWLO	Limerick	1,574	1,321	2,895
Listowel SWLO	Listowel	182	169	351
Longford SWLO	Longford	699	418	1,117
Loughrea SWLO	Loughrea	537	163	700
Macroom SWBO	Mallow CO	133	253	386
Mallow SWBO	Mallow CO	199	321	520
Manorhamilton SWLO	Manorhamilton	26	36	62
Maynooth SWBO	Ballyfermot	1,091	987	2,078
Midleton SWBO	Carrigaline	386	421	807
Monaghan SWBO	Dundalk	227	93	320
Muine Bheag SWBO	Carlow	191	31	222
Mullingar SWLO	Mullingar	737	495	1,232
Navan Road SWLO	Navan Road	723	244	967
Navan SWLO	Navan	1,094	563	1,657
Nenagh SWBO	Thurles	127	74	201
New Ross SWBO	Wexford	276	127	403
Newbridge SWLO	Newbridge	1,020	442	1,462
Newcastle West SWLO	Newcastlewest	179	281	460
Newmarket SWBO	Listowel	168	438	606
Nth Cumberland St. SWLO	Nth Cumberland St	429	294	723
Nutgrove SWLO	Nutgrove	136	77	213
Portarlington SWBO	Tullamore	487	123	610
Portlaoise SWBO	Kilkenny	545	191	736
Rathdowney SWBO	Kilkenny	142	71	213
Roscommon SWBO	Longford	122	99	221
Roscrea SWBO	Thurles	48	25	73
Skibbereen SWBO	Bantry CO	91	30	121
Sligo SWLO	Sligo	489	172	661
Swinford SWBO	Ballina	206	83	289
Swords SWLO	Swords	373	412	785
Tallaght SWLO	Tallaght	738	390	1,128
Thomas Street SWLO	Thomas Street	389	88	477
Thomastown SWBO	Waterford	120	114	234
Thurles SWLO	Thurles	138	87	225
Tipperary SWBO	Clonmel	78	46	124
Tralee SWLO	Tralee	352	242	594
Trim SWBO	Navan	502	166	668
Tuam SWBO	Loughrea	561	209	770
Tubbercurry SWBO	Sligo	52	5	57
Tulla SWBO	Ennis	47	20	67

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Office	Parent Office	JA	JB & JBCO	Total
Tullamore SWLO	Tullamore	507	209	716
Tullow SWBO	Carlow	202	48	250
Waterford SWLO	Waterford	959	614	1,573
Westport SWLO	Westport	50	49	99
Wexford SWLO	Wexford	407	163	570
Wicklow SWBO	Arklow	192	83	275
Youghal SWBO	Carrigaline	140	122	262
		43,926	26,437	70,363

Processing times for May 2009

	JB	JA
Achill	0.15	0.15
Apollo House	2.71	3.87
Ardee	3.24	8.93
Arklow	3.12	4.92
Athlone	2.83	4.46
Athy	2.91	5.03
Balbriggan	3.33	9.09
Ballina	3.22	6.81
Ballinasloe	4.00	4.67
Ballinrobe	3.95	14.39
Ballybofey	1.11	2.48
Ballyconnell	5.36	10.56
Ballyfermot	5.69	4.44
Ballymun	3.69	4.72
Ballyshannon	0.77	2.33
Baltinglass	0.95	6.69
Bandon	7.93	12.54
Bantry	2.58	5.19
Bantry Co	2.82	9.15
Belmullet	1.88	2.35
Birr	2.33	4.26
Bishop Square	5.49	7.75
Blanchardstown	4.14	11.03
Boyle	4.34	14.01
Bray	2.64	6.29
Buncrana	3.69	6.13
Cahir	1.92	3.61
Cahirciveen	2.20	5.65
Carlow	2.60	5.30
Carrickmacross	2.01	7.12
Carrick-On-Shannon	0.73	3.15
Carrick-On-Suir	3.37	7.15
Carrigaline	3.17	8.02
Cashel	2.71	4.88

	JB	JA
Castlebar	2.53	2.13
Castleblayney	2.32	5.72
Castlepollard	4.42	14.57
Castlerea	2.95	11.62
Cavan	4.28	9.51
Claremorris	2.03	9.61
Clifden	0.91	1.49
Clonakilty	7.37	9.12
Clondalkin	5.84	5.20
Clones	1.54	3.78
Clonmel	1.78	2.31
Cobh	1.35	1.37
Coolock Lo	2.52	3.52
Cork	9.52	8.05
Dingle	4.84	5.85
Donegal	1.67	2.07
Drogheda	2.07	10.76
Dundalk	1.81	5.62
Dunfanaghy	0.86	1.58
Dungarvan	3.38	8.37
Dungloe	2.63	1.38
Dun Laoghaire	3.87	9.90
Edenderry	3.00	15.26
Ennis	3.06	5.47
Enniscorthy	3.43	6.18
Ennistymon	2.61	5.60
Fermoy	6.25	5.99
Finglas	2.39	5.34
Galway	6.37	9.75
Gorey	3.39	7.13
Gort	3.86	12.55
Kells	2.15	12.76
Kenmare	3.36	4.02
Kilbarrack	4.19	4.35
Kilkenny	3.44	7.57
Killarney	3.02	5.60
Killorglin	4.48	8.52
Killybegs	0.71	1.16
Kilmallock	2.79	4.14
Kilrush	4.38	4.27
Kinsale	7.99	11.75
Letterkenny	1.48	1.96
Limerick	3.95	6.14
Listowel	4.78	4.43
Longford	6.23	9.63
Loughrea	3.11	14.20
Macroom	5.54	6.27
Mallow Branch Office	6.85	6.70

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	JB	JA
Manorhamilton	0.49	1.44
Maynooth	6.18	8.68
Midleton	6.50	11.46
Monaghan	2.70	4.99
Muine Bheag	1.20	5.77
Mullingar	4.89	12.69
Navan	4.07	12.65
Navan Road	2.37	5.23
Nenagh	1.50	2.51
Newbridge	2.42	6.83
Newcastle West	2.31	2.96
Newmarket	9.06	9.92
New Ross	3.14	4.29
Nth Cumberland Street	2.51	2.99
Nutgrove	0.74	1.78
Portarlington	3.32	12.31
Portlaoise	3.96	10.26
Rathdowney	4.16	14.59
Roscommon	3.45	6.61
Roscrea	1.89	2.28
Skibbereen	1.78	8.55
Sligo	2.45	11.40
Swinford	2.83	10.38
Swords Lo	5.00	4.94
Tallaght	2.54	4.65
Thomas Street	1.69	3.94
Thomastown	4.91	7.34
Thurles	1.52	2.08
Tipperary	1.82	2.30
Tralee	3.41	4.64
Trim	3.16	10.80
Tuam	4.72	16.21
Tubbercurry	1.18	2.94
Tulla	1.98	3.81
Tullamore Control Office	3.95	8.92
Tullow	1.54	7.06
Waterford	3.52	5.00
Westport	2.26	1.22
Wexford	1.88	3.90
Wicklow	2.19	8.73
Youghal	5.21	8.61

Deputy Olwyn Enright: While we all know what is involved in processing a claim, these factors do not explain the difference in processing times. Irrespective of whether average processing times are 19 weeks in one area or two weeks in another area, departmental staff must ask claimants the same questions. Variations in claimants' circumstances do not account for the delays in processing claims.

When we last raised this issue in the House, the five offices with the longest processing times were Boyle, Edenderry, Bandon, Navan and Tuam. What steps have been taken in these specific local offices to address the long waiting times for claimants? The shortest processing time in the five offices was 13 weeks, while the longest was 19 weeks.

Responding to a question by Deputy Shortall, the Minister referred to trying to get in line with targets. What are the Department's targets? Is the shortest processing time of two weeks the target for the whole country? Given that this timeframe is feasible in one office, could a target of two weeks not be achieved in all offices?

The Minister indicated that if community welfare officers were to be brought under her Department, it would be all sweetness and light — that expression has stuck since the Ceann Comhairle used it earlier.

An Ceann Comhairle: I am pleased I made an impression on someone.

Deputy Olwyn Enright: Difficulties will persist even if the community welfare service comes within the remit of the Department because the service is no longer able to provide the support it did one year ago on account of the increasing number of claimants. What action will the Minister take to address this matter?

Deputy Mary Hanafin: The target for jobseeker's benefit is to process 90% of claims within three weeks. In May, 60% of claims were processed in that timeframe. The Deputy will note from the tables that processing times in many offices are significantly shorter than three weeks. In some cases, the average processing time is two weeks, one week or only a few days. The major problem is not in this area. The target for jobseeker's allowance is to process 90% of claims within six weeks. In May, 65% of claims were decided within that timeframe.

The figures the Deputy cited for certain offices are correct. She will note, however, that the offices in question are all branch offices. In an effort to speed up the processing of claims, applications from some of these branch offices have been transferred for processing in the five special units established recently. This means claims will no longer lie at the bottom of a pile in a local office. A further special unit will be established in Tallaght next month. The creation of a special unit in each region will speed up processing.

The unfortunate effect of the long processing times in some offices is that they skew the figures for the whole country. The Deputy asked the reason average processing times were much longer in some areas than in others. Some of the small offices with few staff have experienced a twofold or threefold increase in the number of claims, depending on local circumstances. In those areas where we determined that specific issues would arise, we ensured these issues would be addressed by the central units. I will deal with that matter in a moment.

Deputy Róisín Shortall: The Minister made a number of comments on difficulties encountered in improving processing times and indicated the main problems arise in branch offices. While I accept that major problems are occurring in branch offices, they are not confined to these offices. A brief examination of the tables supplied shows that six local offices have processing times of ten weeks or more. What action is being taken to address these unacceptable delays?

The Minister stated the CPSU objected to her attempt to introduce a system to speed up processing in branch offices. She also indicated the union objected when the Department sought to extend to other offices same day processing for jobseeker's benefit which had been working

[Deputy Róisín Shortall.]

well in some areas. It would be helpful if she spelt out precisely what were the problems in this regard.

Deputy Mary Hanafin: Clearly, the Department will examine staffing in local offices that are experiencing problems. I must be fair to offices throughout the country. The Deputy asked about offices with the longest processing times. The Secretary General has also been examining management issues and so forth because these must be considered from an operations perspective, with a view to ensuring people are looked after.

On the new initiatives, Dundalk introduced an appointment system which has worked well. Initially there were some objections from the unions, but then they came on board. That initiative is hugely successful and is being rolled out to 16 different offices. People go in and are given an appointment time and hatch number and told what documentation they need. The result is no queues and the protection of the dignity of applicants. It also ensures staff can build in lunch and break periods. This works very well.

The other initiatives mentioned could work very well in the interest of both the staff and the public. That is the reason I hope the CPSU will agree to them.

Deputy Róisín Shortall: The Minister suggested the CPSU was blocking both initiatives.

Deputy Mary Hanafin: Suffice to say, the agreement with the branch officers goes back to April 2008, but agreement has not been reached with the CPSU on the issue because it says it is outsourcing.

Deputy Seymour Crawford: I appreciate the extraordinary pressure the system is under due to the doubling of the number of unemployed. I want to focus on the issue of jobseekers, particularly those who were previously self-employed. There is a major problem in their regard. There seems to be a degree of enthusiasm among the inspectorate to insist on all sorts of documentation of back income etc. I understood from a meeting on 13 May that this was being reconsidered and that the current income situation of these people would be the issue. However, I have not found that happening in the system. I urge the Minister to take another look at the situation. Perhaps that would help speed up payments.

I mentioned a particular case previously and without going into too much detail I will repeat it. It concerns a person's half-built house being taken into account. It was valued at €400,000 and this sum was taken into account and used as a basis to refuse a jobseeker's payment. This is not on and I urge the Minister to reconsider this type of appraisal. Perhaps that would then speed up a resolution of the situation.

Deputy Mary Hanafin: Deputy Crawford raised that issue with me and I am aware there are some issues with regard to the capital valuation being placed on properties. There have been significant changes and improvements throughout the country with regard to benefits for the self-employed. It has not been brought to my attention that there is significant difficulty in any individual office, but if there are, particularly in Monaghan, we will check them out. The procedure has been changed so that inspectors do not look at the projected income based on last year's income in the way they used to.

Did the Deputy ask another question?

Deputy Seymour Crawford: It was only yesterday that I was advised of this issue by the Dundalk office.

Deputy Mary Hanafin: I wanted to mention the value of the central units in making decisions. When, for example, the SR Technics redundancies came on stream, all of those, instead of going to local offices, went to the Finglas central unit and the decisions were made there. The same happened in the case of Dell and the applications from there went immediately to Sligo. These central offices were able to deal with bulk applications efficiently, which freed up the local offices.

Deputy Róisín Shortall: In response to the priority question, the Minister indicated the CPSU was blocking progress on the processing of claims on two different fronts. She seems to have backtracked on that in the response she has just given.

Deputy Mary Hanafin: No, I gave a separate example.

Deputy Róisín Shortall: Is there an industrial relations issue or not? Will the Minister clarify the issue with regard to the appointment system, to dealing with long delays in branch offices and to processing being done by departmental staff? She indicated earlier the CPSU was at fault on those fronts.

Has the Minister a figure for the current number of staff vacancies? When will the central support office for Wexford be up and running? Does the Minister accept there is a need to look at procedures. Two complaints were brought to my attention recently with regard to a person who had applied for jobseeker's allowance. A social welfare officer called to the House without an appointment and then had to return the following week. In the second case, a means assessment was not carried out for somebody on jobseeker's benefit until the person's last week on that benefit, another delay. Does the Minister accept there is potential for tightening the procedures being used?

Deputy Mary Hanafin: We recently streamlined procedures for people moving to jobseeker's allowance from jobseeker's benefit. We have also made an improvement in the IT system, which will generate automatic letters to people before they come to the end of jobseeker's benefit so that assessments can be done. We have also streamlined a process for people who have had a claim in the previous two years, so that if people get a job for a couple of weeks or go to training or FÁS, the process for dealing with that is better. Application forms are available on the website so that people can bring them in already completed. More straightforward procedures have also been introduced for identity checks and improvements have been made in the area of casual work. There is significant paperwork involved in casual work claims. We are constantly trying to improve the process and the more we do in this regard the better.

With regard to the Deputy's earlier comments on improvements generally, the two issues which have not been advanced are the agreement with the branch officers on them making decisions locally rather than having forms and applications going to the local office. This has been agreed with the branch offices, but has not yet been implemented. That is held up.

Deputy Róisín Shortall: Is it the CPSU that is holding that up?

Deputy Mary Hanafin: That is what I understand, because it is outsourcing from the local office to the branch office. The second issue on which it has not been possible to make progress was the project that allowed decisions on jobseeker's benefit to be made on the day. That had to be stopped and there has been no progress on it.

Lest the Deputy is confused about what I said, what has progressed is that the appointment system—

Deputy Róisín Shortall: No, I asked about same day processing. What is the problem with that?

Deputy Mary Hanafin: Two issues have not progressed and one initiative started and stopped but has now progressed very successfully in 16 different offices. That is the appointment system and it has the full co-operation of the staff. Staff in our offices throughout the country are genuinely working flat out. This can be seen in their productivity. Some 200,000 claims cleared in one month is extraordinary productivity from staff. The more we can do to support them in their work, which will ultimately support applicants, is our main aim.

Deputy Olwyn Enright: I referred to this issue in a priority question and have raised it several times. I accept, as most people do, that staff are working flat out. However, the main concern is the customer, the person who has nothing to live on and is trying to survive. I have raised an issue with regard to people doing FÁS courses but have not received a satisfactory answer to my question. They sign off benefit, sign on with FÁS and then sign back on with the Department. That is a waste of staff time. If this issue was dealt with when it was first raised, it would have freed up time for staff. When will the Minister stop that process? Those signing on for FÁS courses get the same amount of money. Basically, all the money comes from the same Department, the Department of Finance. It makes no sense to continue with the same process. If this issue was tackled, it would immediately free up a significant amount of time for staff. It might not be enough time to deal with the problem, but it would be useful. Will we see action on that?

Deputy Mary Hanafin: What has happened is that claims will be processed more smoothly, given the person made a claim in the previous two weeks. That issue has been streamlined. I think what the Deputy is saying is that although the money comes from two different Departments, it all comes from the Exchequer and that these people should not have to make repeated claims. That has not been changed. However, we have tried to streamline the process so that applicants can move seamlessly between the two.

8. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs the expected expenditure on mortgage and rent supplements in 2009; the degree to which this is deemed adequate to meet requirements; and if she will make a statement on the matter. [23237/09]

Deputy Mary Hanafin: Expenditure on rent and mortgage payments has increased significantly in recent years and there are currently over 88,000 recipients of rent supplement and 12,900 recipients of mortgage interest supplement.

Increased expenditure on these payments is driven not only by rises in the live register but also by an increase in recipients on other schemes such as one-parent family payment and illness related payments. The estimated number of recipients for both schemes in 2009 was reviewed during preparation of the supplementary budget. As a result of this analysis, the provision for the rent supplement was increased to €490.4 million, which is €50.7 million more than the 2008 outturn on this scheme. The allocation for the mortgage interest supplement was also increased, to €40.1m, or €12.5m more than the outturn for 2008. Expenditure on both schemes is being closely monitored on a monthly basis, taking into account trends in recipient numbers, average monthly payments and savings arising from the supplementary budget measures.

As Deputies will be aware, rent supplements are subject to a limit on the amount of rent that a recipient may incur. Setting or retaining maximum rent limits at higher levels than are justified by the open market can have a distorting effect on the rental market, leading to a more

general rise in rent levels and in landlord income. This in turn may worsen the affordability of rental accommodation unnecessarily, with a particularly negative impact for those tenants on lower incomes.

The recent supplementary budget provided for decreases in both the maximum rent payable in respect of new tenancies and in rent supplement payments to existing tenants. These changes were informed by data from the Private Residential Tenancies Board, the CSO and a leading property rental website. It is vital that taxpayers money is not paying inflated rents to private landlords when rental prices in general have dropped considerably.

Overall, I can assure Deputies that the Government is conscious of the needs of the increasing number of people who are coming to rely on State assistance with their rent and mortgage interest payments. We have substantially increased provision for these schemes, while also taking steps to ensure that we are not paying landlords excessive rents.

Deputy Bernard J. Durkan: Might it be a better policy for the Minister to pursue the possibility of entering into negotiations with her colleague, the Minister for the Environment, Heritage and Local Government, Deputy John Gormley, with a view to coming to some arrangement whereby some of the locked-up houses throughout the country at the present time be made available to local authorities to alleviate some of the burden, some €500 million per annum, for rent support?

It seems extraordinary that at a time when €500 million is being spent on rent support, there are some 80,000 houses locked up, incomplete or vacant in the private sector. At the same time, the general economic downturn is affecting people to a far greater extent than it would at any other time. Could the Minister tell us to what extent the funds made available in the supplementary budget have been eroded to date?

Deputy Mary Hanafin: There is very close co-operation between my Department and the Department of the Environment, Heritage and Local Government. The Deputy is correct. It is very frustrating to see houses boarded up when people are in need of housing and are in rented accommodation. We are working closely with the Department to ensure more people are transferred onto the RAS scheme. In the last few years, 20,000 people have been transferred onto the scheme and it is working quite successfully. We are constantly trying to increase the numbers in the scheme.

Regarding the amount of money currently being spent, I do not have the specific figure but we made provision for additional claims due to the increase in the live register. I understand it is some €29 million, given the changes in the supplementary budget. Where there will be pressure is on the mortgage interest supplement, rather than the rent supplement. We envisage that there will be an overrun on that scheme, but that we will be able to accommodate it within the overall Estimate in the overall budget for the Department this year.

Deputy Olwyn Enright: Regarding mortgage interest supplement, I am concerned about whether it is efficient. However, I have a greater concern, namely, the protocol with the bankers' federation and the Minister's claim that only nine houses were repossessed in the first quarter of this year. I am concerned that the Minister is believing the bankers. The people referred to did not disappear. They sold their houses so they would not be seen to have had them repossessed or else had some way of meeting their settlement. The banks did not take such people as far as the High Court and then say, "You are all right. You can stay there". They still lost their houses, but lost them in a different way.

[Deputy Olwyn Enright.]

I am still not satisfied that mortgage interest supplement is being equitably distributed in terms of how it is decided. People are still being told they should not have entered into a contract to buy a house because they could not afford it. They could afford it at the time, but now the price of the house seems disproportionate, whereas two or three years ago it did not. The issue needs to be addressed.

Deputy Róisín Shortall: We are now several months into a mortgage crisis and the Minister has not yet reformed the mortgage interest supplement scheme. She has promised to reform it, such as the ridiculous rule where if one person is working more than 29 hours, they receive no help whatsoever, irrespective of their circumstances. When will the Minister announce a reform of the that scheme?

Regarding people moving from rent supplement to RAS, why is there an 18 month delay in doing that? Why must they be renting privately for 18 months before they can avail of RAS?

Deputy Mary Hanafin: It is important that there should be a waiting time for people who are in rented accommodation before they get what is a priority scheme, that is, RAS.

Deputy Róisín Shortall: Why is it a priority?

Deputy Mary Hanafin: There are people on housing waiting lists, as the Deputy knows far better than I do, who are in overcrowded accommodation at home but are not in rented accommodation and need to take their place in receiving social housing and the type of housing available for them.

Deputy Róisín Shortall: They would be eligible for private accommodation.

Deputy Mary Hanafin: A waiting time is important.

Deputy Róisín Shortall: Why?

Deputy Mary Hanafin: It is important because I believe it is. The changes in the supplementary budget are also important, such as the provision that people should have been in rented accommodation for six months or have a full assessment, rather than setting up new households with a view to getting rent supplement.

Deputy Róisín Shortall: It does not make any sense.

Deputy Mary Hanafin: It makes total sense because these are important controls.

Deputy Durkan asked about the amount spent. There are currently 88,000 people on rent supplement and 12,720 on mortgage interest supplement. Deputy Enright mentioned repossessions. She is correct regarding the repossession orders, but in some cases they are waiting for a lean on the home or building. I hope the protocol will ensure things will not reach that stage. We will now be working with sub-prime lenders, who are main culprits, and we will try to ensure they will not take steps towards repossessions. More and more people are working with MABS.

Regarding reform to the mortgage interest supplement, we are currently conducting a review to examine the question Deputy Enright raised, namely, the consistency of approach around the country, and any information on that——

Deputy Róisín Shortall: That review is going on forever.

Deputy Mary Hanafin: —will guide our future thinking on the issue.

Message from Seanad.

Acting Chairman (Deputy Michael Kennedy): Seanad Éireann has passed the Financial Measures (Miscellaneous Provisions) Bill 2009 without amendment.

Companies (Amendment) Bill 2009: Message from Select Committee.

Acting Chairman: The Select Committee on Enterprise, Trade and Employment has completed its consideration of the Companies (Amendment) Bill 2009 and has made no amendments thereto.

Adjournment Debate Matters.

Acting Chairman: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 21 and the name of the Member in each case: (1) Deputy Joanna Tuffy — the need to provide funding to assist in the clear up and repairs following this week's flooding in County Donegal; (2) Deputy Dan Neville — the report of the Committee of Inquiry into St. Luke's Hospital, Clonmel, County Tipperary; (3) Deputy Jimmy Deenihan — the non-availability of places for further education and training in respect of one hundred school leavers with autism or intellectual disability in County Kerry.

The matters raised by Deputies Joanna Tuffy, Dan Neville and Jimmy Deenihan have been selected for discussion and will be taken now.

Adjournment Debate.

Flood Relief.

Deputy Joanna Tuffy: I was asked to raise this issue by Seamus Rogers, who lives in Donegal, near Derrybeg and Bunbeg and who is a former Donegal county councillor and a very active member of the Labour Party. I spoke to him yesterday and today about the flooding that affected Derrybeg and Bunbeg. He told me a lot of damage was done to the area. A number of bridges were swept away and road surfaces, business premises, houses and a local church were damaged.

The local library was housed in an old church and a number of book stocks were destroyed. There is a picture in the *Irish Independent* of the damage to the library, which shows that a great deal of damage was done to books. A lot of public property was damaged, according to the *Irish Independent*. Access to some local households was destroyed. People have been affected and families' homes have been water damaged. It is lucky nobody was badly injured or worse.

Deputy Dinny McGinley also raised this matter. When I spoke to him earlier, he was on his way home to assess the damage. From newspaper reports, I know he wanted an audit of the damage to be carried out and for a Minister to visit the area to assess it. The Minister responsible will know from the reports and from their local representatives that there has been damage. I understand the Donegal county manager was on Radio na Gaeltachta today and told the interviewer that while Donegal County Council can carry out temporary repairs, for example, to the bridges that have been destroyed, there would only be funding for stop-gap

[Deputy Joanna Tuffy.]

measures. He said funding from Government was needed if further measures were to be implemented.

What funding will be made available to Donegal County Council to carry out the works and repair the damage that has been caused by this flooding and when will it be provided? When will the decisions be taken with regard to this funding? Obviously, the council will need to know in order to make its own decisions on its response to the flooding and the damage caused.

Has the Minister for Social and Family Affairs, Deputy Hanafin, information at this stage with regard to funding that would be available and individuals who have suffered damage in their homes and so on because of the flooding? I would appreciate an update in this regard.

Minister for Social and Family Affairs (Deputy Mary Hanafin): I thank the Deputy for giving me an opportunity to come to the House to discuss the severe flooding which occurred in the Gweedore Gaeltacht area in County Donegal on 23 June 2009. It is ironic that this flooding took place at a time when most of the rest of the country was basking in sunshine. The Donegal fire service has described the weather as freakish. My colleague, Deputy Martin Mansergh, Minister of State with special responsibility for the Office of Public Works, is very much aware of the hardship and loss suffered as a result of flooding and is pleased, through me, to have the opportunity to place on the record of the House his personal sympathy and concern and that of the Government for the victims of the flooding.

The Minister of State has visited the scenes of flooding in many parts of the country where severe flooding has occurred and has first-hand knowledge of the hardship and worry that flooding causes. The Minister of State and the Office of Public Works are acutely aware of the impacts of flooding and are committed to doing all they can to alleviate them both through the provision of defences to best practice standards to reduce existing flood risk and by taking steps to prevent the creation of future risk. This is not the time to go into detail on those matters as time is limited and the topic under discussion is the flooding in the Gweedore area.

The OPW engineering staff met on site with engineering staff from Donegal County Council on 24 June 2009. A combination of spring tides together with prolonged torrential rain on 23 June contributed to flooding in lower level lands. The heavy rain commenced at approximately 3 p.m. and continued unabated for a period of about four hours. Eight county road bridges were damaged — mainly parapet, soffit and scouring damage — and four private bridges were also damaged. Two of these private bridges serve blocks of six or nine houses approximately. Parts of county roads were washed away or suffered surface damage along the course of the channel. Among the buildings flooded were a craft shop, a flower shop and the old church at Derrybeg, which now houses the Gweedore library. A number of private properties were also flooded and more details in regard to the precise number affected are awaited. These are preliminary findings and the process of gathering further information is ongoing. It is hoped that a preliminary report will be available shortly and an early meeting will be set up between Donegal County Council and OPW officials to assess what can be done to prevent any recurrence.

The Minister of State is conscious that in addition to the trauma caused by the flooding, people also suffered financial loss arising from the damage to their property. The Department of Social and Family Affairs has responsibility for providing humanitarian assistance where it is considered appropriate and is providing help through the community welfare officer network to victims of the recent flooding. Where people are suffering hardship they should contact the local community welfare officer for assistance and each case will be dealt with confidentially

and on its merits. Recent humanitarian assistance schemes have not extended to cover business or agriculture.

The supplementary welfare allowance scheme, which is administered by the community welfare officers, is designed to provide immediate and flexible assistance for those in need who do not qualify for payment under other State schemes. Under the legislation governing the scheme, the HSE may make a single payment to meet an exceptional need to people on social welfare or health service executive payments. This is a once-off payment to meet an unforeseen or special need that cannot be met from a person's basic income.

Assistance in the form of an urgent needs payment can be also made to persons who would not normally be entitled to supplementary welfare allowance, to assist, for example, in cases of flood damage with immediate needs such as food, clothing, fuel, household goods and perhaps shelter. Assistance can be provided to people affected in cash or in kind.

There is no automatic entitlement to these payments. Each application is determined on the particular circumstances of the case. In assessing income, consideration is given as to whether a person is in receipt of a social welfare or HSE payment or to the gross household income with allowance made as appropriate under normal supplementary welfare allowance means assessments. This Department's role in response to the flooding primarily involves supporting the community welfare service in the provision of exceptional needs and urgent needs funding in the short term and other supports, where applicable, to cater for the long-term effects of the flooding. Any support given relates to damage to a person's home or loss of essential items. It does not extend to business or commercial losses. Local community welfare officers are available to provide assistance on an individual basis where that is warranted. Any person who is experiencing hardship should contact his or her local community welfare office.

The two community welfare officers in the area are aware of the situation in Gweedore as they both live locally. However, they have not as yet been asked to provide assistance to any individuals affected by the flooding. My understanding, from discussing the situation with the community welfare staff in the area, is that the damage incurred is mainly structural to businesses, and structural damage to a number of roads and bridges has also occurred. A number of water facilities may also have been damaged. The community welfare officers have also stated that a number of representatives from Donegal County Council have been examining the situation and are due to visit Gweedore again this evening to assess the damage and report back to their parent Department.

I can assure the House that the Office of Public Works will continue to work in partnership with Donegal County Council to try to alleviate the risk of future flooding in Gweedore and the surrounding areas. I will conclude by again expressing my sympathy to the victims of the flooding in Gweedore and the surrounding areas and assuring them of the Government's support for the work that is already under way to provide reassurance to them in regard to risk in the future.

Mental Health Services.

Deputy Dan Neville: I am thankful to have the opportunity to raise the report of the committee of inquiry to review care and treatment practices in St. Michael's unit, South Tipperary General Hospital, Clonmel and St. Luke's Hospital, Clonmel included in the quality and planning of care and the use of restraint and seclusion, and to report to the Mental Health Commission. I will deal with one small but important area of the comprehensive and detailed report.

The clinical risk manager reviewed fractures recorded in St Luke's Hospital, Clonmel from July 2002 to 31 January 2004. The regional risk manager calculated that, at the time of the

[Deputy Dan Neville.]

September 2004 report, the risk of residents of St. Luke's Hospital or St. Michael's unit sustaining a fracture was between two and three times higher than the average risk of residents of the other psychiatric hospitals in the region.

The fractures in Clonmel were of small bones in hands and feet and fractures to the upper end of the humerus differed from the number and type of fractures seen in the other units where fractures of the hip and wrist are as a result of falls from bed and falls on an outstretched hand. The report referred to the fact that most patients are cared for in wards which are permanently locked and where there is restriction of movement. A number of patients are elderly frail and vulnerable. The report stated:

There is a lack of rationale for combining patients with different diagnoses i.e. patients with challenging behaviour and frail patients. The resulting patient mix means that some patients are at risk of injury from other patients.

It is a cause of concern that this review highlighted many other incidents of fractures occurring in these specific patients in the past. In some situations, old fractures or healing fractures were identified coincidentally on X-ray. The report went on to state that a worrying observation made during the course of this review was that in 18 of the 19 incidents involving fractures the documentation states that they were not witnessed. In the remaining one, it is unclear whether there were any witnesses. Two of the 19 residents each had fractures on two occasions during the 18 month period and five of the residents suffered earlier fractures.

A retrospective examination of the charts of the patients of St. Luke's Hospital showed that in many cases there was no documented supporting history of injury, trauma or signs or symptoms to account for the previously undiagnosed fractures. On 15 July 2005, a meeting of senior managers and clinicians was held to consider the report. The meeting was not
8 o'clock minuted. Many of those attending were unclear about the authority of the meeting. At the meeting the regional risk manager outlined the findings of the report and indicated that there was a strong possibility of non-accidental injury. The possibility of informing the Garda was considered. The need for further investigation into the causes of the injuries and the very high proportion of unobserved injuries was discussed and generally agreed. However the matter was not reported to the Garda and no effective action was taken on foot of the risk manager's report.

No minutes of the meeting were kept or circulated and no follow-up meeting was arranged. Those attending the meeting expected it would lead to the development of an action plan for the implementation of the recommendations of the report but discussion about how this would be achieved, whether through further investigation or a review of clinical and organisational practice, was not concluded.

The Mental Health Commission inquiry report makes the following observations in regard to the investigation into the fractures: "Taking into account the lack of further investigation following the September 2004 report, the limited implementation of its recommendations and the extreme slowness of the process, the inquiry team considers that the safety and welfare of residents was not given the highest priority." The inquiry team believes that, where the safety and welfare of residents appears to be at risk, prompt action is required. Further investigation to clarify the level of risk and implementation of measures aimed at reducing the risk is necessary. The inquiry team believes that the lack of urgency of the process following the September 2004 report, the lack of further investigation to clarify the level of risk to residents and the failure to implement many of the report's recommendations indicate that the safety and welfare of residents was not given the highest priority. The inquiry team believes that this was probably

influenced by industrial relations problems, a concern to avoid bad publicity and potential for distress.

Patients and their families should feel safe and when one considers that only one of the 19 injuries uncovered in September 2004 was witnessed by the staff, it is of great concern. The failure to refer the matter to the Garda following consideration smacks of a cover up. The risk of sustaining a fracture in St. Luke's hospital was between two and three times higher than that of the local psychiatric hospital which highlights the seriousness of the level of injury. The welfare of the patients continues to be of concern and will only be satisfied by the closure of the hospital and the transfer of patients to modern hospital conditions.

This hospital was recommended for closure because of the conditions. I have only referred to a section of the report, which contains details of the conditions which prevail but we do not have time to go further into the detail today. If these conditions applied to any other group of patients, there would be a three hour debate in the Dáil on the matter.

Deputy Mary Hanafin: I thank Deputy Neville for raising this important matter, to which I will reply on behalf of my colleagues, the Minister for Health and Children, Deputy Mary Harney, and the Minister of State at the Department of Health and Children, Deputy John Moloney.

The report made for very difficult reading, highlighting significant deficiencies in the mental health services in Clonmel. The Minister of State, Deputy Moloney, requested that I mention that the publication last April of the report on St. Luke's and St. Michael's represented one of his lowest points since he was appointed Minister of State for with responsibility for equality, disability issues and mental health.

To put the report into context, in June 2007 the Mental Health Commission established an inquiry under section 55 of the Mental Health Act 2001 to review care and treatment practices in St. Michael's Unit, South Tipperary General Hospital, Clonmel, and St. Luke's Hospital, Clonmel, including the quality and planning of care and the use of restraint and seclusion.

The inquiry was established in the light of concerns regarding services in Clonmel which had been identified in several annual reports of the inspector of mental health services. The report found that individual, person-centred care was not at the heart of the system in Clonmel and this was attributed to staffing and environmental constraints, as well as outdated practices. The report also pointed to a lack of clear leadership and a shared sense of purpose and concluded that the safety and welfare of residents had not been given sufficient priority.

While the Government fully accepts the findings and recommendations in the report and readily admits that aspects of the service provision described in the report are totally unacceptable in a modern mental health service, the publication of the report demonstrates the robustness of the Mental Health Act 2001, the independence of the Mental Health Commission and the importance of its role in safeguarding the standards and quality of care in the mental health services. It is clear the systems put in place by the 2001 Act to promote high standards and good practices in our mental health services are working. Unacceptable standards and practices can no longer be swept under the carpet and tolerated; deficiencies must and will be addressed.

In terms of Clonmel, the Mental Health Commission and the HSE have held several meetings on the implementation of the report's recommendations. It is anticipated that a detailed project plan for the development of the mental health services in south Tipperary, which will be time bound and have clear lines of responsibility for implementation, will be finalised in the coming weeks. I am informed that the Inspector of Mental Health Services will monitor closely the HSE project plan and report to the Mental Health Commission on a regular basis. The Mental

[Deputy Mary Hanafin.]

Health Commission has now attached conditions under the Mental Health Act 2001 to the continued operation of St. Michael's and St. Luke's as approved centres.

Since the Mental Health Commission's inquiry team visited Clonmel in autumn 2007, progress has been made in making service users partners in their own care, providing more services in the community, reducing hospital admissions and providing more home-based treatments and outreach services.

In line with the recommendations for the closure of the old psychiatric hospitals in A Vision for Change, it is proposed to close St. Luke's in 2010. The closure will take place on a phased basis with wards closing sequentially and the hospital can only finally close when the clinical needs of the remaining patients have been addressed in more appropriate settings. However, I am satisfied that plans are well advanced for the complete closure of the hospital by December 2010. I understand some wards have already closed and the number of residents in the hospital has reduced. A further two wards are due for closure this year. All current residents will be provided with care in more appropriate settings as identified through multi-disciplinary assessments, in partnership with the residents and their families and carers. Also, as wards close, staff will re-deploy to community-based teams which will further enhance services in the community.

The focal point of modern mental health services is the community and developing a community-based service is the way forward. To that end, extended hours services are now available in both Cashel and Clonmel, providing more accessibility. The extension and renovation of the Morton Street Day Centre has been completed and is availed of by more than 20 service users daily. Such initiatives whereby supports are provided in the community will, it is anticipated, greatly reduce the need for hospital admission and will help service users to achieve meaningful integration and participation in community life.

I assure the House that the Government continues to be fully committed to the improvement of mental services, not only in Clonmel, but throughout the country, through the implementation of A Vision for Change. The deficiencies in the services in Clonmel have been identified and these deficiencies will be addressed by the HSE and closely monitored by the inspector of mental health services.

Special Educational Needs.

Deputy Jimmy Deenihan: Recently, I received a letter from the board of management, parents council, staff and principal of St. Ita's and St. Joseph's School, Balloonagh, Tralee, and I will read the contents of the letter into the record:

The Board of Management, Parents Council, staff and Principal of the above school are deeply concerned at the delay currently experienced by graduates from the school in being offered places for further education and training in the Kerry area. We regard this delay is as an unnecessary source of stress on the students and their parents; as this seems to be an annual problem we urge those involved to adequately fund the various service providers so that a seamless transition from school to further education and training can take place. As the number of students involved in the transition from school is generally low (10/12) we believe this issue should be addressed by the H.S.E. to avoid the stress, confusion and delay presently experienced by the students and their parents.

I also received an e-mail from concerned parents on behalf of their son which states: "Our son had been accepted for a place in Kerry Parents and Friends, Listowel. We went to the Kerry Parents and Friends AGM last week. The chief executive stated there was no funding for

school leavers for 2009.” It was also pointed out there was a shortfall of 1.4 million for the Kerry Cork area. The parents were subsequently told by the manager with responsibility for intellectual disability in the HSE south region that there were approximately 96 people with no placement for September. This is certainly a disgrace. The e-mail continues:

At this moment we do not know where James will be in September. This is quite stressful for us going into the summer. James had 12 wonderful years in Nano Nagle school, Listowel which come to an end at the end of June.

There is a feeling of powerlessness at this stage because it is not known what will happen to James in September. The three schools most affected are Nano Nagle special school, Listowel, St. Ita’s and St. Joseph’s school, Tralee, and St. Francis school in Beaufort. The service-providers taking children from these schools are Kerry Parents and Friends centres in Listowel and Killarney, the National Learning Network in Tralee, which is funded by FÁS and has only four places available this year, and St. John of God. A total of 34 referrals have come from those three schools alone. The schools cannot keep them once they reach 18 years. This means that 34 young people who are now 18 years will have to leave education.

As a former Minister for Education and Science, Deputy Hanafin will know that the students will regress if not placed in a training or educational situation. It also places significant stress on their families. The parents may both be out working or the parent at home may have to provide continuous care. The centres have no capacity due to cutbacks. There is no flexibility nor additional capacity to facilitate these students.

I am aware that we are here at 8.15 p.m. in the evening and this Adjournment matter may not have much impact but if the service-providers are not given the adequate funding they require, I ask that an exception be made for the special schools to allow them keep pupils who are over 18 years for an additional year. It could be referred to as a transitional year in which the students could undertake work experience and other activities. This might be one way of helping them to overcome this problem.

The age of 18 is the cut-off point in special schools and this is wrong, especially if there is no other placement for the students. Children in mainstream education can stay on longer. If this situation was repeated for children in mainstream education there would be an outcry but nobody seems to be concerned about these children, who are special children. The parents do not know where their children will be going in September and nobody seems to care. This is a significant issue of blatant discrimination between parents of special children and parents of children in mainstream education. I look forward to the Minister’s reply.

Deputy Mary Hanafin: I thank Deputy Deenihan for raising this matter and apologise on behalf of my colleague, the Minister for Education and Science, Deputy Batt O’Keeffe, who could not be present. I am pleased to have been given the opportunity by the Deputy to clarify the position with regard to the matter raised by him.

The Department of Education and Science funds post-school provision for young adults, including those with a disability, generally through multiple providers, which include universities, post-leaving certificate courses, vocational training centres and national learning networks. In addition, vocational educational committees provide grant assistance to some service-providers within the health service towards an education component of its provision through the co-operation hours scheme.

There are currently 23 vocational training centres and approximately 34 national learning network centres throughout the country. They provide a service to approximately 1,300 young adults with a disability. Two of these facilities are located in County Kerry. Young adults

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attending the vocational training centres typically have a diagnosis of mild or moderate general learning disability and are unsuited to open training centres. Participants must be under 25 and they attend for a maximum three years' duration. Department officials have contacted the Health Service Executive in the context of the Deputy's inquiry with regard to its responsibility for young adults with special educational needs who are over 18 years. The HSE has advised that approximately 30 school leavers have been identified by the Kerry occupational guidance service of the HSE for training and day-care places. The HSE is currently working with service-providers to ensure that the individuals in question have access to services in September 2009 in the context of the available funding. The HSE intends communicating with the individuals or their parents or guardians, as appropriate, within the next ten to 14 days, to confirm the arrangements for each individual for September.

People with disabilities may also avail of adult literacy courses provided by the VECs around the country. The Deputy may also be familiar with the back to education initiative which provides part-time further education programmes for adults to give them an opportunity to combine a return to learning with family, work and other responsibilities. People with disabilities are one of the target groups of the programme. The BTEI programme is a part-time initiative for learners who wish to pursue part-time or modular programmes. Under the BTEI, a programme may be offered for as little as one hour per week or as much as 17 hours per week, depending on the needs and demands of the prospective learners. It is recommended that programme duration for individual learners, class contact hours, not exceed 400 hours per annum, over a twelve-month period.

I thank the Deputy for giving me the opportunity to clarify the position with regard to the matter raised by him. I hope the issues are resolved shortly in the interests of those young people and their families.

The Dáil adjourned at 8.15 p.m. until 2.30 p.m. on Tuesday, 30 June 2009.

Written Answers.

The following are questions tabled by Members for written response and the ministerial replies as received on the day from the Departments [unrevised].

Questions Nos. 1 to 8, inclusive, answered orally.

Departmental Offices.

9. **Deputy John Deasy** asked the Minister for Social and Family Affairs the date central support units to speed up the processing of welfare claims identified for Roscommon, Tallaght and Wexford will become operational; the reason for the delay in these units coming on stream; and if she will make a statement on the matter. [23326/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): As many local offices are very close to capacity as regards accommodating further staff, earlier this year the Department commenced the process of establishing a number of central decision units around the country. These units are being staffed primarily by the redeployment of existing civil servants from other Government Departments. The current remit of the units is to support local offices in the decision making process for jobseeker claims.

Four such units have been set up in Dublin, Sligo, Finglas, Carrick-on-Shannon and are currently operational. The units have been concentrating on deciding claims from the offices with the highest volume of claims awaiting a decision.

A further unit was established on 25 th May in Roscommon and another unit is to be set up in Tallaght in early July.

There is a significant training overhead associated with staff coming into local offices due to the complex nature of the jobseekers schemes. This is particularly so when a person is coming from another department and may not have any Social Welfare background whatsoever. While a certain amount of formal training is provided, the bulk of the training is “on-the-job”. It takes many months for a deciding officer to get up to speed with all the various aspects of the schemes administered in local offices. In the meantime they rely on assistance from their more experienced colleagues to guide them in the learning process. Consequently, there is a certain amount of lost productivity while new staff acquire the necessary expertise of experienced deciding officers.

As I previously outlined the support units are being staffed by the redeployment of existing civil servants, therefore the Department can only establish such units in locations where

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sufficient numbers of staff can be sourced and suitable accommodation is available. The Department continues to liaise with other Government Departments in an attempt to secure staff to establish a unit in Wexford. As of now a date has not been confirmed for the establishment of this unit.

Question No. 10 answered with Question No. 7.

Departmental Staff.

11. **Deputy Thomas P. Broughan** asked the Minister for Social and Family Affairs the number of additional staff requested for social welfare offices since 1 January 2009; the number received; the number fully deployed; and the source of these extra staff. [23279/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): Since May 2008, some 300 extra staff have been assigned to local offices, new Central Support Units and the Departments Inspectorate. Of these 150 have been assigned since January 2009 as follows:

- 16 Social Welfare Inspectors were assigned in March 2009 to various locations around the country to undertake means testing and other work associated with processing claims for the jobseekers allowance.
- 49 posts have also been assigned to date for Local Office Central Support Units in 5 locations.
- And some 90 temporary staff have been appointed to Local Offices around the country pending the assignment of permanent staff.

The new inspectors and staff for the support units were sourced by the redeployment or lateral transfer of serving Civil Servants either within the Department or from other Government Departments.

Work is in progress to source a further 150 posts, including 24 additional social welfare inspectors, from within the civil service.

In providing extra staffing, both directly to the local offices and to the new support units, the focus has been on supporting local offices that are under the most pressure in terms of claim loads and processing times.

I appreciate that waiting times are still too long in some areas and I assure the House that we are doing our best to reduce them.

In addition to providing extra staff, we have also been examining all aspects of the work associated with the processing of claims and streamlining our procedures wherever possible without, of course, compromising scheme controls.

Examples of process improvement initiatives that have been introduced include:

- The introduction of an appointment system in some offices for customers making a jobseekers claim;
- A simplified process for people who had a claim in the previous 2 years; and
- A more streamlined procedure for claimants moving to jobseekers allowance when their jobseekers benefit expires.

In addition, application forms for the jobseeker schemes are now available on the Department's website. This means that anyone who wants to make a claim can print the form at home and bring it to the local office completed. This helps reduce queuing times.

I assure the Deputies that my Department is working hard to ensure that the remaining extra posts required are filled as soon possible.

Social Welfare Appeals.

12. **Deputy Fergus O'Dowd** asked the Minister for Social and Family Affairs if she is satisfied with the average time it takes to process social welfare appeals; and if she will make a statement on the matter. [23345/09]

26. **Deputy Michael D. Higgins** asked the Minister for Social and Family Affairs the action she will take to address the long waiting times for social welfare appeals. [23289/09]

35. **Deputy Dan Neville** asked the Minister for Social and Family Affairs if she is satisfied with the average time it takes to process jobseekers appeals, which take as much as 21 weeks; and if she will make a statement on the matter. [23340/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): I propose to take Questions Nos. 12, 26 and 35 together.

I am informed by the Social Welfare Appeals Office that during 2008 the average time taken to process all appeals (i.e. those decided summarily and by way of oral hearing) was 22 weeks. However, if allowance was made for the 25% most protracted cases, the average time fell to just over 14 weeks. These processing times replicate those for 2007 notwithstanding the fact that there was an increase of 27% in the number of appeals received during 2008.

The processing time for appeals covers all phases of the appeal process including the submission by the Department of its comments on the grounds for the appeal, further examination by the Department's Medical Assessors in certain illness related cases and further investigation by Social Welfare Inspectors where required. Circumstances may also arise, normally outside of the control of the Social Welfare Appeals Office, which have the effect of unduly prolonging the time taken to process appeals. For example, delays can occur where the appellant submits new information or evidence, often at an advanced stage in the proceedings. In some cases adjournments may be sought by the appellant or his/her representative.

Having said that, however, I am concerned about processing times for appeals being further increased especially as the Social Welfare Appeals Office has informed me that they anticipate a further increase of some 18% in the number of appeals they expect to receive during 2009. Having regard to the current level of appeals awaiting determination, two additional Appeals Officers were appointed to the Social Welfare Appeals Office in January. Furthermore, in the light of the current situation, I am advised that the Chief Appeals Officer is keeping current processes under continuous review with a view to achieving a more effective throughput of appeals having regard to due process in terms of the rights of appellants and adherence to the requirements of natural justice.

While improving processing times remains a major objective of the Social Welfare Appeals Office, it is necessary at all times, given the quasi-judicial nature of the appeals process, to ensure that progress in this regard is achieved in a manner which is not in conflict with the demands of justice and the requirement that every appeal be fully investigated and examined on all its merits.

Question No. 13 answered with Question No. 7.

Social Welfare Benefits.

14. **Deputy Catherine Byrne** asked the Minister for Social and Family Affairs the number of people claiming rent supplement for more than 18 months; her views on the slow transfer of people from rent supplement onto the rental accommodation scheme; the action she has taken to address this problem; and if she will make a statement on the matter. [23255/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): There are currently almost 88,800 tenants benefiting from a rent supplement payment — an increase of 49% since the end of 2007. Over half of these recipients have been in payment for more than one year, while over 32,000 have been in payment for 18 months or more.

The Rental Accommodation Scheme (RAS), which was introduced in 2004, gives local authorities specific responsibility for meeting the longer term housing needs of people receiving rent supplement for 18 months or more. Details of these cases are notified regularly by the Department to the local authorities. Local authorities meet the housing needs of these individuals through a range of approaches including the traditional range of social housing options, the voluntary housing sector and, in particular, RAS.

Latest figures from the Department of the Environment, Heritage and Local Government (DoEHLG) indicate that to date, local authorities have transferred over 10,600 rent supplement cases to RAS units. Housing authorities have also transferred a further 9,400 recipients to other social housing options, a total of over 20,000 transfers since 2005. Almost 7,000 recipients were transferred in 2008.

It is accepted that progress in relation to RAS was initially slower than expected. However the pace of delivery has improved significantly, and in 2009 a target has been set of transferring an additional 7,000 households from rent supplement.

In addition to this official target, due to the numbers of unsold affordable stock around the country, an opportunity has been created to make use of some of these properties for RAS and it is expected that additional transfers will occur in 2009 above that provided for by the 2009 target. The position regarding the availability of property is monitored on an ongoing basis, given the current market conditions, if further savings are achieved and there may be an opportunity to achieve further transfers.

The changes made in Budget 2009 to better align the minimum weekly contribution required from tenants under the rent supplement scheme with that under the RAS should also encourage more people to take up RAS offers.

The Department continues to work closely with the Department of the Environment, Heritage and Local Government in ensuring that RAS meets its objective of catering for those on long term rent supplementation while enabling rent supplement to return to its original role of a short-term income support.

15. **Deputy Kathleen Lynch** asked the Minister for Social and Family Affairs her plans in relation to restoring the Christmas bonus for welfare recipients. [23283/09]

28. **Deputy Arthur Morgan** asked the Minister for Social and Family Affairs if there will be a review of the decision to abolish the Christmas bonus; if she will proceed with its abolition; and if she will make a statement on the matter. [23143/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): I propose to take Questions Nos. 15 and 28 together.

In the context of very tough decisions having to be made across the whole range of Government expenditure, the provision of €21.3 billion for social welfare services in 2009 — 20% more than the amount spent in 2008 — is a clear demonstration of the Government's commitment to protecting the vulnerable and providing income support to the increasing numbers of people who are losing their jobs.

Both taxes and borrowing had to be increased in the Budget to pay for rising welfare expenditure in 2009.

Over the past decade there have been very significant increases in welfare payments with Child benefit increasing from €44 to €166 per month; State contributory pension increasing from €113 to more than €230 per week and the weekly rate of jobseeker's allowance being raised from €93 to €204 per week.

In the context of the current economic circumstances, it has been necessary for the Government to take steps to reduce overall public expenditure in order to restore order and stability in the public finances. This has involved reviewing all public expenditure programmes, including social welfare programmes, which at some €21.3 billion in 2009 form a substantial portion of overall public expenditure.

In order to avoid cutting all the weekly social welfare payment rates while trying to keep the welfare budget at a level the State can afford, it has been necessary to discontinue funding for the Christmas bonus that is usually paid to certain welfare recipients.

The payment of a 100% Christmas bonus in 2009 would cost an estimated €223 million.

In deciding on how to achieve savings of €300 million in the welfare budget, there were no easy options. Everything had to be considered — including a cut in the weekly rates of payments to all welfare recipients.

This would have meant taking money off everyone straight away — with little advance notice. It also would have involved the recall of all social welfare payment books, with the distress which that would have caused, especially for older people.

In the end, the Government felt that instead of doing this it would be fairer to give people almost nine months notice that the Christmas bonus will not be paid.

In making this decision, the Government was of course aware that it would be difficult for people but they felt that the alternative of cutting all weekly payments would have a much greater affect on households. It was not an easy decision. It was not a choice that was taken lightly. But it was felt that it was the fairest option.

Even with the Christmas bonus amounting to a 2% cut in the annual social welfare income of long-term welfare recipients, it should be remembered that the October budget provided for increases of between 3% and 3.8% in the basic payment rates. At that time inflation for 2009 was expected to be 2.5%. It is now considered that deflation is more likely in 2009, with a 4% drop in the Consumer Price Index now expected.

Question No. 16 answered with Question No. 7.

Money Advice and Budgeting Service.

17. **Deputy Leo Varadkar** asked the Minister for Social and Family Affairs if she will request the Money Advice and Budgeting Service to collect and publish details on the waiting times to access MABS money advisers; and if she will make a statement on the matter. [23268/09]

19. **Deputy Lucinda Creighton** asked the Minister for Social and Family Affairs if she will provide the Money Advice and Budgeting Service with increased resources to deal with the increase in persons seeking advice and support from the service; and if she will make a statement on the matter. [23271/09]

55. **Deputy Ciarán Lynch** asked the Minister for Social and Family Affairs the steps she is taking to ensure that the waiting time for the Money Advice and Budgeting Service is significantly reduced. [23285/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): I propose to take Questions Nos. 17, 19 and 55 together.

The Money Advice and Budgeting Service (MABS) provides assistance to people who are over-indebted and need help and advice in coping with debt problems. There are 53 independent MABS companies with voluntary boards of management operating the local services throughout the country. In addition, the MABS National Telephone Helpline is available from 9am to 8 pm, Monday to Friday, at lo-call number 1890 283 438 and budgeting and money management information can be accessed 24 hours a day at www.mabs.ie. The MABS advises that people coping with debt difficulties should make an approach to the MABS, via any of these channels. This can be the first positive step in addressing debt difficulties.

In 2009, almost €18 million has been provided to fund the MABS. Additional investment in recent years has strengthened the capacity of the MABS to deal with increased demand for service.

There are now 252 money advice staff employed throughout the country and the Telephone Helpline has been strengthened to provide an immediate response to clients seeking information and advice. Applications for extra resources from individual MABS companies are subject to funding being made available and are kept under review.

All MABS companies operate an appointments system for meeting clients. Clients with urgent difficulties are prioritised for attention and dealt with promptly. Cases that are less urgent are referred to the Telephone Helpline and to the website for immediate assistance with budgeting and money management issues. The Telephone Helpline can now handle less complex straight forward single debt cases such as threatened utility disconnections and deals directly with the ESB and An Bord Gais in relation to these cases. Over 90% of callers to the Helpline find that their money management and budgeting issues can be resolved with the assistance of the helpline advisor. In addition, the Telephone Helpline assists local services to manage their appointment lists by providing an initial MABS service to clients and ongoing support while they await their appointment with their local money advisor.

Information is not collected centrally on the waiting times for appointments at different MABS offices throughout the country. Local services monitor their waiting times for appointments and, where required, seek guidance and assistance in managing their caseload from MABS NDL, the national support company.

MABS NDL has introduced a number of community education and other management support initiatives to assist the local services with their increased caseloads. These include an education programme for people facing redundancy to inform them about managing on a reduced income and how to avoid getting into debt. MABS NDL is continuing to develop the MABSIS to improve the statistical information available in relation to the national and local services and trends in the debt among MABS Clients.

Social Welfare Benefits.

18. **Deputy Liz McManus** asked the Minister for Social and Family Affairs her views on whether the free broadband for older people as set out in the programme for Government will proceed; and if she will make a statement on the matter. [24082/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The Programme for Government includes a commitment to expand the current free telephone rental scheme by providing for free broadband for older people. The Department is examining how best to implement this commitment. As a first step it has been agreed that where people access the internet using a landline, the telephone allowance can be used to cover the cost of calls or internet usage up to the level of their allowance. In addition if a person wishes to subscribe to a bundled package for telephone and internet, the telephone allowance can be applied to this package.

The telephone allowance is a component of the household benefits package which also includes the electricity/gas allowance and free television license schemes. The package is generally available to people living in the State, aged 66 years or over who are in receipt of a social welfare payment or who satisfy a means test. It is also available to people aged under 66 who are in receipt of certain social welfare disability payments or carer's allowance. In 2008, over 370,000 people received the household benefits at a cost of €340 million.

The primary objective of the telephone allowance scheme is to ensure that vulnerable people have access to help in an emergency and to provide an element of security. A secondary objective is to encourage social contact and to assist in the prevention of social isolation for those living alone.

The Department will continue to keep this issue under review and consideration will be given to expanding access for older people to broadband as the opportunity arises.

Question No. 19 answered with Question No. 17.

20. **Deputy Martin Ferris** asked the Minister for Social and Family Affairs the measures being taken to ensure that persons who have experienced a reduction in their rent supplement are availing of lower rents; and if she will make a statement on the matter. [23144/09]

24. **Deputy Ciarán Lynch** asked the Minister for Social and Family Affairs the flexibility available to a community welfare officer not to impose an 8% reduction in rent supplement to tenants in existing tenancies. [23284/09]

53. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Social and Family Affairs the evidence he has to demonstrate that rents have fallen in urban areas for persons availing of the rent supplement; and if she will make a statement on the matter. [23145/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): I propose to take Questions Nos. 20, 24 and 53 together.

There are currently almost 88,800 people in receipt of rent supplement, an increase of 49% since the end of December 2007. The recent Supplementary Budget provided that the weekly minimum contribution towards rent be increased from €18 to €24 a week, with effect from 1 June 2009. It also provided that payments currently being made to existing rent supplement tenants be reduced by 8% from the same date. While tenants may be contractually obliged to pay the rent agreed to in their lease, it is expected that landlords will decrease the rent in recognition of the fact that rents have fallen generally and that there are now a large number of vacant rental properties nationally.

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The most recent data published by the CSO shows that rents in the private sector have fallen by almost 11% since November 2008 and by almost 20% in the past year. A leading property website also reported recently that rents had fallen by almost 16% in the twelve months to March 2009 and that in the same period rents in all major urban areas had fallen, ranging from a fall of 10% in Galway, 15% in Cork and between 12.5% and 18% in Dublin.

It is essential that state support for tenants who form a substantial section of the rental market, does not give rise to inflated rental prices.

Other changes in the Supplementary Budget provided for new maximum rent limits to take effect from 1 June 2009, to reflect the general reductions in private sector rent levels.

Existing recipients of rent supplement were advised by letter in advance of the change being made to their rent payment from 1 June 2009 and this communication can be shown to landlords as evidence of the revised rent supplement in payment in individual cases. Landlords were advised through advertising in national and provincial newspapers of the general reduction in rent supplement payments. A number of organisations representing landlords and tenants were also contacted and advised of the changes to the rent supplement scheme.

In the current climate, where there is a large number of vacant rental properties, it is expected that people should be able to get accommodation at the appropriate rental level.

Community Welfare Officers have discretion to provide assistance where exceptional circumstances exist in any individual case. Officers have also been advised that support, appropriate to the circumstances of the particular case, may be provided to rent supplement tenants for up to two months, where alternative accommodation is being sourced within the existing rent limits.

The Department is also in discussions with the Department of the Environment, Heritage and Local Government regarding the role of local authorities who are responsible for providing a wide range of social housing supports for those with a long-term housing need.

Departmental Staff.

21. **Deputy James Reilly** asked the Minister for Social and Family Affairs the number of job facilitators; the average waiting time to access support from a job facilitator; and if she will make a statement on the matter. [23354/09]

159. **Deputy Olwyn Enright** asked the Minister for Social and Family Affairs the number of job facilitators; the average waiting time to access support from a job facilitator; and if she will make a statement on the matter. [23447/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): I propose to take Questions Nos. 21 and 159 together.

Facilitators work closely with FÁS and other agencies at national and local level, to identify appropriate training and developmental programmes for social welfare recipients of working age to enhance the skills those individuals have and ultimately improve their employments chances as well as help them to develop personally.

The facilitator service is available to social welfare customers at all local offices. Facilitators hold open clinics and meet with people who have been referred either by the social welfare local office or by other agencies. Appointments to see the facilitator can be made by contacting the social welfare local office or the facilitator directly. In addition, cases are selected and referred to facilitators by employment support section.

The service was enhanced under the National Development Plan (NDP) Social and Economic Participation Programme. There are currently 60 facilitators in place, with a further 10 due for appointment, bringing the total in place to 70.

In the current economic climate the demand for the facilitator service is elevated. Waiting times to see a facilitator vary nationwide and information on waiting times for individual facilitators are not available. Facilitators make every effort to contact all interested customers as quickly as possible.

Social Welfare Benefits.

22. **Deputy Deirdre Clune** asked the Minister for Social and Family Affairs if her attention has been drawn to the difficulty experienced by rent supplement claimants in negotiating reductions in rental rates; the support she will provide to tenants who have been unable to negotiate a new rental rate and are contractually obliged to pay rent agreed in their lease; and if she will make a statement on the matter. [23260/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): There are currently almost 88,800 people in receipt of rent supplement, an increase of 49% since the end of December 2007. The recent Supplementary Budget provided that the weekly minimum contribution payable towards rent be increased from €18 to €24 a week, with effect from 1 June 2009. It also provided that payments currently being made to existing rent supplement tenants be reduced by 8% from the same date. Other changes in the Supplementary Budget provided that new maximum rent limits apply to all new claimants, from 1 June 2009, to reflect the general reductions in private sector rent levels.

The most recent data published by the CSO, shows that rents in the private sector have fallen by almost 11% since November 2008 and by almost 20% in the past year. It is essential therefore that state support for tenants who form a substantial section of the rental market, does not give rise to inflated rental prices.

Existing recipients of rent supplement were advised by letter in advance of the change being made to their rent payment from 1 June 2009 and this communication can be shown to landlords as evidence of the revised rent supplement in payment in individual cases. Landlords were advised through advertising in national and provincial newspapers of the general reduction in rent supplement payments. Given prevailing rental market trends and availability of rental properties, landlords were asked in the advertising to respond positively to tenants who present the Department's letter seeking a reduction in rent. A number of organisations representing landlords and tenants were contacted and advised of the changes to the rent supplement scheme.

Under the Residential Tenancies Act 2004, once a tenancy is at least a year old and where the rent has not been reviewed for twelve months, the tenant is entitled to ask a landlord to review the rent in payment where the tenant feels that the rent exceeds the market rate for the property. While tenants may be contractually obliged to pay the rent agreed to in their lease, it is expected that landlords will decrease the rent in recognition of the fact that rents have fallen generally and that there are now a large number of vacant rental properties nationally. In this climate, it is expected that people should be able to source alternative accommodation at the appropriate rental level if a landlord is unwilling to reduce the rent in any particular case.

Community Welfare Officers have discretion to provide assistance where exceptional circumstances exist in any individual case. Officers have been advised that support, appropriate to the

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circumstances of the particular case, may be provided to rent supplement tenants for up to two months, while alternative accommodation is being sourced within the existing rent limits.

23. **Deputy Seán Sherlock** asked the Minister for Social and Family Affairs the outcome of her review of mortgage interest supplement. [23287/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The mortgage interest supplement scheme is designed to help those who have difficulty meeting their mortgage repayment schedule where their means are insufficient to meet their needs. The scheme provides a short-term “safety net” within the overall social welfare scheme to ensure that people do not suffer hardship due to loss of employment.

A supplement may be paid in respect of mortgage interest only to eligible people who are unable to meet their mortgage interest repayments in respect of a house which is their sole place of residence.

There are currently 12, 900 people in receipt of mortgage interest supplement, an increase of 213% over the number in payment at end 2007.

The assessment for the existing mortgage interest supplement scheme provides for a gradual withdrawal of payment as hours of employment or earnings increase. Those availing of part-time employment and/or training opportunities can continue to receive mortgage interest supplement subject to their satisfying the standard means assessment rules.

The current review of the administration of the mortgage interest supplement scheme is progressing. The main purpose of the review is to consider how the mortgage interest supplement scheme can best meet its objective of catering for those who require assistance on a short-term basis, where they are unable to meet mortgage interest repayments on their sole place of residence. Legislative and operational issues arising in the existing mortgage interest scheme are being examined, including the cap on hours of employment.

The views of the community welfare service and other interested parties are currently being canvassed as part of the review. In the interim, updated guidelines on the operation of the existing mortgage interest supplement scheme have issued to community welfare service staff. The full review should be completed and a final report available by the end of 2009.

Question No. 24 answered with Question No. 20.

Employment Support Services.

25. **Deputy John O’Mahony** asked the Minister for Social and Family Affairs the measures which have been put in place by her to incentivise people in employment action plan areas who received redundancy to take up the back to education allowance in view of the increasing unemployment figures; and if she will make a statement on the matter. [23350/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): Under the National Employment Action Plan (NEAP) all persons between the ages of 18 and 65 years who are approaching 3 months on the Live Register are identified by the Department of Social and Family Affairs and referred to FÁS for interview with a view to availing of a range of employment, training and educational options. The NEAP is not confined to particular geographical areas.

The back to education allowance is designed to facilitate people of working age on welfare payments to return to education in order to gain qualifications which will help to enhance their employment prospects. The main incentives for jobseekers to avail of the scheme are that it

exempts them from the requirement to be available for work while participating in an approved course of education and, in addition, an annual €500 cost of education allowance is payable. Participants may continue to receive any secondary benefits to which they have been entitled.

Changes to provide for earlier access to the scheme were announced in the recent supplementary budget. In order to qualify for participation an applicant must now be in receipt of a relevant social welfare payment for 3 months if pursuing a second level course or 12 months if pursuing a third level course. The qualifying period for access to third level courses is reduced to 9 months for those who are participating in the National Employment Action Plan process or engaging with the Department's facilitator programme. People who are awarded statutory redundancy may access the scheme immediately, provided an entitlement to a relevant social welfare payment is established prior to commencing an approved course of study.

Each claimant for a jobseeker's payment is given information when they make their claim that, among other things, lists the range of employment support services operated by the department. This includes the back to education allowance scheme. The relevant information and booklets are also available in each of the department's local offices. Information on the range of employment supports is also available on the Department's website.

Jobseeker claimants are also advised about the department's facilitator service which is available to help them explore the range of work and educational options available.

In May, 2009, the department issued an information leaflet to all people under 25 who were more than 3 months on the live register to advise them of the education supports available.

The government has devoted significant resources to the back to education allowance over the years. In view of its important role in enhancing the employability skills of jobseekers, the scheme will continue to be monitored in the context of the objectives of the scheme and changes in the economic climate.

Question No. 26 answered with Question No. 12.

Question No. 27 answered with Question No. 7.

Question No. 28 answered with Question No. 15.

Departmental Schemes.

29. **Deputy Andrew Doyle** asked the Minister for Social and Family Affairs her plans to amend the mortgage interest supplement scheme; if she will make revised guidelines publically available; and if she will make a statement on the matter. [23311/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The mortgage interest supplement scheme is designed to help people whose means are insufficient to meet their needs and who have difficulty meeting their mortgage repayment schedule. The scheme provides a short-term "safety net" within the overall social welfare scheme to ensure that people do not suffer hardship due to loss of employment. A supplement may be paid in respect of mortgage interest only to eligible people who are unable to meet their mortgage interest repayments in respect of a house which is their sole place of residence.

There are currently 12,900 people in receipt of mortgage interest supplement, an increase of 213% over the number in payment at end 2007. The assessment for the mortgage interest supplement scheme provides for a gradual withdrawal of payment as hours of employment or earnings increase. Those availing of part-time employment and/or training opportunities can

[Deputy Mary Hanafin.]

continue to receive mortgage interest supplement subject to their satisfying the standard means assessment rules.

The review of the administration of the mortgage interest supplement scheme is progressing. The main purpose of the review is to consider how the mortgage interest supplement scheme can best meet its objective of catering for those who require assistance on a short-term basis, where they are unable to meet mortgage interest repayments on their sole place of residence. Legislative and operational issues arising in the current scheme are being examined, including the cap on hours of employment and the impact, if any, of the Financial Regulator's statutory Code of Practice on Mortgage Arrears will have on the scheme. The review will also examine operational aspects of the scheme including best practice in the recording, collating and maintaining statistical data on the scheme.

Following consultation with the community welfare service, guidelines on specific and immediate operational issues for the community welfare officers have been updated and issued. Arrangements are being made to make the guidelines available on the Department's website. The full review should be completed and a final report prepared by the end of 2009.

Pension Provisions.

30. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Social and Family Affairs the expected cost to the Exchequer arising from measures adopted in the Social Welfare and Pensions Bill 2009 to address problems affecting private pensions; and if she will make a statement on the matter. [23148/09]

45. **Deputy Eamon Gilmore** asked the Minister for Social and Family Affairs the steps she is taking to improve pension security for members of defined benefit schemes in the private sector. [23294/09]

52. **Deputy Eamon Gilmore** asked the Minister for Social and Family Affairs if she will provide the latest information on the number of pension schemes that currently fail the funding standard and the extent to which they fail. [23295/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): I propose to take Questions Nos. 30, 45 and 52 together.

At the end of 2008, there were 1,351 defined benefit schemes subject to the funding standard. Current estimates suggest that approximately 90% of defined benefit pension schemes are in deficit. However, the full extent of the level of under-funding will not be fully apparent until all schemes carry out their next actuarial assessment and report the results to the Pensions Board.

The Government is conscious of the pressures on both sponsoring employers and pension scheme trustees, arising from the significant losses incurred by pension funds over the last 18 months. We are anxious to ensure, in so far as we can, that those involved have sufficient time and space to fully assess the implications of the current difficulties for their schemes and the remedial action they can take. Indeed, this was the thinking behind the recent implementation of a number of measures to ease the pressures being felt by many pension funds. Those measures included the granting of extra time for schemes to formulate funding proposals and allowing longer periods for recovery plans.

Furthermore, changes to the Pensions Act 1990 were introduced by the 2009 Social Welfare and Pensions Act which allowed for the restructuring of underfunded schemes; to ensure a more equitable distribution of assets in the event of the wind-up of a defined benefit scheme

and to strengthen the powers of the Pensions Board in ensuring that pension contributions deducted from wages and salaries are remitted by employers to scheme trustees. These changes will not have any cost implications for the exchequer.

As the Deputies are aware, I also introduced, on behalf of the Minister for Finance, the Pensions Insolvency Payments Scheme (PIPS) to reduce the cost of purchasing pension payments, by trustees of pension schemes in deficit, where the employer has become insolvent. Although the operation of the PIPS is the responsibility of the Minister for Finance, the scheme will be established on a cost-neutral basis.

Social Welfare Benefits.

31. **Deputy Seymour Crawford** asked the Minister for Social and Family Affairs if she will indicate on a county basis, the length of time it takes to process the different schemes under jobseeker's allowance, farm assist and carer's allowance; and if she will make a statement on the matter. [25311/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The live register has increased to unprecedented levels as a result of the economic downturn that the country is currently experiencing. Staff and management of the Department of Social and Family Affairs are working flat out to deal with this increased claim load and to minimise the time taken to decide claims.

The length of time it takes to process claims varies depending on the complexity of the claim, the availability of the necessary documentation from the applicant or his/her employer and the need to carry out additional inquires including the assessment of means and whether the claimant satisfies the habitual residence condition.

Furthermore, processing times can vary from area to area for a number of reasons including the extent of the increased number of claims, the number of staff vacancies, the duration of such vacancies and the turnover of staff which impacts on the overall level of experience in an area. It is recognised that the provision of additional staff in itself will not deal with the rising claimload. Since early 2008 we have been examining all aspects of the work associated with the processing of claims and streamlining them wherever possible without, of course, compromising our scheme controls.

During 2008 the need for some 150 additional posts was identified in order to respond to the significant increase in the number of people applying for jobseekers payments in particular. Staff were sourced during 2008 and the early part of 2009 to meet this requirement. With the live register continuing to increase, the Department has requested more than 300 extra posts in 2009, in addition to those already mentioned. Of these:

- 49 posts have being assigned to date for Local Office Central Support Units in 5 locations.
- And some 90 temporary staff have been appointed to Local Offices around the country pending the assignment of permanent staff.

In addition to increased staffing for local offices, the number of Social Welfare inspectors was increased by 16 earlier this year to undertake means testing of claims for social assistance payments including jobseekers allowance, farm assist and carers allowance. More recently it has been decided to assign a further 24 Inspectors and the necessary arrangements are in train to have these posts filled.

[Deputy Mary Hanafin.]

To qualify for farm assist a person must satisfy a means test. These cases take longer to process as all such cases require a home visit by a Social Welfare inspector. Further delays may arise if the farmer has difficulty providing the necessary accounts documentation to support the application.

The following table shows the average processing times at each local office for Jobseekers Allowance, Jobseekers Benefit and Farm Assist in May 2009.

The Carers allowance is administered centrally in the Department's office in Longford. Consequently, statistics are not compiled on processing times on a county by county basis. However, the average processing time for all carers claims processed in May 2009 was 8.93 weeks.

Average Processing Times for May 2009

Local Office	Jobseekers Benefit	Jobseekers Allowance	Farm Assist
Achill	0.15	0.15	0.00
Apollo House	2.71	3.87	0.00
Ardee	3.24	8.93	0.00
Arklow	3.12	4.92	0.00
Athlone	2.83	4.46	0.00
Athy	2.91	5.03	0.00
Balbriggan	3.33	9.09	0.00
Ballina	3.22	6.81	14.00
Ballinasloe	4.00	4.67	1.71
Ballinrobe	3.95	14.39	0.00
Ballybofey	1.11	2.48	2.14
Ballyconnell	5.36	10.56	17.86
Ballyfermot	5.69	4.44	0.00
Ballymun	3.69	4.72	0.00
Ballyshannon	0.77	2.33	14.14
Baltinglass	0.95	6.69	0.00
Bandon	7.93	12.54	0.00
Bantry	2.58	5.19	0.00
Bantry Co	2.82	9.15	5.00
Belmullet	1.88	2.35	3.50
Birr	2.33	4.26	0.00
Bishop Square	5.49	7.75	0.00
Blanchardstown	4.14	11.03	0.00
Boyle	4.34	14.01	44.00
Bray	2.64	6.29	0.00
Buncrana	3.69	6.13	0.00
Cahir	1.92	3.61	0.00
Cahirciveen	2.20	5.65	0.00
Carlow	2.60	5.30	0.00
Carrickmacross	2.01	7.12	0.00
Carrick-On-Shannon	0.73	3.15	5.38
Carrick-On-Suir	3.37	7.15	0.00
Carrigaline	3.17	8.02	0.00
Cashel	2.71	4.88	0.00

Local Office	Jobseekers Benefit	Jobseekers Allowance	Farm Assist
Castlebar	2.53	2.13	3.86
Castleblayney	2.32	5.72	1.14
Castlepollard	4.42	14.57	0.00
Castlerea	2.95	11.62	0.00
Cavan	4.28	9.51	8.57
Claremorris	2.03	9.61	0.00
Clifden	0.91	1.49	0.00
Clonakilty	7.37	9.12	0.00
Clondalkin	5.84	5.20	0.00
Clones	1.54	3.78	0.00
Clonmel	1.78	2.31	0.00
Cobh	1.35	1.37	0.00
Coolock Lo	2.52	3.52	0.00
Cork	9.52	8.05	0.00
Dingle	4.84	5.85	0.00
Donegal	1.67	2.07	0.00
Donegal Control Office	0.00	0.00	0.00
Drogheda	2.07	10.76	0.00
Dundalk	1.81	5.62	0.00
Dunfanaghy	0.86	1.58	0.00
Dungarvan	3.38	8.37	0.00
Dungloe	2.63	1.38	0.00
Dun Laoghaire	3.87	9.90	0.00
Edenderry	3.00	15.26	0.00
Ennis	3.06	5.47	0.00
Enniscorthy	3.43	6.18	0.00
Ennistymon	2.61	5.60	5.00
Fermoy	6.25	5.99	0.00
Finglas	2.39	5.34	0.00
Galway	6.37	9.75	0.07
Gorey	3.39	7.13	0.00
Gort	3.86	12.55	20.71
Kells	2.15	12.76	0.00
Kenmare	3.36	4.02	0.00
Kilbarrack	4.19	4.35	0.00
Kilkenny	3.44	7.57	11.71
Killarney	3.02	5.60	0.00
Killorglin	4.48	8.52	0.00
Killybegs	0.71	1.16	6.43
Kilmallock	2.79	4.14	16.43
Kilrush	4.38	4.27	0.00
Kinsale	7.99	11.75	0.00
Letterkenny	1.48	1.96	26.29
Limerick	3.95	6.14	0.00
Listowel	4.78	4.43	0.00
Longford	6.23	9.63	12.43
Loughrea	3.11	14.20	24.29
Macroom	5.54	6.27	7.71

[Deputy Mary Hanafin.]

Local Office	Jobseekers Benefit	Jobseekers Allowance	Farm Assist
Mallow Branch Office	6.85	6.70	0.00
Manorhamilton	0.49	1.44	5.57
Maynooth	6.18	8.68	0.00
Midleton	6.50	11.46	0.00
Monaghan	2.70	4.99	4.24
Muine Bheag	1.20	5.77	0.00
Mullingar	4.89	12.69	13.14
Navan	4.07	12.65	0.00
Navan Road	2.37	5.23	0.00
Nenagh	1.50	2.51	0.00
Newbridge	2.42	6.83	0.00
Newcastle West	2.31	2.96	0.00
Newmarket	9.06	9.92	0.00
New Ross	3.14	4.29	0.00
Nth Cumberland Street	2.51	2.99	0.00
Nutgrove	0.74	1.78	0.00
Portarlington	3.32	12.31	0.00
Portlaoise	3.96	10.26	0.00
Rathdowney	4.16	14.59	0.00
Roscommon	3.45	6.61	0.00
Roscrea	1.89	2.28	0.00
Skibbereen	1.78	8.55	0.00
Sligo	2.45	11.40	0.00
Swinford	2.83	10.38	0.00
Swords Lo	5.00	4.94	0.00
Tallaght	2.54	4.65	0.00
Thomas Street	1.69	3.94	0.00
Thomastown	4.91	7.34	0.00
Thurles	1.52	2.08	0.00
Tipperary	1.82	2.30	0.00
Tralee	3.41	4.64	0.00
Trim	3.16	10.80	0.00
Tuam	4.72	16.21	15.43
Tubbercurry	1.18	2.94	5.43
Tulla	1.98	3.81	0.00
Tullamore	3.95	8.92	0.00
Tullow	1.54	7.06	0.00
Waterford	3.52	5.00	0.00
Westport	2.26	1.22	0.57
Wexford	1.88	3.90	0.00
Wicklow	2.19	8.73	0.00
Youghal	5.21	8.61	0.00

Question No. 32 answered with Question No. 7.

33. **Deputy Michael D. Higgins** asked the Minister for Social and Family Affairs her plans in relation to improving in-work welfare benefits to reduce the incentive to rely totally on welfare for income support. [23288/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): One of the goals of the social welfare system is to be responsive to the needs of employees in low-paid, casual or vulnerable employment. For example, persons who are employed for up to three days in a week may claim a jobseekers payment in respect of the remainder of the week, subject to being available for full-time work.

In addition, Family Income Supplement (FIS) provides cash support for employees, with families, on low earnings or those seeking to make the transition from welfare to work. This preserves the incentive to remain in employment in circumstances where the employee might only be marginally better off than if he or she were unemployed and claiming other social welfare payments. Take-up of the scheme has increased significantly in recent years with almost 43,000 new and renewal FIS claims in 2008, compared to just under 38,000 in 2007.

A number of progressive measures have also been introduced in recent years aimed at removing disincentives for people wishing to take employment and to assist in the transition from welfare to work. These measures include the introduction of a tapered withdrawal of means-tested payments for unemployed people and people with disabilities who engage in employment and a tapered withdrawal of certain earnings for people in receipt of the rent and mortgage interest supplements.

Social Welfare Code.

34. **Deputy Joan Burton** asked the Minister for Social and Family Affairs when she will reform the back to education allowance in order that all jobseekers can avail of the scheme within three months of starting their claim. [23290/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): Since its introduction, the underlying objective of the back to education allowance (BTEA) scheme has been to equip people on social welfare payments with qualifications that will enable them to obtain employment in the labour market. It is a second chance educational opportunities scheme for people on welfare payments who wish to participate in full time education and who would not otherwise be able to do so.

Changes to provide for earlier access to the scheme were announced in the recent supplementary budget. In order to qualify for participation, an applicant must now be in receipt of a relevant social welfare payment for three months if pursuing a second level course or 12 months if pursuing a third level course. The qualifying period for access to third level courses is reduced to nine months for those who are participating in the National Employment Action Plan process or engaging with the Department's facilitator programme. People who are awarded statutory redundancy may access the scheme immediately, provided an entitlement to a relevant social welfare payment is established prior to commencing an approved course of study.

In general, an applicant must be at least 21 years of age prior to commencing an approved course of study. However, lone parents and recipients of jobseekers' payments who are out of formal education for at least two years can qualify at 18 years of age.

The requirement to be in receipt of a social welfare payment for a minimum period has always been a feature of the scheme. A waiting period is considered essential to confer entitlement to income support for an indefinite period and is considered necessary in the context of targeting scarce resources at those who need it most.

[Deputy Mary Hanafin.]

The back to education allowance has an important role to play in enhancing the employability skills of jobseekers. The conditionality of the scheme will continue to be monitored in the context of the objectives of the scheme and changes in the economic climate.

Question No. 35 answered with Question No. 12.

Social Welfare Benefits.

36. **Deputy Liz McManus** asked the Minister for Social and Family Affairs the steps she will take to ensure that ex-miners are compensated for the health problems they have suffered after years of exposure to coal; and if she will make a statement on the matter. [24063/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The welfare system makes provision for the needs of people, including people employed as miners, under the Occupational Injuries Benefit scheme. Miners who are unable to work due to an accident arising from their employment may be entitled to occupational injury benefit for the first 26 weeks of their claim. This scheme, operated by the Department, provides entitlement to benefit for people suffering from certain prescribed diseases which are listed in the legislation and where that person has contracted that disease in the course of their employment.

Benefits are payable where a person has contracted one of the diseases listed in the legislation, and they were employed in an occupation which is specifically prescribed in relation to that disease. In addition, benefits may be payable if the claimant can show that the disease was contracted through an employment not specifically prescribed in relation to that disease. If the incapacity extends beyond the 26 week period, claimants may receive illness benefit or invalidity pension, subject to meeting the qualifying conditions for these payments.

Miners may also be entitled to disablement benefit under the occupational injuries scheme. Disablement benefit is a compensation payment specifically for those who suffer a loss of physical or mental faculty as a result of an accident at work or a disease prescribed in legislation that they contracted at work. Medical assessments are undertaken in all such cases to determine the degree of disablement, which is calculated by comparison of the state of health of the applicant with the norm for a person of the same age and gender.

Departmental Staff.

37. **Deputy Joanna Tuffy** asked the Minister for Social and Family Affairs if she has conducted an assessment on the impact of the early retirement scheme on the management of social welfare services and key functions within her Department. [23299/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): To date, 70 applications have been received for the incentivised scheme of early retirement from staff in the Department. The scheme remains open for applications until 1 September 2009, and while the situation is under constant review, it is not possible to conduct a full assessment on the impact of the scheme on the Department until then.

Staff of the Department have been advised that, taking account of the current pressures on the Department and, in the interest of maintaining services to customers, it may not be possible to approve all applications and that some applications may have to be deferred.

Pension Provisions.

38. **Deputy Denis Naughten** asked the Minister for Social and Family Affairs the steps she

will take to facilitate women, who were forced out of employment due to the marriage rule, to avail of contributory pensions; and if she will make a statement on the matter. [25334/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The Government is anxious to ensure that as many people as possible can be accommodated within the social welfare pensions system, with due regard being paid to the contributory principle underlying entitlement to contributory payments and, in the case of non-contributory payments, the need to ensure that resources are directed to those who are most in need. Over the past ten years, means tests have been improved and qualifying conditions for contributory payments made easier.

Many women in both the private and the public sectors left employment upon marriage because they were required to or because that was the societal norm at the time. Public servants who left the workforce through the operation of the marriage bar were not insured for social welfare pension purposes. Accordingly, the loss of pension rights in their case relates more to their occupational position rather than social welfare pension entitlements.

That said, the Green Paper on Pensions considered a number of issues related to the qualifying conditions for a social welfare contributory pension including the pension position of women who had to resign due to the marriage bar. The Government is actively considering these issues and will make final decisions in the context of the long-term framework on pensions which I expect will be published in the near future.

39. **Deputy Ruairí Quinn** asked the Minister for Social and Family Affairs when she will publish a white paper on pensions policy. [23278/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): In recent months, the Government has taken several initiatives to tackle the severe difficulties being faced by members of pension schemes, particularly defined benefit schemes. These were immediate difficulties that required a quick response to help protect members' benefits. The Government introduced legislation to create a pensions insolvency payment scheme whereby members of schemes in wind-up whose employer is insolvent may receive a higher proportion of their benefits. Defined benefit scheme wind-up priorities were reordered so that, in any defined benefit wind-up situation, employees and former employees who have not yet retired may receive a large proportion of their benefits. The Government also introduced provisions to allow for more flexible restructuring of pension benefits and stronger regulation regarding remittance of contributions. During this time, the Government has also been engaged in discussions with the social partners, including a strong emphasis on the pensions issue.

I am aware that the pensions issue goes beyond these real and immediate difficulties and that a comprehensive framework is required to deal with all of the challenges facing our pension system over the medium to long term. It is the intention of Government to do so. The Green Paper on Pensions was published in October 2007, the consultation process concluded last year, and the Government has been working to produce a national pensions framework since then.

Where quick responses to difficult pension issues have been required, the Government has done so and legislation has been passed. Producing a national pensions framework, however, requires a considered response that puts comprehensive policies in place that will last for generations. We have a window of opportunity relative to many other countries to address the complex challenges facing our pension system. Our ultimate objective is a pension system which will deliver an adequate retirement income for all which is, at the same time, affordable and sustainable for the State and those who sponsor and provide pension schemes.

[Deputy Mary Hanafin.]

In recent weeks, we have seen reports that pension funds are beginning to show positive returns again. While this is to be welcomed, the Government will continue to discuss further long-term reform options for inclusion in the national pensions framework which will be published in the near future.

Social Welfare Benefits.

40. **Deputy David Stanton** asked the Minister for Social and Family Affairs the number of applications for jobseeker's allowance received from people who were formerly self-employed since 1 January 2009 to date in 2009; the number of same which have been processed; the number awarded the payment; and if she will make a statement on the matter. [23276/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): At the end of May there were 9,072 jobseeker's allowance claims coded as having been self-employed prior to making their claim. Of this number 3,393 are in payment, 554 have been disallowed and 5,125 are currently being processed. A self-employed person who was on another social welfare payment immediately prior to making their claim would not be included in these figures.

Self-employed people or those who were formerly self-employed are treated the same as any other applicant for a jobseeker's payment. Those who do not qualify for jobseeker's benefit which is based on PRSI contributions may qualify for jobseeker's allowance provided they satisfy the normal conditions which include a means test.

Generally, self-employed people are assessed on the basis of their income in the past 12 months to determine their expected income in the following year. If a self-employed person lost a contract and was unlikely to find a substitute contract in the coming year, this is factored into the assessment of future income. It is also recognised that the present downturn in the economy is having a significant impact on many self-employed persons and the consequent reduction in their income and activity levels would be reflected in any assessment of their means from self-employment for jobseeker's allowance purposes. Social Welfare Inspectors take account of the economic environment in which the self-employed person is operating when projecting future earnings.

Departmental Expenditure.

41. **Deputy Jack Wall** asked the Minister for Social and Family Affairs the discussions she has had with the group established by the Government to identify potential cost savings in the public sector in relation to possible cutbacks in her Department's expenditure. [23297/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The Special Group on Public Service Numbers and Expenditure Programmes was established by the Minister for Finance to examine current expenditure programmes in each Department and to make recommendations for reducing public service numbers so as to ensure a return to sustainable public finances. It is expected that the Group will submit its report to the Minister for Finance shortly.

The Group has not met with individual Ministers in the course of its deliberations. However, at the invitation of the Special Group, my Department submitted a report, as well as expenditure trends to the group in April last on the various schemes and services operated by my Department as in order to facilitate the Group's examination of my Department's expenditure. In addition, the Secretary General of my Department and other officials met with the Group in on May 6 last and a wide-ranging discussion took place.

When available, the Group's conclusions will be considered by the Government and may be taken into account on an ongoing basis in the context of preparing the Estimates of Expenditure for 2010 and later years.

Social Welfare Code.

42. **Deputy Emmet Stagg** asked the Minister for Social and Family Affairs the action she has taken to ensure that her Department is notified when a person in receipt of a payment from her Department enters full-time permanent nursing home care. [23298/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): There is an obligation, under Social Welfare legislation, on customers to notify the Department of any change in their circumstances which may affect their entitlement to payment. Customers are informed of this requirement when notified of the decision on their claim and at subsequent reviews.

When a person in receipt of a social welfare payment enters full-time permanent nursing home care they continue to be entitled to their payment, and if aged 70 years and over also remain eligible for the telephone allowance.

The only area where a change in entitlements can arise is where the person is in receipt of Household Benefits — electricity or gas and free television licence. Where a person fails to notify the Department of their change of address, there is a range of control measures in place to address such circumstances. For example:

- The various utility companies notify the Department where there is a change of address on a customer's account or where supply is terminated. Payment is immediately suspended in all such cases.
- When notification of a change of address is received on any payment scheme where household benefit is also in payment, the household benefit claim is automatically stopped.
- Only one household benefits claim is payable per household and controls are in place to prevent payment of more than one entitlement at the same address.
- Special projects are undertaken to review customer's ongoing entitlement having regard to specific review criteria.

In addition, regular reviews are undertaken to determine a person's ongoing entitlement to household benefits. Customers are issued with continuing eligibility certificates for completion and return within a specified time.

The Department is committed to ensuring that social welfare payments are available to those who are entitled to them and to ensuring that abuse of the system is prevented and dealt with effectively when detected.

43. **Deputy Joan Burton** asked the Minister for Social and Family Affairs when she will reform the back to work enterprise allowance in order that all job-seekers can avail of the scheme within three months of starting their claim. [23291/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): In order to respond effectively to the growing numbers on the Live Register and the current employment situation, it was decided in the context of the recent supplementary budget to refocus resources on the enterprise strand of the back to work allowance which supports people into self employment.

[Deputy Mary Hanafin.]

These changes significantly strengthen the supports for job-seekers wishing to move to self employment.

Claimants who qualify for jobseeker's benefit are being afforded immediate access to a new short term enterprise allowance, provided they have 104 contributions paid or have established entitlement to statutory redundancy from their latest period of employment. It is payable at the same rate and for the same duration as jobseeker's benefit.

For job-seekers on the live register, the qualifying period required for access to the back to work enterprise allowance scheme has been reduced from 2 years to 12 months provided an entitlement to jobseeker's allowance is established. Those who do not have an underlying entitlement to jobseeker's allowance can access the scheme, as before, subject to the 2 year qualifying period.

These changes to improve access to the scheme were made in conjunction with a reduction in the period for which the allowance is payable from 4 years to 2 years at 100% of existing social welfare entitlement in the first year and 75% in the second year. Tullamore people who previously participated in the back to work enterprise allowance scheme may apply a second time after a period of at least 5 years has elapsed.

The qualifying conditions will continue to be monitored in the context of the objectives of the scheme and changing economic circumstances.

Departmental Staff.

44. **Deputy Aengus Ó Snodaigh** asked the Minister for Social and Family Affairs the number of the 300 new staff sought by her to process welfare claims who have been transferred to welfare offices; and if she will make a statement on the matter. [23147/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The Department has identified the need for over 300 posts to assist with processing claims and other essential functions in relation to the increasing Live Register.

In recent months the Department has established 5 Local Office Support Units, comprising of 49 posts, in Sligo, Carrick-on-Shannon, Roscommon, Finglas and Dublin city. A further 16 Social Welfare Investigators have been assigned to undertake means testing and other work associated with processing claims for Jobseeker's allowance. In addition, some 90 temporary staff have been appointed to Local Offices pending the assignment of permanent staff.

Work is continuing on sourcing the additional posts from within the Department and from other Government Departments. These posts are in addition to extra posts identified during 2008 and now in place to deal with the Live Register.

Question No. 45 answered with Question No. 30.

Social Welfare Code.

46. **Deputy Thomas P. Broughan** asked the Minister for Social and Family Affairs her plans in relation to the means testing of child benefit. [23280/09]

47. **Deputy Róisín Shortall** asked the Minister for Social and Family Affairs her estimate of the administrative cost of means testing child benefit. [23281/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): I propose to take Questions Nos. 46 and 47 together.

As Deputies will be aware, the rates of child benefit have increased significantly since 2001 having trebled for the first two children and increased by over 185% for the third and subsequent children. Overall expenditure on child benefit grew from just under €965 million in 2001 to nearly €2.5 billion in 2008 as a result of these increases and growth in the number of eligible children.

The Government was able to direct such substantial increases in financial support to all Irish families in recent years. However, given the scale of the current economic crisis, it is necessary to address all aspects of the public finances so as to avoid excessive borrowing and to ensure that fairness exists in the allocation of resources. It was in that context that the Minister for Finance announced in the Supplementary Budget the Government's intention to either subject child benefit to income tax or means-test it from 2010.

In relation to the Deputy's question regarding the costs of a possible means-testing of Child Benefit, this would depend on a range of factors including the range and complexity of income sources to be tested. The issues arising from which approach to adopt are considerable. In view of the complexities associated with the two options, the Commission on Taxation is currently examining the issues arising from this proposal. Their deliberations will inform the Government's final decision on how to proceed.

Child Benefit is a key instrument in child income support policy with the main objectives of supporting families in the costs of rearing children and the alleviation of poverty. I assure the House that a decision on how best to proceed will not be taken lightly by the Government.

48. **Deputy Jack Wall** asked the Minister for Social and Family Affairs her plans to amend the benefit and privilege rule for persons under 25 years of age. [23296/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): There are no plans to amend the benefit and privilege rules for under 25 year olds at this time.

Any further improvements to the means testing arrangements for social welfare schemes generally, including the benefit and privilege assessment arrangements for the jobseeker's allowance and supplementary welfare allowance schemes, would have to be considered in a budgetary context and having regard to available resources.

Departmental Expenditure.

49. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs the steps she proposes to take to ensure adequacy of the social welfare budget to meet the demands arising from the downturn in the economy; and if she will make a statement on the matter. [23236/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The Estimates for the Department of Social and Family Affairs which were published on 23 April last were based, in the main, on an analysis of trends as regards likely numbers of recipients and average value of payments in 2009. The estimates for Jobseeker's Benefit, Jobseeker's Allowance and Supplementary Welfare Allowance were significantly increased from the Estimates published at the time of the October Budget. These estimates were increased in line with the Department of Finance's projections of an average Live Register of 440,000 for the year.

Developments on the Live Register are being closely monitored by both my Department and the Department of Finance. The expenditure for all scheme is also being closely monitored on an ongoing basis by my Department.

Social Welfare Benefits.

50. **Deputy Róisín Shortall** asked the Minister for Social and Family Affairs her plans in relation to reducing social welfare payments. [23302/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): I have no plans to introduce any changes to social welfare rates in 2009 other than those changes that were announced in Budget 2009 and in the Supplementary Budget. Social welfare rates of payment for 2010 will be considered later this year in a Budgetary context and having regard to available resources.

Social Welfare Code.

51. **Deputy Ruairí Quinn** asked the Minister for Social and Family Affairs when she will amend the arrangement whereby only those carers meeting the criteria in early June of each year may qualify for the annual respite grant. [23292/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The respite care grant is an annual payment of €1,700 for carers who look after certain people in need of full-time care and attention. The payment is made regardless of the carer's means but is subject to certain conditions. One respite care grant per year is paid in respect of each person for whom the carer is providing full time, care and attention.

The grant is paid automatically to the majority of carers who are in receipt of carer's allowance or carer's benefit. Where there is a domiciliary care allowance in payment but no carer's allowance or benefit, the respite care grant was paid by the HSE. However, responsibility for the domiciliary care allowance transferred to the Department of Social and Family Affairs in early 2009. Administration of the grant to these recipients will be shared by the HSE and the Department of Social and Family Affairs this year with all applications processed by the Department from 2010.

A carer who does not receive carer's allowance, carer's benefit or a domiciliary care allowance but is providing full-time care and attention to a person must submit an application for payment each year. In order to qualify they must, in addition to other criteria, care for the person for at least six months and this period of care must include the first Thursday in June. This is in order to ensure that the grant is targeted at those providing full-time care over a significant period of time.

This year the grant will benefit almost 70,000 carers. More than 63,200 people in receipt of carer's allowance, carer's benefit and domiciliary care allowance will receive the grant along with approximately 6,500 additional full-time carers who are not in receipt of one of these payments. The estimated cost of the scheme to the Department in 2009 is over €112 million. The HSE will also have costs in respect of those grants paid to people in receipt of domiciliary care allowance alone.

While the Department will continue to review its schemes with a view to improving supports for carers as resources permit, there are no plans to amend the criteria for the respite care grant at this time.

Question No. 52 answered with Question No. 30.

Question No. 53 answered with Question No. 20.

54. **Deputy David Stanton** asked the Minister for Social and Family Affairs, further to Parliamentary Question No. 32 of 30 April 2009, her views on improving entitlements to job-

seeker supports for people who were formerly self-employed; and if she will make a statement on the matter. [23275/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): Self-employed persons pay a modified rate of PRSI contribution (Class S). These contributions provide cover for long-term pensions such as state pension and widow's/widower's contributory pension. However they do not provide cover for short-term benefits such as jobseeker's and illness benefits — these are only available to persons covered by PRSI Classes A, E, H and P. This reflects the need for coverage for various contingencies, the rate of contributions that self-employed persons pay, the practicalities of administering and controlling access to short-term payments and the annualised system of contributions that these same persons enjoy. A system of separate arrangements for employed and self-employed workers within a social insurance context is common in other European social protection systems. The range of benefits and pensions to which different groups of workers may establish entitlement reflects the risks associated with the nature of their work. This in turn reflects the rate of contribution payable. Self-employed workers are liable for PRSI at the Class S rate of 3%. They are consequently eligible for a narrower range of benefits than general employees who, together with their employers, pay a total social insurance contribution of 14.05%, excluding levies, under the full-rate PRSI Class A.

In certain cases, a self-employed person who had insurable employment in the relevant year (currently 2007) and has sufficient PRSI contribution paid at the appropriate class s/he may qualify for a jobseeker's benefit payment provided all the conditions of the scheme are satisfied.

A self-employed person who has insufficient PRSI contributions paid may qualify for a jobseeker's allowance which is a means tested payment. Generally, in assessing the means of a self-employed person, a Social Welfare Inspector will take into account the level of earnings in the preceding 12 months to determine their expected income in the following year. However, with the general downturn in the economy at present, it is accepted that earnings in the previous 12 months may not be representative of expected earnings in the coming year. The Social Welfare Inspector will take account of this fact in projecting future earnings. There are no immediate plans to extend cover for short-term benefits to this group of insured workers. Any such measure would have significant financial implications and would have to be considered within a budgetary context. Consideration would also have to be given to an appropriate increase in the rate of the PRSI Class S contribution.

Question No. 55 answered with Question No. 17.

Social Insurance.

56. **Deputy Kathleen Lynch** asked the Minister for Social and Family Affairs her plans to expand the range of income that is subject to pay related social insurance. [23293/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): Income chargeable to PRSI is, in general, defined in terms of income liable under Schedule E of the Income Tax Acts. Such income is generally derived from employment or self-employment.

This income base is appropriate to the social insurance system as it is consistent with the contributory principle of the of the social insurance fund, whereby a relationship is established between the employment or self-employment status and the rate of contribution payable and benefits or pensions receivable as a result of these contributions.

[Deputy Mary Hanafin.]

In common with many social insurance systems throughout the world, the system is not actuarially based but funded through a pay-as-you-go approach. Today's contributors support both past and current contributors while also ensuring their own future security by building up entitlement to later benefits and pensions and paying into a mechanism that redistributes income over one's own lifetime.

The range of income which is subject to PRSI is reviewed on a regular basis. Most recently in 2004 the exemption of non-pecuniary emoluments from the charge to PRSI was removed. As a consequence, subject to certain exemptions, benefits in kind are now subject to PRSI.

Any further revision of the PRSI base would be a matter for consideration by Government in a budgetary context.

Social Welfare Benefits.

57. **Deputy Seymour Crawford** asked the Minister for Social and Family Affairs the number of new applications for farm assist since 1 January 2009; if there is a limit to the number of dairy cows a farmer can have in order to collect farm assist; if the inspector takes into account the factual income; and if she will make a statement on the matter. [25312/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): Farm Assist is currently paid to some 7,900 customers and 941 new applications were received since 1 January 2009. The average weekly payment is €217.36.

There is no limit in relation to the size of herd or acreage a farmer may hold when applying for this scheme. In carrying out the means test for farm assist the Social Welfare Inspector seeks to establish the likely income of the farmer in the coming 12 months. In doing this, the income in the previous 12 months is examined and allowance is made for factors which would affect anticipated income in the future, for example a drop in the price of milk, increased fodder or other farming costs. As the Inspector is locally based she/he will be very familiar with farming issues in the locality.

A farmer who is dissatisfied with a decision on a farm assist claim may lodge an appeal to the Social Welfare Appeals Office. In addition, a farmer who feels that his/her circumstances have changed since the last means assessment may request a review at any time.

The farm assist scheme is a practical response by the Department to the situation of low-income farmers and it represents a long-term safety net for them. It benefits farm families with children and also provides increased payments to farming couples without children and to single farmers on low income.

Cross-Border Initiatives.

58. **Deputy Joe McHugh** asked the Tánaiste and Minister for Enterprise, Trade and Employment her views on whether Enterprise Ireland and Invest NI should offer similar packages to potential investors; the action she has taken to develop such consistency; and if she will make a statement on the matter. [25426/09]

Tánaiste and Minister for Enterprise, Trade and Employment (Deputy Mary Coughlan): The 2006 Comprehensive Study on the All-Island Economy sets out the economic rationale for North/South collaboration as well as making concrete proposals for economic initiatives. The case for an all island approach is made where market failure arises from the existence of

the border or where public goods and services could be more efficiently produced on a co-ordinated basis.

In the matter of enterprise, the Study identified a number of areas where co-ordinated policy intervention could prove beneficial including co-operation on trade and investment promotion, enhanced co-operation in support of enterprise and business development and improved regulatory environment.

The clients of Enterprise Ireland and Invest Northern Ireland are faced with similar challenges wherever their location on the island and, in many instances, both agencies offer largely parallel solutions to their clients where such an approach is appropriate. The Irish Government and the Northern Ireland Executive are working together to ensure that the potential for development is exploited and that the challenges are met. In keeping with this goal, Enterprise Ireland's approach is to work in partnership with Invest NI and InterTradeIreland in an effort to maximise the benefits to all their clients.

For example, Enterprise Ireland and Invest NI ran a Cross Border Enterprise Incubation Programme known as the Transform Programme with 43 participants from both jurisdictions. It concluded in August 2008 and more than 60% of these businesses are trading successfully today.

In April 2009 the two agencies launched a new initiative, Propel Ideas into Business Programme, which was strongly supported by the Special EU Programmes Body (SEUPB). This Programme targets entrepreneurs who have ambitious business ideas with the objective of putting them through an intensive business development programme to make their projects 'investor ready'.

As far as Enterprise Ireland is concerned, financial support is tailored to the requirements of individual companies on the basis of clearly demonstrated need. The agency has been very successful in providing financial support towards the cost of establishing, growing and expanding businesses. The EI funding is typically a mix of equity and grants and is specifically intended to meet expenses in the areas of research and design, training, job creation and acquisition of capital assets.

Enterprise Ireland's grant aid offer must comply with the stipulations of the European Commission with regard to State Aid. Grants for industry are one instrument which can be used in order to develop enterprise and Enterprise Ireland's broad view is that the differential aid rates allowed in the BMW Region have been of benefit not solely with regard to the rate of start-ups but in terms of the development of existing companies.

Non-financial supports are available for all EI supported projects. These include access to the Enterprise Ireland overseas office network for marketing/market research, technical/ technology and training advice, knowledge events and seminars.

It is in the interest of all parties to continue to work together for the benefit of the all island economy and I am confident that every effort will continue to be made in this regard.

Redundancy Payments.

59. **Deputy Joe McHugh** asked the Tánaiste and Minister for Enterprise, Trade and Employment the yearly breakdown of the 60% rebate for the past five years; the top five companies to which they were issued in 2004 to date in 2009; the number of companies that have defaulted on payment of redundancy packages each year; the names of the five largest companies each year; the cost to the Exchequer including loss in tax revenue; and if she will make a statement on the matter. [25492/09]

Minister of State at the Department of Enterprise, Trade and Employment (Deputy Dara Calleary): Under the Redundancy Payment Scheme, Employers who give proper notice of redundancy (at least two weeks) to employees, and pay the statutory redundancy entitlement to those employees, are entitled to receive a 60% rebate from the Social Insurance Fund into which employers make regular payments through P.R.S.I. contributions. The attached table sets out the monetary value of Rebate and Lump Sum payments paid out by the Department from 2005 and to date in 2009 as well as the number of employees covered by these payments.

Lump sum payments are paid to employees in instances where the employer is either unable to pay or refuses to pay employees their statutory redundancy entitlement. In cases where redundancy payments must be paid from the Fund because of employers' refusal to pay, the statutory lump sum entitlement is paid in full to the employees from the Social Insurance Fund administered by the Department. In such cases, the Department seeks to recover 100% of the monies from the employer. In circumstances of informal insolvency, liquidations, receiverships, examinerships or bankruptcy, the Department is obliged to pay the statutory lump sum entitlement to eligible employees and later seek to recover 40% of the amount paid from the employer.

It is not the practice of my Department to release information on redundancy matters in respect of individuals or companies.

As regards the issue of cost to the Exchequer, the attached table sets out the direct costs from the Social Insurance Fund. With regard to tax foregone, it should be noted that the statutory element of redundancy payments to workers are tax free. Tax would be payable normally on a portion of "ex gratia" payments made by the employer to employees over and above the statutory element. It is not possible to quantify the amount of tax lost as a result given that each job that has become redundant attracts different rates of pay and personal tax allowances.

Total Amount Rebates and Lump Sums Paid 2005 to 2009

Year	Rebate	Lump Sums	Employee Claims
	€	€	
2005	137,915,575.00	11,256,526.00	22,009
2006	152,139,137.00	14,343,693.00	22,107
2007	167,390,542.71	15,937,493.03	25,000
*2008	151,157,793.81	32,047,916.78	29,802
*To 19th June 2009	69,161,698.21	55,343,583.55	16,809

* Provisional figures.

FÁS Training Programmes.

60. **Deputy Mary Upton** asked the Tánaiste and Minister for Enterprise, Trade and Employment when the review of the back to education scheme, which is funded by FÁS, will be available; when the course participants and tutors will be informed of the outcome of the review; and if she will make a statement on the matter. [25523/09]

Tánaiste and Minister for Enterprise, Trade and Employment (Deputy Mary Coughlan): The review of the funding arrangements for CE participants in education is expected to be completed shortly.

Employment Rights.

61. **Deputy Brian O'Shea** asked the Tánaiste and Minister for Enterprise, Trade and Employment when minimum notice payment and payment of outstanding holiday pay will be made to the former employees of a company (details supplied); and if she will make a statement on the matter. [25542/09]

Minister of State at the Department of Enterprise, Trade and Employment (Deputy Dara Calleary): I can confirm that between March and May of this year, my Department has received 1,623 applications under the Insolvency Payments Scheme for Arrears of Wages, Holiday Pay and Minimum Notice on behalf of the former employees of Waterford Crystal. These claims are currently being processed. It has however been necessary to seek further information from the Receiver and a response is currently awaited. Pending receipt of all required information from the Receiver, it is hoped to complete processing and make payments in respect of these claims within the next three to four weeks.

I should point out that the impact on business of the severe economic circumstances currently pertaining has resulted in a significant rise in the level of company receiverships and insolvencies. Consequently, an increasing number of claims are being submitted to the Insolvency Payments Section, with 9,509 new claims recorded from January 1 to May 31 — an increase of over 226% against the corresponding figure for this period in 2008. My officials endeavour to process all claims as quickly as possible and claims are dealt with in order of date of receipt.

Departmental Expenditure.

62. **Deputy Joe McHugh** asked the Minister for Finance the reason he has failed to observe the commitment to paying outstanding bills to private companies within 15 days; and if he will make a statement on the matter. [25427/09]

Minister for Finance (Deputy Brian Lenihan): The period between the receipt of an invoice by my Department and the subsequent payment to the supplier has averaged 10 days thus far in 2009.

Tax Yield.

63. **Deputy Michael Ring** asked the Minister for Finance the amount of tax collected under the heading preliminary tax for each of the past ten years and the revised projection for 2009 under this heading in tabular form. [25438/09]

Minister for Finance (Deputy Brian Lenihan): I assume that the Deputy is enquiring about the amounts of income tax paid as preliminary tax by self-assessed taxpayers over the period in question. On that basis I am informed by the Revenue Commissioners that the information requested is as follows.

Calendar year	Preliminary tax paid (income tax)
	€ million
1999	627
2000	707
2001	674
2002	824
2003	866
2004	960

[Deputy Brian Lenihan.]

Calendar year	Preliminary tax paid (income tax)
	€ million
2005	1,057
2006	1,224
2007	1,251
2008	1,133
2009 (Budget estimate)	570

The 2001 income tax year was a short transitional tax “year” running from 6 April to 31 December 2001 which preceded the first full calendar tax year 1 January 2002 to 31 December 2002. It should be noted that as self-employed taxpayers were assessed to tax for the short “year” on 74% of the profits earned in a 12 month accounting period, the tax figure shown for 2001 in the table will not be directly comparable with those of earlier or later years.

Departmental Correspondence.

64. **Deputy Pat Rabbitte** asked the Minister for Finance if his attention has been drawn to the correspondence of 20 May 2009 from a person (details supplied) in Dublin 12; when he will reply to this person; and if he will make a statement on the matter. [25439/09]

Minister for Finance (Deputy Brian Lenihan): My attention has been drawn to the existence of the correspondence dated 20 May 2009 from the person referred to. I can confirm that the letter has been acknowledged.

Departmental Expenditure.

65. **Deputy Michael Ring** asked the Minister for Finance the position in relation to a report (details supplied); if the Office of Public Works will carry out the works; and if funding will be provided by him. [25508/09]

Minister of State at the Department of Finance (Deputy Martin Mansergh): Proposals put forward to date by Mayo County Council for works in the location referred to do not satisfy economic and technical criteria required for funding from the Office of Public Works. Officials of the OPW and the Council are meeting this week in an effort to resolve the matter.

Financial Institutions Support Scheme.

66. **Deputy Frank Feighan** asked the Minister for Finance the provisions or plans he has to put in place to ensure lines of credit to small businesses are re-opened by banks; and if he will clarify the moneys which have been lent by banks to small businesses in the past three months. [25512/09]

Minister for Finance (Deputy Brian Lenihan): A core Government objective is to free up lending on a commercial basis into the economy to support economic growth and a number of actions have been taken to achieve this objective. In the context of the bank guarantee scheme and recapitalisation the banks have made important commitments to support business lending.

A Code of Conduct for Business Lending to Small and Medium Enterprises was published by the Financial Regulator on 13 February and took effect on 13 March. This code applies to all regulated banks and building societies and will facilitate access to credit, promote fairness and transparency and ensure that banks will assist borrowers in meeting their obligations, or otherwise deal with an arrears situation in an orderly and appropriate manner. The business

lending code includes a requirement for banks to offer their business customers annual review meetings, to inform customers of the basis for decisions made and to have written procedures for the proper handling of complaints. Where a customer gets into difficulty the banks will give the customer reasonable time and seek to agree an approach to resolve problems and to provide appropriate advice. This is a statutory code and banks will be required to demonstrate compliance.

In addition, as part of the recapitalisation package announced on 11 February, Allied Irish Bank and Bank of Ireland reconfirmed their December commitment to increase lending capacity to small and medium enterprises (SMEs) by 10% and to provide an additional 30% capacity for lending to first time buyers in 2009. If the mortgage lending is not taken up, then the extra capacity will be available to SMEs. AIB and Bank of Ireland have also committed to public campaigns to actively promote small business lending at competitive rates with increased transparency on the criteria to be met. Compliance with this commitment is being monitored by the Financial Regulator. Officials from my Department are also in regular contact with the banks concerned in relation to their progress on implementing these measures.

My colleague the Tánaiste and Minister for Enterprise, Trade and Employment has recently set up a clearing group including representatives from the main banks, business interests and state agencies, which is chaired by officials in the Department of Enterprise, Trade and Employment. The purpose of the group is to identify specific patterns of events or cases where the flow of credit to viable businesses appears to be blocked and to seek to identify credit supply solutions. Any questions on the clearing group should be directed to my colleague the Tánaiste and Minister for Enterprise, Trade and Employment.

An independent review of credit availability, funded by the banks but managed jointly by the banks, Government and business representatives is also underway and will be completed shortly. Amongst the issues covered by this review will be changes in bank lending, repayment terms and a comparison with customer experiences prior to the onset of the financial crisis. I am satisfied that this review, along with the quarterly reports from the recapitalised institutions, will give a clear picture regarding the flow of credit in the Irish economy which will inform future policy.

The banks report that they are “open for business” as evidenced by their promotional and advertising material. The banks state that they have funds available for lending to businesses and have provided details on approval levels and amounts drawn down. They report a slow-down in certain areas which they say reflects a reduced level of demand. The review of credit availability will consider this aspect. The most recent Central Bank Monthly Statistics for April 2009 show a reduction in total credit outstanding from non-financial corporate bodies of nearly €900 million compared with March 2009. This follows a €1.3 billion reduction for March compared with February 2009.

The banks have also agreed to each provide €15m to a new seed capital fund with Enterprise Ireland. The banks funding will be matched as appropriate by funding under Enterprise Ireland’s Seed and Venture Capital Programme and/or by funding from other national or international investors. It is expected that much of these funds will be utilised by SMEs.

Social Partnership.

67. **Deputy Lucinda Creighton** asked the Minister for Finance if it is possible for a person (details supplied) to voluntarily withdraw from the Toward 2016 agreement. [25516/09]

Minister for Finance (Deputy Brian Lenihan): Towards 2016 is a Social Partnership agreement. Such agreements are made between the Government and the Social Partners and not

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with individuals. The terms of Towards 2016 apply to various groups of employees where the relevant unions and employers are parties to the agreement. These terms include a number of pay increases which have been paid to the employees concerned.

Financial Institutions Support Scheme

68. **Deputy James Reilly** asked the Minister for Finance if, in view of the discrepancy and increase in bad debt provision at Anglo Irish Bank over a six month period, he or the relevant agency or authority has undertaken an independent review or audit of the current debt and potential bad debts currently being carried out at major banks here; if he will lay a report of the bad debt exposure at major banks here before the Members of the Houses of the Oireachtas in a timely manner in order that they can make fully informed decisions on future financial measures he may be considering laying before the Members for consideration in the near future; if he has not started such a review, if such a review will be carried out as soon as possible; and if he will make a statement on the matter. [25526/09]

Minister for Finance (Deputy Brian Lenihan): The Deputy will be aware from my previous reports to the House that PWC has carried out reviews of the loan books and the capital position of six of the covered institutions. Since then, additional due diligence reviews of Anglo Irish Bank, Allied Irish Banks and Bank of Ireland have been carried out, building on the assessments carried out by PWC.

As I have previously stated, I am not in a position to release information contained in these reviews, other than what has been released to date, because of the commercially sensitive nature of the information.

It was arising from our assessment of the initial reviews of the bad debts of the Irish financial institutions that the Government decided to establish the National Assets Management Agency to ensure that the loan books of the financial institutions were freed up to allow them to lend to the real economy. As I announced in early April, the potential book value of loans that will be transferred to NAMA is in the region of €80 to €90 billion. However, the amount paid by NAMA will be considerably less than this since loans will only be transferred at an appropriate written down value.

Disabled Drivers.

69. **Deputy Willie Penrose** asked the Minister for Finance if he will take steps to amend the Disabled Drivers and Disabled Passengers (Tax Concessions) Regulation 1994 in order to include epilepsy, which renders a person unable to drive and unable to travel on public transport due to seizures and claustrophobia, as part of the medical criteria, which would enable the person to be considered for a primary medical certificate and thereby qualify for the tax concession as set out in the regulations; and if he will make a statement on the matter. [25553/09]

Minister for Finance (Deputy Brian Lenihan): The Disabled Drivers and Disabled Passengers (Tax Concessions) Scheme provides relief from VAT and Vehicle Registration Tax (up to a certain limit), and exemption from motor tax, on the purchase of an adapted car for transport of a person with specific severe and permanent physical disabilities.

The disability criteria for these concessions are set out in the Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations 1994. To get a Primary Medical Certificate, an applicant must be permanently and severely disabled within the terms of these Regulations.

Some 13,000 people benefited under the scheme in 2008 at an overall estimated cost of €76 million. Any changes would have to be considered in the context of the annual Budget.

Nursing Home Subventions.

70. **Deputy Phil Hogan** asked the Minister for Health and Children the reason benefits have been removed from a person (details supplied) in County Kilkenny; and if she will make a statement on the matter. [25480/09]

Minister for Health and Children (Deputy Mary Harney): The Health (Amendment) Act 2005 and the subsequent Health (Charges for In-Patient Services) Regulations 2005 and the (Health Charges for In-patient Services) (Amendment) Regulations 2008 provide the legislative basis for the imposition of long stay charges. The legislation provides for two different classes of person for the purpose of levying a charge.

Class 1

Class 1 refers to persons in receipt of in-patient services on premises where nursing care is provided on a 24 hour basis on those premises.

Class 2

Class 2 refers to persons in receipt of in-patient services where nursing care is not provided on a 24 hour basis on those premises.

The Health (Charges for In-Patient Services) (Amendment) Regulations, 2008 amend the 2005 regulations and provide for the first increase in the level of long stay charges payable since 2005. The following revised level of charges will apply.

In the case of Class 1 a weekly charge of €153.25 or the weekly income of that person less €44.70, whichever is the lesser. In the case of Class 2 a weekly charge of €114.95 or the weekly income of that person less €70.25 or 60% of the weekly income of that person, whichever is the lesser.

The actual charge levied will vary from person to person depending on individual circumstances and under the legislation the Health Service Executive can waive or reduce the charges to avoid undue financial hardship.

The increase in the level of long stay charge levied is directly linked to recent increases in social welfare entitlements. The new weekly charge for Class 1 of €153.25 represents an increase of €33.25 or 27.7% on the 2005 charges and the new weekly charge for Class 2 of €114.95 represents an increase of €24.95 or 27.7% on the 2005 charges. In the corresponding period from 2005 to 2009 the rate of Disability Allowance payable has increased by €55.50 or 37.3%. The rate of Disability Allowance has increased from €148.80 in 2005 to €204.30 in 2009.

Vaccination Programme.

71. **Deputy Mary Upton** asked the Minister for Health and Children the number of doctors, nurses and clerical staff assigned to all MMR vaccination teams in the recent vaccination programme conducted in schools before the end of the academic year and excluding the ongoing mop up programme; the number of days work involved for each team while working in the schools; the number of man hours required to complete this initial phase of the vaccination programme; the cost of mileage and subsistence incurred by staff assigned to the programme; and if she will make a statement on the matter. [25431/09]

72. **Deputy Mary Upton** asked the Minister for Health and Children the vaccination programmes and the areas in which it had to be delayed or suspended as a result of the roll out of the recent MMR vaccination programme for fourth, fifth and six year students; and if she will make a statement on the matter. [25432/09]

73. **Deputy Mary Upton** asked the Minister for Health and Children the cost of an individual dose of MMR vaccine as administered in the recent vaccination programme to fourth, fifth and sixth year students; the number of vaccinations administered since the programme was initiated on 27 April 2009 to date; the number of school pupils targeted by the programme; and if she will make a statement on the matter. [25433/09]

74. **Deputy Mary Upton** asked the Minister for Health and Children if population health experts made a determination as to the point on the Gause curve on which the current phase of the mumps outbreak here was at when the decision to implement a vaccination programme for fourth, fifth and sixth year students was made; if population health experts made a determination as to whether the peak of the outbreak had been reached; the anticipated uptake of the programme when it was initiated; if the expected uptake of the programme at that time would be enough to halt the natural course of the epidemic; and if she will make a statement on the matter. [25434/09]

Minister for Health and Children (Deputy Mary Harney): I propose to take Questions Nos. 71 to 74, inclusive, together.

As this is a service matter it has been referred to the HSE for direct reply.

75. **Deputy Mary Upton** asked the Minister for Health and Children further to the Health Service Executive's response to Parliamentary Question No. 100 of 16 June 2006 if the accepted approach to the control of mumps outbreaks is to ensure a high level of uptake of two doses of MMR vaccine in the population in which cases are occurring; her views on whether such a programme should have been implemented in September 2008 as had been recommended by the Mumps Outbreak Control Team; and if she will make a statement on the matter. [25435/09]

Minister for Health and Children (Deputy Mary Harney): The accepted approach to the control of mumps outbreaks is to ensure a high level of uptake of 2 doses of MMR vaccine in the population where cases are occurring.

Outbreaks of mumps have become increasingly frequent in those aged 15 to 24 over recent years and from January to March 2009 there was a huge increase in the number of reported cases compared with the same period in 2008. The outbreak was happening because there was a large number of older teenagers who had not had 2 doses of MMR vaccine and therefore were at risk of getting mumps. In response to this increase, the Health Service Executive, in consultation with my Department decided to offer MMR vaccination to Transition, 5th and 6th Year students in secondary schools nationwide from April 2009.

Health Services.

76. **Deputy Michael McGrath** asked the Minister for Health and Children if she will ensure that an adult day care place is provided by an appropriate service provider for a person (details supplied) in County Cork with disabilities. [25437/09]

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.

Prison Accommodation.

77. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children when the chief inspector of the Social Services Inspectorate will undertake inspections at St. Patrick's Institution; and if she will make a statement on the matter. [25446/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): St. Patrick's Institution currently comes under the remit of the prison inspectorate. As such it does not fall to the Authority to inspect. I will consult with my colleague, the Minister for Justice, Equality and Law Reform in relation to an appropriate inspection regime for the under 18 age group which are currently accommodated in St. Patrick's Institution, pending the provision of new children detention school facilities .

Children in Care.

78. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children the mechanism by which the private company was chosen to operate the Emergency Place of Safety Service on behalf of the Health Service Executive; the reason a company (details supplied) was chosen above other firms; and if she will make a statement on the matter. [25447/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): As this is a service matter it has been referred to the HSE for direct reply.

79. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children the number of Health Service Executive run residential facilities in both Counties Kildare and Cavan; the number of children currently residing in each of these facilities; the annual costs of running these facilities; and if she will make a statement on the matter. [25448/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): As this is a service matter it has been referred to the HSE for direct reply.

Appointments to State Boards.

80. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children the bodies from which she will be seeking nominations to sit on the new National Children's Advisory Council; and the date on which she will make these nominations. [25449/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): This matter is presently under active consideration. I will be seeking nominations from a number of bodies. I anticipate the formation of the new Council to reflect, in the main, representation of similar bodies as comprised the membership of the previous two Councils.

Child Abuse.

81. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children if she will publish the complete uncensored report on Madonna House, Dublin; and the persons who have been provided with a copy of the uncensored version of the report to date. [25450/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): As the Deputy is aware, an abridged report of the inquiry into the operation and management of Madonna House was published in May, 1996. For legal reasons, it is not possible to publish the report in its entirety. From an examination of the records held in my Department, I understand that there was a limited circulation of the full report and this included legal representatives for

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the State, the then Provincial of the Sisters of Charity and the Commission to Inquire into Child Abuse.

82. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children the number of confirmed child abuse cases which arose during the lifespan to the Commission to Inquire into Child Abuse; and if she will make a statement on the matter. [25453/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): As this is a service matter it has been referred to the HSE for direct reply.

Children in Care.

83. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children the protocol the Health Service Executive go through when a child goes missing from their care; and if she will make a statement on the matter. [25454/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): As this is a service matter it has been referred to the HSE for direct reply.

Child Protection.

84. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children if she will establish an all-Ireland child protection forum; and if she will make a statement on the matter. [25455/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): Arising from a North / South Ministerial Council plenary meeting last year, and in recognition of the importance of child protection, a Cross Border Working Group was established to develop greater collaboration in this area.

The Group comprises officials from the Office of the Minister for Children and Youth Affairs, the Health Service Executive, the Department of Health, Social Services and Public Safety and other agencies. The Group is concentrating on five key areas: Vetting and Barring Protocol; Research; Internet Safety; All-island media awareness; and protocol for the movement of children and vulnerable families across our borders.

This initiative builds on existing and ongoing co-operation between the Northern Ireland Executive and Government Departments, agencies and policing bodies, which include the sharing of information on sexual offenders, vetting and developments in respect of services for children.

Children in Care.

85. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children if she will initiate and implement a fully funded care matters strategy; if she will ensure that children in care have access to independent advocacy and independent sources of advice; if she will undertake to inform and raise children's awareness of current independent sources of advice; and if she will make a statement on the matter. [25457/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): A comprehensive policy, legislative and regulatory framework has been developed over the past couple of decades in respect of children in care. Key policy documents and standards for children in need of care and protection include the Report of the Working Group on Foster Care, the Youth Homelessness Strategy, the Children First Guidelines, National Standards for

Foster Care, National Standards for Residential Care and the Agenda for Children's Services. Relevant legislation includes the Child Care Act, 1991, the Child Care Regulations, 1995, the Children Act, 2001, and the Health Act, 2007.

The Child Care Act, 1991 specifically requires the HSE, in carrying out its functions, to regard the welfare of children as the first and paramount consideration and in so far as practicable have regard to the wishes of the child.

Section 26 of the Act provides that the court may appoint a Guardian Ad Litem (GAL) in any proceedings, where the child might become the subject of a care or supervision order or is being placed in the care of the HSE. The GAL is an independent representative appointed by the court to ensure that the views of the child are heard by the court and to advise the court on the best interests of the child.

With regard to the issue of advocacy the Office of the Ombudsman for Children was established in 2004 following the enactment of the Ombudsman for Children Act, 2002. The Office provides an independent mechanism to vindicate the rights of children as required under the United Nation's Convention on the Rights of the Child. The establishment of the Office was in recognition of the need for an independent person to act as an advocate for children and promote the welfare and rights of the child.

A number of non-governmental organisations are also actively involved on a national basis in advocating on behalf of and providing information and advice to children. A number of these organisations are in receipt of State funding.

During 2007, my Office established the Inclusion Programme to develop best practice in participation, by providing new opportunities for seldom-heard young people to become involved in decision-making structures. Funded organisations under this programme include advocacy groups such as Barnardos and Irish Association of Young People in Care. The programme is independently evaluated. It is intended to capture the learning from this programme to ensure that an increasing number of seldom-heard young people can take part in decision-making structures and processes.

Child Care Services.

86. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children the supports and services currently available to transgender children; and if she will make a statement on the matter. [25458/09]

Minister for Health and Children (Deputy Mary Harney): As the Deputy's question relates to a service matter it has been referred to the HSE for direct reply.

Health Service Staff.

87. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children the dates on which she will recruit the 270 extra social workers which she has committed to; and if she will make a statement on the matter. [25459/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): As this is a service matter it has been referred to the HSE for direct reply.

Departmental Investigations.

88. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children if she has received the reports on the deaths of persons (details supplied) who died while in the care of

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the State; the other persons who have been given copies of the reports; and if she will make a statement on the matter. [25460/09]

89. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children when she will publish the reports on the deaths of persons (details supplied) who died while in the care of the State; and if she will make a statement on the matter. [25461/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): I propose to take Questions Nos. 88 and 89 together.

I have received a copy of the reports referred to by the Deputy. The reviews were undertaken by the HSE following the deaths of two individuals who were in receipt of HSE services. The publication of both reports is a matter for the HSE. I understand in this context that the HSE has indicated that it is not intended to publish the two reports. In considering the issue of publication the HSE must be cognisant of the right to privacy and confidentiality of the deceased and any remaining family members. I have asked the HSE to advise me on the potential for publication by the HSE of the key findings of the reports where they relate to service provision generally and with a view to informing the development of child welfare and protection policy and services.

Departmental Expenditure.

90. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children the amount of the €100 million which was set aside in budget 2009 in respect of services for children with disabilities and mental health problems which has been spent; the details of what this has been spent on; and if she will make a statement on the matter. [25462/09]

Minister of State at the Department of Health and Children (Deputy John Moloney): The Deputy should note that additional funding of €10 million was provided in Budget 2009 for the HSE for disability and mental health to enable these services to be enhanced and strengthened.

This funding will allow for the provision of a total of 125 additional therapy posts in the HSE targeted at children of school-going age. 90 of these will be in disability services, including speech and language therapists, occupational therapists and physiotherapists.

This additional funding will also allow for the recruitment of 35 therapy posts for the child and adolescent mental health service. This will enable the HSE to increase the number of Community Child and Adolescent Mental Health Teams to 69 by the end of 2009. Once-off funding of €1m was provided for suicide prevention initiatives including the development of an awareness campaign aimed at young people. Furthermore, additional once-off funding of €750,000 was allocated for mental health projects supporting service users and carers.

The Deputy should note that overall funding of approximately €1.56 billion is provided in the Estimates 2009 for disability services and €1 billion is provided for mental health services.

In accordance with the procedures to control public finances and the Health Act 2004 which established the HSE, the HSE must receive the sanction of the Minister for Finance before it may enter into new commitments in respect of the development of services. This is provided each year after the publication of the Revised Book of Estimates and is given in accordance with strict provisions regarding the use of funds, in particular funds allocated to further enhance and develop services.

As the Deputy is aware the finalisation of the revised estimates and their publication was delayed due to the necessity for the Government to deal with the critical situation facing the

public finances. The letter of sanction, which includes sanction of development funding issued to the HSE on 15 June. In view of the urgency of the matter the Minister for Finance sanctioned the funding for the suicide prevention programme on the 18 May.

The additional development funding provided in Budget 2009 has been allocated to a new subhead for service developments. These funds together with the other expenditure of the HSE are the subject of regular and detailed analysis by my Department.

Hospital Accommodation.

91. **Deputy Joanna Tuffy** asked the Minister for Health and Children is she will review the decision to close some facilities at Cherry Orchard Respite Services, Dublin; if her attention has been drawn to the plans to move patients from the long-stay care ward into the roll-over respite service unit and that people who use the respite service will have to move to different locations outside the area; and if she will make a statement on the matter. [25475/09]

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.

Hospital Services.

92. **Deputy Seán Sherlock** asked the Minister for Health and Children if she will expedite a hospital appointment for a person (details supplied) in County Cork; and if she will make a statement on the matter. [25481/09]

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.

Medical Cards.

93. **Deputy Denis Naughten** asked the Minister for Health and Children if she will expedite an over 70's medical card for a person (details supplied) in County Roscommon; and if she will make a statement on the matter. [25500/09]

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.

94. **Deputy Denis Naughten** asked the Minister for Health and Children further to Parliamentary Question No. 112 of 12 February 2009, when the person will receive a written response to the issues raised; the reason he has not received a full response since 2005; her views on whether it is acceptable that the contents of a letter addressed to her four years ago has not been addressed; and if she will make a statement on the matter. [25520/09]

Minister for Health and Children (Deputy Mary Harney): I understand that the HSE has been in correspondence with the individual concerned over the last number of years and that it is continuing to deal with the issues in the manner most appropriate to this particular case.

Community Care.

95. **Deputy James Bannon** asked the Minister for Health and Children the reason a person (details supplied) has not been moved into community housing which was purchased in 2001 for €640,000 and refurbished in January at a cost of €500,000 despite a commitment being given

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by the Health Service Executive to making the move in December 2008 and again in April 2009 but has been deferred again due to inadequate staffing; and if she will make a statement on the matter. [25522/09]

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 Service Reform.

96. **Deputy Joe McHugh** asked the Minister for Health and Children if she will expand on her recent reply to this Deputy in respect of integration of Northern and Southern health services; and if she will make a statement on the matter. [25527/09]

Minister for Health and Children (Deputy Mary Harney): As I informed the Deputy in my reply of 10 June, discussions are ongoing between officials from my Department and their counterparts in Northern Ireland in regard to the potential for cross-border co-operation in radiotherapy services, following the announcement of Minister McGimpsey of the Department of Health, Social Services and Public Safety, Northern Ireland of the provision of a satellite radiotherapy centre, linked to Belfast City Hospital, at Altnagelvin.

I understand that the facility is expected to be operational by 2015 and I anticipate that Donegal patients will be among those using it. Since my reply of 10th June, there have been no further developments in this regard.

If there is a specific issue on which the Deputy requires further information, I would be happy to supply it.

Medical Cards.

97. **Deputy Frank Feighan** asked the Minister for Health and Children when a GMS card will issue to a person (details supplied). [25528/09]

Minister for Health and Children (Deputy Mary Harney): The Health Service Executive has informed my Department that it responded to the Deputy on 11th June last by email informing him that the completed review application form for a medical card had been received, that this review application has been processed and that a new medical card has issued to the person involved.

Children in Care.

98. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children when a reply will issue from the Health Service Executive to Parliamentary Question No. 173 of 20 May 2009. [25529/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): I have been informed by the Health Service Executive (HSE) that it does not routinely keep the information required by the Deputy in the format requested by him and therefore it has to be generated and collated across each of the 32 Local Health Offices. I have also been informed that the HSE is actively pursuing the responses on the Deputy's behalf and replies will issue as soon as the information has been compiled.

99. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children when a reply will issue from the Health Service Executive to Parliamentary Question No. 174 of 20 May 2009. [25530/09]

100. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children when a reply will issue from the Health Service Executive to Parliamentary Question No. 175 of 20 May 2009. [25531/09]

101. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children when a reply will issue from the Health Service Executive to Parliamentary Question No. 176 of 20 May 2009. [25532/09]

102. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children when a reply will issue from the Health Service Executive to Parliamentary Question No. 177 of 20 May 2009. [25533/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): I propose to take Questions Nos. 99 to 102, inclusive, together.

I have been informed by the Health Service Executive (HSE) that it does not routinely keep the information required by the Deputy in the format requested by him and therefore it has to be generated and collated across each of the 32 Local Health Offices. I have also been informed that the HSE is actively pursuing the responses on the Deputy's behalf and replies will issue as soon as the information has been compiled.

103. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children when a reply will issue from the Health Service Executive to Parliamentary Question No. 178 of 20 May 2009. [25534/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): My office has contacted the HSE on this matter to ask that a reply be provided as soon as possible. The HSE has stated that it is actively pursuing a response on this matter on the Deputy's behalf and that a reply will issue as soon as the information is available.

104. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children when a reply will issue from the Health Service Executive to Parliamentary Question No. 181 of 20 May 2009. [25535/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): I have been informed by the Health Service Executive (HSE) that it does not routinely keep the information required by the Deputy in the format requested by him and therefore it has to be generated and collated across each of the 32 Local Health Offices. I have also been informed that the HSE is actively pursuing the responses on the Deputy's behalf and that a reply will issue as soon as the information has been compiled.

Residential Care Services.

105. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children when a reply will issue from the Health Service Executive to Parliamentary Question No. 186 of 20 May 2009. [25537/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): I have been informed by the Health Service Executive (HSE) that it does not routinely keep the

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information required by the Deputy in the format requested by him and therefore it has to be generated and collated across each of the 32 Local Health Offices. I have also been informed that the HSE is actively pursuing the responses on the Deputy's behalf and that a reply will issue as soon as the information has been compiled.

Children in Care.

106. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health and Children when a reply will issue from the Health Service Executive to Parliamentary Question No. 26 of 21 May 2009. [25538/09]

Minister of State at the Department of Health and Children (Deputy Barry Andrews): I have been informed by the Health Service Executive (HSE) that it does not routinely keep the information required by the Deputy in the format requested by him and therefore it has to be generated and collated across each of the 32 Local Health Offices. I have also been informed that the HSE is actively pursuing the responses on the Deputy's behalf and that a reply will issue as soon as the information has been compiled.

Proposed Legislation.

107. **Deputy Brian O'Shea** asked the Minister for Health and Children her proposals to amend the organ donation law (details supplied). [25541/09]

Minister for Health and Children (Deputy Mary Harney): My Department is currently preparing the General Scheme of a Human Tissue Bill to regulate the removal, retention, storage, use and disposal of human tissue from deceased persons, and the use of donated tissue from living persons for the purposes of transplantation and research. A public consultation on the draft Proposal for the General Scheme of the Bill took place between 9 April and 29 May. Submissions received are currently being analysed. The types of activities covered by the proposals include hospital post-mortem examinations and the use of organs and tissues for transplantation, research, anatomy and education.

One aim of the draft legislation is to establish a legal framework for organ donation which can benefit patients through transplantation of organs. Consent/authorisation is the defining principle underpinning any of the specified activities involving human tissue set out in the draft legislation. A separate, but related, public consultation on the different types of consent for the donation of organs for transplantation after death took place earlier this year and more than one thousand submissions were received. Ireland already has one of the higher rates of organ donation, ranked seventh in Europe in 2007. All organ donation in Ireland is coordinated through the Organ Procurement Service, which is based in Beaumont Hospital.

My Department is analysing all submissions received from the consultation process and aims to present the final General Scheme to Government for its approval in the Autumn.

Health Services.

108. **Deputy James Reilly** asked the Minister for Health and Children if she will ensure that the needs of a person (details supplied) in County Dublin are met and funded by the Health Service Executive; if she will report on the executive's solution for this person's needs; and if she will make a statement on the matter. [25546/09]

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.

Medical Cards.

109. **Deputy Bernard J. Durkan** asked the Minister for Health and Children when a medical card will be awarded in the case of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [25573/09]

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.

110. **Deputy Bernard J. Durkan** asked the Minister for Health and Children if the medical card of persons (details supplied) in County Kildare is applicable throughout Europe; and if she will make a statement on the matter. [25574/09]

Minister for Health and Children (Deputy Mary Harney): A medical card is granted to persons who, in the opinion of the Health Service Executive are unable to provide general practitioner, medical and surgical services for themselves and their dependants without undue hardship. Holders of a medical card are entitled to general practitioner services, prescribed drugs, medicines and appliances, all in-patient public hospital services in public wards including consultant services, all out-patient public hospital services including consultant services, dental, ophthalmic and aural services and appliances, child health services, home nursing and a maternity and infant care service.

The medical card is evidence of entitlement to these health services in Ireland and is not applicable throughout Europe.

111. **Deputy Bernard J. Durkan** asked the Minister for Health and Children when a medical card is expected to issue in the case of a person (details supplied) in County Dublin; and if she will make a statement on the matter. [25609/09]

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.

112. **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. [25610/09]

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.

113. **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 Dublin; and if she will make a statement on the matter. [25611/09]

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.

114. **Deputy Bernard J. Durkan** asked the Minister for Health and Children when a medical card will issue in the case of persons (details supplied) in County Meath; and if she will make a statement on the matter. [25612/09]

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.

115. **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 Meath; and if she will make a statement on the matter. [25613/09]

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 Services.

116. **Deputy Bernard J. Durkan** asked the Minister for Health and Children if a person (details supplied) in County Kildare qualifies for eye surgery through their general medical service card; and if she will make a statement on the matter. [25614/09]

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.

Departmental Reports.

117. **Deputy Fergus O'Dowd** asked the Minister for Transport the value for money reviews conducted or in progress for all transport infrastructure projects since 2004 to date in 2009; and if he will make a statement on the matter. [25442/09]

Minister for Transport (Deputy Noel Dempsey): The Value for Money Reviews carried out by this Department since 2004 are set out in tabular form below.

Name of Review	Year completed
Road Safety	2006
CIE Subvention	2007
The DTO Traffic Management Grants Scheme	2008
Strategic Non National Roads	2008
Railway Safety Programme	2008
Regional Airport Expenditure	In progress

Rural Transport Programme.

118. **Deputy Frank Feighan** asked the Minister for Transport if he will ensure that cuts in rural transport are not proceeded with; and if he will make a statement on the matter. [25513/09]

Minister for Transport (Deputy Noel Dempsey): I have no plans to reduce the Euro 11 million allocation for the Rural Transport Programme in 2009. Arrangements for the provision of services funded under the Programme are matters for individual rural community transport groups. Funding for the Programme in 2010 and subsequent years will be considered in the course of the Estimates process, having regard to the overall availability of resources.

Closed Circuit Television Systems.

119. **Deputy Joe Carey** asked the Minister for Justice, Equality and Law Reform the status regarding the provision of a closed circuit television system for the town of Ennis and specifically the area of Cloughleigh; and if he will make a statement on the matter. [25428/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I am informed by the Garda authorities that a Garda operated and maintained town centre CCTV system is operational in Ennis and is monitored on a 24-hour basis by An Garda Síochána. Under the Community Based CCTV Scheme administered by my Department, capital funding of almost €100,000 has been approved for the installation of a scheme in Ennis with matching funding being provided by the Department of Community, Rural and Gaeltacht Affairs. This scheme, which will cover the Cloughleigh estate, has recently been approved by the local Joint Policing Committee and installation is expected to commence later this year.

Departmental Correspondence.

120. **Deputy Pat Rabbitte** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to correspondence of 14 May 2009 from a person (details supplied) in Dublin 12; when he will reply to this person; and if he will make a statement on the matter. [25441/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I am aware of the correspondence referred to by the Deputy. I have requested the Garda Commissioner to furnish a report on the matters raised and I will reply to the person when the report is to hand.

Proposed Legislation.

121. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Justice, Equality and Law Reform if he will introduce legislation that will give children the same legal protection from assault as adults; and if he will make a statement on the matter. [25456/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): Under the Non-Fatal Offences against the Person Act 1997, it is an offence to assault any person, adult or child. Also, it is an offence under the Children Act 2001 for a person who has custody of a child to assault, ill-treat, neglect or abandon or expose a child in a manner likely to cause unnecessary suffering or injury to the child's health or seriously affect the child's well-being. The common law recognises the right of a parent to administer moderate or reasonable physical chastisement on a child. This right takes the form of the defence of reasonable chastisement in the event of prosecution. In order to rely successfully on this defence, the motive for, duration and force of physical punishment must be objectively reasonable. It would be for a court to decide what is objectively reasonable.

Government policy in this area is expressed in the National Children's Strategy, launched in November 2000. One of the objectives of the Strategy, which has a ten year life span, states ". . . *As part of a policy of ending physical punishment, parenting courses will focus on alternative approaches to manage difficult behaviour in children*". The Office of the Minister for Children is coordinating the Strategy. The present legal arrangements can be reviewed in light of developments arising from the Strategy.

Garda Remuneration.

122. **Deputy Joe McHugh** asked the Minister for Justice, Equality and Law Reform if he will supply figures (details supplied); if he will provide same in tabular form; and if he will make a statement on the matter. [25491/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I am informed by the Garda authorities that overtime expenditure from the Garda Vote (including civilian overtime) for the years 2007, 2008 and 2009 (up to 24/6/09) is as set out in the table.

[Deputy Dermot Ahern.]

Garda Overtime Expenditure	2007	2008	2009 (up to 24.6.09)
Total	€138,354,392	€115,280,101	€41,746,225

The increased level of resources and manpower now available to the Commissioner means that there is less dependency on overtime within the organisation. As a matter of record the overtime allocation for Operation Anvil has increased from €20m in 2008 to €21m in 2009. The total overtime budget for An Garda Síochána in 2009 is €80m.

Garda Recruitment.

123. **Deputy Pat Rabbitte** asked the Minister for Justice, Equality and Law Reform his plans to take in a new group or groups of trainee gardaí to Templemore in 2009; if so, when and the number of places; and if he will make a statement on the matter. [25494/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): As the Minister for Finance has made clear, the moratorium on recruitment and promotions in the Public Service applies to the Garda Síochána, both sworn members and civilian support staff. By its nature, it does not apply to the Garda Reserve, whose members are unpaid volunteers who do not occupy public service posts. The total intake of students in the first months of 2009 was 200 with the second intake of students occurring in early May. After that the moratorium on recruitment applies. The moratorium is due to remain in place until the end of 2010, and can only be deviated from in exceptional circumstances with the consent of the Minister for Finance.

Citizenship Applications.

124. **Deputy Jack Wall** asked the Minister for Justice, Equality and Law Reform the position of an application for naturalisation in respect of persons (details supplied) in County Kildare; and if he will make a statement on the matter. [25509/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): Applications for certificates of naturalisation from the persons concerned were received in the Citizenship Division of my Department on 19 January 2005.

Officials in that section inform me that processing of the applications are at an advanced staged and the files will be forwarded to me for a decision in the coming months.

Visa Applications.

125. **Deputy Denis Naughten** asked the Minister for Justice, Equality and Law Reform if he will review the procedure for the issuing of visas to Third World country students wishing to choose Ireland as a base for studying the English language; the processing time for such student visas; and if he will make a statement on the matter. [25518/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): My Department processes visas for non-EEA nationals who are visa required. The procedure for the issuing of such visas to students wishing to choose Ireland as a base for studying the English language is reviewed on an ongoing basis including the consideration with regards to risk assessment and processing arrangements.

Regarding processing times for visa applications, in our dedicated overseas offices such visa applications are processed typically in two to three weeks. Applications referred to Dublin are generally being turned around within five days of receipt in Dublin.

Registration of Title.

126. **Deputy Denis Naughten** asked the Minister for Justice, Equality and Law Reform further to Parliamentary Question No. 268 of 24 February 2009, the position regarding the average waiting times; and if he will make a statement on the matter. [25519/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I am informed by the Property Registration Authority (PRA) that a letter containing the information requested issued to the Deputy on 27 February, 2009 in response to Question No. 268 of 24 February, 2009. I also understand that the PRA has issued a copy of the above mentioned letter to the Deputy in recent days.

Citizenship Applications.

127. **Deputy Phil Hogan** asked the Minister for Justice, Equality and Law Reform when an application for naturalisation will be decided for a person (details supplied) in County Kilkenny; and if he will make a statement on the matter. [25540/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I refer the Deputy to my reply to Parliamentary Question 360 on 6 May, 2009. The position remains as stated.

128. **Deputy David Stanton** asked the Minister for Justice, Equality and Law Reform the number of legal challenges to decisions which he has made to refuse applications for certificates of naturalisation; the number of these challenges which were successful or otherwise; and if he will make a statement on the matter. [25544/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): Since 2008 there have been eighteen legal challenges in the High Court to the decisions which the Minister has made to refuse applications for certificates of naturalisation. Seventeen of these challenges were unsuccessful. One case was successful in that the court ordered that the Minister reconsider his decision on the basis that certain information provided in the submission prepared for the Minister should not have been presented.

The Irish Nationality and Citizenship Acts 1956 and 1986, as amended, provide that the Minister may, in his absolute discretion grant an application for a certificate of naturalisation. There is no appeal process provided for in legislation, however the applicant can at any time make a new application.

The decision on whether or not to grant an application for a certificate of naturalisation lies solely with the Minister for Justice, Equality and Law Reform. The courts may not instruct or compel the Minister to reach any specified decision on an application for naturalisation because of the constitutional separation of powers.

Residency Permits.

129. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position regarding the application for residency in the case of a person (details supplied) in County Carlow; and if he will make a statement on the matter. [25571/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I wish to inform the Deputy that the person to whom he refers was granted permission to remain in the State, in 2000, under the arrangements then in place for the non-EEA parents of Irish citizen children. I am informed that the permission granted is currently valid until 13 September 2010.

130. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position regarding residency or citizenship in the case of a person (details supplied) in Dublin 6; and if he will make a statement on the matter. [25572/09]

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.

The person concerned was granted permission to remain in the State in February 2002, under the arrangements then in place for the non-EEA parents of Irish citizen children. The most recent permission to remain in the State, granted to the person in question expired on 6 April, 2009. I am informed that the person concerned subsequently presented for registration at the Garda National Immigration Bureau, and was refused as he was not accompanied by his wife or Irish citizen child.

131. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in regard to the application for residency or citizenship in the case of persons (details supplied) in County Kildare; and if he will make a statement on the matter. [25577/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I refer the Deputy to my reply to Parliamentary Question 656 on 24 September 2008. The position remains as stated.

Officials in my Department inform me that there is no record of any application for residency from the persons concerned.

Asylum Applications.

132. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in regard to the application for residency in the case of a person (details supplied) in County Meath; and if he will make a statement on the matter. [25578/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The person concerned applied for asylum on 22 February 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 9 February 2009, 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.

Residency Permits.

133. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in regard to the application for residency or citizenship in the case of a person (details supplied) in County Meath; and if he will make a statement on the matter. [25579/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): There is currently no application pending in my Department for residency or citizenship in the case of the person whose details were supplied.

If an application for asylum has been made by the person concerned the Deputy will of course be aware that it is not the practice to comment on asylum applications that are pending.

134. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in regard to the application for extended residency on foot of marriage to an Irish citizen in the case of a person (details supplied) in Dublin 8; and if he will make a statement on the matter. [25580/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): An application for residence in the State on the basis of marriage to an Irish national was made by the person in question on 2 December 2008. An initial request for documentation was made to the application by the Immigration Services Section of my Department on 5 May 2009. A further request for documentation was made to the applicant on 17 June 2009. Upon receipt of the requested documentation, the application will be considered and a decision will issue in due course.

Citizenship Applications.

135. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in regard to the application for citizenship in the case of a person (details supplied) in County Dublin; and if he will make a statement on the matter. [25581/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): An application for a certificate of naturalisation from the person referred to in the Deputy's Question was received in the Citizenship Division of my Department in December 2008.

The average processing time from application to decision is now at 23 months. The Citizenship Division is currently commencing further processing of applications received in early 2008. More complicated cases can at times take more than the current average while an element of straight forward cases are now being dealt with in less than that time scale. There is a limit to the reduction in the processing time that can be achieved as applications for naturalisation must be processed in a way which preserves the necessary checks and balances to ensure that the status of citizenship is not undervalued and is only given to persons who genuinely satisfy the necessary qualifying criteria.

136. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in regard to citizenship in the case of a person (details supplied) in Dublin 16; and if he will make a statement on the matter. [25582/09]

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.

Refugee Status.

137. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in regard to the residency status in the case of persons (details supplied) in Dublin 2; and if he will make a statement on the matter. [25583/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The person concerned claimed asylum in the State on 24/10/2006 and had his claim examined by the Office of the Refugee Applications Commissioner following which it was recommended that he should be recognised as a refugee.

Based on this recommendation, the person concerned was advised of my decision to issue him with a formal declaration of refugee status by letter dated 31/01/2007. This communication also advised the person concerned of the rights and entitlements accompanying refugee status in the State. The person concerned continues to hold the status of refugee in the State. There is no record of the second named person having been in the asylum process.

Citizenship Applications.

138. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in regard to the application for citizenship in the case of persons (details supplied) in County Kildare; and if he will make a statement on the matter. [25584/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): Applications for certificates of naturalisation from the persons referred to in the Deputy's Question were received in the Citizenship Division of my Department in September 2007.

The average processing time from application to decision is now at 23 months. The Citizenship Division is currently commencing further processing of applications received in early 2008. More complicated cases can at times take more than the current average while an element of straight forward cases are now being dealt with in less than that time scale.

Officials inform me that both applications are at an advanced stage of processing and the files will be submitted to me for a decision in due course.

There is a limit to the reduction in the processing time that can be achieved as applications for naturalisation must be processed in a way which preserves the necessary checks and balances to ensure that the status of citizenship is not undervalued and is only given to persons who genuinely satisfy the necessary qualifying criteria.

139. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in regard to the application for family reunification in respect of a person (details supplied) in County Dublin; and if he will make a statement on the matter. [25585/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I am informed by the Irish Naturalisation and Immigration Service (INIS) that the person concerned was the

subject of a Family Reunification application which was approved in August 2005. I am also informed that it is not open to applicants for Refugee Family Reunification to make applications in respect of family members.

I am further informed by INIS that there is no record of a Family Reunification application in respect of her sister. If an application for asylum has been made by the person concerned the Deputy will of course be aware that it is not the practice to comment on asylum applications that are pending.

Residency Permits.

140. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position in regard to long term residency or citizenship in the case of a person (details supplied) in Dublin 22; and if he will make a statement on the matter. [25586/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The person referred to by the Deputy applied for Asylum on 11/01/2005. The claim was assessed by the Refugee Applications Commissioner who concluded that the person concerned did not meet the criteria for recognition as a refugee. The Commissioner's recommendation was communicated to him by letter dated 29/06/2005. This communication advised the person of his entitlement to appeal the Commissioner's recommendation to the Refugee Appeals Tribunal, which he duly did.

The Refugee Appeals Tribunal considered the person's appeal, following which the Tribunal affirmed the Commissioner's earlier recommendation to reject his claim. The outcome of the appeal was made known to the applicant by letter dated 12/06/2009.

In accordance with normal procedures, the applicant's file has been forwarded to my Department's Ministerial Decisions Unit for final processing of the Asylum claim. A letter will issue to him from my Department advising him formally that his asylum claim has been rejected and affording him three options as follows: 1. Return home voluntarily; 2. Consent to the making of a deportation order; or 3. Make written representations to me within 15 working days for temporary leave to remain in the State and/or make an application for subsidiary protection under the European Communities (Eligibility for Protection) Regulations 2006 (SI No. 518 of 2006).

Visa Applications.

141. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform further to Parliamentary Question No. 106 of 14 May 2009, wherein he stated the person concerned should apply for a visa to enter the State from the Irish embassy in South Africa and in view of the fact that on presentation the person concerned was informed that such application should take place from Dublin, the options available to the applicant; and if he will make a statement on the matter. [25587/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): On the basis of the information provided by the Deputy's office, it is open to the person concerned to make an on-line visa application. Comprehensive guidelines for making visa applications is available on the Irish Naturalisation and Immigration website (www.inis.gov.ie). The applicant may submit all relevant documentation to the Irish Embassy in Pretoria, South Africa, in this instance.

In view of the information previously provided, the application will be forwarded to the Visa Office, Burgh Quay, Dublin for immediate processing of the visa application.

Residency Permits.

142. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position regarding citizenship or long term residency in the case of persons (details supplied) in County Meath; and if he will make a statement on the matter. [25588/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): Officials in the Long Term Residency Section of my Department inform me that there is no record of any applications received from the persons referred to in the Deputy's Question.

An application for a certificate of naturalisation from the first person concerned was received in the Citizenship Division of my Department on 14 January 2009. The average processing time from application to decision is now at 23 months. The Citizenship Division is currently commencing further processing of applications received in early 2008. More complicated cases can at times take more than the current average while an element of straight forward cases are now being dealt with in less than that time scale. There is a limit to the reduction in the processing time that can be achieved as applications for naturalisation must be processed in a way which preserves the necessary checks and balances to ensure that the status of citizenship is not undervalued and is only given to persons who genuinely satisfy the necessary qualifying criteria.

An application for a certificate of naturalisation was received, from the second person mentioned, in the Citizenship Division of my Department on 27 February 2007. Officials in that section inform me that processing of the application is at an advanced stage and it is likely that the file will be forwarded to the me for a decision in the coming months. However, the Deputy should note that the address quoted in the question does not match the address recorded on file. If the applicant has changed address, she should notify the Citizenship Division as soon as possible.

Visa Applications.

143. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position regarding the application for family reunification in the case of a person (details supplied) in County Meath; and if he will make a statement on the matter. [25589/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I am informed by the Irish Naturalisation and Immigration Service (INIS) that the person concerned is the subject of a Family Reunification application made in February 2009.

The application was forwarded to the Refugee Applications Commissioner for investigation as required under Section 18 of the Refugee Act 1996. This investigation is completed and the Commissioner has forwarded a report to INIS. This application will be considered by INIS and a decision will issue in due course. Applications are currently taking approximately 24 months to process.

Residency Permits.

144. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position regarding the determination of residency status in the case of a person (details supplied) in Dublin 15; and if he will make a statement on the matter. [25590/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I refer the Deputy to my reply to Parliamentary Question No 167 of 2 April 2009.

The person's case is currently being considered by officials in my Department in the context of Section 3 of the Immigration Act, 1999. The person concerned will be contacted directly and notified of any decision made regarding his status in the State in due course.

Citizenship Applications.

145. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the progress in regard to the application for citizenship in the case of a person (details supplied) in County Dublin; and if he will make a statement on the matter. [25591/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): An application for a certificate of naturalisation from the person referred to in the Deputy's Question was received in the Citizenship Division of my Department in April 2008.

The average processing time from application to decision is now at 23 months. The Citizenship Division is currently commencing further processing of applications received in early 2008. More complicated cases can at times take more than the current average while an element of straight forward cases are now being dealt with in less than that time scale. There is a limit to the reduction in the processing time that can be achieved as applications for naturalisation must be processed in a way which preserves the necessary checks and balances to ensure that the status of citizenship is not undervalued and is only given to persons who genuinely satisfy the necessary qualifying criteria.

However, I understand that the person concerned is a refugee. In accordance with the Government's obligations under the United Nations Convention relating to the Status of Refugees, every effort is made to ensure that applications from persons with refugee status are dealt with as quickly as possible.

Residency Permits.

146. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the progress in regard to the application for refugee or residency status in the case of a person (details supplied) in Dublin 8; and if he will make a statement on the matter. [25592/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The person concerned applied for asylum on 21 June 2007. 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 12 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 (SI 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.

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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.

147. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the progress in regard to the application for residency on the grounds of subsidiary protection in the case of a person (details supplied) in County Cork; and if he will make a statement on the matter. [25593/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The application of the person concerned is registered at the appeal stage of the asylum process. You will be aware that information in relation to any applicant (other than to a duly authorised Legal Representative) can be issued by the Refugee Appeals Tribunal only with the written approval of the applicant.

148. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform if long-term residency will be awarded on humanitarian grounds in the case of persons (details supplied) in Dublin 22; and if he will make a statement on the matter. [25594/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The first named person concerned applied for asylum on 22 March 2004. 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 first named person concerned was informed, by letter dated 31 March 2005, 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. Representations have been submitted on behalf of the first named person concerned and will be fully considered before the file is passed to me for decision.

The second named person concerned, the wife of the first named person concerned, applied for asylum on 22 February 2006. 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 second named person concerned was informed, by letter dated 9 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 second named 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 second named 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 second named 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 second named person concerned will be passed to me for decision.

149. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform if he has received the application for long-term residency in the case of persons (details supplied) in County Cork; and if he will make a statement on the matter. [25595/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): Officials in the Long Term Residency Section of my Department inform me that there is no record of an application from the persons referred to in the Deputy's Question.

Unaccompanied Minors.

150. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform if, in view of the fact that in his reply to a previous parliamentary question he indicated that a person (details supplied) in County Kildare entered the country in 2008, did in fact first enter the country on 31 January 2001 as an unaccompanied minor and has remained here since with their mother and that this information was conveyed to his Department on 31 January 2001 when the East Coast Area Health Board handed over responsibility to their mother, he will review the case on these grounds; and if he will make a statement on the matter. [25616/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The question concerned refers to my response to a previous Parliamentary Question in relation to the person concerned. However, no further information identifying the specific previous Parliamentary Question referred to has been supplied. Following an extensive review of all previous Parliamentary Questions regarding the person concerned, officials in my Department have been unable to locate the specific Question. Indeed I am informed that no record of a reply which stated that the person concerned entered the State in 2008 could be found. Efforts to make contact with the Deputy's office to clarify the matter were unsuccessful. Therefore, in the absence of any further information regarding the specific Parliamentary Question referred to by the Deputy, I am unable to give a detailed response.

If the Deputy could revert to my Department with the number and answer date of the Parliamentary Question referred to in his question, I will then be in a position to give a detailed response.

Territorial Boundaries.

151. **Deputy John O'Mahony** asked the Minister for Foreign Affairs if he will define the boundary in Lough Foyle which determines the area which is in the Republic of Ireland and that which is in Northern Ireland; and if he will make a statement on the matter. [25510/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): There has been no formal agreement between Ireland and the UK on the delimitation of a territorial waters boundary between the two states. However, the policy of the two Governments has been to co-operate in a pragmatic fashion. In that context, the Loughs Agency, one of the North/South

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Bodies arising from the Good Friday Agreement, is responsible for the regulation of certain activities throughout Lough Foyle, as was the Foyle Fisheries Commission before it.

Citizenship Applications.

152. **Deputy Billy Timmins** asked the Minister for Foreign Affairs the position in relation to persons (details supplied); if they are eligible for Irish passports; and if he will make a statement on the matter. [25421/09]

Minister for Foreign Affairs (Deputy Micheál Martin): The Passport Act (2008) sets out the requirements for obtaining an Irish passport. In particular, the Act states that passports may only be issued to persons who are Irish citizens, within the parameters of the Irish Nationality and Citizenship Acts. In general, a person acquires Irish citizenship through one of the following means; by descent if one of his/her parents was an Irish citizen at the time of the person's birth; by marriage to an Irish citizen; or by naturalisation.

The person born in the United Kingdom to an Irish mother is automatically entitled to Irish citizenship and therefore to an Irish passport. She should complete a passport application form and submit the long form of her own birth certificate, the long form of her mother's birth certificate and her mother's marriage certificate, if applicable.

The contact details for the Irish General Registrar's Office are:

General Register Office, Government Offices,

Convent Road, Roscommon.

Tel: 090 6632900

LoCall: 1890 252076

The contact details for the General Register Office in the UK are:

General Register Office

Smedley Hydro

Trafalgar Road

Birkdale

Southport PR8 2HH

Telephone : 0044 170 456 9824

A person married to an Irish citizen and resident in Ireland can apply to become an Irish citizen by means of Naturalisation. Consideration of all applications for Naturalisation is a matter for my colleague the Minister for Justice, Equality and Law Reform. Information regarding the application process for Naturalisation is available on the Department of Justice, Equality and Law Reform website (www.justice.ie).

Foreign Conflicts.

153. **Deputy Chris Andrews** asked the Minister for Foreign Affairs if he will make a statement on Israel's continuing blockade of Gaza, in particular, on its arbitrary prohibition of items such as tinned meat, tomato paste, clothing, shoes and notebooks (details supplied). [25554/09]

Minister for Foreign Affairs (Deputy Micheál Martin): As I have stated in this House and elsewhere, I consider the continued effective blockade of Gaza by Israel to be both morally unacceptable and politically mistaken. I have consistently emphasised, in discussions with my

EU colleagues and directly to Israeli Ministers, my view that the blockade should be brought to an end immediately, and the crossing points opened without restrictions on the normal movement of persons and goods.

The main reasons advanced by the Israeli authorities for these restrictions were attacks on Israel from Gaza and the continued holding of the kidnapped Corporal Shalit. I have repeatedly condemned both these actions on behalf of the Government. However, neither are the responsibility of the people of Gaza as a whole and it is unacceptable to punish them collectively in the general hope that this will generate pressure on the Hamas authorities in Gaza.

After two years of this blockade, this policy has completely failed in its goal of undermining the control of Gaza by Hamas. If anything, it has only served to increase support for Hamas and other radical and militant groups, both by directly radicalising young Palestinians and by destroying the economic enterprises which could offer them an alternative path in life. It is also steadily eroding the sympathy which has existed internationally for Israel's real concerns about security.

As I have stated in Dáil Éireann, the decisions as to which items are or are not allowed into Gaza have defied all comprehension. The blocking of food deliveries has understandably created the greatest anger, in due course leading to an Israeli decision to allow all food imports. It is clear, however, that some foodstuffs continue to be blocked on the basis that they are luxuries, not necessities, and that the total level of food imports is restricted to just above what is needed for subsistence.

Frankly, it is also difficult to discount altogether the possibility that the interests of Israeli food producers and storage companies are involved in the decisions governing the supply of foods and other goods to a population of 1.4 million people, as well as the restrictions on exports by producers in Gaza. Growers of fruit, vegetables and flowers in Gaza are of course unable to remain in business if they cannot export their produce when it is ready.

The only acceptable course of action, and the one which is in Israel's own interests, is to end this blockade immediately.

Middle East Peace Process.

154. **Deputy Chris Andrews** asked the Minister for Foreign Affairs his views on the statement made by Israeli Prime Minister, Mr Benjamin Netanyahu on 14 June 2009; if he will ensure that Ireland will in no way support improved trade relations between Israel and the EU; and his further views on Israel's refusal to halt all expansion in the West Bank. [25617/09]

Minister for Foreign Affairs (Deputy Micheál Martin): The General Affairs and External Relations Council on 15 June welcomed as an initial step the statement by Prime Minister Netanyahu which recognised the goal of a peace which would involve the establishment of a Palestinian state. It is important that Mr. Netanyahu, as Likud leader and Prime Minister, has finally stated this, and to a conservative audience in Israel.

I was disappointed, however, with the heavily qualified nature of Prime Minister Netanyahu's willingness to contemplate a future Palestinian state, which essentially accorded priority to Israel's security concerns above all other considerations.

The aim of the peace process, as the EU has consistently made clear, must be a comprehensive settlement based on two states coexisting in peace, providing for the security, dignity and aspirations of both the Israeli and Palestinian peoples. The security of both Israelis and Palestinians is a legitimate concern which must be addressed in the negotiations. However,

[Deputy Micheál Martin.]

Israeli demands on ‘final status issues’ cannot be accepted as preconditions to the process. President Obama has made it clear that this is also his view.

We will therefore be watching closely what the parties actually do, as well as what their statements contain.

The continued expansion of Israeli settlements is a major problem which I have focussed on in discussions at EU level and with Israeli and other leaders in the region. This relentless process is creating obstacles to peace which may make it very difficult for any Israeli Government to reach a peace agreement with its neighbours and serves to weaken the standing of moderate Palestinian leaders. Moreover, the daily and cumulative injustices and humiliations which the whole settlement process involves for the Palestinian population continually increase the risk of another large scale descent into violence.

It was therefore disappointing, if not unexpected, that Mr. Netanyahu’s speech rejected the demand of both the EU and the United States for an immediate freeze on settlement construction. It is true that he pledged that no new settlements would be constructed, but in terms that were general enough to allow almost any interpretation. Again, this is a critical area where we will be watching what actually happens on the ground. Continued evictions of Palestinians and destruction of their homes will be a clear rejection of the demands of the international community.

In relation to EU — Israel relations, I would refer the Deputy to my reply to Question 329 of 23 June, in which I dealt with this issue in more detail. What had been envisaged was a deepening of political relations and cooperation on practical matters, rather than trade relations. In the event, and in line with the argument I have been consistently making with our EU partners, the Council has decided not to proceed with the so-called ‘upgrade’ of political relations at this time, and practical cooperation will continue to be governed by the existing agreement.

Departmental Offices.

155. **Deputy Michael Kennedy** asked the Minister for Social and Family Affairs the reason the Civil Registration Office has no facility in their Dublin Office for adopted persons to obtain duplicate birth certificates; if this is discrimination; the further reason the Roscommon office insist on communications by fax rather than by e-mail and that payment by laser card is not permitted; and if she will make a statement on the matter. [25424/09]

156. **Deputy Michael Kennedy** asked the Minister for Social and Family Affairs the reason, in respect of the General Registry Office, the Dublin Office has no facility for adopted people to obtain duplicate birth certificates there and that the Roscommon office insists on communications being conducted primarily through fax and not e-mail; the further reason payment by laser card is not permitted; and if she will make a statement on the matter. [25495/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): I propose to take Questions Nos. 155 and 156 together.

I have made enquiries of an tÁrd-Chláraitheoir regarding the matter raised by the Deputy and the position is as set out below.

The provisions governing the registration of domestic adoptions and the issue of birth certificates drawn from the register of adoptions are set out in section 22 of the Adoption Act, 1952. Under these provisions, the Registrar General is charged with maintaining an Adopted Chil-

dren Register and also to keep an index to make traceable the connection between each entry and the corresponding entry in the register of births. The index is not open to public inspection and no information from it may be given to any person except by order of a Court or of the Adoption Board. A certified copy of an entry in the Adopted Children Register, if purporting to be issued under the seal of Oifig an Árd-Chláraitheora, shall, without further proof, be received as evidence of the facts stated therein and any requirement of law for the production of a certificate of birth shall be satisfied by the production of such certified copy.

Under the above provisions, birth certificates for adopted persons are available only from the Office of the Registrar General. While it is appreciated that this may cause a degree of inconvenience in certain instances the security and confidentiality of the Adopted Children Register is of paramount importance and it is for this reason only that the restriction on availability exists. For this reason also, there are no plans to amend the legislation to change the current arrangements in relation to this matter.

At the moment persons applying to GRO for certificates of life events may do so in writing or by fax. Payments are accepted by Visa or Mastercard. An on-line application facility for records of life events, including adoption events, is at an advanced stage of development and will be introduced shortly. Payments by credit card, including laser card, will be a feature of the on-line service.

Social Welfare Benefits.

157. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs if the clothing allowance will be offered to a person (details supplied) in County Kildare; and if she will make a statement on the matter. [25576/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): Under the supplementary welfare allowance scheme, which is administered on behalf of the Department by the community welfare division of the Health Service Executive, an exceptional needs payment (ENP) may be made to help meet an essential, once-off cost which the applicant is unable to meet out of his/her own resources. There is no automatic entitlement to this payment. Each application is determined by the Executive based on the particular circumstances of the case.

The Executive has advised that it has no record of an application for an exceptional needs payment from the person concerned. The Executive has further advised that the person concerned should contact the community welfare officer at his local health centre if he wishes to discuss any entitlements he may have under the supplementary welfare allowance scheme.

158. **Deputy Olwyn Enright** asked the Minister for Social and Family Affairs if she will arrange for her Department to collect information and statistics on the number of people who apply for mortgage interest supplement; the number of people who have been refused mortgage interest supplement; and if she will make a statement on the matter. [23446/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The supplementary welfare allowance scheme provides for a weekly or monthly supplement to be paid in respect of mortgage interest. The purpose of the supplement is to provide 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.

There are currently 12,900 people in receipt of mortgage interest supplement, an increase of 213% over those in payment at end 2007.

[Deputy Mary Hanafin.]

The mortgage interest supplement scheme is administered by the community welfare service of the Health Service Executive on behalf of the Department and is delivered locally by community welfare officers. The operational arrangements for the processing of applications and the payment to qualifying individuals, is a matter for the respective community welfare division areas.

A community welfare officer interviews applicants for mortgage interest supplement when they first present in order to determine if they satisfy the statutory qualifying conditions for entitlement. They also ensure that all the documentation required to make a decision has been provided. Claim details are recorded on the computer system in cases where it is established that mortgage interest supplement is payable. However, given the considerable pressures on the service claim details are not always recorded on the system where no entitlement has been established to mortgage interest supplement, where an appeal has been lodged with an appeals officer of the HSE, case claim details are recorded electronically.

For this reason, reliable statistics are not available on the total number of people who applied for and were refused mortgage interest supplement. The review of the administration of the mortgage interest supplement scheme is progressing. The main purpose of the review is to consider how the mortgage interest supplement scheme can best meet its objective of catering for those who require assistance on a short-term basis, where they are unable to meet mortgage interest repayments on their sole place of residence. Legislative and operational issues arising in the existing mortgage interest scheme, are also being examined. The review will also examine operational aspects of the scheme including best practice in the recording, collating and maintenance of statistical data on the mortgage interest supplement scheme.

Question No. 159 answered with question No. 21.

Money Advice and Budgeting Service.

160. **Deputy Róisín Shortall** asked the Minister for Social and Family Affairs the action she is taking to deal with the long waiting times for a Money Advice and Budgeting Service appointment in some areas; and if she will make a statement on the matter. [23439/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The Money Advice and Budgeting Service (MABS) provides assistance to people who are over-indebted and need help and advice in coping with debt problems. There are 53 independent MABS companies with voluntary boards of management operating the local services throughout the country. In addition, the MABS National Telephone Helpline is available from 9am to 8 pm, Monday to Friday, at lo-call number 1890 283 438 and budgeting and money management information can be accessed 24 hours a day at www.mabs.ie.

In 2009, almost €18 million has been provided to fund the MABS. Additional investment in recent years has strengthened the capacity of the MABS to deal with increased demand for service. There are 252 money advice staff employed throughout the country and the Telephone Helpline has been strengthened to provide an immediate response to clients seeking information and advice.

All MABS companies operate an appointments system for meeting clients. Clients with urgent difficulties are prioritised for attention and dealt with promptly. Cases that are less urgent are referred to the Telephone Helpline and to the website for immediate assistance with budgeting and money management issues. The Helpline can now handle less complex straight forward single debt cases such as threatened utility disconnections and deals directly with the

ESB and An Bord Gais in relation to these cases. Over 90% of callers to the Helpline find that their money management and budgeting issues can be resolved with the assistance of the helpline advisor. The Telephone Helpline also assists local services to manage their appointment lists by providing an initial MABS service to clients and ongoing support while they await their appointment with their local money advisor.

Local services monitor their waiting times for appointments and, where required, seek guidance and assistance in managing their caseload from MABS NDL, the national support company. Information is not collected centrally on waiting times for appointments at different MABS offices throughout the country.

MABS NDL has introduced a number of community education and other management support initiatives to assist the local services with their increased caseloads. These include an education programme for people facing redundancy to inform them about managing on a reduced income and how to avoid getting into debt.

Social Welfare Benefits.

161. **Deputy Michael Ring** asked the Minister for Social and Family Affairs the reason an application for a payment by a person (details supplied) in County Mayo has not been finalised. [25539/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The application for a one-parent family payment from the person concerned is being processed as speedily as possible. When a decision is made she will be informed of the outcome. She is currently in receipt of a supplementary welfare allowance payment pending a decision on her claim.

Under Social Welfare legislation decisions in relation to claims must be made by Deciding Officers and Appeals Officers. These officers are statutorily appointed and I have no role in regard to making such decisions.

Pension Provisions.

162. **Deputy P. J. Sheehan** asked the Minister for Social and Family Affairs if a refund of contributions made by their partner will be awarded to a person (details supplied) in County Dublin; if they qualify for a State pension; and if she will make a statement on the matter. [25551/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): My Department has not received a request for a refund of PRSI contributions that have been overpaid by the client's recently deceased partner. With regard to PRSI refunds generally, it should be noted that refunds in respect of a deceased client are made, through the legal representative dealing with the estate, to the estate of the deceased and not to the spouse/partner of the client.

In terms of eligibility for a State Pension, the social welfare system provides for a number of benefits and assistance payments payable to widows and widowers on the death of a spouse. These include Widow's and Widower's Pensions (contributory and non-contributory), Widowed Parent Grants and some payments under occupational injuries provisions. Currently, two Widows Pensions can be payable based on one person's PRSI contributions i.e. where a person married, divorced and subsequently re-married. On death, both the surviving spouse and the surviving former spouse can claim a Widow's/Widower's pension. In order to qualify for these payments, the survivor must have been married.

Social Welfare Benefits.

163. **Deputy Charlie O'Connor** asked the Minister for Social and Family Affairs if there is a system of paying an eligible person's rent supplement directly to the provider of private rented property; and if she will make a statement on the matter. [25566/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): Rent supplement is administered on behalf of the Department by the community welfare division of the Health Service Executive (HSE) as part of the supplementary welfare allowance scheme.

The purpose of the rent supplement scheme is to provide short-term income support to eligible people living in private rented accommodation whose means are insufficient to meet their accommodation costs and who do not have accommodation available to them from any other source. The tenant makes the application for rent supplement and the Department's relationship is with the tenant. Payment is made to the tenant and is specifically for his/her benefit, to assist them with accommodation needs. Payment of rent supplement can only be made direct to a landlord or landlord's agent at a tenant's request.

164. **Deputy Charlie O'Connor** asked the Minister for Social and Family Affairs the names of persons consulted and the consultation process which led to her decision to reduce rent supplement by up to 8%; her views on whether the decision was prudent bearing in mind the provisions of the Private Residential Tenancies Act 2004; her further views on whether it is fair to control rents in this way without considering the provisions of the Act in relation to market rent; and if she will make a statement on the matter. [25567/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): There are currently almost 88,800 recipients of rent supplement, a 49% increase since the end of 2007. The recent Supplementary Budget provided that the weekly minimum contribution payable towards rent be increased from €18 to €24 a week, with effect from 1 June 2009. It also provided that payments currently being made to existing rent supplement tenants be reduced by 8% from the same date. New maximum rent limits have also been introduced from 1 June 2009 to reflect the general reductions in private sector rent levels.

The most recent data published by the CSO, shows that rents in the private sector have fallen by almost 11% since November 2008 and by almost 20% in the past year. A leading property website recently reported that rents have fallen by almost 16% in the twelve months to March 2009 with 5% of the fall occurring since the start of 2009. It is essential therefore that state support for tenants who form a substantial section of the rental market, does not give rise to inflated rental prices.

Existing recipients of rent supplement were notified in advance of the change being made to their rent payment from 1 June 2009. This communication can be shown to landlords as evidence of the revised rent supplement in payment in individual cases. Landlords have also been advised through advertising in the national and provincial newspapers of the general reduction in rent supplement payments and a number of organisations representing landlords and tenants were contacted and advised of the changes to the rent supplement scheme.

Under the Residential Tenancies Act 2004, once the tenancy is at least a year old and where the rent has not been reviewed in the previous twelve months, the tenant is entitled to ask a landlord to review the rent where the tenant feels that the rent exceeds the market rate for the property. While tenants may be contractually obliged to pay the rent agreed to in their lease, it is expected that landlords will decrease the rent in recognition of the fact that rents have fallen generally and that there are now a large number of vacant rental properties nationally.

In this climate, it is expected that people will be able to get accommodation at the appropriate rental level if a landlord is unwilling to reduce the rent in any particular case.

The obligation of landlords and tenants in relation to tenancy terminations, including the refund of deposits, is also provided for in the Residential Tenancies Act 2004. Under these provisions, tenants are entitled to a refund of a deposit paid at the commencement of the tenancy where there is no rent or utility bills owing, no damage to the dwelling beyond normal wear and tear and the proper notice prescribed in the Act is served. Disputes between landlords and tenants about any aspect of rent or the return of a deposit may be referred to the Private Residential Tenancies Board.

Community Welfare Officers have discretion to provide assistance where exceptional circumstances exist in any individual case. Officers have been advised that support, appropriate to the circumstances of the particular case, may be provided to rent supplement tenants for up to two months, while alternative accommodation is being sourced within the existing rent limits.

165. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs if she will review the application for unemployment assistance in the case of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [25570/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The person concerned applied for jobseeker's allowance from 29 May 2009. His claim was closed because he failed to provide documents requested to determine his means. His case will be reviewed if he supplies the requested documentation.

A previous application for jobseeker's allowance dated 26 January 2008 was disallowed on the grounds that he failed to disclose his means. He appealed this decision and an Appeals Officer upheld the Deciding Officer's decision in July 2008.

The person concerned re-applied for jobseeker's allowance on 23 October 2008 and again on 29 January 2009 and these claims were closed because he also failed to provide documentation requested.

166. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs the reason for delays in processing applications for various social welfare payments at the present time; the action proposed or intended to address such delays with particular reference to the need to alleviate hardship on persons awaiting payment; and if she will make a statement on the matter. [25596/09]

169. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs the action she has taken to reduce the time taken to process applications for social welfare payments; and if she will make a statement on the matter. [25599/09]

171. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs the steps she proposes to take to speed up the processing of applications for social welfare payments with particular reference to the alleviation of hardship in the current economic climate; and if she will make a statement on the matter. [25601/09]

174. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs the extent to which staffing levels have increased in respect of means testing in order to meet the requirements of higher numbers of applicants arising from the economic downturn; and if she will make a statement on the matter. [25604/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): I propose to take Questions Nos. 166, 169, 171 and 174 together.

The Live Register has increased to unprecedented levels as a result of the economic downturn that the country is currently experiencing. The Live Register now stands at 396,871 as opposed to 201,756 this time last year. The Department is committed to providing a quality service to all its customers. This includes ensuring that applications are processed and that decisions on entitlement are made as expeditiously as possible. The staff and other resources available to the Department are regularly reviewed having regard to the workload arising and other competing demands. The average processing time for claims processed in May was 3.68 weeks for jobseekers benefit and 6.35 weeks for jobseekers allowance. Processing times can vary from office to office for a number of reasons including the extent of the increased number of claims, the number of staff vacancies, the duration of such vacancies and the turnover of staff in the office which impacts on the overall level of experience in the office.

During 2008 the need for some 150 additional posts was identified in order to respond to the significant increase in the number of people applying for Jobseekers payments in particular. Staff were sourced during 2008 and the early part of 2009 to meet this requirement.

With the live register continuing to increase, the Department has requested more than 300 extra posts in 2009, in addition to those already mentioned.

Of these:

- 49 posts have being assigned to date for Local Office Central Support Units in 5 locations.
- And some 90 temporary staff have been appointed to Local Offices around the country pending the assignment of permanent staff.

In addition to increased staffing for local offices, the number of Social Welfare Inspectors was increased by 16 earlier this year to undertake means testing of claims for social assistance payments including jobseekers allowance, farm assist and carers allowance. More recently it has been decided to assign a further 24 Inspectors and the necessary arrangements are in train to have these posts filled.

Since early 2008 we have been examining all aspects of the work associated with the processing of claims and streamlining them wherever possible without, of course, compromising our scheme controls. Examples of process improvement initiatives introduced recently include:

- A streamlined process for people who had a claim in the previous 2 years
- Application forms for the jobseeker schemes are now available on the Department's website. This means that anyone who wants to make a claim can print the form at home and bring it to the local office completed. This helps reduce queuing times.
- More straight-forward procedures for providing evidence of identity and address have been introduced
- A more streamlined procedure for claimants moving to jobseekers allowance when their jobseekers benefit expires.
- We have introduced an appointment system for taking claims in 16 offices and plan to extend this to other offices over the coming months.

The Deputy will be aware that anyone suffering hardship can apply for Supplementary Welfare Allowance. The supplementary welfare allowance scheme (SWA) is administered on behalf of the Department by the community welfare division of the Health Service Executive (HSE). SWA provides a safety net against poverty in that it gives a statutory entitlement to a minimum weekly income, based on criteria set out in legislation. The majority of SWA claims are processed within a matter of days.

Departmental Expenditure.

167. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs the extent to which she has examined the annual cost of rent support; and if she will make a statement on the matter. [25597/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The purpose of the rent supplement scheme is to provide short-term income support to eligible persons living in private rented accommodation, whose means are insufficient to meet their accommodation costs and who do not have accommodation available to them from another source.

There are currently almost 88,800 recipients of rent supplement, a 49% increase since the end of 2007. The published estimate of expenditure for 2009 for rent supplement is €490.4 million, an increase of €50.7 million on the outturn of expenditure in 2008. Expenditure on rent supplement is closely monitored on a monthly basis taking into account trends in recipient numbers, average monthly payments and savings arising from the supplementary budget measures.

The recent Supplementary Budget provided that the weekly minimum contribution payable towards rent be increased from €18 to €24 a week, with effect from 1 June 2009. It also provided that payments currently being made to existing rent supplement tenants be reduced by 8% from the same date. Other changes in the Supplementary Budget provided that new maximum rent limits apply to all new claimants, from 1 June 2009, to reflect the general reductions in private sector rent levels.

The most recent data published by the CSO, shows that rents in the private sector have fallen by almost 11% since November 2008 and by almost 20% in the past year. It is essential therefore that state support for tenants who form a substantial section of the rental market, does not give rise to inflated rental prices.

In the current economic climate it is difficult to examine estimated expenditure into the future. It is expected, based on current expenditure trends that the overall 2009 allocation for the Department will be adequate. Developments in relation to current year expenditure will continue to be closely monitored.

Social Welfare Benefits.

168. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs the extent to which rent and mortgage support has been increased by her on a monthly basis over the past two years to date; and if she will make a statement on the matter. [25598/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The purpose of the rent supplement scheme is to provide short-term income support to eligible persons living in private rented accommodation, whose means are insufficient to meet their accommodation costs and who do not have accommodation available to them from another source.

[Deputy Mary Hanafin.]

Similarly, mortgage interest supplement provides short-term income 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.

The number of recipients and expenditure on rent supplement and mortgage interest supplement on a monthly basis for the past 2 years is shown in the attached tabular statement.

Recipients and Expenditure on Rent Supplement and Mortgage Interest Supplement, June 2007 to June 2009

Month	Rent Supplement		Mortgage Interest Supplement	
	Recipients ⁽¹⁾	Expenditure ⁽²⁾	Recipients ⁽¹⁾	Expenditure ⁽²⁾
		€000		€000
June 2007	58,667	31,495	3,571	924
July 2007	58,643	32,892	3,672	1,029
August 2007	58,675	33,398	3,768	1,080
September 2007	58,650	31,218	3,812	1,080
October 2007	58,926	33,642	3,889	1,245
November 2007	59,053	33,746	3,999	1,238
December 2007	59,726	34,045	4,111	1,375
January 2008	59,804	33,621	4,204	1,380
February 2008	60,858	33,445	4,456	1,494
March 2008	61,297	33,308	4,623	1,606
April 2008	62,165	35,112	4,781	1,769
May 2008	62,859	36,436	4,624	1,885
June 2008	63,650	33,961	5,212	1,857
July 2008	64,820	37,952	5,526	2,341
August 2008	66,204	36,197	6,028	2,357
September 2008	67,519	38,381	6,400	2,738
October 2008	69,729	40,173	6,935	3,065
November 2008	71,766	38,429	7,516	3,201
December 2008	74,038	43,771	8,091	3,981
January 2009	76,079	39,705	8,828	3,950
February 2009	79,706	39,458	9,877	4,377
March 2009	82,986	45,194	10,872	5,020
April 2009	85,517	44,054	11,565	5,146
May 2009	88,268	43,622	12,529	5,226
June 2009 ⁽³⁾	89,243		12,887	

⁽¹⁾ Recipients at last Friday in Month.

⁽²⁾ Total Expenditure in Month.

⁽³⁾ Recipients at 19/6/09 / Expenditure is not yet available for June 2009.

Question No. 169 answered with Question No. 166.

Departmental Expenditure.

170. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs if she is satisfied that the budgetary calculations in respect of expenditure by her Department for 2009 are accurate under each heading; the areas currently showing a requirement greater than expected; and if she will make a statement on the matter. [25600/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The Estimates for the Department of Social and Family Affairs which were published on 23 April last were based, in the main, on an analysis of trends as regards likely numbers of recipients and average value of payments in 2009. Final expenditure will depend on factors such as the actual recipient numbers in 2009 which can vary. It is too early in the year to draw conclusions on what the actual expenditure will be in each area. Expenditure is being monitored on an ongoing basis by my Department.

Question No. 171 answered with Question No. 166.

Employment Support Services.

172. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs the extent to which she proposes to improve or increase back to work incentives to take account of the current or expected economic situation; and if she will make a statement on the matter. [25602/09]

173. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs the number of back to work incentives currently operated by her Department; the extent to which it is expected or intended to expand or improve on such schemes; and if she will make a statement on the matter. [25603/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): I propose to take Questions Nos. 172 and 173 together.

The National Employment Action Plan (NEAP), operated jointly by the Department of Social and Family Affairs and FÁS, is the main welfare to work measure for jobseekers. Under the plan, all persons between the ages of 18 and 65 years who are approaching 3 months on the Live Register are identified by the Department of Social and Family Affairs and referred to FÁS for interview with a view to assisting them to enter or re-enter the labour market. The referral capacity under the plan has nearly doubled for 2009 from 6,500 cases per month to 12,250.

The NEAP process is fundamental in addressing the progression needs of those on the Live Register. It provides a stimulus to job search and affords an opportunity to explore, under professional guidance, the full range of employment and training services offered by FÁS. In addition, the Government is now providing, through FÁS, a total of 128,000 training and activation places for unemployed people this year. There are also some 147,000 places available in further education programmes in 2009. This is a substantial increase on the number of places available previously.

The recent supplementary budget outlined a joint approach to activation by the Departments of Social and Family Affairs, Enterprise Trade and Employment and Education and Science. I introduced a package of measures relating to the Department's two main employment support schemes, the back to work enterprise allowance and back to education allowance, in order to facilitate better access to these supports. The changes provided for a reduction in the qualifying period required for access to the back to work enterprise allowance (BTWEA) from 2 years to 12 months provided a person has an underlying entitlement to jobseeker's allowance. The qualifying period for the back to education scheme was also reduced.

I also introduced a new short term enterprise allowance scheme. Under this scheme someone who qualifies for jobseeker's benefit is being afforded the opportunity to commence self-

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employment immediately. I also introduced a new short term enterprise allowance scheme. Under this scheme someone who qualifies for jobseeker's benefit is being afforded the opportunity to commence self-employment immediately provided they have 104 contributions paid or have established entitlement to statutory redundancy. It is payable at the same rate and for the same duration as jobseeker's benefit.

In addition, the Department's locally based facilitators provide information on progression options available to people on social welfare. They work closely with FÁS and other agencies at national and local level to identify appropriate training and developmental programmes for social welfare recipients of working age to enhance the skills those individuals have and ultimately improve their employment chances as well as helping them to develop personally. This service was enhanced under the National Development Plan (NDP) Social and Economic Participation Programme. There are currently 60 facilitators in place, with a further 10 due for appointment, bringing the total to 70.

Apart from specific employment support and welfare to work initiatives, the social welfare system is highly responsive to the needs of employees in low-paid, casual or vulnerable employment. For example, people who are employed for up to three days in a week may claim a jobseeker's payment in respect of the remainder of the week, subject to being available for full-time work.

In addition, the Department's family income supplement scheme (FIS) provides cash support for employees on low earnings with families or those seeking to make the transition from welfare to work. This preserves the incentive to remain in employment in circumstances where the employee might only be marginally better off than if he or she were unemployed and claiming other social welfare payments. Take-up of the scheme has increased significantly in recent years with almost 43,000 new and renewal FIS claims in 2008, compared to almost 37,900 in 2007.

With the increasing numbers of people who are unemployed, the Government is continuing to develop and put in place new programmes to enhance the work experience and training opportunities for these individuals. Two such initiatives, the work placement programme and a pilot short time working training programme were announced recently. Under both initiatives, participants will continue to receive their existing social welfare entitlements from the Department of Social and Family Affairs while they are taking part in these innovative programmes.

The range and conditions for the Department's welfare to work initiatives will continue to be monitored in the light of changing economic circumstances.

Question No. 174 answered with Question No. 166.

Social Welfare Benefits.

175. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs if she will provide an assurance that no further cuts in social welfare payments or schemes are expected to take place having particular regard to increased requirements arising from the economic downturn; and if she will make a statement on the matter. [25605/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): There are no plans to introduce any further changes to social welfare entitlements in 2009. Social welfare changes for 2010 will be considered later this year in a Budgetary context and having regard to available resources.

176. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs when jobseeker's allowance is expected to be awarded in the case of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [25606/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The person concerned applied for jobseeker's allowance on 16 December 2008. Her file was referred to an Inspector for a means assessment. She was interviewed by the Inspector on 04 February 2009 and subsequent to this interview a number of checks were required regarding her identity, residency and employment record. The Inspector will be finalizing a report in the next week or so and a decision will be made on her application as soon as possible thereafter.

177. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs when rent support will be offered to a person (details supplied) in Dublin 22; and if she will make a statement on the matter. [25608/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): Rent supplement is administered on behalf of the department by the community welfare division of the Health Service Executive (HSE) as part of the supplementary welfare allowance scheme. The purpose of the rent supplement scheme is to provide short-term income support to eligible people living in private rented accommodation, whose means are insufficient to meet their accommodation costs and who do not have accommodation available to them from any other source.

The Executive has advised that rent supplement was refused on the basis that the person concerned was not in a position to afford the rent at the time she took on the tenancy in question. She was in receipt of Jobseekers Allowance at that time. Article 9(2) (a)(1) of SI 412/07 provides that a Rent Supplement should only be paid where the claimant "could reasonably have afforded the rent at the commencement of the tenancy". She appealed against this decision to an Appeals Officer of the Executive and that appeal was successful. The person concerned was advised of the Appeals Officer's decision on 16 June 2009.

Defence Forces Property.

178. **Deputy David Stanton** asked the Minister for Defence, further to Parliamentary Question No. 158 of 18 June 2009, the former Reserve Defence Force facilities which have been identified as surplus to military requirements and which will be disposed of; and if he will make a statement on the matter. [25463/09]

Minister for Defence (Deputy Willie O'Dea): As indicated in the reply to Parliamentary Question No. 158 of 18 June 2009 a number of former RDF premises have been identified as surplus to Military requirements. These are Shanbally, Macroom, Kilcrohane, Midleton, and Greenane which are all located in Co. Cork, Killarney and Dingle in Co. Kerry together with Lahinch and Ennis in Co. Clare. Accommodation requirements are kept under continuing review in conjunction with the Military authorities.

Defence Forces Role.

179. **Deputy John Deasy** asked the Minister for Defence further to Parliamentary Question No. 159 of 18 June 2009, the amount it costs to provide members of the Defence Forces for ceremonial support to the Office of the President; the cost of such support in each of the years, 2004 to 2008; and if he will make a statement on the matter. [25464/09]

180. **Deputy John Deasy** asked the Minister for Defence the number of members of the Defence Forces that are required for ceremonial duties each time the President leaves the country on a State visit to another country and the duties involved; and if he will make a statement on the matter. [25465/09]

181. **Deputy John Deasy** asked the Minister for Defence the number of members of the Defence Forces required for ceremonial duties each time the President returns to the country from a State visit to another country and the duties involved; and if he will make a statement on the matter. [25466/09]

182. **Deputy John Deasy** asked the Minister for Defence the number of members of the Defence Forces required for ceremonial duties involving the Office of the President each time an ambassador accredited to Ireland presents their credentials and the duties involved; and if he will make a statement on the matter. [25467/09]

183. **Deputy John Deasy** asked the Minister for Defence the number of members of the Defence Forces are required for ceremonial duties involving the Office of the President on the arrival and departure of Heads of State on state visits to Ireland and the duties involved; and if he will make a statement on the matter. [25468/09]

184. **Deputy John Deasy** asked the Minister for Defence the number of members of the Defence Forces required for ceremonial duties involving the Office of the President on the arrival and departure of Heads of Government on visits to Ireland and the duties involved; and if he will make a statement on the matter. [25469/09]

185. **Deputy John Deasy** asked the Minister for Defence the number of members of the Defence Forces required for ceremonial duties involving the Office of the President for guards of honour, escorts of honour and marshals; the required protocol on each of these ceremonial occasions; and if he will make a statement on the matter. [25470/09]

Minister for Defence (Deputy Willie O’Dea): I propose to take Questions Nos. 179 to 185, inclusive, together.

The support given to the President in relation to the programme of State Travel (both visits abroad and incoming) and with the acceptance of the credentials of Ambassadors to Ireland is a matter for the Government. The President acts in these matters on the advice of the Government and the arrangements are made by Government. The arrangements are in accordance with the generally accepted practice internationally.

Part of the role of the Defence Forces is the provision of ceremonial support generally. As the personnel are drawn from the cadre of the Defence Forces, no additional costs arise which would not otherwise be incurred in the normal course with the exception of the transportation of troops to the ceremonial location. The costs of such transportation are not compiled separately by my Department.

I am satisfied that the appearance of Defence Forces personnel in these roles, in support of the President and at the annual commemorative and parade events, are a small but very important part of their duties.

The main Ceremonial support provided includes a Guard of Honour, a Band, an Escort and Marshals for events such as:

Presentation of Credentials;

State Visits by Prime Ministers

State Visits by foreign Heads of State;

State Visits by President (inward/outward);

The following table sets out the number of personnel involved in each such event.

Event	Guard of Honour (No. of personnel)	Band (No. of personnel)	Escort (No. of personnel)
Presentation of Credentials and Prime Ministerial State Visits	56	40	19
State Visits by Heads of State (in/out)	107	40	27
State Visit of President (in/out) (Honour Guard)	64		27
State Visit of President (out) (Full Ceremonial)	107	40	27

Communication Masts.

186. **Deputy Thomas P. Broughan** asked the Minister for the Environment, Heritage and Local Government if his attention has been drawn to the plan to erect an electromagnetic mast in the vicinity of a house (details supplied) in Dublin 6W; his views on whether the erection of a mast at this location will contravene a recommendation from the Joint Committee on Communications, Energy and Natural Resources that electromagnetic masts should not be located near health centres, schools or other sensitive sites such as playgrounds, pitches and so on; his plans to bring forward measures, such as those provided for in the Fingal County Development Plan, to give legislative effect to this recommendation by the Joint Committee; and if he will make a statement on the matter. [25525/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): Following the report in June 2005 of the Joint Committee on Communications, Marine and Natural Resources on non-ionising radiation from mobile phone handsets and masts, the Government, approved the establishment of an inter-departmental advisory committee and an expert group, working to the committee, on the health effects of electromagnetic fields. The committee reported to the Government in March 2007 and the Government published the report of the Expert Group on Health Effects of Electromagnetic Fields on 22 March 2007 (available on my Department's website (www.environ.ie/en/publications)).

The Report examined a wide range of issues in relation to potential health effects of Electromagnetic Fields (EMF), including those produced by mobile telecommunications, and answers many questions commonly raised in relation to the health effects of electromagnetic fields. It concluded that, so far, no adverse short or long-term health effects have been found from exposure to the radio frequency signals produced by mobile phones and base station transmitters. My Department's advice to those living in close proximity to mobile phone base stations, based on the conclusions of the Expert Group Report, is that there is no scientific basis for, or evidence of, adverse health effects in children or adults as a result of exposure to electromagnetic fields. This applies irrespective of the location of the phone mast.

In general, planning permission must be obtained for the erection of an antenna support structure or mast. Under Article 6 and Schedule 2 of the Planning and Development Regu-

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lations 2001, certain classes of development carried out by a statutory undertaker authorised to provide a telecommunications service are, subject to specified conditions, exempted development for the purposes of the Planning Acts. These include:

- the attachment of additional antennae to an existing antenna support structure;
- the erection of an antenna support structure in place of an existing antenna support structure, and
- the attachment of antennae to certain existing structures, such as lamp posts, flag poles, CCTV poles, electricity pylons and certain public or commercial buildings (other than educational facilities, childcare facilities or hospitals).

The above exemptions are conditional on, among other things, the field strength of the non-ionising radiation emissions from the site not exceeding the limits specified by the Commission for Communications Regulation.

A decision on a planning application is, of course, a matter for the relevant planning authority or An Bord Pleanála on appeal.

My Department published Guidelines for Planning Authorities on Telecommunications and Support Structures in 1996. The guidelines are intended to facilitate planning authorities, An Bord Pleanála, the licensed providers of mobile telecommunications services and the public by providing guidance on dealing with these developments within the planning system.

The guidelines set out a locational hierarchy in relation to the siting of radio masts and advise that free-standing masts should only be located within or in the immediate surrounds of smaller towns or villages as a last resort. If such a location should become necessary, the masts and antennae should be designed and adapted for the specific location. In the vicinity of larger towns and in city suburbs, operators should endeavour to locate in industrial estates or in industrially zoned land. The guidelines further advise that, only as a last resort, and if all the alternatives are unavailable or unsuitable, should free-standing masts be located in a residential area or beside schools. Under Section 28 of the Planning and Development Act 2000, planning authorities are required to have regard to any Ministerial guidelines, in the performance of their functions.

Public Service Staff.

187. **Deputy Frank Feighan** asked the Minister for the Environment, Heritage and Local Government if he will lift the embargo on the appointment of a sports partnership co-ordinator for County Leitrim; and the position in relation to the matter. [25543/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): Under the terms of the Government's decision on implementation of savings in public service, no public service post, however arising, may be filled by recruitment, promotion, or payment of an allowance for the performance of duties at a higher grade. This decision is effective from 31 March 2009 and stands until the end of 2010. My Department has, accordingly, written to all local authorities requesting their compliance.

However, in recognition of the priority attaching to the maintenance of key frontline services, my Department is consulting with the Department of Finance in regard to the management of relevant staffing needs.

In relation to the staffing requirements in each local authority, it is the responsibility of each county and city manager, under the Local Government Act 2001, to employ such staff and to make such staffing and organisational arrangements as may be deemed necessary for the purposes of carrying out the functions of the local authorities for which he or she is the manager. The matters raised in the question are, accordingly, appropriately determined at local level.

Housing Policy.

188. **Deputy Bernard J. Durkan** asked the Minister for the Environment, Heritage and Local Government his views on offering currently vacant houses to such applicants with a view to meeting their housing requirements and reducing expenditure at the same time; and if he will make a statement on the matter. [25597/09]

Minister of State at the Department of the Environment, Heritage and Local Government (Deputy Michael Finneran): My Department has a number of initiatives in place which will facilitate the use of currently vacant houses to meet the accommodation needs of both households on local authority housing waiting lists and rent supplement recipients with a long term housing need.

In the first instance, the Rental Accommodation Scheme (RAS), which was introduced in 2004, is designed to cater for the long term housing needs of rent supplement households. The core objectives of the RAS are to reform the approach towards providing accommodation within the private rented sector for long-term dependents on rent supplement and to enhance the response of housing authorities to meeting long-term housing need. One of the main features of the scheme is that housing authorities, in sourcing accommodation for these households, make use of the private and voluntary sector and enter into contractual arrangements to secure medium to long-term availability of rented accommodation.

To supplement this scheme, I have introduced two additional initiatives in recent months, which will make further use of vacant stock and assist authorities in meeting housing needs. Firstly, in February 2009, I introduced new arrangements for the delivery of social housing whereby housing authorities may enter into long term leases of private dwellings for periods of between 10 and 20 years, taking advantage of the extent of available property in the market and at the same time providing a more efficient and effective use of public resources in meeting housing needs. Secondly, my Department has advised housing authorities that they can consider transferring unsold affordable housing stock to both the leasing scheme and the RAS, where appropriate.

Water and Sewerage Schemes.

189. **Deputy P. J. Sheehan** asked the Minister for the Environment, Heritage and Local Government further to Parliamentary Question No. 188 of 27 February 2008, the progress made on implementing the project of the Courtmacsherry and Timoleague sewage scheme; the communications between his Department and Cork County Council; if there are further requirements and conditions which need to be met for him to provide funding for this project; the expected starting date for the construction; the expected completion date; and if he will make a statement on the matter. [25430/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): My Department is currently assessing Cork County Council's latest design proposals for this

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scheme, which were submitted in May 2009, and expects to be in a position to notify the Council of the outcome of this process in the near future.

On the question of funding, I expect that the €500 million available for the Water Services Investment Programme for 2009 will allow up to 50 major new schemes to commence this year, some of which have already started. My Department will prioritise the remaining schemes yet to start, including the Courtmacsherry and Timoleague Sewerage Scheme, having regard to both environmental and economic objectives including schemes required to meet National and EU environmental standards in relation to drinking water and waste water disposal, European Court of Justice cases and works that will support economic development. The Department will be working with local authorities, including Cork County Council, over the coming months to identify the priority projects to form the basis of the next phase of the Water Services Investment Programme.

190. **Deputy Deirdre Clune** asked the Minister for the Environment, Heritage and Local Government the progress of a scheme (details supplied) in County Cork; and if he will make a statement on the matter. [25474/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): The Cork Lower Harbour Sewerage Scheme is included for funding in my Department's Water Services Investment Programme 2007-2009 at an estimated cost of €73.5 million. My Department will complete its assessment of Cork County Council's Preliminary Report for the scheme on receipt of confirmation from the Council of the approval by An Bord Pleanála of the Environmental Impact Statement for the scheme, and additional information requested from the Council in May 2009 in relation to the scale, scope and costs of the scheme.

Building Energy Rating Scheme.

191. **Deputy Richard Bruton** asked the Minister for the Environment, Heritage and Local Government the number of building energy ratings for all properties offered for sale or rent which have been completed since the obligation was introduced in January 2009; the compliance rate; the statistics on enforcement action for non-compliance; and if he will make a statement on the matter. [25485/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): Some 50,000 BER certificates for dwellings have been issued to date since the BER system first became operational on 1 January 2007, for new dwellings, in the first instance, subject to certain planning related transitional exemptions. Some 46,000 of these BER certificates were issued since 1 January, 2009 indicating a substantial increase in BER related activity since the scheme was extended to the sale and letting of existing dwellings from 1 January 2009. A further 1,000 BER certificates have been issued to date this year in respect of buildings other than dwellings. Responsibility for the enforcement of BER requirements rests with the 37 Building Control Authorities.

Water and Sewerage Schemes.

192. **Deputy Pat Breen** asked the Minister for the Environment, Heritage and Local Government, further to Parliamentary Question No. 1013 of 2 April 2008, if he will report on the status of a project (details supplied) in County Clare; and if he will make a statement on the matter. [25505/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley):

The Carrigaholt/Labasheeda Sewerage Scheme is included for funding in my Department's Water Services Investment Programme 2007-2009. I approved grant assistance of €1.547m for the scheme in June 2008 following examination of Clare County Council's Preliminary Report Review for the Carrigaholt element of the scheme and its Design Review Report for Labasheeda. Further information in relation to progress on the scheme may be obtained from the Council.

193. **Deputy David Stanton** asked the Minister for the Environment, Heritage and Local Government if he has received an application for funding for Killeagh water supply, County Cork, under the serviced land initiative scheme of the water services scheme; the action he proposes to take in this regard; and if he will make a statement on the matter. [25552/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley):

The Killeagh Water Supply Scheme is included for funding under the Serviced Land Initiative measure of my Department's Water Services Investment Programme 2007-2009. My Department approved Cork County Council's design proposals for the scheme in 2006.

In April 2009, my Department, following a review of the Serviced Land Initiative in light of developments in the economy at large, and in the housing market in particular during 2008, and having regard to the oversupply of housing in some areas, informed all local authorities that all existing approvals under the Initiative, for which contracts had not been signed or letters of intent had issued, were being withdrawn. However, authorities were also informed that where a water services authority was of the opinion that the continuation of an approved scheme for which contracts had not been signed was necessary for the proper development of the area, it was open to the authority to make a case to the Department by 29 May 2009 for the scheme to progress. Cork County Council has not made a case to advance the Killeagh Water Supply Scheme under the Serviced Land Initiative. However, I understand that the Council is considering other options for the advancement of this scheme at a future date.

Private Rented Accommodation.

194. **Deputy Charlie O'Connor** asked the Minister for the Environment, Heritage and Local Government if the fee for the registration of tenancies with the Private Residential Tenancies Board has been changed from €70 for individual tenancies and €300 for composite tenancies at the same address; if he will clarify the traditional practise whereby €50 of the fee was considered to be earmarked for inspections and €20 towards the costs of the PRTB; the breakdown which applies in the case of the composite fee; if he has had consultation or discussions with organisations or individuals on the fee and the use to which the fee is put; and if he will make a statement on the matter. [25556/09]

195. **Deputy Charlie O'Connor** asked the Minister for the Environment, Heritage and Local Government the breakdown of the costs to the nearest available date for the setting up and ongoing operations of the Private Residential Tenancies Board; if the PRTB is self-financing; if it has been in receipt of Exchequer funding at any stage; his views on whether it is in a suitable financial position to carry out its function over the next five years; if he envisages a situation whereby the PRTB will require Exchequer funding in the next five years; and if he will make a statement on the matter. [25557/09]

Minister of State at the Department of the Environment, Heritage and Local Government (Deputy Michael Finneran): I propose to take Question Nos. 194 and 195 together.

Section 137 of the Residential Tenancies Act 2004 specifies the fee for the registration of a single tenancy with the Private Residential Tenancies Board (PRTB) within one month of the commencement of the tenancy as €70 and a fee of €140 applies where the tenancy is registered after this period. The Act also provides for a composite fee of €300 for multiple tenancies in one building, where the tenancies are registered within one month of the commencement of each individual tenancy. Section 138 of the Act specifies that the Board may vary these fees in line with changes in the value of money. No such variation has been made to either fee and I have not had specific discussions with third parties in relation to the above fees.

In terms of the financing of the PRTB, its operations are funded from a combination of annual Exchequer grant, a proportion of the fee income accruing from tenancy registrations and fees it charges for its dispute resolution services. In addition, the Office of Public Works (OPW) has in the past made payments for the benefit of the PRTB, primarily for accommodation overheads, and some fixed assets have also been transferred to the PRTB by my Department.

The annual amounts provided by way of Exchequer grant, OPW payments and asset transfers for the period from the establishment of the Board in September 2004 to the end of 2008 are set out hereunder in tabular form.

Year	2004	2005	2006	2007	2008
	€	€	€	€	€
Exchequer Grant	154,266	1,703,279	2,973,787	5,739,940	3,812,417
OPW payments	98,406	286,709	280,854	279,461	Nil
Assets Transferred		58,294			
Total Cost	252,672	2,148,282	3,254,641	6,019,401	3,812,417

The PRTB is also part-funded from the fees which it collects from the registration of tenancies. Up to 1 April 2009, two sevenths of each fee, including composite fees, was earmarked to support the PRTB's running costs, with the balance being used to support local authorities in the discharge of their functions in relation to the Housing (Standards for Rented Houses) Regulations 2008, the Housing (Rent Book) Regulations 1993 and 2004 and other provisions of the Housing Acts related to private rented accommodation. The tenancy registration fees collected by the PRTB for each year up to 2008, two sevenths of which would have been assigned to PRTB running costs, are set out below in tabular form.

Year	2004	2005	2006	2007	2008
Total Registration Fees	€152,730	€4,911,122	€5,995,772	€6,156,749	€7,897,364

Taking account of the level of accumulated funds available for distribution to local authorities to support their enforcement activities, the basis for apportionment of tenancy registration fee proceeds was amended with effect from 1 April 2009 — four sevenths is now assigned towards meeting the PRTB's running costs, with the remaining three sevenths being devoted to local authority enforcement activities.

The PRTB also derives limited income from fees charged for its dispute resolution services. The income derived from this source in each of the years up to 31 December 2008 is set out below in tabular form.

Year	2004	2005	2006	2007	2008
Dispute fees	Nil	€18,035	€38,340	€36,181	€44,844

I am satisfied that adequate funding arrangements are in place to allow the PRTB to deliver on its functions in the years ahead. Nevertheless, my Department will continue to keep the Board's income sources, including the manner in which registration fee income is divided between local authority inspection functions and PRTB running costs, under review.

196. **Deputy Charlie O'Connor** asked the Minister for the Environment, Heritage and Local Government when he expects to announce proposed changes to the Residential Tenancies Act 2004; when his recently announced review of that Act will commence and be completed; the terms of reference of the review and the name or names of those carrying out the review; the cost, if the review is carried out externally; and if he will make a statement on the matter. [25558/09]

197. **Deputy Charlie O'Connor** asked the Minister for the Environment, Heritage and Local Government if amendments have been made to the Residential Tenancies Act 2004 to date; his plans to amend or otherwise address the situation by which tenants can remain in residence and not pay rent while a dispute is being processed with the Private Residential Tenancies Board; the average time taken to fully process cases when rent is not being paid; his plans to create an independent holding system for rents payable by tenants in dispute with the property owner; his further plans for a similar holding system for deposits paid by tenants; and if he will make a statement on the matter. [25559/09]

Minister of State at the Department of the Environment, Heritage and Local Government (Deputy Michael Finneran): I propose to take Questions Nos. 196 and 197 together.

The Residential Tenancies Act 2004 was amended by the Residential Tenancies (Amendment) Act 2009, which was a technical piece of legislation introduced to regularise a number of appointments to the Dispute Resolution Committee of the Private Residential Tenancies Board (PRTB) about which concerns had been raised in terms of procedural and technical correctness. Earlier this year, I announced my intention to review the provisions of the Residential Tenancies Act 2004 under which the Private Residential Tenancies Board (PRTB) operates. The purpose of this review is to consider whether the Act best supports the PRTB's key functions and whether legislative amendments would support either the achievement of additional operational efficiencies by the PRTB in the delivery of those functions or the broader good working of the private rented sector.

Full details in relation to the background to the review and the associated terms of reference are available on my Department's website, www.environ.ie. In summary, the specific issues to be considered in the course of the review are:

- The scope for enhancing procedural simplicity and efficiency.
- The existing Board and Committee structure and the functional relationship between the Board and Executive.
- The relationship between the Minister/Department and the PRTB.

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- Legislative issues, including proposals already made by the Board, and the need for additional legislative provisions arising from the review.

The review, which I hope will yield preliminary outcomes by Autumn 2009, has now commenced and is being carried out by my Department itself. As part of the review, my Department is consulting with relevant stakeholders, including the PRTB and landlord and tenant representative organisations. Advertisements were also placed in the print media at the end of May 2009 seeking the views of the public. The Board, in fulfilment of its remit to advise on policy aspects and the general operation of the Residential Tenancies Act, has already submitted to my Department a number of suggestions for legislative improvements and it is hoped to address the most critical of these in the context of the Housing (Miscellaneous Provisions) Bill 2008, currently before the Oireachtas, with the remaining proposals being considered further in the context of the review.

As my Department has no function in the operational matters of the Private Residential Tenancies Board (PRTB), which is an independent statutory body established under the Residential Tenancies Act 2004, it would not be appropriate for me to comment on specific cases or classes of cases. However, I understand that the PRTB is examining the various issues around the retention of deposits, including an assessment of deposit models, and that the Board hopes to conclude its research in this regard in the next few months. I expect the outcome of this research to feed into the Residential Tenancies Acts review outlined above.

198. **Deputy Charlie O'Connor** asked the Minister for the Environment, Heritage and Local Government the reason for lengthy delays in completing the registration of tenancies with the Private Residential Tenancies Board and what happens to the registration fees when the process is so lengthy; the number of applications awaiting completion; the average number of applications completed each week; the effect the embargo on public sector recruitment will have on the PRTB; and if he will make a statement on the matter. [25560/09]

Minister of State at the Department of the Environment, Heritage and Local Government (Deputy Michael Finneran): My Department has no function in the operational matters of the Private Residential Tenancies Board (PRTB), which is an independent statutory body established under the Residential Tenancies Act 2004. The PRTB may be contacted at their offices at O'Connell Bridge House, D'Olier Street, Dublin 2 or by telephone or email. Contact details are available on the Board's website at www.prtb.ie. As a State Agency, the PRTB is subject to Government policy in relation to public sector numbers. While the impact of such policies on the PRTB will be kept under review, it should be noted that a request from the Board of the PRTB for the recruitment of an additional 14 permanent staff, to bring the permanent staffing complement from 26 to 40, was approved last year. This has been of significant benefit to the Board in dealing with the administrative work associated with the processing of registrations and dispute cases. The purposes for which tenancy registration fees are utilised are set out in the reply to a question on today's Order Paper.

199. **Deputy Charlie O'Connor** asked the Minister for the Environment, Heritage and Local Government his plans to provide a system allowing partial or full electronic registration of complaints to the Private Residential Tenancies Board; his views on whether this would help to speed up and deal more efficiently with the decision and determination process for the PRTB saving time and expense for the board, the tenant and the property owner; and if he will make a statement on the matter. [25564/09]

Minister of State at the Department of the Environment, Heritage and Local Government (Deputy Michael Finneran): The PRTB, an independent statutory body, is committed to delivering its services in as timely a manner as possible and it has set out a clear strategic approach in this regard. My Department supports the PRTB in this approach and, last year, in response to the large and ongoing volume of work involved, a request from the Board of the PRTB for the recruitment of an additional 14 permanent staff, to bring the permanent staffing complement from 26 to 40, was approved. This has been of significant benefit to the Board in dealing with the administrative work associated with the processing of registrations and dispute cases.

In December last year I launched the PRTB's 2009-2011 Corporate Plan which set's out the organisation's priorities in the adjudication and administration of landlord/tenant disputes. The Plan commits the PRTB to the development of an on-line tenancy registration system and to the implementation of a system of on-line registration of disputes. I share the Board's considered view that online registration will yield significant operational and other efficiencies and will benefit all stakeholders. To facilitate this I have introduced an amendment to the Residential Tenancies Act 2004 via the Housing (Miscellaneous Provisions) Bill 2008, currently before the Oireachtas, to allow for online electronic registration of tenancies.

Telecommunications Services.

200. **Deputy Joe McHugh** asked the Minister for Communications, Energy and Natural Resources if he will provide a broadband connection to the home of a person (details supplied) in County Donegal in view of the fact that the homes on each side of that home have broadband; and if he will make a statement on the matter. [25477/09]

Minister for Communications, Energy and Natural Resources (Deputy Eamon Ryan): Broadband services can be provided over various platforms including DSL (i.e. over telephone lines), fixed wireless, mobile, cable, satellite and fibre by private sector service providers. I understand that broadband is available in Rathmullen, County Donegal, from DSL, wireless, mobile and satellite service providers as detailed in the following table. My Department operates a dedicated website www.broadband.gov.ie where potential broadband customers can ascertain the availability of services in their area.

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Platform	Service Provider	Website	Phone
Mobile	3 Ireland	http://www.three.ie/broadband/index.htm	1800 330 333
Satellite	Applied Solutions	http://www.ADSLnow.ie	1890 924 854
	Avonline	http://www.avonlinebroadband.co.uk	0044 800 073 1102
	Broadband Wherever	http://www.broadbandwherever.net	0044 800 068 3358
	Cross Country Broadband Limited	http://www.crosscountrybroadband.com	053 92 55428
	Digiweb Satellite	http://www.broadband.digiweb.ie	042 939 3300
	e3 Broadband	http://www.e3broadband.ie	1850 303333
	Ehotspot	http://www.ehotspot.ie	0044 1262 409109
	Eircom Satellite	http://www.eircom.ie	1901
	Fastnet Broadband Satellite	http://www.fastnetbroadband.com	01 2303746
	Media Satellite Ireland Limited	http://www.mediasat.ie	1850 202 144
	National Broadband Limited	http://www.nbb.ie	045 982130
	Orbitlink	http://www.orbitlink.ie	01 8601995
	Pure Telecom Satellite	http://www.puretelecom.ie	01 2895555
Satellite Broadband Ireland	http://www.satellitebroadbandireland.ie	044 9372514	

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Rathmullen

Platform	Service Provider	Website	Phone
Mobile	3Ireland	http://www.three.ie/broadband/index.htm	1800 330 333
Satellite	Applied Solutions	http://www.ADSLnow.ie	1890 924 854
	Avonline	http://www.avonlinebroadband.co.uk	0044 800 073 1102
	Broadband Wherever	http://www.broadbandwherever.net	0044 800 068 3358
	Cross Country Broadband Limited	http://www.crosscountrybroadband.com	053 92 55428
	Digiweb Satellite	http://www.broadband.digiweb.ie	042 939 3300
	e3 Broadband	http://www.e3broadband.ie	1850 303333
	Ehotspot	http://www.ehotspot.ie	0044 1262 409109
	Eircom Satellite	http://www.eircom.ie	1901
	Fastnet Broadband Satellite	http://www.fastnetbroadband.com	01 2303746
	Media Satellite Ireland Limited	http://www.mediasat.ie	1850 202 144
	National Broadband Limited	http://www.nbb.ie	045 982130
	Orbitlink	http://www.orbitlink.ie	01 8601995
	Pure Telecom Satellite	http://www.puretelecom.ie	01 2895555
Satellite Broadband Ireland	http://www.satellitebroadbandireland.ie	044 9372514	

Fisheries Protection.

201. **Deputy Seán Sherlock** asked the Minister for Communications, Energy and Natural Resources if a salmon counter has been purchased for the River Boyne; if so, the cost of same; the location on the River Boyne at which it will be located; and if he will make a statement on the matter. [25482/09]

Minister of State at the Department of Communications, Energy and Natural Resources (Deputy Conor Lenihan): I am advised that the Eastern Regional Fisheries Board is to undertake a feasibility study over the summer months to establish the best location on the Boyne for another fish counter. It is not possible until the feasibility study report is complete to estimate when a counter will be installed. Details of the cost of the counter already purchased by the Eastern Regional Fisheries Board have not changed since provided to the Deputy in the reply to Parliamentary Question No. 396 of 31 March 2009.

Aquaculture Licences.

202. **Deputy John O'Mahony** asked the Minister for Communications, Energy and Natural Resources his views regarding complications of management procedures and the validity of existing licences for aquaculture projects in Lough Foyle due to the poorly defined nature of jurisdiction and competency of his Department, the Department of Agriculture and Rural Development in Northern Ireland and the Crown Estate which lays claim to Lough Foyle; and if he will make a statement on the matter. [25511/09]

Minister of State at the Department of Communications, Energy and Natural Resources (Deputy Conor Lenihan): As there has been no formal agreement between Ireland and the United Kingdom on the delimitation of a territorial waters boundary between the two States, the policy of the two Governments has been to co-operate in a pragmatic fashion. There is no licensing regime for aquaculture currently in operation in Lough Foyle. The Foyle and Carlingford Fisheries Act, 2007 empowered the Loughs Agency to conserve, protect, develop

and manage shell fisheries and aquaculture in the Loughs areas, enabling for the first time the introduction of an agreed regulatory aquaculture and shell fisheries regime in Lough Foyle.

The relevant secondary legislation in relation to aquaculture, when introduced, will enable the Agency to manage the sector. It will be necessary, however, for the Loughs Agency to secure foreshore licences for the cross-border foreshore areas in Lough Foyle and Carlingford Lough from the Department of Agriculture and Fisheries and Food and the Crown Estates Commission, which are the bodies responsible for the management of foreshore in both jurisdictions. This will facilitate the introduction of a structured management system for aquaculture in the Loughs areas with the objective of achieving sustainable development for the social, economic and environmental benefit of the communities that influence, enjoy and depend on its resource.

Fishing Industry.

203. **Deputy Joe McHugh** asked the Minister for Agriculture, Fisheries and Food if he will provide exemptions to gillnet fishermen with boats of less than 15 meters in length similar to the exemptions that he has provided to trawling fishermen with boats of less than 15 meters in length (details supplied); if his attention has been drawn to the fact that these gillnet fishermen are anxious to come to an accommodation with the Department of Transport; if he will meet with a delegation of these gillnet fishermen; and if he will make a statement on the matter.

[25425/09]

Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith): Council Regulation (EC) No 43/2009 introduced restrictions on fishing for cod, haddock and whiting in ICES zones VIa (off the north west coast) from the 1 February 2009 for vessels over 15 metres and for all other vessels from 1 April 2009. By way of derogation, certain cod avoidance fishing gears are permitted under the EU regulation subject to strict conditions. No such derogation exists in respect of the use of gillnets as the Commission argued that gill nets have the potential to specifically target cod and generate high mortality rates in an area where scientific advice has been received to indicate cod stocks are under severe threat.

My colleague, Minister of State Tony Killeen, who has particular responsibility for Fisheries, has met with Fisheries Commissioner Borg this week and raised issues in relation to the Cod Recovery Plan in the Irish Sea & in the North West. In particular, Minister of State Killeen asked for a number of practical changes to the rules that would help alleviate the impacts on the fleet particularly in the North West & in the Irish Sea. These changes included a request that gill net fishing that does not target cod, haddock or whiting in Area VIa should be permitted. Minister Killeen regularly meets fishing industry representatives and fishermen and will continue to do so in the future.

Any issues relating to the Department of Transport responsibilities should be addressed to my colleague Minister Noel Dempsey.

Fallen Animal Collection Scheme.

204. **Deputy Joe Carey** asked the Minister for Agriculture, Fisheries and Food the plans in place to ensure that farmers here pay an equitable rate for collection and disposal as per their counterparts in Northern Ireland following the suspension of the fallen animals scheme.

[25429/09]

Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith): My Department's contribution to the Fallen Animals Scheme ceased with effect from Tuesday 14th April 2009. This was as a result of budgetary constraints and also reflects the greatly reduced incidence of

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BSE in this country. However I have provided continued financial support for the collection of certain dead animals, in particular bovines over 48 months of age, for sampling, as required under the ongoing national BSE surveillance programme.

The disposal of dead farm animals is subject to EU Regulations, notably Regulation (EC) No 1774 of 2002. These regulations require that animals, which die on-farm, must generally be disposed of through approved knackeries and rendering plants. Burial of fallen animals is only permissible under licence in remote areas i.e. islands and listed mountain/bogland areas. Farmers who wish to bury animals on-farm should apply to their local District Veterinary Office for a burial licence. Farmers may continue to use the existing collection network or, in the alternative, may transport dead animals by prior arrangement to approved knackeries, provided they transport the carcasses in leak-proof, covered containers or vehicles. It is also a legal requirement on all keepers of bovine animals to notify movements of all bovines (live or dead) off their holdings to my Department.

With the ending of the Fallen Animals Scheme the cost of collection and rendering for animals not covered by the new scheme is now a matter for negotiation between the individual collectors/rendering plants and their customers. Within the boundaries of legal requirements my Department is making every effort to facilitate measures to maximise flexibility and enable reduction of costs in the rendering/collection system. This includes allowing cross border trade, permitting direct delivery by farmers to authorised plants, considering removal of some costs currently built into the rendering process and encouraging indigenous use of meat and bone meal (MBM) for energy purposes.

Grant Payments.

205. **Deputy P. J. Sheehan** asked the Minister for Agriculture, Fisheries and Food further to Parliamentary Question No. 190 of 18 June 2009, the date he received the application from a person (details supplied) in County Cork; the date of completion of administrative and area checks of this application; if this is not completed, the date he expects it to be completed; the amount that will be 75% of their payment; the date he expects this payment will be issued; the date he expects all on-farm inspections in this administrative area to be completed; the number of applications received for the REP scheme four programme by 15 May 2009; the percentage of applications for REP scheme four programme that have been sent their initial payment of 75% as of 19 June 2009; the number of applications received for the 2008 scheme; the percentage of applicants who have not a received payment yet; the percentage of applicants who have not been paid in full; and if he will make a statement on the matter. [25443/09]

Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith): My officials have examined the applications for the 2009 REPS Scheme received in the Co Cork local offices and have found no record of an application from the person named.

The total number of applications received for 2009 was in the region of 17,000. The precise number will be available when the applications received in each of the local have been entered on the Department's computer system. REPS on-farm inspections are carried out throughout the year and are usually completed in early December.

Of the 12,145 REPS 4 applications lodged in 2007 and 2008, 90.8% have received their 75% payment. Arrangements are being made to ensure that outstanding payments of the first instalment and all payments of the second 25% instalment are made as soon as possible.

Aquaculture Licences.

206. **Deputy Joe McHugh** asked the Minister for Agriculture, Fisheries and Food if he will

furnish a copy of all aquaculture sites (details supplied) and foreshore on Lough Swilly, County Donegal; and if he will make a statement on the matter. [25476/09]

Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith): The information requested by the Deputy insofar as it relates to aquaculture licences is contained in the following table. All marine aquaculture licensees are also required to hold a corresponding foreshore licence issued under the Foreshore Act 1933 as amended. I understand that the Deputy is also requesting details of foreshore leases and licences granted and sought in respect of non-aquaculture activities. This information is not readily available but is currently being compiled by my Department. When this has been completed the information will be communicated to the Deputy without delay.

File Ref.	Site Ref.	Licence Holders	Licence issued	Comment
T12/85	T12/85/1	Marine Harvest Ltd	Licence issued 03/05/01 for 10 yrs	
T12/251/1	T12/251A ,B	Conor Blake	Licence issued 03/11/1999 for 10 yrs	
T12/273	T12/273A	John Mc Laughlin	Licence issued 25/11/1999 for 10 Yrs	
T 12/275	T12/275F	Inishowen Mussels Ltd.	licensed 26/1/07 for 10 yrs	
T12/288	T12/288 B&C	Inishowen Mussels Ltrd	Licence issued 10/05/1999 for 10 yrs	Licencee has sought assignment to third party
T12/284	T12/284	Joseph Coll — Iasc Sliogach Uisce LeathanTeo.	Licence issued 9/08/1999 for 10 yrs	
T12/280/1	T12/280/1A	Desmond Mc Elroy	Licence issued 19/11/04 for 10 yrs	
T12/273	T12/273A	John McLaughlin	Licence issued 25/11/1999 for 10 yrs	
T12/293/1	T12/293	Ronan O'Doherty & A. Ward (ii)	Licence issued 3/11/2000 for 10 yrs	
T12/297	T12/297	Patrick Shovelin	Licence issued 21/02/2000 for 10 yrs	
T12/298	T12/298	Donegal Seafoods Ltd	Licence issued 4/11/1999 for 10 yrs	
T12/308	T12/308	Eamonn Coll	Licence issued 1/11/2000 for 10 yrs	
T12/311	T12/311A	Hannigan Fish Trading Ltd	Licence issued 10/5/02 for 10 yrs	

File Ref.	Site Ref.	Renewals	Licence issued	Comment
T12/37	T12/37A, B&C	Lough Swilly Shellfish Growers Co-op	Licence expired 19/10/2004	Renewal application under consideration
T12/85/2	T12/85 A&C	Marine Harvest	Licence expired 27/11/06	Renewal application under consideration
T12/211/2	T12/211C	Inishowen Mussels Ltd.	Licence expired 3/4/2006	Renewal application under consideration

File Ref.	Site Ref.	New applications	Comment
T12/325	T12/35& 325A	Danny Bradley	
T12/328	T12/328	Steven Brown	
T12/330	T12/330A	Fresco Seafoods	
T12/339	T12/339A & B	Lough Swilly Wild Oyster Co-op	
T12/340	T12/340 A & B	Martin Coll-Iasc Sliogach	
		Uisce Leathan Teo	
T12/341	T12/341A	Belfast Lough Shellfish	
T12/342		Conor Blake	
T12/343	T12/343A	Alan O'Sullivan	
T12/344	T12/344/1A	Aqua Shellfish Ltd	
T12/378	T12/378A	Ronan O'Doherty/ Andrew Ward	
T12/379	T12/379A	Donegal Seafoods Ltd	

Veterinary Inspection Service.

207. **Deputy Phil Hogan** asked the Minister for Agriculture, Fisheries and Food if he will provide assurances that the District Veterinary Offices at Kilkenny and Carlow will continue to provide the services at these locations into the future; and if he will make a statement on the matter. [25478/09]

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.

Grant Payments.

208. **Deputy Jimmy Deenihan** asked the Minister for Agriculture, Fisheries and Food the position regarding the payment of REP scheme three to a person (details supplied) in County Kerry; and if he will make a statement on the matter. [25498/09]

Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith): Following a compliance inspection in 2008, the person named was asked to submit an adjusted REPS plan. My officials have not yet received such a plan, however, and payment cannot be released until they do.

Fishing Industry Development.

209. **Deputy Brian O'Shea** asked the Minister for Agriculture, Fisheries and Food the position regarding the national lobster V-notching programme; and if he will make a statement on the matter. [25499/09]

Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith): The national lobster v-notching scheme has been operated every year by BIM since 1994 with great support from the indoor catching sector. The scheme is included in the EU co-funded National Seafood Development Operational Programme 2007-13. I expect to be in a position to formally launch the 2009 scheme shortly. Taking into account that the traditional lobster season has already started, BIM intend that lobsters set aside for v-notching from the start of the season in May will be included under the new scheme.

Grant Payments.

210. **Deputy Pat Breen** asked the Minister for Agriculture, Fisheries and Food when payment will issue in respect of a person (details supplied) in County Clare; and if he will make a statement on the matter. [25501/09]

Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith): The person concerned is an applicant for grant-aid under the Farm Waste Management Scheme. 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. Payment of the first instalment of 40 per cent was made to the person concerned on 22 June 2009.

School Management.

211. **Deputy Brian Hayes** asked the Minister for Education and Science the amount he has given to each of the patron bodies at primary level, for the purposes of running the organisation in question, in each of the past five years; if the bodies concerned provide him with audited accounts as to what the money in question was spent on; if all of the bodies have submitted such accounts; if he has satisfied himself that the funds in question have been used for the purposes as agreed by him; and if he will make a statement on the matter. [25422/09]

Minister for Education and Science (Deputy Batt O’Keeffe): The information sought by the Deputy in relation to grants for patron bodies at primary level for the purpose of running their organisations in the past five years is set out in the following table.

Since 2007, my Department has required each of the patron bodies to provide audited accounts for the previous year as a pre-condition to payment of these grants. Audited accounts have been requested from the various patron bodies to allow my Department to pay the 2009 grants.

Funding to the Islamic Education Board has been withheld by my Department since 2007 because of concerns in relation to the operation and representation of that organisation as a primary management body. In respect of the other patron bodies, I am satisfied that the grants issued by my Department have been utilised for the purposes intended.

	CPSMA	Forás Pátrúnachta na Scoileanna Gaeilge	Educate Together	National Association of Boards of Management in Special Education	Church of Ireland Board of Education	Islamic Education Board
	€	€	€	€	€	€
2004	102,000	39,800	39,800	39,800	39,800	39,800
2005	105,000	41,133	81,133	41,133	41,133	41,133
2006	152,000	41,133	120,000	41,133	120,000	41,133
2007	152,000	41,133	120,000	89,583	120,000	Nil
2008	200,000	140,000	140,000	140,000	140,000	Nil

School Inspections.

212. **Deputy Brian Hayes** asked the Minister for Education and Science if a meeting took place between officials from his Department and a school (details supplied) in County Dublin in the September/October 2006 period when questions were raised in relation to financial accountability for the school concerned; and if he will make a statement on the matter. [25423/09]

218. **Deputy Brian Hayes** asked the Minister for Education and Science if an examination of a school (details supplied) in County Dublin accounts were carried out since its establishment; if so, the person who carried out same; if the results of the examination were made available; the action that was taken; and if he will make a statement on the matter. [25488/09]

219. **Deputy Brian Hayes** asked the Minister for Education and Science if action was taken by his Department in 2004 and 2005 following correspondence from an organisation (details supplied) in relation to a school in County Dublin; if not, the reason for same; and if he will make a statement on the matter. [25489/09]

Minister for Education and Science (Deputy Batt O’Keeffe): I propose to take Questions Nos. 212, 218 and 219 together.

I can confirm that Department officials met with the management of the school concerned in September 2006. My Department had engaged frequently with the school in question from 2003 onwards arising from concerns identified by my Department’s Inspectorate and from other concerns that were brought to my Department’s attention, and those concerns informed the business of the meeting in September 2006. My Department requested copies of the audited accounts of the school in question in June 2005 for internal examination in the Department and I can also confirm that matters relating to the school accounts were discussed at that meeting.

Special Educational Needs.

213. **Deputy Michael D’Arcy** asked the Minister for Education and Science when he will make a decision regarding the application of schools (details supplied) in Dublin 10 to appoint one teacher to serve mild general learning disability classes at the schools; when the decision will be conveyed to the schools involved; and if he will make a statement on the matter. [25436/09]

Minister for Education and Science (Deputy Batt O’Keeffe): I am pleased to advise the Deputy that my Department has permitted the retention of a mild general learning disability (MGLD) class in the schools in question for the 2009/2010 school year subject to the schools’ acceptance of the administrative arrangements.

Departmental Correspondence.

214. **Deputy Pat Rabbitte** asked the Minister for Education and Science if his attention has been drawn to correspondence of 16 May 2009 from a person (details supplied) in Dublin 12; when he will reply to this person. [25440/09]

Minister for Education and Science (Deputy Batt O’Keeffe): I am aware of the correspondence to which the Deputy refers and will respond to it as soon as I am in a position to do so.

School Enrolments.

215. **Deputy Ruairí Quinn** asked the Minister for Education and Science the number of appeals under section 29 of the Education Act 1998 made during each of the past three years in relation to admissions in a school (details supplied) in County Dublin; the number that were successful for each year; and if he will make a statement on the matter. [25444/09]

Minister for Education and Science (Deputy Batt O’Keeffe): Section 29 of the Education Act 1998, provides parents with an appeal process where a Board of Management of a school or a person acting on behalf of the Board refuses enrolment to a student. Where a school refuses to enrol a pupil, the school is obliged to inform parents of their right under Section 29 of Education Act 1998 to appeal that decision to either the relevant Vocational Educational Committee or to the Secretary General of my Department. In the case of the latter, only where an appeal under Section 29 is upheld can the Secretary General of my Department direct a school to enrol a pupil. The procedures provide for three stages to processing appeals, local resolution, facilitation, and finally, if the matter has not been resolved, a hearing. In respect of the school concerned, six appeals against a refusal to enrol a child have been lodged to date in 2009, of which 4 went to full hearing. None of the appeals were upheld at hearing. In 2008, three appeals were lodged against refusal to enrol. Two were resolved without the need for a hearing. One appeal went to hearing, but was not upheld. In 2007, 7 appeals against refused

enrolment were lodged, six were resolved prior to hearing. One appeal proceeded to hearing and was upheld.

Schools Refurbishment.

216. **Deputy Noel J. Coonan** asked the Minister for Education and Science the status of an application made under the summer works scheme by a school (details supplied) in County Tipperary; the outcome of the assessment; the works which will be carried out; the timeframe for same; and if he will make a statement on the matter. [25471/09]

Minister for Education and Science (Deputy Batt O’Keeffe): I am pleased to inform the Deputy that the application from the school in question for funding under the Summer Works Scheme to replace doors and windows has been approved following reassessment. The school management has been informed of the decision. 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.

Education Schemes.

217. **Deputy Brian Hayes** asked the Minister for Education and Science the details on a yearly basis of all grants awarded to a school (details supplied) in County Dublin since its establishment in 2001; the persons to whom and when those grants were awarded; the purposes for which those grants were intended; if he is satisfied that they were expended for the purposes intended; and if he will make a statement on the matter. [25487/09]

Minister for Education and Science (Deputy Batt O’Keeffe): The information requested by the Deputy in relation to grants awarded to the school since 2001 is not readily available. I have asked my officials to compile this information and to forward it to the Deputy as soon as it is available.

Questions Nos. 218 and 219 answered with Question No. 212.

Special Educational Needs.

220. **Deputy Fergus O’Dowd** asked the Minister for Education and Science if a special needs assistant will be allocated to a person (details supplied) in County Louth for September 2009; and if he will make a statement on the matter. [25490/09]

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 (SENOs), for allocating resource teachers and Special Needs Assistants (SNAs) to primary and post primary schools to support children with special needs. The NCSE operates within my Department’s criteria in allocating such support.

All schools have the names and contact details of their local SENO. Parents may also contact their local SENO directly to discuss their child’s special educational needs, using the contact details available on www.ncse.ie.

I have arranged for the information provided by the Deputy to be forwarded to the NCSE for their direct reply.

Education Schemes.

221. **Deputy Pat Breen** asked the Minister for Education and Science the status of an application in respect of a school (details supplied) in County Clare; and if he will make a statement on the matter. [25502/09]

Minister for Education and Science (Deputy Batt O’Keeffe): The school to which the Deputy refers received funding under the 2007 Small Schools Scheme. The school’s original grant under the scheme was increased following an appeal for further funding to meet unavoidable extra costs.

This school made an application under the SWS 2009 for a number of projects. However, their original application was not successful. The school submitted an appeal of this decision, which is under consideration at present. The school has been contacted for additional information relating to their appeal and, when this is received, the appeal will be considered further and the school informed directly of the outcome.

Vocational Educational Committees.

222. **Deputy Frank Feighan** asked the Minister for Education and Science when a replacement chief executive officer will be appointed in County Roscommon Vocational Education Committee. [25515/09]

Minister for Education and Science (Deputy Batt O’Keeffe): The post referred to by the Deputy is subject to the moratorium on recruitment and promotion applicable to the civil and public service and my Department does not have any authority to approve the filling of the post. The Government did decide that in exceptional circumstances certain posts may be filled, subject to the prior sanction of the Minister for Finance.

In the case of the post referred to by the Deputy, my Department sought approval for the appointment of a CEO on an acting basis on the retirement of the current CEO. I am in discussions with the Minister for Finance in relation to this matter.

Special Educational Needs.

223. **Deputy Michael Ring** asked the Minister for Education and Science if positions (details supplied) in County Mayo will be filled. [25517/09]

Minister for Education and Science (Deputy Batt O’Keeffe): I wish to advise the Deputy that my Department has considered the correspondence submitted by the school in question appealing the decision to suppress a class for pupils with a Mild General Learning Disability. My Department recently advised the school that the decision to suppress the class remains.

I understand that the school has subsequently written to my Department regarding the special class. This correspondence will be considered and a reply will issue to the school as quickly as possible.

224. **Deputy Liz McManus** asked the Minister for Education and Science if, in view of the fact that there are nine children with special needs in a school (details supplied) in County Wicklow, he will ensure that the school’s application for a special needs class is granted; and if he will make a statement on the matter. [25521/09]

Minister for Education and Science (Deputy Batt O’Keeffe): I wish to advise the Deputy that my Department has considered the correspondence submitted by the school in question

appealing the decision to suppress a class for pupils with a Mild General Learning Disability. My Department recently advised the school that the decision to suppress the class remains.

I understand that the school has subsequently written to my Department regarding the special class. This correspondence will be considered and a reply will issue to the school as quickly as possible.

225. **Deputy Denis Naughten** asked the Minister for Education and Science if his attention has been drawn to the impact of the withdrawal of special needs assistants from a school (details supplied) in County Leitrim; if he will review this decision; and if he will make a statement on the matter. [25524/09]

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 (SENOs), for allocating resource teachers and Special Needs Assistants (SNAs) to primary and post primary 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 on 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.

The NCSE will undertake to review a decision taken by a SENO on foot of a request from a school or parents/guardians, when accompanied by relevant additional information, which may not have been to hand at the time of the decision. The NCSE has outlined this process in its Circular 01/05.

The Deputy will be aware that the NCSE has arranged for its SENOs to review SNA allocations in all schools with a view to ensuring that the criteria governing the allocation of such posts are properly met.

In this context, my Department recently published circular letter SP ED 0037/2009 on the Department’s website www.education.ie. Given the proximity of the end of this school year and, in the light of the fact that those schools yet to be reviewed will have prepared for the new school year in advance of being reviewed, my Department is allowing exceptional transitional arrangements for schools where the SNA allocation is being adjusted. With the exception of cases where a child with SNA support is leaving a school, schools may, if they so wish, retain the existing cohort of SNAs until 31 January 2010.

All schools have the names and contact details of their local SENO. Parents may also contact their local SENO directly to discuss their child’s special educational needs, using the contact details available on www.ncse.ie.

I have arranged for the information provided by the Deputy to be forwarded to the NCSE for their direct reply.

Higher Education Grants.

226. **Deputy Bernard J. Durkan** asked the Minister for Education and Science when full payment of 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. [25568/09]

Minister for Education and Science (Deputy Batt O’Keeffe): The candidate was awarded the full rate of maintenance grant in March 2009 when outstanding documentation required to process her grant application was received by the awarding authority. I can confirm that the candidate has been paid all arrears to date, and the final grant instalment due to her for the current academic year will be issued on the 26th June, 2009.

School Enrolments.

227. **Deputy Bernard J. Durkan** asked the Minister for Education and Science when a school place will be offered at a school for a person (details supplied) in County Dublin; and if he will make a statement on the matter. [25575/09]

Minister for Education and Science (Deputy Batt O’Keeffe): The question of enrolment in individual schools is the responsibility of the managerial authority of those schools and the Department does not seek to intervene in decisions made by schools in such matters. The Department’s main responsibility is to ensure that schools in an area can, between them, cater for all pupils seeking places. This may result, however, in some pupils not obtaining a place in the school of their first choice.

It is the responsibility of the managerial authorities of schools to implement an enrolment policy in accordance with the Education Act, 1998. In this regard a Board of Management may find it necessary to restrict enrolment to children from a particular area or a particular age group or, occasionally, on the basis of some other criterion. This selection process and the enrolment policy on which it is based must be non-discriminatory and must be applied fairly in respect of all applicants.

Under section 15(2)(d) of the Education Act 1998, each school is legally obliged to disclose its enrolment policy and to ensure that as regards that policy that principles of equality and the right of parents to send their children to a school of the parents choice are respected. Section 29 of the Education Act 1998, provides parents with an appeal process where a Board of Management of a school or a person acting on behalf of the Board refuses enrolment to a student. Where a school refuses to enrol a pupil, the school is obliged to inform parents of their right under Section 29 of the Education Act 1998 to appeal that decision to either the relevant Vocational Educational Committee or to the Secretary General of my Department. In the case of the latter, only where an appeal under Section 29 is upheld can the Secretary General of my Department direct a school to enrol a pupil.

The National Educational Welfare Board (NEWB) is the statutory agency which can assist parents who are experiencing difficulty in securing a school place for their child. The NEWB advises parents to apply to more than one school in order to assist in securing a school placement. The Board can be contacted at National Educational Welfare Board, National Headquarters, 16-22 Green Street, Dublin 7 or by telephone at 01-8738700.