



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Thursday, 3 December 2009.

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DÁIL ÉIREANN

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Déardaoin, 3 Nollaig 2009.
Thursday, 3 December 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: Before coming to the Order of Business I propose to deal with a number of notices under Standing Order 32 dealing. I will call on Deputies in the order in which they submitted their notices to my office.

Deputy Frank Feighan: I seek the adjournment of the Dáil to discuss a matter of national importance: the provision of flood defences following the recent flooding in north Shannon, Carrick-on-Shannon, Boyle and Leitrim village.

Deputy Kathleen Lynch: I seek the adjournment of the Dáil to discuss a matter of national importance: today, which is the international day of persons with disabilities, more than 300 people with an intellectual disability are inappropriately placed in our psychiatric hospitals. It is now more than 25 years since Government policy first stated the need for separate facilities for people with intellectual or mental disabilities, but the situation persists. People with an intellectual disability who are resident in psychiatric hospitals are amongst the most vulnerable in society and are being dealt with in a shameful manner. They must be moved to more suitable accommodation without further delay and I request an urgent debate to discuss this serious matter.

An Ceann Comhairle: Having considered the matters raised, they are not in order under Standing Order 32.

Order of Business.

The Tánaiste: It is proposed to take No. 45 — Statements on the report by the Commission of Investigation into the Catholic Archdiocese of Dublin (resumed); No.16 — Motion re: proposed approval by Dáil Éireann of the terms of the draft scheme entitled Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009; No. 2 — Foreshore and Dumping at Sea (Amendment) Bill 2009 [*Seanad*] — Second and Subsequent Stages; No. 6 — Civil Partnership Bill 2009 — Order for Second Stage and Second Stage.

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 tonight which shall be taken for 75 minutes at 8.45 p.m., 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; the proceedings on No. 16 shall, if not previously concluded, be brought to a conclusion after 50 minutes and the following arrangements shall apply: the speeches shall be confined to a Minister or Minister of State and to the main spokespersons for Fine Gael, the Labour Party and Sinn Féin, who shall be called upon in that order, who may share their time, and which shall not exceed 10 minutes in each case and a Minister or Minister of State shall make a speech in reply which shall not exceed 10 minutes; the Second and Subsequent Stages of No. 2 shall be taken today and the following arrangements shall apply: the proceedings on Second Stage shall, if not previously concluded, be brought to a conclusion at 5.45 p.m. tonight and the proceedings on the Committee and Remaining Stages shall, if not previously concluded, be brought to a conclusion at 6.45 p.m. tonight 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 Agriculture, Fisheries and Food.

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

Deputy Eamon Gilmore: There is quite an amount of business on the Order Paper today. Before agreeing to it, I wish to ask the Tánaiste if any time will be provided for a statement to be made to the House by her, the Taoiseach or the Minister for Finance, Deputy Brian Lenihan, on the talks currently under way with the public service trade unions. We seem to have a very muddled position taken by the Government. It seems to have been made worse over the course of the past day. This morning we had an extraordinary situation whereby the Minister of State, Deputy Conor Lenihan, who was presumably acting as a proxy for his brother, was on radio contradicting the position which was set out by the Taoiseach in the House yesterday.

We do not know where the talks are going. We are less than a week from the budget. Both sides of the House accept there is a requirement to reduce the public service pay bill by €1.3 billion. We do not know where the Government is going with that. We should get some clarity on this today, and that clarity should be given in the House. I understand a meeting of the Fianna Fáil Parliamentary Party has been convened for today, presumably to discuss this matter. However, it is an issue that needs to be set out in public. What arrangements are being made to allow for a statement to be made to the House and perhaps for some questions to be taken on the progress, or lack of it, being made on these talks? The Government needs to clarify its position. We seem to have two positions, one announced by the Taoiseach yesterday and a second announced by proxy on behalf of the Minister for Finance this morning.

Deputy Bernard J. Durkan: Deputy Mattie McGrath has not yet come into the Dáil.

Deputy Seán Barrett: It is a pity the Government would not reform Parliament.

The Tánaiste: The Deputy might be slightly presumptuous in guessing why the Fianna Fáil Parliamentary Party meeting was called. It is to do with the availability of the Minister for Finance, who was not available on Tuesday evening.

Deputy Pádraic McCormack: Perhaps it is to arrange the Christmas party.

Deputy Bernard J. Durkan: Deputy Mattie McGrath is away too.

The Tánaiste: However, I am delighted the Deputy is as interested as he seems to be in our parliamentary affairs.

Deputy Seán Barrett: It is a pity the Government would not reform Parliament.

The Tánaiste: Contrary to what has been said here, the Taoiseach made his position very clear in the House yesterday.

Deputy Eamon Gilmore: Is that the Government's position?

The Tánaiste: The Taoiseach represents the Government.

(Interruptions).

The Tánaiste: It is another simple message the Deputies opposite do not seem to understand either.

An Ceann Comhairle: Allow the Tánaiste to have the floor.

The Tánaiste: There have been intensive discussions——

Deputy Eamon Gilmore: Whom does the Minister of State, Deputy Conor Lenihan, represent?

An Ceann Comhairle: I ask Deputies to restrain themselves, please.

Deputy Alan Shatter: We thought he left the Government. He clearly represents it.

An Ceann Comhairle: The Tánaiste without interruption, please.

The Tánaiste: There were intensive discussions with the unions yesterday evening and they are resuming again this morning.

Deputy Seán Barrett: Who is running the country, by the way?

The Tánaiste: Time is very short in the context of the budget so these discussions will be crucial.

Deputy Seán Barrett: Is it the SIPTU president? It is a pity he would not come in here.

The Tánaiste: It is important to reiterate what the Taoiseach said here yesterday, which is that the proposals that have emerged from the discussions thus far were considered by the Government this week. The Taoiseach indicated to the unions that, in their current form, they did not provide a basis for the Government to confirm that it would not consider other options to effect those necessary savings.

Deputy Pádraic McCormack: They are beginning to see the light.

The Tánaiste: At that time the public service unions responded by indicating that they wished to develop their proposals. We very much welcome that and in that context the planned day of industrial action for today was postponed. The Government will consider any further proposals emerging from these discussions. I want to make it very clear that a basis for agreement will only exist if the scale of the reduction in the public service pay is sufficient, if it is clearly seen to be permanent in character and that any transitional arrangements do not impact negatively on services as assessed by the public service management.

Deputy Bernard J. Durkan: Fair play; it sounds like Deputy Mattie McGrath.

A Deputy: The Tánaiste should tell us how the Government can do it without harming public services.

An Ceann Comhairle: Is the proposal for the late sitting agreed? Agreed.

Is the proposal for dealing with No. 16 agreed?

Deputy Eamon Gilmore: This is not agreed. This item relates to the bank guarantee scheme and involves complex issues. The 50 minutes allocated for its discussion is not sufficient. The Labour Party is opposed to the guillotine on this item.

Deputy Enda Kenny: I agree with that.

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

The Dáil divided: Tá, 74; Níl, 65.

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.
Coughlan, Mary.
Cregan, John.
Cuffe, Ciarán.
Cullen, Martin.
Curran, John.
Dempsey, Noel.
Devins, Jimmy.
Dooley, Timmy.
Fahey, Frank.
Finneran, Michael.
Fitzpatrick, Michael.
Flynn, Beverley.
Gogarty, Paul.

Gormley, John.
Hanafin, Mary.
Harney, Mary.
Haughey, Seán.
Kelleher, Billy.
Kelly, Peter.
Kenneally, Brendan.
Kennedy, Michael.
Killeen, Tony.
Kitt, Michael P.
Kitt, Tom.
Lenihan, Brian.
Lenihan, Conor.
McEllistram, 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'Dea, Willie.
O'Donoghue, John.
O'Flynn, Noel.
O'Hanlon, Rory.
O'Keeffe, Batt.
O'Keeffe, Edward.

Tá—*continued*

O'Rourke, Mary.
 O'Sullivan, Christy.
 Power, Peter.
 Power, Seán.
 Roche, Dick.
 Ryan, Eamon.

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

Níl

Allen, Bernard.
 Bannon, James.
 Barrett, Seán.
 Breen, Pat.
 Broughan, Thomas P.
 Bruton, Richard.
 Burke, Ulick.
 Burton, Joan.
 Byrne, Catherine.
 Carey, Joe.
 Clune, Deirdre.
 Coonan, Noel J.
 Costello, Joe.
 Coveney, Simon.
 Crawford, Seymour.
 Creed, Michael.
 Creighton, Lucinda.
 D'Arcy, Michael.
 Deasy, John.
 Deenihan, Jimmy.
 Doyle, Andrew.
 Durkan, Bernard J.
 English, Damien.
 Feighan, Frank.
 Ferris, Martin.
 Flanagan, Charles.
 Flanagan, Terence.
 Gilmore, Eamon.
 Hayes, Brian.
 Higgins, Michael D.
 Howlin, Brendan.
 Kehoe, Paul.
 Kenny, Enda.

Lee, George.
 Lynch, Kathleen.
 McCormack, Pádraic.
 McEntee, Shane.
 McGinley, Dinny.
 McManus, Liz.
 Mitchell, Olivia.
 Morgan, Arthur.
 Naughten, Denis.
 Neville, Dan.
 O'Donnell, Kieran.
 O'Dowd, Fergus.
 O'Keeffe, Jim.
 O'Mahony, John.
 O'Shea, Brian.
 O'Sullivan, Jan.
 O'Sullivan, Maureen.
 Perry, John.
 Quinn, Ruairí.
 Rabbitte, Pat.
 Reilly, James.
 Ring, Michael.
 Shatter, Alan.
 Sheahan, Tom.
 Sheehan, P.J.
 Sherlock, Seán.
 Shortall, Róisín.
 Stagg, Emmet.
 Stanton, David.
 Tuffy, Joanna.
 Upton, Mary.
 Wall, Jack.

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

Question declared carried.

An Ceann Comhairle: Is the proposal for dealing with No. 3, Foreshore and Dumping at Sea (Amendment) Bill 2009, agreed to?

Deputy Enda Kenny: I accept the principle of this Bill, which is to divide the responsibility for aquaculture and other matters relevant to the marine between the Departments of Agriculture, Fisheries and Food and the Environment, Heritage and Local Government. However, I must point out to the Tánaiste that the country has lost serious amounts of investment because this has been dragged out for so long. The Bill only gives effect to the separation; it does not deal with the expedition of titles and licensing thereafter. Nor does it take into consideration the introduction by the all-party Oireachtas Joint Committee on Climate Change and Energy Security, chaired by Deputy Seán Barrett, of the very good offshore renewable energy development Bill 2009.

11 o'clock

[Deputy Enda Kenny.]

I listened to the Minister, Deputy Eamon Ryan, talking about 80,000 jobs in the renewable energy sector. This is an area of real potential, but we have messed around for too long. While I accept the principle of the Bill, I object to the guillotine. This is not how we should do our business. We have lost considerable investment in pilot wave-testing schemes and so on due to the lack of action on this issue.

Deputy Michael D. Higgins: On behalf of the Labour Party, I do not accept the guillotining of this Bill for slightly different reasons to those we have just heard. This Bill has some valuable suggestions to make on administrative expedition. I am not crossing into anything that I must say on Second Stage. The Bill responds to Acts on the foreshore, two of a major kind on planning and, in addition——

An Ceann Comhairle: We are really getting into detail on it.

Deputy Michael D. Higgins: I will not get into detail.

An Ceann Comhairle: We are really getting into detail.

Deputy Michael D. Higgins: I will be blunt about it.

A Deputy: Go back to the detail then.

Deputy Michael D. Higgins: It deals with 39,000 sq. km of asset that is in public ownership and if there was one Bill that should not be rushed through this House, it is a Bill about what the State owns and the most significant asset that the State will have in the development of energy, aquaculture, responding to the threat of climate change, and so on. It is not something that should have a guillotine on Second Stage, no more than it should have a miserly amount of time for amendments.

What does the Bill straighten out? The Bill allows for a conversation between two Ministers, who are left without transparent power. It excludes local representatives from any involvement in decision. It thereby fits neatly——

An Ceann Comhairle: It would be fine on Second Stage.

Deputy Michael D. Higgins: ——with harbours legislation and ports legislation. It is a beautiful run-on of the chaos that caused the tragedy in north Mayo. We will oppose the guillotine and I will also oppose it on Second Stage. I oppose, in addition, any attempt to ram it through in an undemocratic way that does not provide transparency to those whom the foreshore belongs.

The Tánaiste: This legislation consolidates onshore and offshore planning to do exactly what Deputy Higgins has spoken of.

Deputy Michael D. Higgins: It excludes representatives in the same way as——

Deputy Tony Killeen: The Deputy is ignoring the power of the Minister. It will not do that.

An Ceann Comhairle: The Tánaiste without interruption.

The Tánaiste: When I was there——

Deputy Enda Kenny: When the Tánaiste was there nothing happened.

The Tánaiste: —we had several functions dealt with under statutory instrument. The administrative functions have now been finalised. It was clearly the legal view that new legislation had to be put through the House——

Deputy Enda Kenny: We have lost serious investment.

The Tánaiste: —in the context of ensuring that we have proper offshore and onshore planning. This is a sensible way in dealing with——

Deputy Michael D. Higgins: By going straight to An Bord Pleanála.

The Tánaiste: —the absolute necessity of ensuring that we have the opportunities that should be afforded to us, for example, in the context of energy.

Deputy Michael D. Higgins: So the Government has had to guillotine it.

The Tánaiste: This is very much streamlining the planning process which will be of significant benefit to the people at large.

Deputy Enda Kenny: It does not deal with offshore renewable energy at all.

Question put: “That the proposal for dealing with No. 2 be agreed to.”

The Dáil divided: Tá, 73; Níl, 64.

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.
Coughlan, Mary.
Cregan, John.
Cuffe, Ciarán.
Cullen, Martin.
Curran, John.
Dempsey, Noel.
Devins, Jimmy.
Dooley, Timmy.
Fahey, Frank.
Finneran, Michael.
Fitzpatrick, Michael.
Flynn, Beverley.
Gogarty, Paul.
Gormley, John.
Hanafin, Mary.
Haughey, Seán.
Kelleher, Billy.
Kelly, Peter.
Kenneally, Brendan.

Kennedy, Michael.
Killeen, Tony.
Kitt, Michael P..
Kitt, Tom.
Lenihan, Brian.
Lenihan, Conor.
McEllistrim, Thomas.
McGrath, Mattie.
McGrath, Michael.
Mansergh, Martin.
Martin, Micheál.
Moloney, John.
Moynihan, Michael.
Mulcahy, Michael.
Nolan, M.J..
Ó Cuív, Éamon.
Ó Fearghail, Seán.
O'Brien, Darragh.
O'Connor, Charlie.
O'Dea, Willie.
O'Donoghue, John.
O'Flynn, Noel.
O'Hanlon, Rory.
O'Keeffe, Batt.
O'Keeffe, Edward.
O'Rourke, Mary.
O'Sullivan, Christy.
Power, Peter.
Power, Seán.
Roche, Dick.
Ryan, Eamon.
Scanlon, Eamon.
Smith, Brendan.
Treacy, Noel.
Wallace, Mary.
White, Mary Alexandra.

Níl

Allen, Bernard.
 Bannon, James.
 Barrett, Seán.
 Breen, Pat.
 Broughan, Thomas P..
 Bruton, Richard.
 Burke, Ulick.
 Burton, Joan.
 Byrne, Catherine.
 Carey, Joe.
 Clune, Deirdre.
 Coonan, Noel J..
 Costello, Joe.
 Coveney, Simon.
 Crawford, Seymour.
 Creed, Michael.
 Creighton, Lucinda.
 D'Arcy, Michael.
 Deasy, John.
 Deenihan, Jimmy.
 Doyle, Andrew.
 Durkan, Bernard J..
 English, Damien.
 Feighan, Frank.
 Ferris, Martin.
 Flanagan, Charles.
 Flanagan, Terence.
 Gilmore, Eamon.
 Hayes, Brian.
 Higgins, Michael D..
 Howlin, Brendan.
 Kehoe, Paul.

Kenny, Enda.
 Lee, George.
 Lynch, Kathleen.
 McCormack, Pádraic.
 McEntee, Shane.
 McManus, Liz.
 Mitchell, Olivia.
 Morgan, Arthur.
 Naughten, Denis.
 Neville, Dan.
 O'Donnell, Kieran.
 O'Dowd, Fergus.
 O'Keefe, Jim.
 O'Mahony, John.
 O'Shea, Brian.
 O'Sullivan, Jan.
 O'Sullivan, Maureen.
 Perry, John.
 Quinn, Ruairí.
 Rabbitte, Pat.
 Reilly, James.
 Ring, Michael.
 Shatter, Alan.
 Sheahan, Tom.
 Sheehan, P.J..
 Sherlock, Seán.
 Shortall, Róisín.
 Stagg, Emmet.
 Stanton, David.
 Tuffy, Joanna.
 Upton, Mary.
 Wall, Jack.

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

Deputy Enda Kenny: I wish to raise a number of issues with the Tánaiste. We are just six days away from what is recognised as a crucial budget for the economic future of this country. The Government's approach, however, is one of paralysis and inaction. It is epitomised by the fact that three weeks ago the Government was challenging every Opposition party to produce details of how they would present an alternative budget. This morning, we heard a Minister of State say that the Government is waiting for new ideas from the trade unions. Is the Tánaiste aware of the level of fear and uncertainty around the country, or has the Government become completely immune to the raw feelings on the streets. I refer in particular to employers who are struggling to hold on to employees, not to mention employing new ones.

An Ceann Comhairle: We are not having Leaders' Questions on Thursday and the Deputy should be cognisant of that.

Deputy Enda Kenny: I am aware of that but this is important. Has the Government set a deadline as to when this uncertainty will conclude in the context of discussions with the trade unions? Has the Government decided that one way or the other it will fix an agenda for presentation in the budget, which is now six days hence, or will this be dragged out interminably until 9 December with no certainty or fix on the future by the Government? The Government is now paralysed and riven by inaction.

The Tánaiste: Unfortunately, people do not seem to hear what we have been reiterating *ad infinitum*, which is that there will be a €4 billion adjustment in the context of the budget on Wednesday next. As a former Minister, the Leader of the Opposition is fully aware that all matters during the preparation of a budget are for discussion among Cabinet Ministers. They are not matters for discussion on the public airwaves.

Deputy Pat Rabbitte: Tell that to Deputy Conor Lenihan.

The Tánaiste: Those final decisions will be made by the Government and we will be advised of them in the budget on Wednesday.

Deputy Enda Kenny: This is completely unsatisfactory and epitomises what is going on here. This morning, I heard a Minister of State on the national airwaves telling the nation: “We are waiting for new ideas from the trade unions”. I heard him say that in response to a comment from Deputy Richard Bruton.

An Ceann Comhairle: We do not have any Leaders’ Questions on a Thursday morning.

Deputy Enda Kenny: The Minister of State, on behalf of the Government, said they were waiting for new ideas to come in from the trade unions. Is that true or not? While it is in order for trade unions and their representatives to negotiate with the Government, it is the Government’s responsibility to make decisions. However, the Government is paralysed by an inability to make any decision. There is no confidence, no morale and a wave of depression throughout the country because the Government has no fix on the future. It appears completely unable to act. Has the Government set a deadline for the current discussions with trade union representatives to conclude today, tomorrow, at the weekend or on Monday, so that there will be some certainty about what the Government will present on 9 December? This is very important for everybody in the country and for our economic well-being. It is time to stop messing around.

An Ceann Comhairle: I call the Tánaiste to reply briefly because we have spent enough time on this.

The Tánaiste: The Government has indicated that the adjustment will be €4 billion. Unlike Deputy Kenny, who wishes to dictate and determine——

Deputy Joan Burton: She sounds like a bishop now.

Deputy Alan Shatter: It is about showing leadership.

An Ceann Comhairle: The Tánaiste without interruption, please.

The Tánaiste: This Government wants to obtain an effective and efficient public service wherein we need change.

Deputy Enda Kenny: Twelve days a year.

Deputy Seymour Crawford: It is mismanagement.

An Ceann Comhairle: This is not Leaders’ Questions.

The Tánaiste: The methods by which that change can be achieved must be workable and permanent, and must participate as part of our financial adjustment. Unlike the Deputy, we are prepared to listen to what other people have to say in the context of bringing matters to

[The Tánaiste.]

finality. Following on from the discussions the Taoiseach had on Tuesday, the unions indicated that they would consider further options. That is why we are continuing to have discussions this morning. It is clearly the Government's intention to bring those discussions to finality at an appropriate time, which will be well in time for the budget on Wednesday.

Deputy Paul Kehoe: Well in time? It is less than a week away.

Deputy Enda Kenny: Everybody will agree with the Tánaiste's central assertion that we need an efficient public service that gives value for money. In the context of the discussions with the trade unions, how in heaven's name can the Government expect to deliver — based on the proposal by the Minister for Finance to deliver more for less — the same level of service with a 5% reduction in man hours?

Deputy Bernard J. Durkan: There must be a possibility of an answer.

Deputy Enda Kenny: Can the Tánaiste answer that?

The Tánaiste: The Deputy is standing up, so I will sit down.

Deputy Noel J. Coonan: The Tánaiste's colleagues have left her high and dry. They have all gone.

The Tánaiste: We can carry on with this farce all day if the Deputies want to.

An Ceann Comhairle: Please, Deputies.

The Tánaiste: The Taoiseach indicated that what was brought forward by the unions on Tuesday was inadequate. The unions indicated that they wished to revise and reconsider their proposals and bring them back to the Government. There are ongoing discussions today, so let us await the outcome. As the Taoiseach has said categorically, at the end of the day the Government will make a decision on the basis of a €4 billion adjustment. Those decisions will be finalised and brought to the floor of this House at 3.45 p.m. next Wednesday.

Deputy Richard Bruton: All the Tánaiste's colleagues have taken to the lifeboats.

An Ceann Comhairle: Deputy Kenny has had a very good innings.

Deputy Enda Kenny: Before Deputy Gilmore comes in, I wish to raise a different matter if I may. The Minister for Finance admitted that he made a serious mistake in raising VAT levels. Almost €1 billion has gone North of the Border.

An Ceann Comhairle: It strikes me that this is a question that should be directed to the Minister for Finance.

Deputy Enda Kenny: I am coming to legislation. The Tánaiste, who has a critical role in this matter and represents the Donegal south-west constituency, said that every euro spent in one's local community is a stake in that community. Earlier this year, she said that if things did not change concerning cross-Border shopping — with the flight of people to the North to do their shopping — she would take action, including new initiatives. As she rightly said, people have a choice either to spend money in their local communities on this side of the Border, or leave that money with Her Majesty's government.

An Ceann Comhairle: The Deputy is anticipating the budget.

Deputy Enda Kenny: As the position has deteriorated and will be exacerbated between now and the new year, what action does the Tánaiste propose to take to deal with this problem, having listened to all the complaints and suggestions? She cannot deal with every aspect due to sterling and UK interest rates being set by the Bank of England, but she could take other initiatives. What action does she propose to take to deal with this matter, so that people in Border counties will have an opportunity and an incentive to shop in their local communities and keep spending euro with businesses on this side of the Border?

An Ceann Comhairle: That is a question for the budget.

The Tánaiste: On the Order Paper, this is Question No. 40 to the Minister for Finance this evening.

Deputy Enda Kenny: It will not be reached.

The Tánaiste: It is on the Order Paper. I am from the Border region and I am acutely aware of the issues. I distinctly recall being vilified last year on the basis that one of the main reasons people travel to the North is to buy alcohol. That has proved to be correct. It is important to say, for the benefit of the retailers in this country, that we now see better value for money here. There has been a decrease in the prices and we have seen more competition.

Deputy Enda Kenny: Will the Tánaiste take action?

The Tánaiste: It is important to say that in the context of the value for money being provided by retailers in this jurisdiction. Every €10 spent in the retail sector is worth €24 within the Irish economy, and it is important to get that across.

Deputy Enda Kenny: It is giving it, in effect, to Her Majesty's Government.

The Tánaiste: I have articulated these concerns in many ways to the Minister for Finance in the light of considerations he is taking in the context of his preparation for the budget. After 23 years in this House, I will not disclose the outcome of such briefings on the basis that I have due regard for the process of budgetary preparations.

Deputy Enda Kenny: There are regularly six-mile traffic jams outside Newry.

The Tánaiste: As the Deputy knows, we have decided to proceed with a code of practice. That is in hand and I am taking into account concerns in this regard. I have heard what the joint committee has had to say and I shall soon be making further announcements in that context, to deal with the code of practice and the many issues that have been raised, particularly by the food sector.

Deputy Enda Kenny: Will that be before the budget?

The Tánaiste: It is important, however, to emphasise that we get good value from many of the retailers working in this jurisdiction.

Deputy Eamon Gilmore: I have a question for the Tánaiste about legislation. As we know, thousands of families and businesses are still coping with the aftermath of the worst flooding in this country in living memory. On 23 October 2007 a European Union directive was signed which provided a framework for the assessment and management of flood risks, aiming at the reduction of adverse consequences for human health, the environment and so on.

An Ceann Comhairle: Have we a question about promised legislation?

Deputy Eamon Gilmore: Yes, we do. The Ceann Comhairle should bear with me.

That EU directive was due for transposition on 25 November this year, but it has not yet been transposed. My colleague, Deputy Joe Costello, asked about this on 14 October 2008 and he was told at that stage that the transposition of the directive was under discussion between the OPW and the Department of the Environment, Heritage and Local Government and decisions would have to be made as to which Minister would introduce it, and whether it was to be done by primary or secondary legislation.

Will the Tánaiste say whether it has yet been decided which Minister will introduce it and if the directive will be transposed by primary or secondary legislation? When will either the Bill or the regulation be put before the House?

The Tánaiste: Without wanting to be unhelpful, I shall have to revert to the Deputy because it is secondary legislation.

Deputy Bernard Durkan: This is important.

The Tánaiste: It may be important, but I am not in a position at this time to bring forward an answer on the basis of a secondary item of legislation. Under Standing Orders, I am entitled to revert to the Deputy, which I shall be more than happy to do as soon as we are finished here.

Deputy Eamon Gilmore: That is fine and I shall look forward to hearing what is reverted to me, but the reply indicates that the issue of preparation for floods has not exactly been a priority for Government.

An Ceann Comhairle: We are going to have to move on, Deputy.

Deputy Eamon Gilmore: Hold on a second, a Cheann Comhairle. People have had their houses flooded, their homes wrecked and have been in misery for the past number of weeks.

Deputy Brendan Howlin: It is weeks and months.

Deputy Eamon Gilmore: Nobody blames the Government for the bad weather, but clearly there was lack of preparation and it is perfectly obvious that the issue of flooding, the preparation for it and the taking of the necessary measures to alleviate it have not been a priority.

An Ceann Comhairle: The Deputy has had an answer to his question as regards secondary legislation and we are going to have to move on.

Deputy Eamon Gilmore: This is a directive which should have been transposed by now. It was the subject of a Dáil question more than a year ago, and the Tánaiste does not know which Minister will be responsible for introducing it or whether it will be primary or secondary legislation. It is manifestly clear that there was no discussion in Government about the issue of floods until the bad weather came.

Deputy Bernard J. Durkan: That is true.

An Ceann Comhairle: We have an answer to this question and we shall move on to Deputy Bernard Durkan.

Deputy Bernard Durkan: I am seeking information on the same issue, but by a different route, a Cheann Comhairle.

An Ceann Comhairle: Are we talking about the same legislation?

Deputy Bernard J. Durkan: It is about promised legislation as well.

An Ceann Comhairle: Is it similar legislation to that raised in Deputy Gilmore's question.

Deputy Bernard J. Durkan: No, this is different legislation. I concur entirely with the points raised by Deputy Gilmore on this.

In view of the concerns expressed by many community leaders throughout the country, in the aftermath of the flooding and destruction that took place in the past couple of weeks, will the Tánaiste indicate to the House whether there is to be a review of the national emergency plan, which did not work? Community leaders were left fending for themselves, where there were adequate facilities and services available, but it did not work. Who is the national co-ordinator? Which Minister has responsibility and will he or she——

An Ceann Comhairle: Deputy Durkan, the Tánaiste indicated in her reply to the previous question that she was going to revert to the Deputy concerned. I am sure the same information could be furnished to your good self.

Deputy Bernard J. Durkan: Hold on now, a Cheann Comhairle. I have raised this question in the House over several years because this was something that was waiting to happen. We now have a situation in which nothing happens at all, there is no emergency response and it has not happened.

An Ceann Comhairle: The Deputy will have to find an alternative way to raise this matter.

Deputy Bernard J. Durkan: The Tánaiste will have to address this as a matter of urgency.

An Ceann Comhairle: I do not disagree, but there is the Adjournment or Question Time. There are many different ways in which the Deputy can raise this matter.

Deputy Bernard J. Durkan: I acknowledge what the Ceann Comhairle has said. He has admitted there is an issue and I shall now put it up to the Tánaiste, and the House awaits her response.

The Tánaiste: As is normal after any emergency, there is always a review of all the planning. I am sure this will take place in the context of the aftermath of the flooding. However, it is unfair of the Deputy to say there was no plan. It is very unfair to those who have given a considerable amount of their time and effort, civil defence, for example and the county councils under the stewardship and direction of the emergency plan

Deputy Bernard Durkan: The civil defence people did it on their own. Where was the Minister responsible? Who was that Minister?

The Tánaiste: It is important to emphasise that in the context of any such crisis, the emergency plan is always reviewed to see whether any new initiatives need to be introduced.

Deputy Bernard J. Durkan: It was introduced only two years ago. This is crazy stuff.

Deputy Joan Burton: I have asked the Tánaiste on a number of occasions about the profiteering seen in the Republic as regards the translation of prices from sterling to euro. The replies have been to the effect that the Minister has a programme in train to integrate the National Consumer Agency with the Competition Authority.

An Ceann Comhairle: Is the Deputy referring to promised legislation in this area?

Deputy Joan Burton: Absolutely, a Cheann Comhairle. I am referring to legislation about the National Consumer Agency and the Competition Authority. It appears that little or nothing is happening on the consumer protection front in relation to the rip-off that is taking place. In any of the British chain stores in or around Grafton Street one finds items on sale for €100 which are available in their UK counterparts for £65.

An Ceann Comhairle: If there is promised legislation we are now into the detail of it, which is not acceptable on the Order of Business.

Deputy Joan Burton: The mark-ups are absolutely indefensible and the National Consumer Agency seems unable——

An Ceann Comhairle: We are into detail at this point, Deputy.

Deputy Joan Burton: This is the famous agency concerning which the Taoiseach whispered in the Minister's ear — asking her to call in this agency. I shall not be as frank as the Taoiseach was on that occasion but no action whatsoever is being taken.

An Ceann Comhairle: Deputy, this is the Order of Business and we are abusing it.

Deputy Joan Burton: What is the progress on the integration of the National Consumer Agency with the Competition Authority? Where is the promised legislation? The Tánaiste has not been dealing with the floods or jobs for young people, so what the heck is she doing as a Minister?

The Tánaiste: Deputy Burton, please. Let us get an answer as regards legislation, if there is any.

Deputy Joan Burton: Can we have an answer on how we can stop our consumers being ripped off? The Tánaiste and I have something in common which the Taoiseach and the Minister for Finance do not. They do not seem to go shopping, but we do and we know what the rip-offs are like, and I want the Tánaiste to respond.

An Ceann Comhairle: The Deputy has gone into the detail of promised legislation. Is legislation promised in this area?

The Tánaiste: There is promised legislation.

Deputy Joan Burton: Those people do not go shopping, which is such a pity.

The Tánaiste: There is promised legislation.

Deputy Joan Burton: They might learn something about what life is like for people.

An Ceann Comhairle: Deputy Burton, please.

Deputy Pat Carey: Deputy Burton and I should head off shopping now.

Deputy Joan Burton: The Minister of State should try it too. He should push a trolley around

An Ceann Comhairle: Deputy Burton, please.

The Tánaiste: As for the legislation, the Government intends to amalgamate the Competition Authority and the National Consumer Agency.

Deputy Pat Rabbitte: Hear, hear.

The Tánaiste: That forms part of the legislation.

Deputy Joan Burton: I give that a single clap.

Deputy Pat Rabbitte: Who will lose their positions on the board?

The Tánaiste: The Deputy should not worry about it. I have the corporate governance sorted in that regard as well.

Deputy Joan Burton: Do you?

Deputy Alan Shatter: They simply will be amalgamated.

Deputy Enda Kenny: Come back Gerry Collins.

Deputy Paul Kehoe: They will look after their own.

The Tánaiste: Second, the Deputy may not be aware that an undertaking was given to review the entire Competition Act.

Deputy Joan Burton: I know that.

The Tánaiste: That has been done and is almost complete. I wish to ensure that this legislation is fit for purpose in the context of our economic and industrial policy. This legislation will be brought forward at the beginning of next year for consideration by this House. I look forward to the Deputy's input and her views in the context of the legislation.

Deputy Joan Burton: What will the Tánaiste do about the rip-off of consumers coming up to Christmas?

An Ceann Comhairle: I call Deputy Costello.

Deputy Joan Burton: Jobs are walking out of this country because of the Tánaiste's failure to take action.

An Ceann Comhairle: Deputy Burton, please. I call Deputy Costello.

Deputy Joan Burton: They are walking out.

An Ceann Comhairle: I call Deputy Costello.

Deputy Joan Burton: One third of our young men are unemployed. The Tánaiste cannot be proud of that.

An Ceann Comhairle: I ask Deputy Burton to resume her seat.

Deputy Pat Rabbitte: We are being ripped off.

Deputy Joan Burton: We are being absolutely ripped off.

Deputy Enda Kenny: While the Government sits idly by.

Deputy Joe Costello: And so say all of us. The Dublin Docklands Development Authority presented its annual report to the Joint Committee on Finance and the Public Service during the week. It was alarming that——

An Ceann Comhairle: Is legislation promised in this area?

Deputy Joe Costello: Yes, there is. The number of irregularities regarding funding and planning that were addressed during those discussions was quite alarming.

An Ceann Comhairle: The Deputy should refer to the legislation promised.

Deputy Joe Costello: Will the Tánaiste consider amending the legislation that set up the Dublin Docklands Development Authority with a view to bringing it within the remit of the local authority? It is a regeneration project that has gone wrong. No transparency exists there at present and a huge number of irregularities have taken place. In those circumstances——

An Ceann Comhairle: A parliamentary question, rather than the Order of Business, would be an ideal vehicle in which to get this information.

Deputy Joe Costello: My question is extremely important to my constituency in terms of legislative matters.

An Ceann Comhairle: I accept that. Avenues are available such as Question Time and Adjournment debates.

Deputy Joe Costello: I will repeat the question. Will the Tánaiste consider changing the legislation to ensure that a body such as the local authority, namely, Dublin City Council, which has transparent mechanisms——

An Ceann Comhairle: The Deputy should table a parliamentary question on this issue.

Deputy Joe Costello: ——should now take over the remit of the Dublin Docklands Development Authority?

An Ceann Comhairle: The Deputy should submit a parliamentary question on the matter for next week.

Deputy Joe Costello: This is a legislative matter.

An Ceann Comhairle: We will move on. I call Deputy Crawford. Deputy Costello should table a parliamentary question.

Deputy Seymour Crawford: I wish to raise two connected issues. I presume the Tánaiste is aware that up to 50% of the alcohol sold on the island of Ireland this year has been sold in the Six Counties. This gives some indication of how much is sold across the Border.

An Ceann Comhairle: We are anticipating the budget debate next week.

Deputy Seymour Crawford: No, it is not.

An Ceann Comhairle: Yes, we are anticipating it.

Deputy Seymour Crawford: The sale of alcohol Bill would cover at least some of the issues in this regard and I wish to ascertain when that Bill will be brought before this House. Preferably, it will be next Tuesday. Second, I spoke——

An Ceann Comhairle: If the Deputy leaves it, we will have a response on promised legislation in this area.

Deputy Seymour Crawford: —to a person this morning who has booked a return train journey from Dublin to Belfast for €20. The three trains scheduled for Saturday morning are now booked out completely. In this context, when will the value added tax consolidation Bill be brought before this House to try to do something about the extraordinary and completely unacceptable levels of VAT in this jurisdiction compared to Northern Ireland?

An Ceann Comhairle: The Tánaiste, briefly.

The Tánaiste: There is no date for the consolidation Bill. The sale of alcohol Bill will be introduced next year.

Deputy Seymour Crawford: Too late.

Deputy Paul Kehoe: This morning, I read with interest a story in one of the national newspapers about a €9,000 limousine waiting for the Tánaiste in Switzerland.

An Ceann Comhairle: Deputy, this has nothing to do with promised legislation.

Deputy Paul Kehoe: It has.

An Ceann Comhairle: It has nothing to do with it. I suggest the Deputy should table a parliamentary question next week.

Deputy Paul Kehoe: It has a lot to do with legislation. In recent weeks, matters such as people's flooding difficulties and cutbacks in education and health has been raised in the House——

An Ceann Comhairle: The Deputy should submit a parliamentary question on the matter.

Deputy Paul Kehoe: Perhaps the Tánaiste would like to make a comment on the €9,000 limousine waiting on her in Switzerland recently.

An Ceann Comhairle: This matter should be dealt with by way of parliamentary question. I call Deputy Terence Flanagan.

Deputy Barry Andrews: Perhaps there was a touch of populism there.

Deputy Paul Kehoe: The Tánaiste should make a comment.

Deputy Terence Flanagan: I wish to raise with the Tánaiste the worrying situation whereby for a number of years, local authorities have been issuing fire certificates without carrying out inspections of apartment complexes. This is a time bomb, particularly as there is a potential for another Stardust incident.

An Ceann Comhairle: Deputy Flanagan should table a parliamentary question to get this information.

Deputy Terence Flanagan: The Government is not taking this issue seriously and is being very passive.

An Ceann Comhairle: I ask the Deputy to submit a parliamentary question on the matter.

Deputy Terence Flanagan: In addition no responsibility is being shown towards property management companies and making them ultimately responsible. Legislation is forthcoming in this regard. However, in respect of fire safety, this issue is not being taken seriously——

An Ceann Comhairle: Deputy should not raise this issue on the Order of Business. He should submit a parliamentary question on the matter.

Deputy Terence Flanagan: There must be fines and people must be prosecuted. The Tánaiste must investigate this matter further. Many apartment complexes——

An Ceann Comhairle: A well crafted parliamentary question would secure the information for the Deputy.

Deputy Terence Flanagan: ——have been shoddily finished. Only last week, in the constituency of Dublin South, a roof was blown off an apartment complex.

An Ceann Comhairle: Deputy, please.

Deputy Terence Flanagan: This issue is not being taken seriously enough and people's lives are at risk. This issue must be investigated urgently.

Deputy Paul Kehoe: The €9,000 to which I referred would put the roof back on the apartment block.

Deputy Pat Rabbitte: The Tánaiste read out three conditions attaching to the public pay talks and the union response, one of which was that the effect must be permanent. These are the same three conditions referred to by the Minister of State, Deputy Conor Lenihan, in a radio broadcast this morning. Members heard nothing of this from the Taoiseach yesterday morning. Given that the days' leave are, by definition, temporary and the Tánaiste now states that one of the requirements is permanency, is she stating there is no chance of the Government accepting the trade union offer?

An Ceann Comhairle: We have dealt with this at length. Is there a further qualification?

The Tánaiste: I have no further comment.

An Ceann Comhairle: There is no further qualification.

Deputy Pat Rabbitte: While I do not often intrude, I felt that——

The Tánaiste: Although it always is a pleasure to answer the Deputy, I have said what I had to say. I cannot add much more to it at present.

Deputy Pat Rabbitte: It is interesting that the Tánaiste has stated that one of the conditions is that the effect should be permanent, while it is known that the offer made is impermanent. How can that run?

Deputy Barry Andrews: It is conditional.

Deputy Pat Rabbitte: Is the Tánaiste in a position to tell the House?

The Tánaiste: As I have indicated, the discussions are ongoing and when the Taoiseach met the unions on Tuesday afternoon, he indicated that what was on the table was not acceptable. The unions have decided that they will engage in further discussions and it will be in that context that the matter will be brought to finality one way or the other before Wednesday.

Deputy Alan Shatter: Is it desirable for people to take 12 days' additional leave?

Deputy Pat Rabbitte: The Taoiseach never mentioned this yesterday. This was concocted at last night's Fianna Fáil parliamentary party meeting.

An Ceann Comhairle: I call Deputy Sheahan.

Deputy Joan Burton: I thought, according to Deputy Mattie McGrath, that D-Day would take place at 12 noon in the Fianna Fáil parliamentary rooms.

The Tánaiste: The Deputy is welcome to join.

Deputy Joan Burton: I will turn down that invitation. There will be no transfer of fees there.

Deputy Paul Kehoe: They are going to introduce the explosives Bill at that meeting.

An Ceann Comhairle: I ask Deputies to allow Deputy Sheahan to ask his question.

Deputy Tom Sheahan: In the past week, two widows have visited my constituency office whose husbands died suddenly and whose REPs plans died with them. Will the Government consider introducing legislation——

An Ceann Comhairle: This is a matter for a parliamentary question or for the Adjournment.

Deputy Tom Sheahan: ——whereby the REPs plan would stay with the herd number?

An Ceann Comhairle: There is no promised legislation in this area.

The Tánaiste: They should reapply.

Deputy Tom Sheahan: Those affected are in dire need. They have young families and their REPs plan has just died.

An Ceann Comhairle: The Deputy should table a parliamentary question.

Deputy Tom Sheahan: Although they were due last September, their husbands have died subsequently.

An Ceann Comhairle: There are many other ways of getting this information.

Deputy Tom Sheahan: However, it must be done through legislation.

An Ceann Comhairle: I suspect that what the Deputy seeks can be acquired through a parliamentary question.

Deputy Seymour Crawford: Absolutely not.

An Ceann Comhairle: ——or on the Adjournment.

Deputy Tom Sheahan: I seek two REPs cheques.

An Ceann Comhairle: Will be Tánaiste do him a favour?

Deputy Barry Andrews: Does the Deputy seek legislation?

An Ceann Comhairle: We will move on.

Deputy Enda Kenny: I refer to No. 39, the proposed national cultural institutions Bill. While I am unsure whether I am in order in this regard, the Government is always talking about a sense of fairness in Bills and legislation. Although I do not know whether I should describe him as a national institution, the former Taoiseach, Deputy Bertie Ahern, is going around suggesting the Tánaiste has been bad-mouthing him——

An Ceann Comhairle: Deputy Kenny, please.

Deputy Enda Kenny: ——and that this is most unfair. I do not want him going into the Christmas period believing that the Tánaiste is bad-mouthing him.

The Tánaiste: Is the Deputy worried about me?

An Ceann Comhairle: Deputy Kenny, please.

Deputy Enda Kenny: When does the Government intend to introduce the national cultural institutions Bill?

The Tánaiste: Níl sé socraithe go fóill.

Report by Commission of Investigation into the Catholic Archdiocese of Dublin: Statements (Resumed).

Minister of State at the Department of Health and Children (Deputy Barry Andrews): The Murphy report concludes with the telling words of Mrs. Marie Collins. Mrs. Collins told the commission she no longer trusts her church. Judge Murphy wrote:

After years spent trying to get her church to deal openly and truthfully with the challenge posed to it by the scandal of child sexual abuse she has concluded that within the institutional church there has been no change of heart, only a change of strategy.

This is a view shaped by experience and pain and the opinion is damning. Marie Collins lays down a challenge to the Catholic church in Ireland. Confidence in the institution is at a low ebb. The church must prove that its child protection procedures and practices are robust and stand up to scrutiny.

I spoke on Tuesday night about the steps being taken to deepen the Health Service Executive's audit of dioceses. I do not propose to retrace that ground but simply to state we are determined to ensure the Catholic church today is reporting allegations of sexual abuse to the Health Service Executive and An Garda Síochána. As the Taoiseach said in the Dáil on Tuesday, the Government will await the outcome of the audit before making a judgment on whether to extend the terms of reference of the Dublin commission to take in further dioceses.

The Catholic clergy for much of the 20th century enjoyed an elevated position in society. Many did not ask to be put on pedestals but, as has been remarked many times over the past week, such was the sense of undue deference that many members of the Catholic clergy were given a special status in society. At a time of poor educational attainment, the priest was set apart and was looked to for guidance and leadership in local communities. There was a dependence on the local priest.

I noted a letter in *The Irish Times* on Tuesday, 1 December which stated:

Madam, — Looking on your map at the locations in Dublin of the child abusing priests, it was hard not to notice they are a virtual roll-call of working-class communities: Ballyfermot, Crumlin, Cabra, Ballybrack, Coolock, East Wall, Ringsend ... Can someone explain this pattern?

I am not sure if there is substance to the suggestion that clerical sex abusers were shunted from, in the words of the letter writer, one working class community to another. However, if this were the case, it is a particularly callous and cynical approach to the handling of allegations of abuse. Is it coincidental that the children who were abused in residential institutions, so graphically detailed in the Ryan report, came from the poorer and most disadvantaged sections of society? It is a question worth considering.

Last Thursday was a watershed for victims. It was day when their accounts were read and finally believed. There was vindication, but unfortunately at a heavy personal cost. Many lives were destroyed in the time it took people to face up to the truth of what was happening in communities across Dublin. The road to publication of the Murphy report was dark and winding. I hope and trust it was a journey worth taking.

The legislative framework that covers sexual abuse and child protection has attracted comment over recent days. Judge Murphy rightly criticised the failure of successive Governments to put in place comprehensive child protection legislation. That is a criticism all sides of this House must acknowledge.

Like the Ferns Report in 2005, the Dublin report expresses concern about the statutory powers of the Health Service Executive to deal with child sexual abuse by non-family members. Some have pointed to this as a stumbling block in reporting sexual abuse which I do not accept. In the wake of the publication of the Ferns Report, legal advice was sought from the Attorney General on the powers of former Health Boards and the Health Service Executive to investigate and deal with instances of child abuse perpetrated outside the family.

The Attorney General was not of the view that the Health Service Executive's powers under section 3 of the Child Care Act 1991 were limited to cases of intra-family abuse. The Health Service Executive has stated it responds to all allegations of child sex abuse regardless of the circumstances of the allegation. However, I have undertaken to clarify this point further, following the findings of the Murphy report.

It should be remembered that dating back to 1998, with the enactment of the Protections For Persons Reporting Child Abuse Act, there has been legal protection for anyone reporting sexual abuse. The perceived absence or gap in current child protection legislation should not be used to explain away failures to report sexual abuse. There is an onus and responsibility on all members of society to do so.

In addition, section 176 of the Criminal Justice Act 2006 introduced the criminal charge of reckless endangerment of children. It states:

A person, having authority or control over a child or abuser, who intentionally or recklessly endangers a child by—

(a) causing or permitting any child to be placed or left in a situation which creates a substantial risk to the child of being a victim of serious harm or sexual abuse, or

(b) failing to take reasonable steps to protect a child from such a risk while knowing that the child is in such a situation,

is guilty of an offence.

This is a serious charge. Although it cannot be used retrospectively, it is a potentially powerful provision in tackling those who attempt to hide sexual abuse.

There is an undoubted gap in legislation dealing with the sharing of sensitive information between statutory agencies. The establishment of an interagency review group in the diocese of Ferns was crucial in bringing the Health Service Executive, An Garda Síochána and church

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authorities together, which in turn greatly assisted the Ferns investigation. It was recommended such an inter-agency review group be established in each diocese.

It quickly became apparent, however, that in the absence of legislation covering soft information, such meetings could not proceed. It was assumed a constitutional referendum would be required before such legislation could be introduced. A provision on soft information, therefore, formed part of the Twenty-eighth Amendment of the Constitution Bill 2007. The Joint Committee on the Constitutional Amendment on Children, chaired by Deputy O'Rourke, was established to deepen political consensus on the wording contained in the referendum Bill. The committee's first interim report recommended a referendum was not required. The Government, in accepting this report, has commenced initial work on the legislation.

At a cross-departmental level, it has been agreed a single statutory agency should have responsibility for the management of all information, hard and soft, on child abuse in this jurisdiction. The heads of a Bill on soft information that I will present to the Government will include a proposal that the Garda vetting unit, based in Thurles, will be put on a statutory basis with responsibility for the management of all soft and hard information. What is envisaged is an agency led by the Garda with the Health Service Executive and any other relevant body working alongside it similar in structure to the Criminal Assets Bureau which has Garda, the Revenue Commissioners and the Department of Social and Family Affairs co-located together under Garda leadership.

Each and every chapter of the Ferns, Ryan and the Murphy reports are littered with attacks on children and childhoods. Lives were left ruined but amidst all the suffering there was great courage which I wish to acknowledge this morning.

Deputy Alan Shatter: Those in a position of authority in the Catholic church and those who perpetrated the appalling abuse graphically described in the Murphy commission report deserve our condemnation. It is right we react with horror to these revelations. It is also essential the Garda does everything possible to achieve justice for the victims of abuse. There must be no impunity for the perpetrators of abuse or for those who covered up and facilitated abuse by moving abusive priests from one parish to another. The Government must also take seriously calls for the Murphy commission to investigate other dioceses in addition to the Cloyne diocese.

We should also remember the Catholic church authorities exercise their mandate throughout the whole island of Ireland. No redress board has been established to pay compensation to victims of institutional abuse in Northern Ireland nor has a commission been established to investigate allegations of child abuse by priests there. There is no reason to believe that clerical sexual abuse stopped at the Border.

I am calling on the Government to engage directly in discussions with the Northern Ireland Executive, the Northern Ireland Secretary of State and with Gordon Brown, the British Prime Minister, to seek the creation of structures to address allegations of clerical and institutional abuse in Northern Ireland. We have an interest in this State to ensure justice is done for all who lived on this island. Deputy Ó Snodaigh of Sinn Féin on Tuesday was remarkably silent on this issue.

The Murphy commission report not only documents the failings of the church but also the failings of the State and its agencies. The Murphy commission records that it wrote to the Congregation for the Doctrine of the Faith in Rome in September 2006 seeking important information but received no reply. It further records the congregation contacted the Department of Foreign Affairs stating the commission had not gone through appropriate diplomatic channels. It did so, I understand, in March 2007, some six months after the Murphy commission wrote to it. The Taoiseach told the House on Tuesday this response was furnished to the

Murphy commission. It appears there was no further communication involving the Congregation for the Doctrine of the Faith.

The commission also reports that it wrote to the papal nuncio twice. He has explained his failure to reply on the basis he was only appointed to Ireland in April 2008 and had no information he could give to the commission. Surprisingly, the Taoiseach in the House on Tuesday excused the conduct of both the Congregation for the Doctrine of the Faith and the papal nuncio. He was defending the indefensible. By his words he was not, as Taoiseach of this Republic, acting in the interests of our people but displaying in this House the undue deference to those in church authority which has been justifiably criticised in recent days.

It is a scandal the congregation and the Vatican relied on diplomatic protocol to avoid providing information to the Murphy commission. In his convoluted defence of what occurred, the Taoiseach did not adequately explain why the then Minister for Foreign Affairs, Deputy Dermot Ahern, failed to follow up the letter received by his Department and ensure that the Murphy commission received the information and documentation it was seeking. The only conclusion that can be reached is that this failure to act was another example of undue deference being shown to Rome by an Irish Government Minister.

Protocol, whether real or imagined, was given greater priority by the Congregation for the Doctrine of Faith than was the welfare of children. With regard to the Papal Nuncio, no issue of protocol prevented his responding to the Murphy commission by letter, even as a matter of courtesy. If he personally had no documentation or information to furnish, he could have said so. He could also have facilitated the work of the commission by asking his predecessor what assistance he could give to it. That the Taoiseach should defend the Papal Nuncio's failures in this context is beyond comprehension.

The Papal Nuncio is the Vatican's ambassador to this State. I believe he and the Congregation of the Doctrine of the Faith should be invited to a meeting of the Oireachtas Joint Committee on Health and Children to address the issues raised by the Murphy commission and that the committee should explore what can be done to ensure his and the Vatican's full co-operation with the commission in the current investigation into the diocese of Cloyne and in any future investigations in other dioceses. I hope the Papal Nuncio, who is after all regarded by this State as head of the diplomatic corps and essentially *primus inter pares*, will co-operate. In most countries that do not have a special relationship with the Vatican, the head of the diplomatic corps is normally the longest serving ambassador. This should be the position in this Republic. If the age of undue deference is truly over, the Papal Nuncio should not be treated with any more or less respect than the ambassadors of other States with whom we have diplomatic relations.

In a speech he delivered on the steps of Government buildings on the day the Murphy commission report was published, the Minister for Justice, Equality and Law Reform, Deputy Dermot Ahern, surfing the wave of justifiable public outrage, cynically presented himself in heroic guise criticising church authorities and the priests who preyed on young children. He stated:

It is not now — nor has it ever been — acceptable that institutions behave or are treated as above the law of the State. This is a Republic — the people are sovereign — and no institution, no agency, no church can be immune from that fact.

This would have been impressive were it not coming from a Minister whose Fianna Fáil Party has been in Government for 20 of the past 22 years and which is responsible for our current seriously dysfunctional and chaotic child protection system. The scandalous culture of secrecy,

[Deputy Alan Shatter.]

cover-up and absence of accountability for which the Roman Catholic Church is justifiably criticised is endemic in the State's child protection services.

David Foley was 14 years old when, in 2002, he arrived at Dublin's Pearse Street Garda station reporting trouble at home and seeking help. Instead of getting the care he needed, he ended up in an emergency care hostel as part of an out-of-hours service. On 10 September 2005, almost three years after he entered the care system, David Foley, then 17 years of age, was found dead from a drug overdose in an apartment in Dublin's inner city. The Minister for Finance, Deputy Brian Lenihan, then Minister of State with responsibility for children, asked the HSE to conduct an internal inquiry into the care provided to David Foley. It is believed that a report of that inquiry was furnished to the Minister of State with responsibility for children, Deputy Barry Andrews, in December 2008. Despite numerous promises made by him, the report remains unpublished and secret.

Tracy Fay was placed in the care of the State when she was aged 14 years. A series of recommendations for her to be professionally assessed were not properly implemented and she went through a series of chaotic emergency care placements. In January 2002, four years after being admitted to care, she died of a drug overdose. Despite serial promises, the completed internal HSE report into her death remains unpublished and secret.

In September 2006, Melissa Mahon, aged 14, was killed by Ronnie Dunbar, a prolific known paedophile. Melissa was the child of Freddie and Mary Mahon, three of whose daughters were taken into care in the United Kingdom before they moved to Ireland. Melissa had made allegations of sexual abuse against both her parents. I am informed that British social services informed the HSE of their concerns about the Mahon family. At the time of her death, Melissa was supposed to be in the care of the HSE. Following Ronnie Dunbar's conviction and life sentence in July last, I called for an independent review into the HSE's dealings with Melissa Mahon and the Mahon family. I do not know whether such review is taking place or if any report ultimately will be published.

On 4 August 2009, Danny Talbot, aged 19 years, died. He and his family were utterly failed by the HSE and our children's services. On 6 October last, only a few weeks ago, when meeting with family members seeking an inquiry, the Minister of State, Deputy Andrews, promised to revert to them within three weeks. To date, they have not heard from him.

It is entirely unacceptable that no automatic independent investigation is triggered when a child in care or reported to be at risk dies. How can we ensure that children are, in so far as is possible, protected in the future when there is no accountability or transparent system for learning from the tragic deaths of such children who have been utterly failed by the State? On behalf of Fine Gael, I am again calling on the Minister of State with responsibility for children to publish in full all existing reports into the deaths of children in care, to guarantee that a proper independent and transparent investigation will take place into the circumstances surrounding the death of any child reported as at risk or who dies while in the care of the State or shortly thereafter and that the resulting reports be made public.

An Leas-Cheann Comhairle: The Deputy has one minute remaining.

Deputy Alan Shatter: The Ferns report in 2005, the national review of compliance with the Children First child protection guidelines in July 2008 and the Ryan commission report all detail the inadequacies of our child care laws and services. In July last, the Minister of State, Deputy Andrews, published an implementation plan to address many of the inadequacies documented. While much of what is contained in the plan is praiseworthy, the problem is that the

legislation required is not being prioritised and the inadequacies in our child protection services are not being addressed quickly enough. Children who deserve better continue to be at risk.

The Government must immediately prioritise the legislation required to put our child protection guidelines on a statutory footing. There is no reason such legislation could not be enacted and in force by next Easter. The Minister's promise to have it drafted by December 2010 and operational in 2012 is totally unsatisfactory. The Government should immediately prioritise the long-promised legislation for the use of soft information in child protection to which the Minister of State referred. It was first called for in the Ferns report in 2005. The Minister of State omitted to mention that in September 2008 the Oireachtas Joint Committee on the Constitutional Amendment on Children recommended the legislation be published by December 2008. The Government's promise that heads of a Bill will be prepared by the end of this year means that there is no possibility of such legislation being enacted and coming into force before 2011.

Scandalously, the Murphy commission report reveals that inter-agency meetings between church authorities, the Garda and HSE to address issues of clerical abuse of children as recommended by the Ferns report were blocked by the HSE and never occurred because of the absence of legislation on soft information.

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

Deputy Alan Shatter: I am almost finished. It is simply not credible for the Minister for Justice, Equality and Law Reform or the Minister of State with responsibility for children to portray themselves as committed to child protection when the enactment of such legislation continues to be delayed. It took less than six months to conceive and enact the complex NAMA Bill. It will be at least six years since publication of the Ferns report before we have legislation on soft information.

There is an urgent need for the Government to introduce legislation to amend the Statute of Limitations Acts 1957 and 2000. Such legislation is needed to facilitate victims of clerical abuse, who did not seek compensation in the past because they lacked the strength to do battle with the church or felt that they would not be believed as they could not prove their allegations due to lack of access to church records, to do so now. The publication of the Murphy report assists these individuals by confirming that extensive records validating allegations of abuse are held by the church authorities. The Government should give a commitment to this House that it will introduce the necessary legislation amending the Statute of Limitations Acts without delay.

Deputy Mary O'Rourke: While I welcome the opportunity to contribute to this debate, I wish it was not necessary to have it. I congratulate Judge Yvonne Murphy in respect of the comprehensive report she has produced, which is shocking, damning and obscene. I could add many more adjectives which would not even begin to sum up all of this.

I believe that the church is sowing seeds for further disaffiliation with the people who claim to be churchgoers. It has lost affinity with its people. To my mind, the reason for this is that the words of the Gospel by which we all, in various measures, strive to live are not exemplified in the institutions of the church which is riddled with out-of-date conformist rules which have no resonance whatsoever with ordinary people in terms of how they live their lives. I was struck by an article by Dr. Maureen Gaffney in *The Irish Times* yesterday in which she spoke about the church's archaic rules on contraception. Who pays heed to them? The church, however, clings to them as if they were a totem pole of wonderful knowledge.

There are also the archaic rules on remarriage in which the church denies marriage to a person who wishes to remarry after a State divorce. The person cannot have a full marriage

[Deputy Mary O'Rourke.]

ceremony in a church. The church persists with an opaque and impenetrable system of annulment, which one can secure after something like 95 years and all sorts of tribunals of inquiry and so forth. Only then is one allowed to have a church marriage. It is appalling that when a couple part and divorce and each one wishes to marry again, they cannot go to a church of their choosing, if they are members of the Catholic faith, and ask that their second marriage be recognised. Until the church starts to have an affinity again with ordinary people and their ordinary, everyday problems, it is doomed to failure and we are doomed too.

I noticed that in the various interviews given by Archbishop Diarmuid Martin and other church personnel last weekend they all very quickly said the report was terrible and then continued with the word “but”. I urge them to get rid of the buts; they should just say they are sorry without the word “but” being added to it. They said there was no redress for extra-familial sexual abuse. There is. It is addressed by section 3 of the Child Care Act 1991. It is incorrect to say there is no access to redress. There is also the Oireachtas committee report on soft information, which was produced under my watch. I understand from the Minister that the heads of a Bill in that regard are to be brought to the Cabinet before Christmas. I am glad to hear that because we have waited too long for it. At least we now know the legislation will be produced and that it can be done without a referendum.

I was struck by something Deputy Shatter mentioned, the sheer discourtesy of a body called the Congregation for the Doctrine of the Faith, or something with an equally convoluted title. This wonderful doctrine body, wherever it is, does not reply to letters. Consider the discourtesy of it, and the discourtesy of the head of the Vatican, parading around Ireland in his wonderful glitzy clothes but not replying to letters and not seeing fit to talk to his counterpart, whoever that is. It is just not good enough.

Like the Minister, Deputy Barry Andrews, I saw the letter to *The Irish Times* during the week which notes the uncanny moving of priests from one parish to another north of the Liffey. That was quite telling in what it implied. It was cynical. If a child came home from one of those schools, church halls or churches and reported something, they would get a cuff on the ear and be told: “How dare you talk about the good Father, when he is so good and kind” and so forth. The map that was produced showed clearly how they were moved from one parish to another. They did not fear that in those parishes they would be called to account or order. The parents in those parishes would say all is well and let the matter go.

There is another matter on which I cannot get a definite answer. When I was Minister for Education many years ago a programme was devised by the INTO and the Department, which took the lead role, called the Stay Safe programme. It was piloted in some primary schools before being provided in all schools. However, it is not available in all schools. Why is that?

Deputy Alan Shatter: Many of the bishops disagreed with it.

Deputy Mary O'Rourke: I know all about it. I was at the rough end of it.

Deputy Michael D. Higgins: They are still at it.

Deputy Mary O'Rourke: They still disapprove. How dare they? How dare any chairman, reverend, bishop or whatever on a board of management say the Stay Safe programme cannot be provided in a school?

Deputy Alan Shatter: Maybe some of them had a vested interest in getting rid of it.

Deputy Mary O'Rourke: The Stay Safe programme might be sketchy and brief but it is the beginning of creating an awareness in young people of improper sexual activity. However, 17 years after I left office in early 1992, not every primary school in Ireland provides it. Why not? If one does not want one's child to participate, there is an opt-out clause. The parents can state that they do not want their child to attend that class, and the child does not attend it. Every parent has that right.

Deputy Michael D. Higgins: It would be good to get a list of the schools that do not provide it.

Deputy Mary O'Rourke: Yes. I have been asking for that information in parliamentary questions but I am only given the percentages. I have asked again for the names of the schools that do not or are not allowed to have the Stay Safe programme in the curriculum. I believe the Minister of State with responsibility for children is well disposed to ferreting out that information in the Department, if that is possible.

Earlier I spoke about the archaic laws on contraception, to which nobody pays any heed, and on remarriage, as well as the opaque system of annulment, which nobody understands or can access. It is a maze. Occasionally, I might receive a visit from a woman who tells me about going to a tribunal to tell her tale. She might have three or four children and be very distressed because she can never get married again in the church. She cannot, because the church will not allow it. That, too, is an archaic rule. The church's attitude to women is extraordinary. It is as if we were a race apart or "dirty people", only to be tolerated because we have the wombs to have the children, we give birth to them, enrol them in primary schools and have them come out of those schools as good children of the faith.

There is much more to be done. The church should show that it is willing to take the necessary roads and to express itself as being more in touch with people than it has ever been previously.

Deputy Pat Rabbitte: We were well warned about the impact of the Murphy report. Archbishop Martin had carefully prepared the ground for its publication over a prolonged period. Public opinion had also absorbed the Ryan report and the horrors that it laid bare about our treatment and supervision of many thousands of children over many decades in residential institutions managed by religious orders. The Murphy commission was not concerned with whether abuse occurred, but with the institutional response to complaints, suspicions and knowledge of child sexual abuse. Nonetheless the Murphy commission found that "child sexual abuse by clerics was widespread throughout the period under review."

Notwithstanding the preparatory work done to prepare the public, including the Catholic laity, the contents of the commission's report have stunned the Irish people. The awful uncomfortable reality of child sexual abuse is bad enough; the record of collusion, cover-up and dereliction of duty by church and State authorities is beyond belief. These are not acts of omission because of over-work, forgetfulness, lack of knowledge or even neglect; the cover-up was deliberate, calculated and proactive. In the words of the commission:

The Dublin Archdiocese's preoccupation in dealing with cases of child sexual abuse, at least until the mid 1990s, were the maintenance of secrecy, the avoidance of scandal, the protection of the reputation of the Church, and the preservation of its assets. All other considerations, including the welfare of children and justice for victims, were subordinated to these priorities. The archdiocese did not implement its own canon law rules and did its best to avoid any application of the law of the State.

In fact, it sought to subvert the law of the State. In some instances, senior gardaí seem to have fallen over themselves to facilitate that subversion.

[Deputy Pat Rabbitte.]

Given that we are discussing the protection of children, this would be a crime of the most serious character against any institution in society. That such a conclusion can be dispassionately arrived at by a judicial commission against the management of one of the largest archdioceses of the Catholic church has shocked people. Church authorities have repeatedly claimed to have been on a learning curve prior to the late 1990s in terms of dealing with child sexual abuse. The commission makes plain that “it does not accept the truth of such claims and assertions”. Despite 2,000 years of papal statements on clerical child sexual abuse, the Vatican has made no statement on the Murphy report. Worse, and notwithstanding the diplomatic niceties dwelt on by the Taoiseach on Tuesday, the Vatican authorities did not assist the Murphy commission. Right up the report, the Catholic church’s leaders in Ireland feigned a lack of appreciation of the abuse phenomenon. Yet in the mid-1980s, they were sufficiently aware to set about the taking out of insurance to protect the archdiocese. The commission records this as being inconsistent with the view that they were still on a learning curve.

All the archbishops of Dublin in the period covered by the commission were aware of some complaints. Many of the auxiliary bishops also knew of the fact of abuse, as did named officials. Religious orders were also aware. The report records this in some detail. According to it:

Most officials in the Archdiocese were, however, greatly exercised by the provisions of canon law which deal with secrecy. It was often spoken of as a reason for not informing the Gardaí about known criminal offences.

Referring to the experience in the archdiocese of Boston, the commission states: “In the case of that Diocese, as in the case of Dublin, secrecy protected the institution at the expense of children”. As legislators, all we need to know about canon law is that its precepts may be used in the eyes of churchmen as a licence to protect the church at the expense of children.

Another consequence of what the commission calls “the obsessive concern with secrecy and the avoidance of scandal” was the failure of successive archbishops and bishops to report complaints to the Garda prior to 1996. When the dictates of obsessive concern with secrecy were inadequate, it has emerged that there is a special dispensation for bishops to lie. The revelation by Cardinal Connell of the device known as mental reservation confounds anything experienced in the political world. Occasionally, Ministers evade, dodge, weave and mislead and Deputies exaggerate, but the word “lie” is not admissible in the Chamber. If a blatant untruth finds itself on the record inadvertently or otherwise, the requirement is to put the record straight as quickly as may be. However, leading churchmen can apparently, if the need arises, shelter behind mental reservation. Given Cardinal Connell’s Drumcondra provenance when explaining the concept, we in the House should consider ourselves fortunate that mental reservation did not seep into the political water in Drumcondra.

We know that clerical sexual abuse in the archdiocese of Dublin was widespread. We know that “the vast majority (of priests) simply chose to turn a blind eye”. We know that all of the archbishops since and including McQuaid contrived to cover up. We know that the auxiliary bishops of the same period were, to varying degrees, similarly culpable. We know that not one of the archbishops “reported his knowledge of child sexual abuse to the Gardaí throughout the 1960s, 1970s, or 1980s”. We also know that, when in 1995 Cardinal Connell eventually allowed the names of 17 priests to be given to the Garda, it was incomplete because at that time “there was knowledge of at least 28 priests against whom there had been complaints”. We know that, in the mid-1980s, Archbishop McNamara arranged to have insurance taken out. We know that Bishop Kavanagh tried to influence the Garda handling of criminal complaints against a particular priest. He persuaded a particular family to drop a complaint made to the Garda. We know that Bishop Murray “dealt badly with a number of complaints”. We know that there is

“one clear case of a false accusation of child sexual abuse against a priest”, an unimaginable horror for the man and his family.

The Murphy commission concluded that “every bishop’s primary loyalty is to the church itself”. The welfare of children either did not feature at all, as in the case of Archbishop McQuaid, or was a secondary concern. Apart from the routine dereliction of duty and moral authority, the failure to take action meant that countless children were abused who could have been protected. As public representatives, many Deputies believe that many suicides are due to the experience of victims at the hands of clerics who were left free to abuse again and again.

Notwithstanding their suffering and the damage inflicted in their early lives, many of the remarkable survivors hailed the publication of the Murphy report and anxiously awaited the response of the church. Has anything changed? The final paragraph of the report reads as follows:

Mrs Collins told the Commission that she no longer trusts her Church. After years spent trying to get her Church to deal openly and truthfully with the challenge posed to it by the scandal of child sexual abuse she has concluded that within the institutional Church there has been no change of heart, only a change of strategy. Is she right? Time will tell.

The Minister of State, Deputy Barry Andrews, referred to this paragraph. Since publication, what time has told is that, within the institutional church, little has changed. Marie Collins said as much on Tuesday when she outlined her bitter disappointment with the response of the bishops, some of whom have not even bothered to read the report. The media seems to dictate the changing episcopal response. The bishops seem to be measuring what they can get away with. They seem to misunderstand the earthquake they have set off in society. The Vatican is silent. The Papal Nuncio is contemptuous. Whatever happens, this is the end of the age of deference. We owe a great debt to Judge Yvonne Murphy and her fellow commissioners.

Deputy Ciarán Cuffe: We are going through a crisis of seismic importance. We must view it as a moment of history when, in many respects, the authority of the Catholic church has collapsed in Ireland. It has collapsed because of the crimes that occurred on an appalling scale and extended over many decades with the tacit collusion of the State. We all have a significant responsibility to ensure that we read, learn from and make changes arising from the report. I have not read it in full, only extracts, but even those comprise an astounding exposé of how an institution operated for many years.

The way in which Monsignor John Dolan dealt with a particular inquiry was incredible. He made it clear that, during the inquiry, one should reveal nothing to the person giving evidence. That reveals part of the huge challenge. As an institution, responsibility has to extend far beyond the Papal Nuncio — it has to go to the top. The Pope should comment on this matter and set out the changes that will arise from the horrendous evidence contained in these volumes.

The church has to engage in a significant amount of reflection on many of its core tenets. Its views on sexuality, chastity and celibacy have to change. It cannot continue to give women an inferior status. The church’s approach to such issues set the seeds for much of what went horribly wrong. The hierarchical nature of the church as an institution is a more fundamental issue. As Deputy Rabbitte pointed out, the church’s emphasis on fidelity and obedience made it very difficult for those who saw injustice to raise such matters and ensure appropriate action was taken.

The management of the church has to change. It was incredibly revealing to learn that when area bishops were appointed, there was no discussion and no document or mandate was given

[Deputy Ciarán Cuffe.]

to them. There were significant gaps and flaws at managerial level. There would have been substantial criticisms of such practices if they had happened in the corporate or political worlds. Apparently, the auxiliary bishops work in accordance with the mind of the archbishop. That, in itself, makes the operation of the institution more difficult. The oath of fidelity to the holy apostolic Roman church leads to blind faith and thereby creates enormous challenges.

I would like to speak about the issue of secrecy in the church. In the early years of the period covered by the Murphy report, accusers were required to take an oath of secrecy. The penalty for the breach of that oath could extend to excommunication. It was difficult for people to tell their stories with such a significant cloud hanging over them. It made the hairs on the back of my neck stand to learn that under Canon Law, paedophilia may be an actual defence to a claim of child sexual abuse, just as insanity would be under the law of the State. That is a taste of the earth-shattering evidence that is in the report before the House.

It came to my attention recently that the Archbishop of Dublin is the chair of the Board of Governors of the National Maternity Hospital. It is time to move on from that because it is not appropriate for a representative of the church to chair such a hospital or many other State institutions. We have to examine carefully the possibility of putting in place an alternative mechanism for these institutions. We need to learn from the Murphy report's earth-shattering evidence and conclusions and act quickly to implement its recommendations.

Deputy Catherine Byrne: There are no words to express the revulsion I felt on reading the Murphy report. These evil men, who visited our communities and were welcomed into our homes, were allowed to violate the trust and values that I, as a Catholic and Christian, have cherished all my life. The Murphy report highlights the abject failure of the church to have faith in its followers and to believe what they were saying was true and needed immediate attention. The litany of abuse by members of the clergy in this country, which went on for decades, was covered up by those in power who did not want to deal with allegations and reports of horrific abuse. The highest and most powerful clergymen in Ireland turned a deaf ear to the cries for help of little children who were abused by those they were taught to respect and look up to. When one examines the accounts of abuse by the 46 priests from the Archdiocese of Dublin, as detailed in the Murphy report, one learns that child protection and welfare were alien concepts and the rights of the child were not prioritised. It seems unbelievable that the church, in order to save face, focused on protecting itself and covering up the wicked crimes of child abuse by priests.

The extent of child sexual abuse that has come to light this year has shaken this country to its core. It is shocking that these evil acts were allowed to happen not once but hundreds of times. These children were not in residential care or religious institutions — they were abused in their own communities, close to their families, friends and teachers. Many vulnerable children were singled out as easy prey by priests in their parishes. Children from underprivileged backgrounds were especially targeted. Priests created circumstances in which they could be alone with children, often with the full permission of their parents, to carry out unspeakable acts of sexual abuse. These young people struggled for years to live with what had happened to them. They could not tell a soul because it was so unbelievable; instead, they suffered in silence and in fear of being punished or sent to hell. They buried their dark secrets. As they grew older, they were tormented by guilt and shame. They had been brought up to respect religious people and not to question their authority. Therefore, it took huge strength and courage for them to come forward and to trust an adult with the truth of the horror they endured. I commend all those who told their stories and helped to put a spotlight on the evil priests who

took away their innocence and betrayed their trust. This shows why it is so important for one to speak out and be heard, even if one is in the minority.

Through the rite of baptism, children are welcomed into the family of God as a new creation to be cherished, loved and protected by their new family — the church. Children receive holy communion — the bread of life — so they can understand the meaning of reconciliation, forgiveness and repentance. In confirmation, they receive the gifts of wisdom, understanding, judgment, courage, knowledge, wonder and awe. They are told that these sacraments will guide and help them to grow into mature adults. For some of the bishops, priests and other religious people in the Catholic church, however, these teachings were only words. They went against the teachings that form the basis of our faith. They lacked the courage and humanity to act on the allegations that were made and to stop clerical child abuse before it destroyed more children's lives. Those in positions of power in the Catholic church were obsessed with secrecy and reputation. They played God with people's lives. They forgot they are mere servants of God on this earth and are not infallible. For decades, priests have run our parishes and schools and sat on hospital boards. Every step of the way, they assumed responsibility for our children. We trusted them completely — that was how Irish society worked. This country's greatest failing was that nobody dared to question it.

The 172 named priests and 11 unnamed priests in the Archdiocese of Dublin about whom complaints were made have demonised the many other good priests and religious people in this country. Their barbaric acts have destroyed the lives of children sexually, physically and emotionally. This hurt will remain with them for the rest of their lives. These priests have been protected and hidden for years and have served no sentence for the life sentence of trauma and sadness they inflicted on innocent children. Many of these priests now hide behind false names and closed doors, where they will live out the rest of their lives in relative comfort.

Whether we are religious or have faith, we know that those priests who abused children were not only morally corrupt and evil but committed terrible, brutal crimes and must now be brought to justice in the criminal courts. It is very hard to understand how lengthy investigations into clerical abuse by the Garda have resulted in just 11 convictions. What about those priests who come under the remit of religious orders? Who is investigating their actions?

When complaints first surfaced, the State authority, the Garda, failed in its duty to investigate and condemn paedophiles who were masquerading as representatives of God in our communities. Some senior gardaí turned a blind eye and allowed complaints to be hushed up and dealt with by the church. In many cases, priests who were accused of abuse were not relieved of their duties but instead were allowed to move from one parish to another, re-offending and destroying even more lives in one community after another. I cannot understand how bishops and archbishops allowed this to happen. Those who allowed crimes to pass unpunished clearly considered themselves above the law and were incapable of admitting the horrific failures of the church.

The Murphy report does not only highlight the abuse that took place in the Dublin archdiocese but also shows the gross inadequacies of the Catholic Church in dealing with serious complaints of child abuse over a long period of time. The publication of this report must result in real and positive changes being made to ensure that these atrocities never happen again.

It is not up to all those priests and bishops described in the Murphy report to decide on their future. They were incapable of making the right decision in the past so how can we expect them to make the right decision now? The institution of the church will survive only if those people in it to whom we look for leadership do the right thing. Therefore, the responsibility lies with those who have been entrusted by the Pope to direct the church in this country. They

[Deputy Catherine Byrne.]

have a duty to act now and remove those people whose positions are seriously compromised as a result of this report. Criminal offences must be acted on and sentences handed out.

I do not believe an apology will ever repair the damage done to people's lives. I do not believe the church is really listening, even now, after everything has come to light. Many people in the church are still in denial. They are still drawn to covering up what happened. I believe that trust and faith are the cornerstones of the church. This report has not affected my belief or faith in a loving God, but it has deeply affected my faith in the Catholic Church as I see it today, a church that has lost its connection with its people. Sadly, I do not believe much has changed today. I experienced this in the recent past when a family crisis led me to seek guidance from the church. Although the clergy were sympathetic and concerned, they never acted. It was all words.

I agree with Bishop Willie Walsh who said yesterday that people's trust is "seriously broken" and that those who have been so loyal to the church are particularly saddened by these revelations. I also agree with him that it is good that the power wielded by the church is gone and that what is happening now will bring about very significant changes.

If the church wants to survive, it must re-instate its position as a source of healing and trust in communities. It needs to act and repent. In order to restore confidence in the church and gradually build it up again, we must make people accountable for their actions. We then have to trust that priests today are different and do not subscribe to abuse in any form.

How do we go forward? Where does the church go from here? Even more important, how will the church re-connect with young people, most of whom see no relevance for it in their lives today? In these difficult times, people need an anchor and need to maintain their faith in God and trust in Christian values. To achieve this, there must be a period of renewal and the key ingredient is the youth of this country; otherwise, the church faces a very bleak future. This very dark period in the history of the Catholic Church will never be forgotten but if we move forward together through reconciliation, there is a chance that something may be salvaged from all that has happened.

Deputy Charlie O'Connor: I welcome the opportunity to make a brief contribution to what I consider a very significant debate. It is very important to welcome the presence of the Minister of State with responsibility for children and youth affairs, Deputy Barry Andrews, because it reminds us, if reminding were necessary, that this is about children.

Like other colleagues, I record my appreciation of the work done by Judge Yvonne Murphy in this report. The Report of the Commission of Investigation into the Catholic Archdiocese of Dublin clearly shows that a systemic calculated perversion of power and trust was visited on helpless and innocent children in our archdiocese over a 30-year period. Those responsible must continue to be brought to justice. It is very clear from the coverage we have seen in the past week that the people of Ireland must know this will never happen again.

I speak as a Dubliner, a Catholic, a parent and a grandparent. I try to bring to my politics my own life experiences and in a debate such as this it is relevant to say that. I came from a by-gone Dublin and I remember "them days". Children of my age and generation understood there were places to which one might be sent if one did not do things right. This was one of the stories heard on the street. It always worried me that there was acceptance of that in the Dublin of the day. What comes out of this report, and must be stated, is that all of us hope that such things are not happening now and will never happen again. It is very relevant to say that.

I went to school in Synge Street and to the Christian Brothers in Drimnagh Castle. I would not say all the Christian Brothers I met were nice people, but thank God I have no bad memories of them. At the same time, we are very aware that young people of my generation and beyond had bad experiences. It is very important to recognise that fact.

People come to Deputies for all sorts of reasons and in the current economic climate people come to us on a daily basis with issues of concern. I often said, and reiterate now, that the people who have affected me most in recent years are those who were kind enough to come to me and talk about their experiences of abuse. They sought my help in whatever little way they felt I could offer it. Only this week, I had a long discussion with a man. I will not identify him or say where he was from but we had a long conversation. I do not say this in any virtuous way but because I was a Government Deputy, he wanted to share his experiences with me and tell me how he felt, how angry and upset he was. It is very important that we should continue to listen to those people. I did so this week. We owe a huge debt of gratitude to the victims of injustice in this regard for their brave co-operation with the commission in its work. It is important to acknowledge that and commend the work they did.

I do not hesitate to condemn those who did wrong but in my church and community there are those who do good work as priests and it is important to remember them too. I have a story that sums up my attitude to this point. Fifteen years ago I separated from my wife. I do not mind admitting that. At the time, my then 11 year old son was worried about missing his dad and all the other matters that go through a young person's mind. My wife and I discussed the matter and decided that a local priest in the parish would be a good person to talk to my son. I have often told that story and I discussed it with my son quite recently. We would not do today what we did then. To some extent, it is a shame that good priests doing their job in my diocese suddenly find themselves in that situation. There is no question but that we must all be careful about how children are looked after and dealt with.

Like my colleagues, I read parts of the report. I have not read it all and do not know whether I will. Like everybody else, I found it quite upsetting. It is important that we understand there are good people in the system. I hope they all take the view that the perpetrators of the crimes, who were unjust to the children, should be punished. I have no hesitation in saying that.

A number of people, although not members of the clergy, said to me during the week that while there is considerable focus on the bishops and auxiliary bishops at present and that it is fair enough that a debate should take place in this regard, they are not convinced that some of the bishops did not act in bad faith. It is important that we understand that.

Not much attention has been paid to the fact that questions must be answered by those in the medical profession who intervened in cases of child abuse.

I stated how I understood these matters as a small child in Dublin. There is no question but that we all have a different understanding today. For all of us, there has been a learning curve. As legislators, we should take this on board.

The Kennedy report of 1970 dealt with residential institutions such as those in Letterfrack, Daingean and Artane. A constituent of mine told me this week it took quite a while for legislation to be introduced. I tried to find out this morning exactly when it was introduced and I understand it was in the late 1980s. There is no question that these matters need to be dealt with more quickly. I hope the lessons we are all learning this week will be dealt with very quickly.

We should welcome the fact that my church and, I hope, every church in Dublin, although I have not even visited every one in my constituency, is taking great strides to understand the question of child protection and stress its importance. The guidelines are available to people

[Deputy Charlie O'Connor.]

and can be read easily and confidentially. The child protection officer is being identified and it is very important that this be the case.

I have a background in youth work and consequently believe it is very important that there be awareness of child protection policies everywhere young people gather. We have heard many stories recently about young people being upset and abused in various settings, including swimming clubs. Young people must be protected at every opportunity and I hope the work being done in this regard will be broadened, such that where young people gather under adult supervision, they will feel safe and their parents will know they are safe.

I have been listening all week to radio coverage and it is coming across very clearly that people have very clear views on how their children should be looked after. I have heard in this debate and on the radio during the week people asking questions as to whether they should allow their children go to clubs or interact in any way with adults. Questions arise as to what happens in schools. I spend as much time as I can with my small granddaughter and understand the challenges her parents face.

This debate needs to take place. I hope the victims of abuse will understand the issue is being treated as very important in the Dáil. Members from all parties have a responsibility to ensure this is the case and to say to the Ministers under whose remit the report falls, that they must continue to take action to ensure children are safe at all times.

Deputy Lucinda Creighton: It is with a heavy heart and some regret that I must debate this report in the Chamber. It really is difficult to respond to an 800-page report that gives a detailed account of the most monstrous, heinous and systematic abuse of children. It is particularly difficult to find words to respond in a short slot in the debate. However, there are a few points I want to put on the record.

It is important when contributing to this debate that we be mindful at all stages of the survivors of the abuse. It is important to refer to those affected directly by institutional abuse as survivors rather than victims because they want to find solace and strength on foot of the revelations and find a way forward so they can recover and get on with their lives.

I find it really difficult to comprehend or rationalise the sick minds of the so-called men of the cloth who perpetrated crimes on the most vulnerable young people in society. It is shocking to learn that so many families, parents and young children placed such trust in these people and that this trust was abused so completely by people in positions of power. It is unquestionable that the perpetrators were not good men put on this earth to carry out the will of God. They were depraved, evil predators and paedophiles who preyed on the weakest and most defenceless and vulnerable in society.

On reading the report after its publication late last week and over the weekend, I felt physically sick to learn of the extent and nature of some of the actions of the perpetrators, the priests. It is impossible to understand the twisted mindset of those people, who were in positions of enormous power and who had considerable influence, and who could destroy, wilfully and knowingly, the innocence of so many young people. It is extraordinary.

Apart from the perpetrators and abusers, what of the eminent bishops and other members of the church hierarchy who conspired to conceal these evil acts? There is no pardon available to them. They clearly abused and denigrated their exalted positions of power. Ultimately, they facilitated the rape and sexual abuse of young children, in respect of whom they, as the senior members of the Catholic clergy, had an enormous duty of care. This duty was completely ignored, abused and breached.

The report is unequivocal in its findings on the degree and nature of the cover-up, about which it states:

The welfare of children, which should have been the first priority, was not even a factor to be considered in the early stages. Instead the focus was on the avoidance of scandal and the preservation of the good name, status and [extraordinarily] assets of the institution and of what the institution regarded as its most important members — the priests.

That suggests a hugely skewed view of the Catholic church in this country. Ireland is not alone in this, but it is what we are referring to now. The Dublin diocese, particularly, was totally warped in how it viewed priorities. The priests, the assets and the reputation and good name of the church were more important than young, vulnerable children. It leaves me without words to respond.

We have to acknowledge that the bishops, priests and perpetrators were not the only ones responsible for the mass cover-up. It is an important point. Irish society as a whole colluded to cover up these scandals. There was a priest who abused numerous children in my home parish. Everybody knew about it. He was moved to a neighbouring parish where he continued the abuse. Many, if not most, lay members of the church, that is, people who went to read at mass and give out communion every Sunday and who were the so-called pillars of the community, knew what had happened and facilitated the cover-up. It is very easy for us to place blame on certain individuals in the church and certain clergy, but the net must go much wider than that.

The Murphy report makes the role played by the Garda Síochána very clear. The report is a damning indictment of the Garda for its failure to investigate, for ignoring complaints and the fact that it chose deliberately to accept that the regulation of the clergy was completely outside its remit. Clearly this was in contravention of the law of the land and any sort of moral duty the Garda has to protect members of our society. Major collusion went on throughout Irish society. It was endemic throughout the land. Lay people, the Garda, social workers and people in a whole variety of positions of responsibility chose to ignore what was happening. It is something we must bear in mind and keep to the fore as we begin planning a way forward for the protection of children in the future.

The congregation of the Roman Catholic Church need to reclaim it. I say that as a member of the Catholic church, and somebody who has a great degree of belief and a high regard for many members of the church. The faith is alive and thriving in the parts of Dublin with which I am most familiar and around the country. We must acknowledge that the hierarchy in the church at all levels, including Rome, the papal nuncio who is the ambassador for the pope in Ireland, bishops and other senior members of the clergy have failed the Catholic church, faith and members of the congregations around the country.

We must remember that the vast majority of people who practice and believe in the faith are good people who want to see faith strengthened and do not want the church to be torn apart and abused by people who are clearly removed from the reality on the ground. In my parish I have heard, as recently as last Sunday, priests speaking from the pulpit who are genuinely shocked, disgusted and let down by what has happened in the church. It is important to acknowledge that.

It is time we achieved justice and truth for the survivors of institutional abuse in Dublin and around the country. I support my party leader in his call for the bishops named in this report to resign. They should resign and should not look to their congregations and other people to advise them. The men concerned are supposed to be men of the cloth, truth and faith. They need to look into their own hearts, do the right thing and resign. That is my firm belief.

[Deputy Lucinda Creighton.]

To achieve truth and some semblance of respect for the people who have suffered at the hands of many people in the hierarchy of the church we and the Government need to commit to carrying out an investigation into every diocese. I urge the Minister of State to bring that message to the Government.

I have a final point, which is not a matter for legislation but, rather, for the Catholic church. Priests should be entitled to maintain consenting adult relationships and to marry. It is something which I hope can be addressed in the future.

Deputy Michael D. Higgins: The Murphy report is incredibly important. Its implications go far beyond examination of the institution on which it was focused, that is, the archdiocese of Dublin. It raises some fundamental issues. The response of all Deputies who have spoken thus far have begun, and rightly so, with the position of those who have suffered. There are some matters to which we should return. The question is how much change is necessary and likely, and how much we can demand.

Those who suffered, in many cases, suffered because they were poor and lonely, which made them vulnerable to extraordinary breaches of trust by a number of individuals who have been named. However, there is not a shadow of doubt that the names in the report are but a sample of abusers throughout the country.

On the suggestion that canon law can take precedence over State law or that silence invoked by a church can damage the rights of citizens, we need more Deputies to state they are in favour of breaking such a relationship. I find it absurd that the papal nuncio could serve as the dean of the diplomatic corps when, in an institutional sense, his predecessors have refused to answer matters of concern within Ireland.

Apart from that failure, I find the allocation of the post in that way is inappropriate and wrong. I have been a spokesperson on foreign affairs for probably a longer period of time than anybody else in the House. The convention in a number of other places is for the longest-serving ambassador to serve as dean of the Diplomatic Corps. That is something which should happen, but it is a minor issue compared to the remarks I wish to make.

In looking through the report, I note a number of things took place. I turn to one of the strange assumptions upon which the report is based. Towards the end of part 1 of the report, there is reference to a document called *Child Sexual Abuse: A Framework for a Church Response*, which was published in 1996, and is regularly referred to as the “framework document”. Chapter 8 of it refers to people who are being recruited into the priesthood and paragraph 8.2.2 states

Formation is progressive, and must be evenly balanced between the human, spiritual, intellectual and pastoral. The whole process of formation of candidates for the priesthood and religious life should foster an integration of human sexuality and the development of healthy human relationships within the context of celibate living.

As I have only ten minutes, I will confine my remarks to say that I would like to see any research which suggests one could achieve the objective of such a balance while meeting the requirements of celibate living. It is a matter for the organisation itself. However, I would be dishonest if I did not say it was an issue it must examine as a source point of what is contained in the report.

I wish to lay my cards on the table. As well as the victims, there are others who have been wounded. There are many people who have a spiritual life and for them it is a source of great importance. I listened with great care, for example, to the sensitive speech of Deputy Catherine

Byrne. Many people such as Deputy Byrne — perhaps the majority of people who are not materialist extremists — believe in a form of spiritual life, which has been badly damaged by the actions of the people referred to in this report. There are many priests and nuns who are dealing every day, at this time of a broken economy, with distressed communities and people in poverty and isolation, and their work has been badly affected by this behaviour.

This report concentrates on the secrecy that was invoked and the priority attached to such secrecy over the responsibility of citizenship and compliance with the State and its Constitution. On page 24, section 1.93, the report states that a number of very senior members of the Garda, including the Commissioner in 1960, regarded priests as being outside their remit. There are examples of gardaí reporting complaints to the Archdiocese instead of investigating them. It is fortunate that some junior members of the force did not take the same view. There were suggestions that when complaints were made from outside the jurisdiction to the Garda, those responsible went straight to the Archbishop's palace with them rather than acting on them. That is serious.

I have been long enough in the House to have seen some of the people mentioned in this report in various referendum campaigns. They were out there in front arguing that we were representative of a fall from ethics and belief. In fact, they were militants when it came to these campaigns. There are people in this House who are on record as being opposed to the Stay Safe programme in schools. Let us be realistic about this. What is changing? Will there be changes in the Garda? Will there be changes with regard to those lay bishops who are all over the place on school boards of management and who, on the basis of their own version of what the church is doing, refuse to implement the Stay Safe programme?

In a recent by-election, when canvassing with a colleague, I heard Cardinal Connell say he was not one bit interested in politics. This is a great pity because what he was doing was quite political. On page 52, section 3.46, it is stated that he said, "Well, I think the Commission will have to accept that on my first meeting of the Congregation for the Doctrine of the Faith, I took an oath that I would not reveal what was discussed at meetings of the Congregation and I will of course be as true to that oath as I am to the oath I have taken here." I do not accept that because Cardinal Connell has retired he does not have to answer questions, but equally I do not accept that the public and legislators, who are required to have a view, should not express their views on the appropriate relationship of church and State. It is perfectly clear from my own writing that I have the greatest respect for spirituality, but I respect the independence of the Constitution and I believe in its republican nature. The church does better when it is accountable to the State and the Constitution and there is a degree of dignified separation between them.

Page 53, section 3.51, gives a list of the powers and responsibilities of the papal legate. I do not mean to insult anybody, but the role often included informing the Apostolic See about the conditions in which the particular churches found themselves, as well as about all matters which would affect the life of the Church and the good of souls. Therefore, when the choice arose, how was it a choice?

I will return to something I said here around the time of the Kennedy report. It was known in two Departments that a boy had been flogged on the landing in Daingean. However, when a young civil servant wrote to the head of his Department asking what should happen, the two Secretaries General corresponded with each other and said it would be better if this did not come out. What this report tells us is that the unaccountable, secretive, retinue of abusers were well known and insured against. What was important was preventing scandal rather than addressing the rights of the child. This included institutions of the State such as administrators of justice, lay people, schools and others. The awful side of it was that the child who was

[Deputy Michael D. Higgins.]

wounded and had to deal with people in any of these institutions was told he was a liar. He was already poor and perhaps lonely, as so many children were. I met them when I was in the MacBride commission. They went on to have terrible lives; some of them ended up in prison.

It is not just a matter of noting this report. Those involved must say that they, as part of something that was so rotten, must now leave, and something new must be built.

Deputy James Reilly: Normally one is pleased to speak in the House. Unfortunately, today's discussion is one that gives none of us any pleasure.

This is a report on the response of the church, as an institution, to the revelations of child abuse. There is no question but that child abuse did occur. I find the response of the church disappointing. Many of its senior members seem to continue to live in denial, refusing to accept that as custodians of the moral values of our society they have failed grievously. Not only have they failed but they have been complicit in compounding that failure through their continued refusal to accept responsibility, particularly those bishops who were directly involved. It is unacceptable that they should now look to the laity and to their priests instead of to their consciences. Surely their consciences are informed enough to know right from wrong. As one journalist put it during the week, the Irish people certainly know what is right and what is wrong. Instead of continuing and ultimately succumbing, perhaps those who are in leadership roles in the church will now show that leadership by doing the right and honourable thing — by listening to their consciences and remembering what brought them into the church in the first place. They must restore Christian values and do what is right.

There are many good people in the church. I, like many others, was educated in a school run by a religious order, the Franciscans in Gormanston, which has also had an unfortunate history. It is not that wrong does not occur in the world; it happens all the time. Bad people do not disappear. Some people have their demons, as in the example I will mention shortly, because of the problems they suffered in life. The issue is how we deal with that. It is a system that protects people from the misdemeanours of individuals.

Unfortunately the system operated by the Catholic church in this country over the years under discussion shows very clearly that the reputation of the church came first and consideration of child safety came a long way behind in second place. I support people like Archbishop Diarmuid Martin, who is caught in a difficult place, who strives to bring his fellow churchmen with him and who invites the Garda back to ensure there is not a paedophile ring within the church. He needs our support even though he can oft be the focus of our anger because he has put himself out there. However, the people at whom we really need to be angry are the bishops who are condemned in this report and do not act. They have preached oft and long to us from the altar about our conscience, Christian values, morals and doing the right thing, and yet they vacillate when it comes to themselves and that is a disgrace. It is not just a disgrace but also a rot that will destroy the Catholic church in the country.

In a letter to the editor, printed in today's edition of *The Irish Times*, Dr. Vincent Twomey, professor of moral philosophy in St. Patrick's College, Maynooth, stated:

At the very least, it would seem, all were guilty of negligence — some, such as Bishop Donal Murray of Limerick, whose behaviour was described as “inexcusable”, more than others. But all were deemed guilty of inaction, of failing to listen to their conscience.

Edmund Burke said, “The only thing necessary for the triumph of evil is for good men to do nothing.” This is something that cannot continue. None of us can stand idly by anymore. None of us can afford to accord reverence and deference to the point of breaking the law, abusing

children, depriving them of their right and worst of all robbing them not just of their innocence but often of any chance of happiness in life.

I wish to read into the record part of an article in the *Fingal Independent* about the victim of a priest in my constituency. It states:

Bernard told the *Fingal Independent* that it was important for the country's children, that something like this never happens again.

He said: "Going forward, all institutions dealing with children have to know that if they are aware of a scandal they can't do nothing about it."

He said he bore no grudges against Fr McNamee's family and he was still struggling to understand why the priest did what he did.

Bernard said: "He had his own demons that he wasn't able to deal with in the institution he was in. I don't in any way condone what he did but I recognise there was no support for him either."

That man showed more compassion in those few words than the church has shown in all its volumes of rhetoric. If the church is to survive here, and retain and regain respect, it needs to act in a manner that is respectful of both law and morality. I regret that the very slow reaction of many of these men — for they are all men — does the church no good whatsoever.

Last week a fellow Deputy alleged to me that a good friend of his who had been abused by a priest was visited by a bishop earlier this year and offered a large sum of money to go away and keep quiet. He refused to do so. Like thousands of other people he wants to see justice done. I object in the most strenuous fashion to another bishop suggesting that given that we know it went on everywhere else let us get on with child protection and forget about all the perpetrators. That is unacceptable. This investigation must be extended to every diocese in the country. Every perpetrator needs to be brought to justice. All those who were abused need to be afforded the opportunity to confront their abusers if they are still alive. They certainly should have the opportunity to confront those who protected those priests and moved them around so they could continue their evil ways. That is the very least we can expect.

We also need a dedicated special Garda unit to investigate matters relating to clerical child sex abuse in addition to the existing domestic violence sexual assault investigation unit. We need an investigation to establish whether a paedophile ring existed within the Catholic church. I support Archbishop Diarmuid Martin in this. Where the law permits, people who broke the law or aided and abetted others to break the law should be subject to criminal proceedings. I understand from reports in today's newspapers that the Garda has confirmed that will happen. However, it needs to happen expeditiously and should not be left to become an investigation that wanders on for years. The Garda has its own problems in this area in so far as some of its members behaved in a far too deferential fashion in the past. Perhaps some politicians did likewise. However, now that it is exposed the question is how we should react.

Canon Law is for the church and it should be left for the church. Let the church not be under the illusion that it is not subject to the law of this State or that Canon Law supersedes it. The silence of the Vatican is a gross insult to the nation and unacceptable. The failure of the papal nuncio to at the very least acknowledge receipt of the extract of the report sent by the commission is reprehensible in the extreme and is symbolic of the ongoing denial of the church. If such a matter were sent to the British Embassy and we did not receive a response there would be uproar. So let us have uproar over this matter and let the Vatican as an independent state respond in a responsible fashion to retain the good relations we have had for many years.

[Deputy James Reilly.]

Those men who are responsible, directly or indirectly, for aiding and abetting the continued abuse of children, for not confronting priests, and for not at least putting them out of harm's way and allowing them to continue to abuse in different communities with no warning given to those communities, ought to look to their consciences and act decisively if they care for the future of the church, the good of the country and the victims of the abuse.

Minister of State at the Department of Justice, Equality and Law Reform (Deputy John Curran): Deputies from all sides of the House have had the opportunity to respond to the report of the commission of investigation and its findings. This is a disturbing and emotional subject. I commend Deputies on the thoughtfulness of their contributions, which not only dealt with the report's findings and implications, but also made clear their revulsion at what the report revealed. Above all, the House has paid tribute to the courage of the victims and survivors of child sex abuse in their fight for justice and their outstanding contribution to the work of the commission.

It is right that we have placed emphasis on the State's response in this area, but of course the primary focus of the report is on the failings of the church authorities. No government in a democracy can or should prescribe how a church should be run. However, we can ensure that all institutions are subject to the laws of the State. I have no doubt Deputies are determined this must be the case. While there have been advances in recent years in how this issue has been dealt with, there are no grounds for complacency. It is the duty of Government to ensure that all institutions in the State are subject to the law of the State without exception and above all to the laws that protect children. The Government will do whatever is necessary to ensure the old ways of responding to allegations and evidence of child sexual abuse will not be repeated and the ways we now handle them will be continually updated in the light of developing best practice.

The victims are entitled to expect that the issue of criminal liability on the part of anyone in authority — either church or State — in the handling of these cases is pursued fully and rigorously. I assure the House that this is exactly what will happen. Assistant Commissioner O'Mahoney and his team will have the full investigative powers of the Garda Síochána in carrying out the examination of the report's findings relating to the handling of complaints and investigations by both church and State at the Commissioner's request. They will pursue their inquiries, without fear or favour, wherever they lead.

Members referred to the fact that while the Offences Against the State (Amendment) Act 1998 introduced an offence of withholding information which might be of assistance in preventing the commission of a serious offence or securing a prosecution, it excludes an offence of a sexual nature from this provision. This matter was discussed when the Bill was being considered by the Oireachtas. The view taken then was that if offences of a sexual nature were not excluded in this way, it could lead to the introduction of mandatory reporting in sex abuse cases. It would not be appropriate to deal with such a complex issue as mandatory reporting in an Offences Against the State Bill.

The Government does not propose to introduce any form of mandatory reporting at this time. International evidence suggests that mandatory reporting serves only to swamp child protection systems with high volumes of reports, often resulting in no commensurate increase in substantiated cases. One need only look to New South Wales in Australia as a case in point.

Recent reviews of the Children First guidelines have found them to be robust and appropriate. What we need to focus on now is having the guidelines implemented on a consistent basis. The implementation plan drawn up following the publication of the Ryan report states that the Government will draft legislation to impose a duty to comply with the Children First

guidelines on all staff employed by the State and all staff employed in agencies in receipt of funding from the Exchequer. Legislation will also be drafted to provide for sharing of information and co-operation between relevant services in the best interests of children.

The commission's report and several Deputies expressed concern about the statutory powers of the HSE to deal with child sexual abuse by non-family members. The Office of the Minister for Children and Youth Affairs will consult further with the Office of the Attorney General to seek clarity in this regard. However, in the wake of the publication of the Ferns report in 2005, legal advice was sought from the Attorney General regarding the powers of health boards, or the HSE as it now is, to investigate and deal with instances of child abuse perpetrated outside the family. The Attorney General was not of the view that the HSE's powers under section 3 of the Child Care Act 1991 are limited to cases of intra-family abuse. The HSE has stated that it responds to all allegations of child sex abuse regardless of the circumstances of the allegation.

The Government earlier this year requested the commission of investigation to extend its work to deal with the Catholic Diocese of Cloyne because of concerns which had arisen about that diocese. The Government believes the work of the commission on the Archdiocese of Dublin and its forthcoming report on the Diocese of Cloyne will serve the primary purpose of establishing what happened so that lessons can be learned.

The Government and the Department of Education and Science are examining school patronage in general. This is a wide-ranging review. This is in addition to the Department's consideration of new developing areas, new patronage for schools and international experience in this area generally.

The Government has also been asked to amend the provision in the Statute of Limitations (Amendment) Act 2000 to facilitate victims of clerical sex abuse in taking civil actions against their abusers and the church authorities, by extending the 12 month period. However, this is based on the misapprehension that the Act restricts to one year the period under which claims must be brought. In fact, the law enables those who suffered abuse and are under a disability as a result to have the limitation period suspended until they cease to be under such disability. It is, therefore, not necessary for the law to be amended.

I thank the Deputies who contributed to this debate today.

Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009: Motion.

Minister of State at the Department of Finance (Deputy Martin Mansergh): I move:

That Dáil Éireann approves the terms of the draft scheme entitled Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009 a copy of which draft scheme was laid before Dáil Éireann on 30 November, 2009.

As Deputies will be aware, the Minister for Finance signalled in the supplementary budget in April last the Government's intention to revisit and make technical adjustments to the bank guarantee in ways which would continue to underpin financial stability and support banks in Ireland in accessing longer-term finance.

In June this year the House approved the financial measures——

Deputy Joan Burton: On a point of order, this is the recommencement of the bank guarantee of hundreds of billions in the name of Irish taxpayers. I want to know where is the Minister for Finance, Deputy Brian Lenihan. This is as important and significant a decision in this short order as the original bank guarantee. Essentially, this provides for the roll-over of the bank guarantee. While I do not wish to disrespect the Minister of State, he is not the Minister for Finance. Where is the Minister for Finance on this really important order?

[Deputy Joan Burton.]

It is not good enough that the Minister for Finance sends a Minister of State in here with a document extending the bank guarantee for a further five years with significant financial implications for every taxpayer in Ireland at a time when the country is reeling under economic difficulties. He is probably upstairs addressing the members of Fianna Fáil.

Deputy Martin Mansergh: He is not.

Deputy Joan Burton: He should be in here on the floor of the Dáil. I call for the Minister for Finance to make himself available to the Dáil for this short debate. It is only 50 minutes. He should be here. It is a disgrace the debate is so short because it is such an important financial decision.

I wish no disrespect to the Minister of State who is excellent on his own field. He is not the Minister for Finance. This is a massively important financial decision being discussed without the Minister for Finance. Would the Acting Chairman please send for him?

Deputy Kieran O'Donnell: I support my colleague, Deputy Burton. What the Minister of State is bringing in here could extend the guarantee scheme up to 2015. This has enormous implications. The Minister for Finance should be here today. I mean no disrespect to the Minister of State, Deputy Mansergh.

The implications are astounding. Where the people face the most severe budget in the history of this small State, the Minister for Finance has a debate of 50 minutes on a motion in which his powers appear to be wide-ranging. He appears to be able to extend the guarantee scheme for specified liabilities, effectively, as far as 2015. Furthermore, we have no idea when the commencement order on this scheme will be made.

This is just not good enough. I put it to the Chair that the Minister of State should contact the Minister for Finance so that he can come before this House. This involves €440 billion of deposits that the taxpayer is guaranteeing on behalf of the banks.

Acting Chairman (Deputy Cyprian Brady): It is not an opportunity to make a speech.

Deputy Kieran O'Donnell: The Minister for Finance should be in the House at this time.

Acting Chairman: The Minister of State, Deputy Martin Mansergh, is rostered to speak for the Government.

Deputy Martin Mansergh: I am here to represent the Minister for Finance who, as the Deputy is well aware, is preparing a budget which is very important.

Deputy Joan Burton: That is not good enough.

Deputy Martin Mansergh: It is entirely appropriate that he be represented here by myself.

Deputy Kieran O'Donnell: Why are we getting this motion only a couple of days before the budget? If it is that important, why was it not brought in a number of weeks ago?

Acting Chairman: I have been lenient enough.

Deputy Joan Burton: On a point of order, I have asked the Minister of State where is the Minister for Finance.

Deputy Martin Mansergh: He is preparing his budget.

Deputy Joan Burton: He was available to go in and face the music with the Fianna Fáil backbenchers at the parliamentary party.

Deputy Martin Mansergh: Relating to budgetary matters.

Deputy Joan Burton: He should have given that hour to the Dáil.

Acting Chairman: I call on the Minister of State to respond.

Deputy Joan Burton: I want the Minister for Finance brought into the House to address this motion which involves hundreds of millions——

Deputy Kieran O'Donnell: Billions.

Deputy Joan Burton: ——in guarantees for the next 15 years on behalf of the Irish taxpayer.

Acting Chairman: I am sorry Deputy, but I am calling on the Minister of State to respond.

Deputy Joan Burton: The Minister of State is not acceptable to us in this context. It is not acceptable to us that a Minister who does not deal with finance——

Deputy Martin Mansergh: I do deal with finance. Excuse me, I am the Minister of State at the Department of Finance.

Deputy Joan Burton: This motion provides guarantees of hundreds of millions, including subordinated debt. The Minister has never explained why.

Deputy Martin Mansergh: I took some of the NAMA legislation, so I can take this too.

Deputy Kieran O'Donnell: On a point of order, this motion probably concerns one of the most important measures ever to come before this House, yet we are getting 50 minutes to debate it.

Deputy Martin Mansergh: The Deputy will have a vote on that.

Deputy Kieran O'Donnell: The Minister of State does not have the power under this legislation. The Minister for Finance does. The implication is that this legislation is being rammed through by the Government, yet the Minister for Finance is not here. Deputy Mansergh is a Minister of State at the Department of Finance, but the Minister for Finance has wide-ranging powers under this scheme. He should be in the House. I agree with my colleague, Deputy Burton, that we should ask the House to be suspended pending an appearance by the Minister for Finance. This matter is too significant to do otherwise. AIB's representatives appeared before the Committee on Finance and the Public Service last week stating that they may not use the NAMA bonds to get credit flowing. This is not good enough.

Acting Chairman: A point of order is not an opportunity to make a speech.

Deputy Kieran O'Donnell: I am asking that the House be suspended until the Minister for Finance comes before us.

Deputy Joan Burton: On a point of order——

Acting Chairman: I am sorry Deputy Burton, but I have been lenient enough.

Deputy Joan Burton: I am calling for a quorum.

[Deputy Joan Burton.]

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

Acting Chairman: We now have a quorum, so I call on the Minister of State, Deputy Mansergh, to respond.

Deputy Richard Bruton: On a point of order, I honestly believe it is a serious discourtesy to the House, which is about to debate the extension of a €4 billion guarantee to the banking sector, that a Minister of State is sent to deal with it.

Deputy Noel Treacy: That is an insult to the Minister of State.

Deputy Richard Bruton: That is no reflection on the Minister of State, but he does not have discretion on behalf of the Government to offer changes in any of the details of this scheme. We are having a meaningless debate because whatever the Opposition says, the Minister of State does not have the discretion to alter anything. There is no point in having those sort of debates. From the outset, the banking crisis has been handled by the Minister for Finance. It has been core to his brief. The Minister for Finance ought to be here to deal with a matter of such seriousness. I appreciate that he is preparing the budget. Everyone is trying to prepare for the budget as best they can, but this is a time-restricted debate. Only 50 minutes have been set aside for it, but we expected the Minister for Finance to be here. It is discourteous to the House, and to those who put an effort into coming up with suggestions for amendments, to find that the Minister does not feel it warrants his attendance.

Deputy Noel Treacy: It is a question of responsibility.

Deputy Arthur Morgan: On a point of order, the Minister for Finance should be here if at all possible. There is a huge risk to taxpayers involved in this extension of the guarantee. It is critical that the Minister be present to hear and respond to the concerns of the Opposition. After all, it is the taxpayer who is carrying that burden. I understand the Minister for Finance is undoubtedly exceptionally busy with budgetary matters, but if he can make time available for Fianna Fáil Parliamentary Party meetings, it is reasonable that he should make 50 minutes available to deal with this matter in the House.

Deputy Kieran O'Donnell: I mean no disrespect to the Minister of State, but, on a point of order, did he have any input into the preparation of this scheme?

Acting Chairman: That is not a point of order.

Deputy Kieran O'Donnell: It is a point of order. This scheme represents an extension of €440 million of taxpayers' money in terms of a guarantee to the banks. I accept that the Minister for Finance is a busy man in preparing the budget, but a 50-minute debate is insufficient. The Minister should make some appearance before us, even at the conclusion of the debate, so that we can deal with matters that have been raised during the debate and over which only he has discretion.

Acting Chairman: We are eating into the time for the debate.

Deputy Joan Burton: On a point of order, our international reputation is very important. This is the extension of the bank guarantee scheme in five-year tranches for up to a period of at least 15 years. This will probably outlive the Government. In terms of our international reputation, first of all, the motion has been allocated 50 minutes of discussion time by the Dáil.

Acting Chairman: A point of order is not an opportunity to make a speech.

Deputy Joan Burton: The Minister for Finance, who is in charge, cannot be bothered to show up for the debate.

Acting Chairman: We will have to move on. I ask the Minister of State to respond.

Deputy Joan Burton: What message does it send to the international bond markets and bond holders that a junior Minister is sent in to deal with a €400 million plus guarantee in the name of the Irish taxpayer? That is simply not good enough

Acting Chairman: A point of order is not an opportunity to make a speech. I must ask the Deputy to resume her seat.

Deputy Joan Burton: When the quorum was called, was there time for the Minister of State and his staff to contact the Minister for Finance to ask him to come here? He could go to the Fianna Fáil Parliamentary Party and talk to backbenchers so they could go on the radio, but he could not attend the House to discuss the bank guarantee scheme.

Acting Chairman: A point of order is not an opportunity to make a speech. I ask the Deputy to resume her seat.

Deputy Joan Burton: That is a total dereliction of duty.

Acting Chairman: I ask the Deputy to resume her seat, please. I now call on the Minister of State, Deputy Mansergh, to respond.

Deputy Martin Mansergh: As Deputies will be aware, the House decided this morning that this would be a 50-minute debate. No amendments are contemplated. This was well signalled in advance and primary legislation was debated in June.

Deputy Joan Burton: On a point of order——

Acting Chairman: The Minister of State without interruption.

Deputy Joan Burton: ——this was introduced to the House on the evening of 16 September, when the initial debate on NAMA was almost over.

Deputy Martin Mansergh: The details were published on-line on 16 September.

Acting Chairman: The Minister of State without interruption, please. I ask Deputy Burton to resume her seat.

Deputy Joan Burton: It was slipped out on the evening of 16 September so that it received almost no attention, except from me.

Acting Chairman: The Deputy should resume her seat, please.

Deputy Joan Burton: I raised it with the Taoiseach about five times.

Acting Chairman: I call on the Minister of State to continue without interruption.

Deputy Joan Burton: That is the truth. The Minister of State would not know because he was not involved.

Deputy Martin Mansergh: As Deputies will be aware, the Minister for Finance signalled in the supplementary budget last April the Government's intention to revisit and make technical adjustments to the bank guarantee in ways which would continue to underpin financial stability and also support banks in Ireland in accessing longer-term finance.

In June this year, the House approved the Financial Measures (Miscellaneous Provisions) Act 2009, which contained an enabling provision to allow for the extension of period of financial support contained in the Credit Institutions (Financial Support) Act 2008 beyond the current expiry date of 29 September 2010 by ministerial order. On foot of this, the Minister has drawn up a new guarantee scheme, the Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009 or ELG scheme. This draft scheme is being presented to the House for a resolution, pursuant to section 6(5) of the Credit Institutions (Financial Support) Act 2008.

The main elements of the ELG scheme were announced by the Minister as part of his Second Stage speech on the NAMA Bill in mid-September and the details were published on the Department of Finance's website at that time. The draft scheme was approved by the European Commission on 20 November 2009, in line with state aid rules, and I am presenting it to the Dáil today for approval.

It is important to emphasise that the ELG scheme will be somewhat more targeted in approach than the CIFS scheme and is not a blanket extension of the guarantee. It will allow for greater longer-term debt issuance under the guarantee, moving it towards the European model, and consistent with EU state aid rules. Participating institutions will be able to issue liabilities and take deposits with a maturity of up to five years, but these liabilities must be issued, and deposits taken, within the time period that ends on 29 September 2010 — the same end-date as for the CIFS scheme. However, newly issued dated subordinated debt and asset covered securities will not be guaranteed going forward.

A key feature is that it allows the participating institutions to access unguaranteed funding and to issue unguaranteed deposits, which will help reduce their reliance on State support over time in line with improving market conditions. Over recent weeks, certain Irish institutions have successfully issued partially guaranteed term debt, and this positive trend is welcome. The ELG scheme will represent the necessary first step in the exit strategy for the State from the blanket guarantee offered in September 2008 consistent with the maintenance of financial stability and ensuring that the funding needs of the banking system in Ireland are met. Consequently, the extensive guarantee for deposits will be retained up to 29 September 2010, subject to six-monthly review and approval by the European Commission.

Institutions will be required to pay a fee to the Minister in respect of all liabilities guaranteed. The fee will be in line with ECB recommendations and will be significantly higher than the current fees payable under the CIFS scheme, as required under the terms of the State aid approval for the scheme. The higher fee is intended to encourage participating institutions to explore fully the potential for issuing unguaranteed debt and reducing their reliance on the State guarantee.

The longer maturity limit for guaranteed debt issuance is consistent with the position under guarantee schemes that have been introduced by a number of other EU member states, including Finland, Germany, Hungary, Italy, Portugal, Spain, Sweden and the UK. Access to longer-term funding in line with the mainstream approach in the EU will maintain the continued stability of the banking system in Ireland and enable the institutions to support the credit needs of the economy and underpin economic recovery

It is important to be clear in view of the level of interest among investors in these issues, existing liabilities — including dated subordinated debt and asset covered securities — guaranteed under the CIFS scheme will remain guaranteed under that scheme until the maturity of

the debt or 29 September 2010, whichever is the earliest. This continued guarantee of existing liabilities is in accordance with the general nature of guarantees.

I now wish to outline some important and key aspects of the ELG scheme. The scheme provides for a guarantee for participating institutions over certain liabilities with maturities of up to five years, which are incurred in the period between the commencement date and 29 September 2010. The guarantee is being provided at a charge to the participating institutions on specific terms and conditions, so that the taxpayers' interest can be protected.

Eligibility for the ELG scheme will be open to systemically important and solvent credit institutions and their subsidiaries, including Irish subsidiaries of credit institutions authorised in another member state, that have been specified by the Minister as requiring financial support. All current-covered institutions under the CIFS scheme will be eligible to join the ELG scheme. Credit institutions seeking to participate in the ELG scheme must make an application to the scheme operator to be designated as a participating institution. Those covered institutions under the CIFS scheme have a 60-day window from the commencement date to make this application, while all others can apply up to 29 September 2010. To be accepted by the scheme operator, the institution must accept the terms of the scheme, by way of an eligible liabilities guarantee scheme agreement, and be certified in accordance with the rules as being a participating institution.

Eligible liabilities shall be any of the following: deposits, to the extent not covered by deposit protection schemes other than the CIFS scheme; senior unsecured certificates of deposit; senior unsecured commercial paper; other senior unsecured bonds and notes; and other forms of senior unsecured debt specified by the Minister that satisfy certain eligibility criteria which are set out in paragraph 12 of the scheme. Term deposits with a term of up to five years will be covered by the ELG scheme, provided that they are incurred between the period from the commencement date of the scheme up to and including 29 September 2010, subject to the approval of the EU Commission at six monthly intervals; and demand deposits will remain guaranteed until 29 September 2010, subject to the approval of the EU Commission at six-monthly intervals — the first such approved six monthly interval runs from 1 December 2009 to 1 June 2010.

Once a participating institution accepts a deposit or issues debt under the ELG scheme, it no longer has the facility to avail of the guarantee under the CIFS scheme for the new liabilities. However, the guarantee for existing liabilities guaranteed under the CIFS scheme will remain in place until 29 September 2010.

It is important to note that the guarantee of all deposits up to €100,000 under the revised deposit protection scheme remains in place, is not affected by the introduction of the ELG scheme and continues beyond the expiry of the CIFS and ELG schemes on 29 September 2010.

Each participating institution must pay a quarterly fee to the State in respect of the deposits and liabilities of the institutions which are availing of a State guarantee under the ELG scheme. The fees payable are based on standard pricing recommendations published by the European Central Bank in respect of guarantees of this nature and are consistent with the fees applicable for similar guarantees provided by other EU Governments in respect of their credit institutions. Under the ECB pricing recommendation, which has been endorsed by the European Commission, the fee in respect of debt and deposits with a maturity of one year or less will be 50 basis points per annum. The corresponding fee for maturities exceeding one year will be based on the median value of the banks' five-year CDS spreads for a sample period, with an add-on fee of 50 basis points. It is important to emphasise that the fees applicable will be higher than those applicable under the CIFS scheme, albeit for a lower quantum of liabilities.

[Deputy Martin Mansergh.]

Pursuant to paragraph 7 of the scheme, the Minister plans to delegate its operation to the NTMA. Given its market expertise, the NTMA is, in the view of the Minister, best placed to perform the role of scheme operator on a day-to-day basis on his behalf.

I should highlight that the same reporting and information requirements and the identical restrictions on commercial conduct, as were provided for under the CIFS scheme, remain available to the Minister under the new scheme. Paragraph 22 provides the Minister with the power to issue such direction or directions to a participating institution, which he believes are necessary to ensure that the objectives of the Act and the scheme are being met. This may include directions to comply with some or all of the restrictions on conduct, transparency and reporting requirements applicable under paragraphs 24 to 52 of the CIFS scheme. These restrictions have been debated previously in the House and are important in preventing any abuse of the scheme. These powers are supplemented by enforcement provisions in the scheme. For example, the Minister can increase the charge payable for an institution that is in material breach of its obligations.

Participating institutions are required to submit any reports or information which the Minister, the regulatory authority or the scheme operator believe are necessary to monitor compliance of the institutions with the scheme.

In summary, the ELG scheme will underpin the financial stability of the Irish banking system, allow institutions to access longer term debt, move the arrangements for the guarantee into line with the mainstream approach in the EU, provide the basis for a measured exit strategy from the guarantee and allow banks in Ireland to meet the credit needs of the economy and underpin economic recovery. I commend the motion to the House.

Acting Chairman: Deputy Bruton has ten minutes.

Deputy Richard Bruton: Will a second round of speakers be facilitated?

Acting Chairman: I do not think so as only the main spokespersons are listed.

Deputy Richard Bruton: In that case, I wish to share my time with Deputy Kieran O'Donnell. The Acting Chairman should tell me when I have spoken for six minutes.

Acting Chairman: Very well.

Deputy Richard Bruton: First, the Minister is asking the taxpayer to provide yet another line of defence for the banking system. The critical issue that must be addressed is whether the banks have changed sufficiently and whether there has been a transformation in the banking system that would warrant the taxpayers dipping into their collective pocket once again to underpin them. Quite plainly, the answer to this question is “No”. Members have not seen such a transformation within the banking system that would give them the confidence to demand of taxpayers that they should underwrite further guarantees for the banks. The Minister appears to have committed himself to a strategy of keeping the banks independent at almost any cost. The real question that must be asked is whether these independent banks the Minister is propping up are willing to commit to ordinary businesses and to keep those businesses in place. Can they guarantee they will provide the requisite credit? Sadly, the short answer is “No”, they are offering no such reassurance.

Where is the evidence that either the philosophy or the leadership of the banks have changed? On the contrary, the two key banks have thumbed their noses at the Government and have insisted on appointing insiders to leading posts. Where is the evidence that the banks

are devising strategies to help businesses get through this difficult time? On the contrary, the two major banks appeared before the Joint Committee on Finance and the Public Service and told members that the introduction of NAMA would not change by one whit the availability of credit through those banks. Moreover, it also would not change by a single cent the cost of credit to businesses that sought funding from those banks. If the Minister is so well briefed in this regard, why did he not advert to this point? Where are the changes in the banking laws that would give Members confidence that the banks' attitude and approach have changed permanently? In truth, not a single banker has been arraigned before the courts for any of the gross wrongdoing that occurred and which has brought about this crisis. Moreover, there is no evidence that credit is beginning to flow again. Evidence from the Central Bank suggests that the approach of NAMA and the Government is not delivering credit to businesses that need it.

The public has a right to be deeply sceptical of any proposal by Ministers to further extend the guarantees to banks until evidence is forthcoming of a genuine change in the manner in which banks are run. The people who were at the heart of issuing credit that has brought this country to its knees remain in leadership positions within the banks. They are even thumbing their noses at the salary caps imposed. While they are honouring them in the letter by not paying the chief executive more than €500,000, in spirit it is not being honoured because other executives within those banks are being paid more. This is not acceptable to the ordinary public and the Minister has shown no evidence that he understands what has been happening on the ground. People seethe with rage when they look at the banks and those who lead them and do not discern the change in culture that is needed. Such a change in culture must be seen.

Taxpayers already have been asked to pay €7,000 million more than the market value of these impaired loans with the sole intention of protecting the banks. How are the banks using this largesse, protection and support that has been given by the Government? As the Minister of State is aware, the honest answer is they are using this money to protect banking interests, that is, to protect themselves and their shareholders. This is their priority and many would suggest that this is what one would expect them to do. However, this is not good enough. As the taxpayer has been asked to bail them out twice and now is being asked to extend the guarantee yet again, there must be evidence that matters have really changed. Although the Minister would have Members believe that this proposal simply is a logical extension of what they have done previously, this is not the case. I agree that long-term wholesome investment into our banks would be welcome. However, I refer to the banking system that is being reconstructed. The Minister is asking Members to believe that this proposal forms part of a reconstruction of the banking system. However, Members must see evidence that the banking system it is trying to reconstruct has reformed the manner in which it approaches the difficulties in which we find ourselves. They must see evidence that the banking system now is part of the battle to preserve sound businesses and to ensure that no good business goes to the wall for lack of credit.

Such evidence is not forthcoming and the Minister of State can talk to his own backbenchers in this regard. They have been more than eloquent at the Joint Committee on Finance and the Public Service, of which the Minister of State is a former member, in explaining how the reality differs greatly from what the Minister would have one believe. Members were sold NAMA on the basis that it would extend credit and would get access to cheap ECB money. I recall Deputy Fahey and many other advocates for the Government scheme stating that it would be wonderful, that cheap money would be available at a rate of 1.5% and that the credit problems would be cracked. However, the ink was barely dry on the enacted NAMA legislation before the banks came before the Joint Committee on Finance and the Public Service to state they were sorry but there would be neither more credit nor cheaper credit as a result of NAMA.

[Deputy Richard Bruton.]

Consequently, the public considers that it has been sold a pup and the Government now is asking us to extend the guarantee even further. Members also were told by the Minister that the money being invested in the banks would yield an adequate return for the investment. In reality, the cost of State borrowing rose by €1 billion as a result of the banking crisis and the extension of cover. All that has been received in return is €473 million, meaning the banks have paid less than half. They were told there would be a yield on preference shares of 8%. However, Allied Irish Banks has now stated that money will not be forthcoming because the European Union has blocked it. Similarly, although Members have been told that NAMA would deliver a return, no one, apart from a few Ministers and their close colleagues, believe any of the assumptions that underpin this. I will conclude by noting this is a highly costly adventure on which we are embarking in an effort to reconstruct the banks. Unless there is evidence that the banks genuinely have changed and that a new regime is in place that will support business and get the economy through this difficulty, the Government cannot ask the taxpayer to prop them up with more supports.

Deputy Kieran O'Donnell: All Members desire a sound banking system. While a budget will be announced next Wednesday, I note the existence of a sound banking system is inherently as important to the recovery of the economy as are any other measures to be taken by the Government. This is the reason the Minister for Finance should be present in the Chamber. Members are being asked effectively to extend the guarantee scheme for a certain range of liabilities. The Minister must answer many questions in this regard, one of which pertains to the scheme's commencement date. This is of great relevance to section 30 of the scheme, which notes that lower tier two assets covered on or after the commencement date shall not be guaranteed. However, I do not know when that commencement data will be. Lower tier two capital probably should not have been included in the original guarantee scheme because it is highly risky. Furthermore, as the Minister of State probably is aware, much of the restructuring of the banks over the past year has involved transferring capital into lower tier two, which is guaranteed under the scheme.

I refer to the issue of the flow of credit. The outgoing chief executive officer of Allied Irish Banks, Mr. Eugene Sheehy, appeared recently before the Oireachtas Joint Committee on Finance and the Public Service. He stated that there would be no great changes. He also stated initially that AIB would not use NAMA bonds to obtain credit from the ECB at reduced rates to enable credit to flow. When pushed at length, he then effectively stated the bank might consider it. However, this simply is not good enough.

The original Credit Institutions (Financial Support) Act was passed last September. This was followed by the original Credit Institutions (Financial Support) Scheme on 24 October. A third scheme now has been proposed for the banks. Although the banks must demonstrate change, they still refuse to guarantee the provision of some relaxation by giving credit to hard-pressed small businesses. The banks are not living up to their side of the bargain. The Minister also should state how much the banks have paid under the guarantee scheme to date. What amounts are outstanding under the guarantee scheme? As this is provided for under the original Act after the end of 2009, Members should be informed. Goodwill from the banks must be evident. We are being asked to support this scheme without the banks showing they have changed their management structures or will return to providing credit through the NAMA bonds with the European Central Bank. This morning the Joint Committee on Finance and the Public Service heard of people's concerns of losing their homes through repossession. The banks have not lived up to their side of the bargain. It is imperative

2 o'clock

they do live up to it as the Dáil is being asked to extend the bank guarantee of €440 billion provided by the taxpayer for another five years.

Deputy Joan Burton: We all know the people in power at the top of the Government — the Taoiseach, Deputy Cowen, the Minister for Finance, Deputy Brian Lenihan, and the Tánaiste and Minister for Enterprise, Trade and Employment — are the aristocrats of Fianna Fáil with three generations of party pedigree. Truly, they are aristocrats because like the Bourbons, the Minister for Finance's non-appearance in the Chamber proves he has neither learned nor remembered anything. It is a shame and a disgrace that the Minister for Finance should consciously decide to absent himself from this House on a matter of such national financial significance.

Over the past 14 months, the Minister for Finance has not given any valid justification for including dated subordinated debt among the guaranteed liabilities of the banks. Subordinated debt is risky, a form of quasi-equity debt, which carries a high yield to compensate for the risks involved. Guaranteeing subordinated debt is a bailout for speculators. A consistent Fianna Fáil theme is bailing out the developers, the banks and speculators. While civil servants are vilified by Fianna Fáil backbenchers in the national press, here Fianna Fáil is doing the business for the speculators.

In this guarantee extension, the Minister appears to have seen the error of his ways by excluding newly-issued subordinated debt from the extended bank guarantee under European Central Bank rules. There is, however, no justification for continuing to guarantee existing subordinated debt on which the European Commission has directed the stopping of coupon payments.

At Anglo Irish Bank it was widely known in the aftermath of the original bank guarantee that Mr. Seán FitzPatrick, then chairman of the bank's board, was a significant holder of subordinated debt in that institution. That is the man who was so admired by the former Taoiseach, Deputy Bertie Ahern, who fondly described him as his friend, "Seánie". From the text of the scheme itself, the dated subordinated debt lower tier 2 and asset-covered securities issued by a covered institution before the commencement date and which are covered liabilities shall continue to be guaranteed. That is a disgrace and an outrage.

Those subordinated debt holders should be negotiated with and take part of the hit. The Governments of Qatar and Dubai said the same during the recent collapse of Dubai World. Those who take the risk while they may get a high return must also take their share of the losses.

This week we learned more about the preference share arrangement and the payment of a coupon between AIB and the Government. Originally the Taoiseach and Minister for Finance promised it would yield a profit to the taxpayer. Last week the European Central Bank said the coupon rate cannot be paid and that these shares will have to be converted into equity. The €3.5 billion pumped into AIB is, therefore, to be converted into a 25% equity stake. The taxpayer will have paid €3.5 billion for 25% of a bank which today could be bought in its entirety for €5 billion. That is a loss the taxpayers — both public and private sector — will have to take on their backs as a result of the grotesque incompetence of the Taoiseach and the Minister for Finance on behalf of Fianna Fáil.

The National Pension Reserve Fund will carry a loss as soon as this arrangement is done of about €2.25 billion on that €3.5 billion investment. We are doing this for the banks in the run-up to a budget in which parents in receipt of child benefit and those in receipt of various social welfare assistance will have their payments cut. Low-paid public servants on €30,000 to €50,000

[Deputy Joan Burton.]

are being asked to take unspecified cuts in their wages so that we can put in an investment of €3.5 billion into AIB.

What has the Minister of State got to say to the people who are going to be cut to the bone on Wednesday's budget about the conversion of €3.5 billion in AIB shares into a 25% equity stake when the bank is only worth €5 billion? How is that for largesse when it comes to bailing out the banks and the speculators?

Fianna Fáil is an historic disgrace to the country. For the second time in a generation Fianna Fáil has destroyed the prosperity that people have built up, whether in the public or private sectors, on the back of their hard work. It is widely held that the 2008 bank guarantee was issued at a deep discount to benchmark market rates. As a consequence, the cost of Ireland servicing the interest on its national borrowings went up over German basic rates, putting it next to Greece. We all know about the current difficulties in Greece. However, it has close to 100% national debt which Ireland has nothing like. If the Government had managed this process competently, Ireland's interest costs would not have been marked up as they were.

Next Wednesday when the Minister announces the €4 billion cuts in welfare and elsewhere, it will be to meet the higher interest charges Ireland has to pay on an increased national debt because of the incompetent way the bank guarantee was cooked up and then handled by the two Brians.

The Minister has never come clean on the mechanism for calculating the guarantee fee. Originally we were told it was to be calculated on the basis of the long-term, ten-year increase in the cost of funding the national debt as a result of putting the guarantee in place. It was to be paid over the two-year lifetime of the original guarantee scheme at the rate of approximately €500 million per year. Will the Minister of State outline how the fee under the new scheme is to be calculated? Are we, instead, being asked by Fianna Fáil to buy another pig in a poke? Will it be a case where we will have a phoney earning rate which will not cover the cost in the annual budget of the increase in our national debt costs as a result of Fianna Fáil mismanagement? Is the guarantee fee under the new scheme to be lodged into a holding account at the Central Bank or will it go into the Central Fund?

The scheme states the basis for the calculation of the fee shall be advised by the Minister to the participating institutions from time to time. It is not to the Dáil but to the banks. Regarding the calculation of maturity rates, there will be an overall flat fee of 25 basis points. The Minister shall report to the Oireachtas Committee on Finance and the Public Service every six months on the level of fees received from each participating institution and progress in relation to the purposes of the Act and compliance with the terms and conditions of the scheme. Why can the Minister of State not give us details of the fees and tell us what we are to be paid for this additional burden? As a consequence of this order, every man, woman and child in this country is taking on, for a further five, ten or 15 years from end September 2010, liabilities of up to €400 billion. That is the extent of what is proposed. Naturally, there are no figures attached to this proposal. The Minister for Finance has shown contempt and arrogance in terms of not providing figures in this regard to the Dáil, as to do so might inform Members or taxpayers.

Acting Chairman: The Deputy's time has expired.

Deputy Joan Burton: True to his imitation of the Bourbons, we are but the national Parliament and we do not deserve any information. In France, the aristocrats may have held sway for some time but, eventually, they had to give way to the people and the people's assembly.

Deputy Arthur Morgan: On the night the credit scheme was introduced in this House in September 2008 all parties met separately with the Department of Finance and received assurances in regard to the terms and conditions that would be enacted by way of legislation in respect of the banks.

Sinn Féin was conscious of the unique and dangerous financial climate at the time. Banks around the world were collapsing and a massive financial crisis was unfolding in Iceland. Sinn Féin listed a large number of conditions which it wanted in place if it was to support the Bill, including intense regulation of banks, criminal proceedings against corporate malpractice, a package to protect mortgage holders and an immediate suspension of all corporate bonuses. We saw the guarantee scheme as offering a real opportunity to put the banks in State hands and to provide the State with the necessary power to protect struggling businesses and mortgage holders. We were assured the conditions for the banks would be severe and effective.

The Minister misled the House on the night he introduced the Credit Institutions (Financial Support) Bill 2008. Subsequent to the publication of the Bill, Sinn Féin was forced to withdraw its support for the bank guarantee scheme because the terms and conditions fell far short of what was outlined by the Minister in advance of the guarantee. I can only assume that interaction with the banks led to a watering down of the conditions that were to be associated with the guarantee. It is evident from the behaviour of the banks in subsequent months just how seriously they took the taxpayers' great step to protect the financial institutions of the State. In hindsight, more concerns have arisen in respect of the guarantee.

There has been no indication that due consideration was given to less costly solutions to deal with the fear of the inability of one bank to roll-over wholesale funds and the prospect of this spreading to other banks. Mr. Patrick Honohan, Governor of the Central Bank and then Professor of International Financial Economics and Development at Trinity College Dublin pointed out that specific State guarantees might have been given in respect of new borrowings or injections of preference in ordinary shares as happened in other European States in the months that followed. It also quickly became apparent that the guarantee was no substitution for recapitalisation. Along with the €440 billion guarantee hanging over the heads of Irish taxpayers, subsequent decisions were made that entailed even more financial pain such as the nationalisation of Anglo Irish Bank, the recapitalisation of Allied Irish Banks and Bank of Ireland and the setting up of the National Asset Management Agency.

In approaching the guarantee legislation that night, many concerns were raised on this side of the House and many assurances given. We all believed we were acting in the best possible faith and were within days proved misguided when the Minister for Finance announced the terms and conditions of the Bill. The situation concerning the banks in this State is complicated, messy and complex. It will take months, if not years, to get our banks back on an even footing and much will be required to get there. We have yet to see a single banker brought before the courts to answer for the malpractice that took place at that time. An issue raised continually with me in my constituency office or when meeting people on the street is that while ordinary people can be imprisoned for not repaying a small loan to, say, a credit union, not a single banker, one year on, has been brought before a court in respect of the corporate malpractice and fraud that took place. I have previously referred in this House to how a constituent of mine from Dundalk was imprisoned in Mountjoy for not having a dog licence. Yet, 12 months on not one of the bankers involved in this scandal has been brought before the courts. Perhaps the Minister of State will tell the House when the investigations taking place will be concluded or at what stage they are currently. This is an issue of concern to people. What is happening, in terms of allowing bankers to walk away, is an absolute scandal. It has brought into disrepute the political classes and justice system in this State. It is time we in this House got answers in this regard.

[Deputy Arthur Morgan.]

Perhaps the Minister will clarify the following point for me. I understand that Anglo Irish Bank has closed its lending department and is letting go people who worked in that department. I understand also they technically may be able to forward funds to clients. Can the Minister of State explain what is going on in terms of this zombie bank which the Government purchased on behalf of taxpayers at a cost of approximately €28 billion. Perhaps the Minister of State will clarify how it will cost us €28 billion when it is closing its lending department? If he cannot do so, perhaps he will arrange for the Minister to come into this House to answer these questions for us.

People have seen enough in terms of Mr. Sean Fitzpatrick walking away with €83 million and Mr. Michael Fingleton and his bonus disappearing into the night, again with no recourse to any type of justice system. Ordinary people will, following next week's budget, once again have to carry the can to try to bail out these bankers to the tune of €440 billion at a time when pensioners and welfare recipients cannot even get their Christmas bonus, which will have an enormous impact on the families concerned in the dead of winter. It is hoped the Minister of State will be in a position to provide us with answers to some of the issues raised. It is time we got answers to the following questions. When will the investigations in respect of corrupt bankers be concluded? When will there be court action where proven necessary and when will these people be brought before the courts? In the US, the Enron executives were at least dealt with openly and honestly. Why is there no system here to deal similarly with bankers who behaved pathetically. I wish to point out that when referring to bankers I am not speaking about ordinary high street bankers, those working on the frontline who are often themselves impoverished workers and victims of corrupt characters at the top. I have been told by frontline bank staff that some of them are being shockingly abused by some members of the public who, mistakenly, associate them with the corruption and blackguardism going on in the background. It is worth putting this on the record.

I hope the Minister of State will be in a position to answer those questions. I look forward to hearing his reply.

Deputy Joan Burton: Can I ask——

Acting Chairman: The Minister has only ten minutes to respond.

Deputy Joan Burton: Has a message come from the Minister that he is going to reply?

Acting Chairman: Is the Deputy making a point of order?

Deputy Joan Burton: Yes. If the Minister is going to appear, I wish to call another quorum so that the Members of Fianna Fáil can at least come into the Chamber——

Acting Chairman: The Deputy should call the quorum.

Deputy Joan Burton: ——for this important debate. Some €440 billion is at stake and only one Member of Fianna Fáil — more recently joined by another Member — is present in the House, which is a disgrace. I call for a quorum.

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

Deputy Martin Mansergh: I am something of an expert on French history and far from the Minister having learned nothing or forgotten nothing, he has had to do things which none of his predecessors has had to do. He has had to be enormously innovative. Respect for him has grown steadily during the period since he was appointed.

Deputy Joan Burton: The *Financial Times* does not think that.

Deputy Kieran O'Donnell: He should be here today.

Acting Chairman: The Minister without interruption.

Deputy Martin Mansergh: I am disappointed with the very derogatory manner in which he has been spoken of, particularly by Deputy Burton.

Deputy Joan Burton: The remarks might be even more derogatory next Wednesday.

Deputy Martin Mansergh: Deputies asked when the scheme will commence. It will be as soon as possible, most likely tomorrow. Given that the House will make a decision on this matter in about ten minutes, it is important to outline the consequences of not passing this order. They are that the banks would not be able to access longer term debt, which is vital to providing a balanced——

Deputy Joan Burton: The two year guarantee was meant to fix it all.

Acting Chairman: The Minister without interruption.

Deputy Martin Mansergh: I listened to the Deputy in total silence.

Deputy Kieran O'Donnell: On a point of order, I understood the Minister's ten minutes was to be used to answer questions we have asked.

Deputy Martin Mansergh: I am answering questions.

Deputy Kieran O'Donnell: He is not.

Deputy Martin Mansergh: What about giving me a chance to do so?

Deputy Kieran O'Donnell: Answer the questions. You have ten minutes.

Deputy Joan Burton: We did not ask about not doing the scheme. We asked specific questions.

Acting Chairman: The Deputy must resume her seat. The Minister without interruption.

Deputy Martin Mansergh: I hope the Deputies opposite are interested in the answers.

Deputy Joan Burton: There is no call for that. We went to the trouble of reading and critiquing the scheme, and the Minister is upset. Why does the Government not do the same?

Acting Chairman: The Minister without interruption, please.

Deputy Martin Mansergh: What are the consequences of not passing this order?

Deputy Joan Burton: The Minister must answer the questions, not ask them.

Deputy Martin Mansergh: The banks will not be able to access——

Deputy Joan Burton: Answer the questions.

Acting Chairman: The Minister without interruption.

Deputy Arthur Morgan: The House should adjourn to allow the Minister to collect himself. He is very upset.

Deputy Martin Mansergh: Your play-acting is contemptible.

The banks will not be able to access longer-term debt, which is vital for providing a balanced funding profile for the banks.

Deputy Joan Burton: These are not answers.

Deputy Martin Mansergh: It would create uncertainty in the markets——

Deputy Joan Burton: On a point of order, has this Minister listened to the debate or has he got a script supplied by central casting, which he is just reading out irrespective of the questions we have asked?

Acting Chairman: I am sorry, Deputy, that is not a point of order. I ask the Minister to continue and the Deputy to resume her seat.

Deputy Martin Mansergh: On a point of order, is it possible for a Minister to reply to a debate without being constantly interrupted? I listened to ferocious attacks on the Government and I did not breathe a word. I ask for the same respect in return. If the Deputy does not like what is being said, she can vote against it.

Deputy Joan Burton: Can the Minister answer the questions?

Deputy Martin Mansergh: Yes, I will answer in the manner I choose.

Deputy Joan Burton: No, according to the order of the House, a Minister or a Minister of State will answer questions.

Acting Chairman: The Deputy is eating into the time for the debate. I ask her to resume her seat.

Deputy Joan Burton: The order of the Dáil is that a Minister or Minister of State will answer questions for ten minutes. He is not answering questions.

Deputy Martin Mansergh: The Minister makes a wrap-up statement on the debate, which may include answering questions.

Deputy Joan Burton: Can I ask the Chairman to read the order of the House?

Acting Chairman: I ask the Deputy to resume her seat and let the Minister continue.

Deputy Joan Burton: It is about a Minister of State answering questions. We put questions to the Minister of State and he is reading a script.

Deputy Kieran O'Donnell: It is a speech.

Acting Chairman: The Minister will give a speech in reply. Please resume your seat.

Deputy Joan Burton: He already made a ten minute speech.

Deputy Martin Mansergh: Does the Deputy think that if the Minister for Finance were here he would not read from a script?

Deputy Joan Burton: The Minister for Finance should be here.

Deputy Kieran O'Donnell: On a point of order, we have little time. The Minister can do his wrap-up at the end but can he answer our very legitimate questions first?

Acting Chairman: That is not a point of order.

Deputy Martin Mansergh: The Deputy has no interest in listening to answers to questions. I will wrap up this debate in the way I choose and I will answer questions——

Deputy Joan Burton: No, this is Deputy Brian Cowen's "my way or no way".

Deputy Kieran O'Donnell: The Minister must answer the questions.

Deputy Martin Mansergh: The Deputy has decided to oppose this motion. I am simply spelling out the consequences of opposing the motion.

Deputy Kieran O'Donnell: The Minister for Finance should have been here today to answer our questions.

Deputy Martin Mansergh: The Deputy has made that point.

Deputy Kieran O'Donnell: The Minister of State cannot answer them. Can the Minister answer the questions?

An Ceann Comhairle: Deputy O'Donnell, resume your seat.

Deputy Joan Burton: I asked five questions.

Deputy Martin Mansergh: I already answered the Deputy's question about when the scheme will commence.

Deputy Joan Burton: The Minister did not answer my question about the date of subordinated debt and the other questions I asked.

An Ceann Comhairle: Deputy Burton——

Deputy Martin Mansergh: I have a raft of questions——

Deputy Joan Burton: There is also the fact that the €3.5 billion investment in Anglo Irish Bank has now lost more than €2 million of its value.

An Ceann Comhairle: Deputy Burton must resume her seat.

Deputy Joan Burton: I asked the Minister about that.

Deputy Martin Mansergh: I hold no brief for nationalising banks, as has been well debated. The Labour Party nostrum of nationalising banks——

Deputy Joan Burton: Why are you paying——

Deputy Martin Mansergh: ——is not in the interests of our country's banking system. That is my answer.

Deputy Joan Burton: Why is the Government paying over the odds?

Deputy Martin Mansergh: It is in the public interest not to nationalise the banks, if that can be avoided.

Deputy Joan Burton: You want to take a €2 million loss on the investment in Allied Irish Banks. You are a disgrace.

Deputy Kieran O'Donnell: The Minister should answer the questions.

Deputy Martin Mansergh: I do not think there is any interest. The Deputy is only interested in asking rhetorical questions. She has no interest in the answers.

Deputy Joan Burton: They are not rhetorical, they are precise, detailed, legal and factual about the arithmetic of this.

Deputy Arthur Morgan: On a point of order.

An Ceann Comhairle: Deputy Morgan on a point of order.

Deputy Arthur Morgan: It is clear that the Minister is too upset to answer the questions.

Deputy Joan Burton: He can take time out.

Deputy Arthur Morgan: Is it possible for the Minister beside him to take on that role or for some other Minister to do it? It is not fair. This Minister is too upset and stressed out.

Deputy Martin Mansergh: I am not in the least stressed out. I just have a contempt for this manner of carrying out parliamentary proceedings.

Deputy Joan Burton: On a point of order, do we have to listen to the Minister having a hissy fit because we asked some questions and he will not answer them? The Minister is having a hissy fit because he will not answer the questions we have asked. He should do that in his own time.

Deputy Martin Mansergh: Will the Deputy give me the honour of five minutes' silence so I can answer the questions?

Deputy Joan Burton: Will the Minister answer the questions?

Deputy Martin Mansergh: Yes, I will, if the Deputy will stop constantly interrupting.

Deputy Joan Burton: I am all ears.

Deputy Martin Mansergh: Deputy Burton asked why we are extending the CIFS for five years. It is not correct to say that we are extending it for years. This is a new scheme with an issuance period which ends on 29 September 2010, which is also the end date of the CIFS scheme. After 29 September 2010, no further guaranteed debt can be issued and no more guaranteed deposits can be taken. However, during the issuance period participating institutions can take term deposits or issue debt with a term of up to five years. The objective is to facilitate the banks in putting in place medium-term funding to enhance their ability to discharge their central role in facilitating economic activity in the State. An important element of the new scheme is the facility to allow participating institutions to issue unguaranteed debt, which is key to restoring market confidence in the institutions.

Deputy O'Donnell asked why it is only now that we are introducing the scheme. The European Commission gave the necessary state aid approval on Friday, 20 November for the

scheme, which was published thereafter. The longer-term guarantee has been signalled since April and its outline was published on 16 September.

Why is it proposed that dated subordinated debt would not be covered under any schemes that we might make? The dated subordinated debt currently in issue will continue to be covered under the CIFS scheme. However, the Commission's banking communication of 13 October 2008 states that guarantees should not include subordinated debt.

Deputy Joan Burton: My question was on why.

An Ceann Comhairle: Please, Deputy Burton. There should only be one speaker at a time.

Deputy Joan Burton: We are supposed to ask questions.

Deputy Martin Mansergh: The new scheme reflects this policy and the EU's state aid rules.

Deputy Joan Burton: It is a bailout for Mr. FitzPatrick and his friends.

An Ceann Comhairle: Please, one speaker at a time.

Deputy Martin Mansergh: There were two specific reasons for the recommendation that dated subordinated liabilities be included within the scope of the CIFS guarantee. At the time the guarantee was announced and owing to the extent and depth of the international financial crisis, it was considered essential that the Government send out the clearest possible signal to international markets to the effect that the State was prepared to stand behind the banking system to maintain financial stability and pre-empt major financial and economic disruption. In the past 14 months, we have succeeded in doing so. It has been a considerable achievement, but not much credit is being given.

Deputy Michael D. Higgins: It cost billions of euro.

Deputy Kieran O'Donnell: Some €7 billion went into the banks.

Deputy Martin Mansergh: The State guarantee was extensive and comprehensive to provide confidence among senior investors in the wholesale capital markets. In recent years, as a result of tightening credit spreads, traditional investors in senior unsecured debt have increased their exposure to non-deferrable dated subordinated debt lower tier two in search of additional yield. In September 2009, the overlap in the investor base for both senior bank debt and lower tier two was extremely high. Therefore, it was believed important to the success of the guarantee that dated subordinated liabilities be included.

An Ceann Comhairle: I apologise, but the Minister of State's time has expired.

Deputy Kieran O'Donnell: He can save it for another day.

Deputy Michael Creed: Saved by the bell.

Deputy Arthur Morgan: On a point of order, is there no prospect of another few minutes? The Minister of State answered fewer than half of the questions.

Deputy Tony Killeen: He was not allowed to.

(Interruptions).

Deputy Arthur Morgan: In fairness to the poor old devil, he was under huge pressure.

An Ceann Comhairle: We dealt with this matter on the Order of Business.

Deputy Kieran O'Donnell: Will the Ceann Comhairle extend the time?

An Ceann Comhairle: Could Deputy Morgan resume his seat, please?

Question put.

The Dáil divided by electronic means.

Deputy Emmet Stagg: A Cheann Comhairle, the Minister of State, Deputy Mansergh, has the respect of all sides of this House.

Deputies: Hear, hear.

Deputy Emmet Stagg: Given the importance of the issue to hand, however, it is disrespectful to the House that a Minister of State without any responsibility for——

Deputy Martin Mansergh: I am the Minister of State at the Department of Finance.

Deputy Emmet Stagg: ——or knowledge of this subject was sent in to——

Deputy Noel Treacy: Deputy Stagg should withdraw that remark.

Deputy Billy Kelleher: It is disgraceful.

Deputy Emmet Stagg: Therefore, as a teller, under Standing Order 69 I propose that the vote be taken by other than electronic means.

Question again put.

The Dáil divided: Tá, 73; Níl, 65.

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.
Coughlan, Mary.
Cregan, John.
Cuffe, Ciarán.
Cullen, Martin.
Curran, John.
Dempsey, Noel.
Devins, Jimmy.
Dooley, Timmy.
Fahey, Frank.

Finneran, Michael.
Fitzpatrick, Michael.
Flynn, Beverley.
Gogarty, Paul.
Gormley, John.
Hanafin, Mary.
Harney, Mary.
Haughey, Seán.
Hector, Máire.
Kelleher, Billy.
Kelly, Peter.
Kenneally, Brendan.
Kennedy, Michael.
Killeen, Tony.
Kitt, Michael P.
Kitt, Tom.
Lenihan, Conor.
McEllistrim, Thomas.
McGrath, Mattie.
McGrath, Michael.
Mansergh, Martin.
Martin, Micheál.
Moloney, John.
Moynihan, Michael.
Mulcahy, Michael.
Nolan, M. J.
Ó Cuív, Éamon.

Tá—continued

Ó Fearghaíl, Seán.
O'Brien, Darragh.
O'Connor, Charlie.
O'Dea, Willie.
O'Flynn, Noel.
O'Hanlon, Rory.
O'Keeffe, Batt.
O'Keeffe, Edward.
O'Rourke, Mary.
O'Sullivan, Christy.

Power, Seán.
Roche, Dick.
Ryan, Eamon.
Scanlon, Eamon.
Smith, Brendan.
Treacy, Noel.
Wallace, Mary.
White, Mary Alexandra.
Woods, Michael.

Níl

Bannon, James.
Barrett, Seán.
Behan, Joe.
Breen, Pat.
Broughan, Thomas P.
Bruton, Richard.
Burke, Ulick.
Burton, Joan.
Byrne, Catherine.
Carey, Joe.
Clune, Deirdre.
Coonan, Noel J.
Costello, Joe.
Coveney, Simon.
Crawford, Seymour.
Creed, Michael.
Creighton, Lucinda.
D'Arcy, Michael.
Deenihan, Jimmy.
Doyle, Andrew.
Durkan, Bernard J.
English, Damien.
Feighan, Frank.
Ferris, Martin.
Flanagan, Charles.
Flanagan, Terence.
Gilmore, Eamon.
Hayes, Brian.
Hayes, Tom.
Higgins, Michael D.
Howlin, Brendan.
Kehoe, Paul.
Lee, George.

Lynch, Kathleen.
McCormack, Pádraic.
McEntee, Shane.
McGinley, Dinny.
McGrath, Finian.
McManus, Liz.
Morgan, Arthur.
Naughten, Denis.
Neville, Dan.
Ó Snodaigh, Aengus.
O'Donnell, Kieran.
O'Keeffe, Jim.
O'Mahony, John.
O'Shea, Brian.
O'Sullivan, Jan.
O'Sullivan, Maureen.
Penrose, Willie.
Perry, John.
Quinn, Ruairí.
Rabbitte, Pat.
Reilly, James.
Ring, Michael.
Shatter, Alan.
Sheahan, Tom.
Sheehan, P. J.
Sherlock, Seán.
Shortall, Róisín.
Stagg, Emmet.
Stanton, David.
Tuffy, Joanna.
Upton, Mary.
Wall, Jack.

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

Question declared carried.

Foreshore and Dumping at Sea (Amendment) Bill 2009 [Seanad]: Second Stage.

Minister of State at the Department of Agriculture, Fisheries and Food (Deputy Tony Killeen): I move: "That the Bill be now read a Second Time."

The purpose of the Foreshore and Dumping at Sea (Amendment) Bill is to transfer certain foreshore functions from the Department of Agriculture, Fisheries and Food to the Department of the Environment, Heritage and Local Government. The Bill will transfer responsibility for the Dumping at Sea Acts to the Environmental Protection Agency. Other than the transfer of functions, there are no significant amendments to the Acts encompassed by this Bill, save for the modernisation of certain phrases and references.

[Deputy Tony Killeen.]

When forming the Government in 2007, it was decided to transfer certain coastal functions from the then Department of Communications, Marine and Natural Resources to the Department of the Environment, Heritage and Local Government. The marine functions and staff from the Department of Communications, Marine and Natural Resources were transferred directly to the Department of Agriculture, Fisheries and Food. At the time, the Attorney General advised that primary legislation would be required to effect the onward transfer of the foreshore functions to the Department of the Environment, Heritage and Local Government. This is the basis on which this Bill is now presented.

The foreshore consists of the land from the high water mark to the 12 nautical mile limit and comprises roughly 57% of the land area of the 26 counties. In recent years, the size, scale and complexity of projects developed on the foreshore have changed considerably. At one time, foreshore consents covered primarily small piers and jetties. However, in recent years, applications received concern major State and private sector infrastructure projects, such as municipal waste water treatment plants, large commercial harbour developments, gas pipelines and large-scale offshore wind, wave and tidal energy projects.

To deal with this increasing scale and complexity, it is vital that the development of these large projects accord with the development plans for the functional areas of the local authorities to which they are contiguous. Both land-based and offshore developments in the coastal zone impact upon each other in very significant ways despite the different environmental conditions in each zone. Balancing the impact of a development in one zone with that in the other zone is a major component of the impact assessment of such projects. At a higher level, is it also essential to align and integrate the strategic development plans for both zones.

The effects of developments, one on another, in the coastal zone have been a major challenge for national Governments throughout Europe, leading the European Commission to issue recommendations in this regard. In all countries, this integration of the onshore and offshore development process has proven quite difficult.

With the integration of onshore and offshore developments foremost in mind, the Government decided on the transfer of certain marine functions from my Department to the Department of the Environment, Heritage and Local Government. This will allow for the development of a framework approach to planning in the coastal zone which will seek to integrate and balance the various planning and development requirements on either side of the high water mark.

Consolidation and streamlining of the Foreshore Acts have been under consideration for some time. This process is intended to provide a modern, effective and integrated legal framework for the management of the State's foreshore estate in the future. However, such modernisation is not the purpose of this Bill, which simply transfers certain functions from the Department to the Department of the Environment, Heritage and Local Government. This transfer will pave the way for such modernisation.

The modernisation of the foreshore legislation will require extensive consultation with stakeholders and the public by way of a strategic environmental assessment. The Department of the Environment, Heritage and Local Government has indicated to the Oireachtas Joint Committee on Climate Change and Energy Security that, on receipt of the foreshore functions, it is intended to review the Foreshore Acts. I will be happy to appear before that committee in 2010 to give an update on developments.

While it is acknowledged that some elements of the Foreshore Acts require modernisation, it is important to realise that in regard to large projects, the assessment of environmental impact statements and the public participation and consultation elements are fully up to date and in

accordance with all environmental directives. Regulations in respect of the Foreshore Acts have been implemented under the European Communities Acts dealing with the environmental impact assessment directive, the public access to environmental information directive and the public participation in decision-making and access to justice in environmental matters directive. Therefore, the Foreshore Acts are in compliance with the Aarhus Convention.

The reform of the Foreshore consent process in the context of offshore renewable energy applications was raised in the Seanad during debate on the Bill. The Oireachtas Joint Committee on Climate Change and Energy Security drafted its own Bill to address concerns in this area and I have no doubt that the Minister for the Environment, Heritage and Local Government will take account of the draft Bill developed by the joint committee when planning this reform. When considering the needs of the offshore wind industry, it is important to bear in mind that, in recent years, foreshore consents have been issued for some 420 offshore wind turbines. However, only seven turbines have been built, with no development having taken place in recent years.

In deciding on the transfer of these functions, the Government is guided by the primary role of the Department of the Environment, Heritage and Local Government, which is to pursue sustainable development. Modernisation of the development consent process can best be served by aligning the onshore and offshore consent processes within a single Department, particularly given the nature and scale of recent offshore energy infrastructure project applications.

To an island nation, the status of the sea fishing and aquaculture industry is very important from both economic and social perspectives. In view of this, the future of aquaculture and sea-fishing-related projects needs to be secured, given the often isolated locations of the coastal communities which these industries support. Granting of a foreshore licence for an aquaculture project is currently an outcome of the detailed consideration of the aquaculture licence application. In certain circumstances, an environmental impact statement must accompany the aquaculture licence application. The licensing of aquaculture sites, including foreshore licensing for such sites, will remain with the Department. This is particularly important given the Department's role in food production.

The administration of the foreshore under the Foreshore Acts generally involves two distinct components: first, the licensing of the activity or development on the foreshore, which is a regulatory role akin to the role of a planning department; and second, the vast majority of the foreshore is State owned and managed on behalf of the Minister for Finance. Therefore, property management is a key role for the Department under the Foreshore Acts. This role of property manager on behalf of the State can, on occasion, give rise to competing applications for the same area of State foreshore. The Foreshore Acts have always provided for this circumstance. Sections 2 and 3 of the Foreshore Act 1933 stipulate that all decisions must be made solely in the public interest.

While I do not envisage that enactment of this Bill will increase the likelihood of competing applications, section 7 specifically provides for co-ordination between Departments before any decisions on consents are made. Both Departments are deeply committed to the establishment of an efficient and effective structure designed to ensure that information on applications is managed in a co-ordinated fashion.

Transfer of the foreshore functions from this Department to the Department of the Environment, Heritage and Local Government has been the subject of ongoing discussion and planning between officials from both Departments for some time. Transfer of the relevant functions has been dealt with in two phases. The first phase did not require legislative change and took place in November 2008 when the shellfish waters directive and integrated coastal zone management functions transferred to the Department of the Environment, Heritage and Local

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Government. This Bill, presented on the advice of the Attorney General, will complete the second and legislative phase of this transfer process.

While the Bill does not go beyond assigning responsibility for certain marine functions to the Minister for the Environment, Heritage and Local Government, the drafting of the Bill was quite a complex and time-consuming task. The reason for this complexity is that rather than simply transferring functions between Ministers, the Bill assigns responsibility for non-fishery related foreshore consents and coastal management functions to the Minister for the Environment, Heritage and Local Government while assigning responsibility for foreshore consents concerning aquaculture, sea-fishing and fishery harbour centres to the Minister for Agriculture, Fisheries and Food.

Certain sections of the Foreshore Act 1933 concern the overall management of the coastal zone rather than the licensing of developments on the foreshore. For example, section 6 provides the means to prohibit the removal of beach material and section 11 of the Act provides for the removal of dilapidated structures. In order to provide for the coherent management of the coastal zone under one administration, these and other coastal management functions are being transferred in full to the Minister for the Environment, Heritage and Local Government.

For some time now, both Departments have been working together to ensure not only the smooth transition of the functions between Departments but also the management and future development of the Foreshore functions following the transfer. The Departments are committed to working together via an inter-departmental committee to ensure co-ordination and co-operation in the administration of the legislation. The staff transferring between Departments have volunteered for the move and have been in place for almost 12 months in the coastal zone management division of our Wexford office. In addition, five engineers located around the country will transfer from the Department with the functions. The Marine Institute support for the functions transferring will be accommodated in a service level agreement between Departments. The Marine Institute will continue to be an agency under the aegis of this Department.

In addition to transferring the relevant functions, the Bill contains a number of necessary amendments to support and manage the transfer of functions between Ministers. In drafting the Bill, the opportunity was taken to update and modernise the terminology and references in the Foreshore Act 1933.

Section 4 of the Bill provides the mechanism whereby the functions transferred by it may be re-combined under a single Minister at any point in the future. This section provides for the functions to be re-combined by means of an order under the Ministers and Secretaries Act (Amendment) Act of 1939. This would obviate the need for primary legislation to re-combine the functions.

Section 5 contains amendments and additions to the definitions in the Foreshore Act 1933. These are necessary to give clarity to the respective areas of responsibility of the Ministers concerned.

The primary mechanism in the Foreshore and Dumping at Sea (Amendment) Bill is to give effect to the transfer of the functions concerned is contained in section 6 of the Bill, which defines the type of foreshore consents to be determined by each Minister. Where a foreshore application concerns a development that is for the support or development of sea-fishing, aquaculture or a development in a fishery harbour centre, then the Minister for Agriculture, Fisheries and Food will determine that application. In all other cases the Minister for the Environment, Heritage and Local Government will determine the application. Throughout the Bill

there are references to the “appropriate Minister”. In each section the appropriate Minister is determined by reference to section 6.

Sections 7 and 8 provide for a consultation mechanism between the two Ministers on consent applications. In addition, the annual payment limit at which each Minister may agree a licence or lease without reference to the Department of Finance has been increased from £10, as stated in the Foreshore Act 1933, to the euro equivalent of £50,000, or €63,500. This reflects the administrative arrangements currently in place between the Department of Finance and this Department.

Section 9 modernises the reference to the judiciary in the Act. Section 10 is an amendment to the environmental impact assessment legislation as a consequence of the meaning assigned to the appropriate Minister in section 6. Section 11 deletes from the 1933 Act a reference to the Irish Land Commission as that body is no longer in existence.

Section 12 provides a mechanism for the Minister for the Environment, Heritage and Local Government to make regulations to specify bodies and time frames for consultation where the Minister is considering a foreshore consent. This reflects the existing practice in the foreshore application process where a wide range of bodies are consulted before a consent is granted or refused. The implementation of these regulations, which is a matter for Department of the Environment, Heritage and Local Government following the enactment of the Bill, will greatly assist in putting in place a time bound period for the consideration of a foreshore consent, by requiring consultees to respond within a defined time period.

Sections 13 and 14 are amendments of the European Communities (Foreshore) Regulations 2009 (SI No. 404 of 2009), which amended Section 19 of the 1933 Act earlier this year. These regulations, which came into effect on 30 September 2009, implemented the Aarhus convention’s public participation directive 2003/35/EC in respect of the foreshore consent process for applications, where an environmental impact assessment is required. Under these regulations the Minister for Agriculture, Fisheries and Food is obliged to ensure that the public is fully informed and consulted on such applications. These sections extend the obligations of informing and consulting the public to the Minister for the Environment, Heritage and Local Government in respect of consent applications requiring an environmental impact assessment, which relates to the foreshore functions being transferred to him.

Section 16 updates the reference to “local authority” in the Act in line with recent legislation. Sections 17, 18 and 19 give the Minister for the Environment, Heritage and Local Government the ministerial role of applying to the courts to seek prohibitory orders for the protection of the foreshore and adjacent seashore and the prosecution of offences. Sections 20 and 21 are consequential amendments to the Fisheries Acts, due to the meaning assigned to the appropriate Minister in section 6.

Sections 22 to 27, inclusive, are transitional measures to provide for the transfer of the ongoing work between the Departments. Both Departments concerned have worked closely together on the drafting of this Bill and on the administrative arrangements necessary for the ongoing support of the functions being transferred. Agreement has been reached between this Department and the Department of the Environment, Heritage and Local Government on the reallocation of the necessary staff and resources for the functions being transferred. Officials in each Department are committed to working together to ensure the continuity of service and to develop a modern framework for managing the Foreshore functions.

At the request of the Department of the Environment, Heritage and Local Government, the administration of the Dumping at Sea Act will transfer to the Environmental Protection Agency. Part 3 of the Bill provides for this transfer. The Dumping at Sea Act bans incineration at sea, the dumping of radioactive waste and offshore installations and all toxic, harmful and

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noxious substances up to 350 miles offshore, to coincide with Ireland's portion of the continental shelf. It enables the Minister for Agriculture, Fisheries and Food to grant permits for certain dumping, as specified in the permits and subject to such conditions as the Minister may specify in the permits. It also empowers the courts to impose such monetary penalty and/or imprisonment for a term not exceeding five years, as they may decide, on conviction on indictment, on any person for illegal dumping as defined by the Act.

All applications for dumping at sea permits are carefully considered by the Department, with the assistance of specialist scientific advisers who form the marine licence vetting committee which meets frequently, as business demands. Detailed guidelines have been published by the Department to assist applicants. Copies of those guidelines are available in the Oireachtas Library and on the Department's website. Applicants are obliged to consider thoroughly all non dumping at sea options and, in particular, other beneficial uses such as beach nourishment and land reclamation. Non-dumping solutions have been successfully pursued in a number of cases and are addressed in the context of five year rolling dredging plans by ports and other harbours, by agreement with the Department.

Material for dumping at sea is thoroughly assessed prior to dumping. Approximately 12 dumping at sea permits are granted each year. The type of material which may be disposed of at sea is governed by the international OSPAR agreement, the protection of the marine environment of the north east Atlantic, agreed in Paris on 22 September 1992. Dumping at sea permits are granted exclusively for the dumping of dredge spoil at a specified site. Generally this is as a result of port and harbour dredging which is carried out for maintenance and development purposes. Details of the permits granted are published in *Iris Oifigiúil* on an annual basis and kept in a public register in the Department as required under the 1996 Act. Details of these permits are also published on the Department's website on an ongoing basis.

The Environmental Protection Agency is the primary caretaker of the environment in the State. Its key role in licensing the disposal of waste is managing the impact of the waste on the environment. Waste licensing involves the control of large scale waste and industrial activities to ensure that they do not endanger human health or harm the environment. In addition, it has the lead role in managing water quality in the State.

I am aware some local authorities are concerned that a dumping at sea licence is required for the activity of plough dredging. The Department is fully conscious of the requirement for county councils and harbour authorities to carry out dredging on a regular basis, and in all cases every effort is made to expedite the issue of the appropriate dumping at sea permit, subject to the approval of the marine licence vetting committee. A review of this policy from an environmental perspective is not appropriate at this juncture. However, the EPA will be fully briefed on the issue during the transfer process.

The EPA, in conjunction with the Department of the Environment, Heritage and Local Government, is responsible for the implementation of the EU water framework directive, an important piece of EU environmental legislation which aims to improve our water environment. It requires governments to take a new holistic approach to managing their waters. It applies to rivers, lakes, ground-water, estuaries and coastal waters. The transfer of the administration of the Dumping at Sea Acts from this Department to the Environmental Protection Agency will provide it with the opportunity to fully integrate the disposal of dredge spoil at sea with its current waste management licensing system and it will assist in the delivery of the water framework directive project.

Part 3 provides for the transfer of the dumping at sea function from the Department of Agriculture, Fisheries and Food to the EPA. A number of minor consequential amendments

are necessary because of the transfer of the functions to the agency. In addition, the opportunity has been taken to revise the powers of authorised officers in line with their powers in other, more recent, legislation.

Section 29 transfers responsibility for dumping at sea to the Environmental Protection Agency and vests the functions in the Agency. Section 32 amends section 4 of the Dumping at Sea 1996 Act to provide that the Radiological Protection Institute, rather than the Minister, will now prescribe radioactive substances or material as below low level. It must consult with the EPA before so prescribing and it must give notice of the prescribing by having a notice published in *Iris Oifigiúil*. As a transitional measure, the existing low level standing prescribed for radioactive substances or material will remain in force.

Section 33 provides for the substitution of the EPA for the Minister, as appropriate, in various instances throughout section 5 of the 1996 Dumping at Sea Act and also provides for the addition of the Minister for Agriculture, Fisheries and Food to the list of Ministers who must be consulted on an application for a permit to dump at sea. Section 34 contains amendments to section 6 of the 1996 Act to update the powers of authorised officers to accord with current legislative best practice and to take account of technological advances in methods of record keeping, for example electronic data recorders, digital photographs and such like.

Section 35 enacts Schedule 2 of this Bill. Schedule 2 lists by section of the Dumping at Sea Act 1996 where the EPA is substituted for the Minister for Agriculture, Fisheries and Food and where the Minister for the Environment, Heritage and Local Government and a Minister of the Government are substituted as specified in that schedule.

Section 36 contains an amendment to section 7 of the Dumping at Sea Act 1996 to enable the EPA to bring summary proceedings in respect of offences under that Act. Section 37 repeals section 13 of the 1996 Act that provided for the payment to the Exchequer of fees collected under the Act. The effect of this repeal is that the EPA may now retain those fees.

Section 38 contains transitional measures for dumping at sea permit applications that have not yet been determined by the Minister for Agriculture, Fisheries and Food and for permits granted by that Minister and in force before the commencement of EPA involvement. Undetermined permit applications will be treated as applications to the agency and permits already granted and in force can be dealt with by the agency as if they had been issued by it. This section also provides for the continuance of existing authorised officers post-enactment and for the substitution of the agency for the Minister in any pending legal proceedings.

The function of the Foreshore and Dumping at Sea (Amendment) Bill is to transfer specific foreshore functions from this Department to the Department of the Environment, Heritage and Local Government and to transfer the dumping at sea functions to the Environmental Protection Agency. The Bill will assign responsibility for foreshore licensing for commercial and infrastructural projects together with certain coastal zone management functions to the Department of the Environment, Heritage and Local Government. This will commence the process of aligning marine spatial planning with the onshore spatial planning system. In addition, responsibility for the Dumping at Sea Acts 1996 to 2006 is allocated to the Environmental Protection Agency which, in conjunction with measures implementing the water framework directive, will provide greater coherency in the sustainable management of water quality in the coastal zone.

The provisions of the Bill are intended solely to give effect to the allocation of specific foreshore functions to the Department of the Environment, Heritage and Local Government and to the transfer of functions under the Dumping at Sea Acts to the Environmental Protection Agency. I commend the Bill to the House.

Deputy Michael Creed: I wish to share time with Deputy Tom Sheahan.

An Ceann Comhairle: Is that agreed? Agreed.

Deputy Michael Creed: The introduction of the Bill represents a missed opportunity that was summed up comprehensively in the Minister of State's speech. He stated:

Consolidation and streamlining of the Foreshore Acts have been under consideration for some time. This process is intended to provide a modern, effective and integrated legal framework for the management of the State's foreshore estate in the future. However, such modernisation is not the purpose of this Bill,

In effect we are simply rearranging the deckchairs. We have a long and not too distinguished career across all shades of political opinion of significantly underestimating the value of the asset that our territorial waters and foreshore represent to the State. I am disappointed that the opportunity to put in place a modern, effective legal framework to manage and exploit, and deliver to the citizenry of the State the dividend from the proper management of that resource, is not availed of in the legislation. All we are doing is taking the existing legal provisions as they are vested in the Department of Agriculture, Fisheries and Food, retaining only that which applies to aquaculture licensing and divesting itself of the remainder.

It is symptomatic of the tunnel-vision approach to running Departments that 2.5 years after the original decision to reallocate responsibility for foreshore, we could not have had that extensive consultation process which would have allowed us to deal today with a comprehensive legislative proposal to finally demarcate responsibilities within various Departments. This is only about divvying up the existing legislative provisions and painfully reminds us how we have consistently undervalued our marine resources, our foreshore and all that goes with it.

Much of the legislation governing this area goes back to 1933. Given the technological advances that have been made we could not have envisaged at that stage the extent of the resource we have, which is the envy of many countries across the globe. As we strive to meet by 2020 the target of having 40% of our energy requirements coming from renewable resources and with approximately €18 billion worth of offshore renewable energy projects with the Commission for Energy Regulation, here we are today rearranging the deckchairs some 2.5 years on from the Government decision to introduce a new legal framework. Will it be another 2.5 years before we have that legal framework? Will we continue to lose investment opportunities to develop wind, wave and tidal alternative energy resources? Mineral deposits may lie under our seas. We have had the ongoing controversy regarding the manner in which our gas resources have been allocated and exploited. We definitely need a more comprehensive legal framework to deal with all those issues.

The Bill also raises another critical question. Why does nobody want responsibility for this area? It seems to be nobody's baby. It was in the Department of Communications, Marine and Natural Resources, was shunted into the Department of Agriculture, Fisheries and Food, and is now being shunted on to the Department of the Environment, Heritage and Local Government which has no track record of dealing with maritime resource matters. In terms of planning, this is an enormous resource which is unlike terrestrial planning *per se*. Terrestrial planning is mainly concerned with individual property owner rights and obviously third party rights. However, this is a resource that is owned by the State and needs to be exploited in the national interest. However, it seems to be an area of responsibility for which nobody wants to take ownership. By rights this should rest in a properly functioning Department of the marine, rather than in the Department of the Environment, Heritage and Local Government. The Minister of State might wish to comment on that later.

We will certainly not have the required legislative framework to assist in that development, which is why we have tabled an amendment that within six months of the enactment of the Bill, the Department should propose an extensive review of existing foreshore legislation and a new framework for foreshore licensing and development. I hope the Minister of State will accept the spirit of that Fine Gael amendment because time is ticking and we have evidence that people who are willing to invest significant amounts of money, are now moving projects to other locations, particularly in the area of wind, wave and tidal energy generation. We lost one big project to Portugal, as I am sure the Minister of State is aware.

The Bill makes provision for consultation between the Departments of Agriculture, Fisheries and Food, and the Environment, Heritage and Local Government, which does not fill me with any degree of optimism. I shall instance two areas where consultation is ongoing between the Department of Agriculture, Fisheries and Food and the Department of the Environment, Heritage and Local Government, where no progress is being made in resolving the issues under dispute. There is ideological warfare between the two on the nitrates directive. The Minister of State may well smirk, but it is a reality that is costing taxpayers and costing farmers. It arises because of the failure of two Departments to adopt a practical approach to the inspections required to ensure compliance with the nitrates directive. No farmer or politician is arguing that there should not be compliance. However, we need an effective and efficient use of taxpayers' resources and a single inspection regime. Yet the Department's inspectors and local authority inspectors under the aegis of the Department of the Environment, Heritage and Local Government are competing and claiming entitlement to inspect under the nitrates directive. Twelve months on from the original indication in a press statement by the Minister for Agriculture, Fisheries and Food, Deputy Brendan Smith, that this issue was resolved, we are no nearer a resolution.

The other issue is the operational programme for seafood development. The Minister of State, Deputy Killeen, is painfully aware of the ongoing consultations and lack of progress in this matter. We are now some years into the operational programme. There are aquaculture projects which have been approved for grant aid by Bord Iascaigh Mhara and have the potential to increase employment significantly but are on hold because of the turf war between the Department of the Environment, Heritage and Local Government and the Minister of State's Department, which is as much about ideology as environmental issues. What we need is a practical approach. As with the nitrates directive, nobody suggests the environment needs to be compromised, but somebody must decide that the issue is to be resolved within a certain time — perhaps three months — with baseline studies carried out and approved at a European level. This will enable a sector that currently employs around 3,000 people to get on with an expansion programme which could, over a period of five years, double its employment and significantly increase exports. We currently have about 6% of the EU oyster market and 7% of its shellfish market at a time when Europe is importing €8.5 billion worth of shellfish annually. Ireland is one of the few maritime nations in the European Union that could contribute to reducing EU imports and earn significant moneys for this economy if we facilitated that sector in getting on with its expansion programme.

The sector currently employs around 3,000 people, but doubling that number is eminently attainable. In recent months I have been from the south-west to the north of the country. Last weekend I was in the Inishowen Peninsula visiting Marine Harvest, an aquaculture company which employs around 240 people. It is crying out for new licences so it can get on with the business of expanding its export opportunities and creating new jobs. I understand that in the Minister of State's Department at the moment there may be more than 300 licence applications which have not been dealt with and are caught up in the turf war between the two Departments. That is why I look with a jaundiced eye on the provisions for consultation — because without

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a definitive timeframe for dealing with licence applications — be they aquaculture licences, foreshore applications or licences for developing offshore energy generation facilities — we are on a hiding to nothing. We will continue to have endless delays, lost opportunities and more people not being able to find work in our economy.

It is a regrettable aspect of the Bill that we are not putting in place the optimum legal framework but rather, rearranging the deckchairs on the Titanic. It is not as if considerable work has not been done; the Oireachtas Joint Committee on Energy Security and Climate Change has published a draft Bill. It may fall well short — I am not in a position to judge what is required in terms of a legal framework — but it is a starting point. However, Departments seem to have assumed a monopoly of wisdom on these matters and do not accept that the Opposition or the committee system could help or contribute in any meaningful way. That is a poor reflection of our parliamentary democracy. Departments should be open to positive suggestions, particularly when they come from all-party Oireachtas committees; if they need to be improved, amended, and so on, that can be done. To disregard the considerable effort that has been put into this area is extremely regrettable.

Fine Gael will move an amendment to deal specifically with the issue of aquaculture licence applications, with the intention of repealing sections of the fisheries legislation that allow the Department to prevaricate endlessly and refuse to make decisions on applications. I hope, given the jobs crisis and the potential of that sector to create employment, the Minister will view those amendments positively. We will support the legislation on Second Stage but we are disappointed the Government has not taken the opportunity to take a further step and establish a modern legal framework to deal with the new challenges we face. This area can deliver significant economic opportunities and a dividend for the citizenry of the State.

Deputy Tom Sheahan: Every time we are here for Question Time I have the same questions for the Minister of State. No progress is being made regarding aquaculture licences, the seafood operational programme and so on. I had thought this Bill might expedite progress in these areas, but I am afraid it will not. I am wary of it. The Departments of Agriculture, Fisheries and Food and the Environment, Heritage and Local Government cannot agree on the operational programme. We are losing out, in my estimation, to the tune of €10 million in co-funding from the European Fisheries Fund because we do not have an operational programme. Why do we not have such a programme? The programme was intended to run from 2007 to 2013, but it is now December 2009 and agreement from the Departments is not expected even in 2010.

I am wary of the transfer of these functions to the Department of the Environment, Heritage and Local Government. Both Departments must work with each other in what I hope will be the interest of the operational programme. One would think the loss of co-funding from the European Fisheries Fund would push the Departments into reaching agreement on the operational programme but they cannot seem to agree. Why is the Department of Agriculture, Fisheries and Food responsible for the area of aquaculture licensing? Is it because it is in the food sector? I do not think the licensing process will be expedited because agreement will not be reached between the two Departments.

As Deputy Creed has said, there is significant potential in the aquaculture sector. Our waters are probably the most fertile in the world for aquaculture ventures. As a nation we are losing out significantly on both jobs and exports. It is a travesty that this is happening. It is immoral that we have not advanced our aquaculture business to achieve even a fraction of the potential that is there. That is embarrassing for the Department, the Minister and the Government. It certainly would be for me if I was in the Minister's shoes.

In the aquaculture sector there is potential for anything up to 10,000 jobs. The Minister needs to look at that. I welcome this Bill wholeheartedly if it helps expedite the granting of aquaculture licences, but I do not think it will.

Another matter which under this Bill is being transferred to the Department of the Environment, Heritage and Local Government is effluent discharge. A county manager, not of my own county, to whom I spoke recently told me that where there was raw sewage going into the sea they got money from the Government several years ago to put in a new treatment plant and they had to apply for a discharge licence for the new pipe from the treatment facility. The treatment facility went in, the pipe went in and to date, five years later, they do not have a foreshore licence for that pipe. If that is not incompetence, I do not know what is. Five years after the facility went in, the plant is up and running. I complimented the county manager on going ahead with something that needed to be done for the good of the public. I am surprised the head has not been taken off him. He went ahead and did what needed to be done. If he waited for the licence, that sewage treatment unit would not be working and raw sewage would still go into the sea. Can the Minister of State, Deputy Killeen, see there is a kind of graph of inadequacies?

I have seen on a small scale only where one-off houses or a cluster houses received discharge licences. I may be deviating a little but I ask the Leas-Ceann Comhairle to bear with me.

An Leas-Cheann Comhairle: One ought not alert the Chair to such matters.

Deputy Tom Sheahan: I might take the scenic route but I will make my point. I have seen clusters of houses receive licences to discharge to rivers and streams and there is a case in my constituency where the lakes are polluted as a result. This is why these functions being transferred to the Department of the Environment, Heritage and Local Government does not make me feel any more secure.

This is more a question to the Minister of State, and I ask him to refer to it. Will foreshore licences be required for emergency works to deal with coastal erosion? Unfortunately, in my constituency there are three peninsulas and coastal erosion is a big issue for us. I put that question because it happened in my constituency where emergency works had to be carried out. If they had not been carried out the road into west Kerry would have been eroded. Referring to the licence applied for five years ago which has yet to be granted, if, in the interests of the public, they had to apply for a foreshore licence to undertake those emergency works, with the choking in the system I wonder what the outcome would be.

On dredging, another aspect of the Bill, I refer to where loughs or harbours are dredged and the material is to be brought to sea. As Deputy Creed stated, we were in Donegal recently. We were on Lough Foyle where there are 80,000 tonnes of material to be dredged. They have a licence within the lough to dump 15,000 tonnes but the small dredger that has gone in there is not capable of doing what needs to be done. Hence, the entire result of that dredging will be dumped on this site that has been specified for 15,000 tonnes. There will be 80,000 tonnes dumped in the lough on that site which has a licence for 15,000 tonnes. I tabled a question on who has jurisdiction over Lough Foyle — I hoped it would be answered today but that has not worked out. If the EPA is taking over this responsibility, will it have an interest in Lough Foyle? In Lough Foyle there are mussel fishermen and oyster fishermen, and where this dredged material is to be dumped is very near where the mussels and oysters are being cultivated. It will be detrimental on those two industries. The dredged material was supposed to go to sea.

I question the input of the marine licence vetting committee. I was told by officials that when local authorities had jurisdiction over dredging, they could apply on a Thursday evening for a

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licence they wanted on Saturday morning and, in fairness, the officials informed me that they went through the process rapidly and ensured that the dredging went ahead. Does the Minister of State, Deputy Killeen, know what is happening on Lough Foyle? Is it happening elsewhere? Will the EPA be involve, and are the Departments of Agriculture, Fisheries and Food or the Environment, Heritage and Local Government involved in what is happening on Lough Foyle at present?

The transfer of responsibility for dumping at sea to the EPA is a positive aspect of the Bill. As the Minister of State said in his speech, the EPA is the protector of our environment and of our waters. Have there been many cases of illegal dumping of sea? I wonder what monitoring to date has been carried out and what policing of illegal dumping at sea there has been to date.

Deputy Creed mentioned the opportunities for wind, wave and tidal power. I also raised with Department officials the plans for a hydroelectric power station in my constituency. Although the project is very much in its infancy, it is exciting. There will be a three-year construction phase and an investment of €1 billion, as well as many jobs. It would be very good for the area. I am not a scientist but the proposal is there and the site has been identified. I would do anything I could to ensure that such an investment of €1 billion over three years went ahead for my constituency.

In fairness to the departmental officials, they were very positive, but they automatically threw 25 questions at me from various Departments, including the Department of the Environment, Heritage and Local Government, the Department of Communications, Energy and Natural Resources, and the Department of Agriculture, Fisheries and Food. Can we not simplify this process whereby the hydroelectric-powered generating station could go ahead? It should not have to go through a multitude of agencies to get up and running.

If at all possible, applications for foreshore licences should be dealt with like planning applications for houses whereby environmental impact studies and other work must be done prior to construction. Can a timeframe be set for decision dates? In the aquaculture sector in my own area, people bought boats and funding was sanctioned by An Bord Iascaigh Mhara, but they cannot draw down the money because they cannot obtain an aquaculture licence. We should simplify the process to move it on. I would welcome that, but I have reservations.

Deputy Michael D. Higgins: I wish to share time with Deputy Ferris, with the permission of the House.

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

Deputy Michael D. Higgins: I welcome the opportunity of speaking on this legislation. I appreciate that there are many useful proposals in the Bill before us, but is it sufficient to deal with the possibilities and prospects of foreshore development? I have to conclude that it is not. I recognise and support many of the practical administrative proposals in the Bill, but it misses some fundamental issues of principle which will, in turn, cut across any administrative achievements. It is depressing that this legislation is being dealt with on a Thursday in an almost empty Chamber, with a guillotine on Second Stage and all the amendments due to be tabled on Committee Stage in a couple of hours. It makes the case for a separate Department of the Marine, which I have often discussed with Ministers.

If we are ever to realise the full potential of our maritime resources, it will mean turning our faces to the sea again. Political scientists must wonder how an island nation could almost make it a matter for quiz games as to where the Department of the Marine is currently located. Coastal zone management is hidden in the Department of Agriculture, Fisheries and Food,

while other functions are located elsewhere. That is a terrible reflection on administrative structures. A separate Department of the Marine is clearly required with an integrated set of functions and a coherent policy and philosophy.

Far from being negative, I am actually positive about a number of things that have happened, which give us great prospects. There have been successes in the negotiations at the international law of the sea conference. Significant work has also been done by the Marine Research Institute. Excellent work has been published by scholars working in the marine sector, and all of this is positive. However, some fundamental points have not been decided, and that indecision is extremely dangerous. Some of these matters flow from an absence of clear definition of ownership. There is an unresolved issue concerning the very definition of the foreshore. There are also unresolved issues concerning ownership.

Unlike Fine Gael, I am opposing this legislation not in terms of its detail, but because it is insufficient to deal with the great opportunities that lie before us. Whatever way one defines the foreshore, we are talking about 39,000 square kilometres, which is roughly 57% of the land area of the 26 counties. The foreshore is the people's resource. Section 6(1)(c) covering the Foreshore Acts 1933 to 2009 states that foreshore belonging to the State shall be construed as references to foreshore, which for the time being belongs to the State, including foreshore so belonging whether by virtue of Article 10.2 of the Constitution or otherwise. I strongly support that, but when I was a Minister with responsibility for defining heritage, I saw the State as holding this property on behalf of the people of Ireland. It is one of the important transitions from the 1922 Constitution, which can be seen in paragraphs 1, 2 and 3 of Article 10 of the current 1937 Constitution. We are talking about a resource which will be massively expanded beyond the conventional definition of the foreshore, in accordance with our well-framed arguments. It is to the credit of those who have made our case at the law of the sea conference.

One must expect to begin with what is in public ownership. Despite the time allocated for this debate, I do not have time to deal with the 17th century allocation by the English monarch of certain aspects of the foreshore to particular parties. Be that as it may, the Bill before us is exciting in terms of its provisions for energy and employment opportunities. If we do not begin with the ownership issue, we will find that existing arrangements concerning property development and ownership will creep out from the land into the sea. We are not simply discussing the four Foreshore Acts being amended by a new Act. It must be recalled that the legislation before us is also affected by recent legislation on planning, ports and harbours.

We can all agree that this resource belongs to the public, but it may be affected by the Planning (Amendment) Act 2000, for example. A planning function could be extended towards the foreshore, but it is extraordinary that elected representatives who sat on harbour boards in the old days are now gone. Such representatives are, in fact, absent from most of the consultation process mentioned in this Bill. One Minister is referred to, in

4 o'clock

talking to another Minister, as a consultee. I will come to that point in a moment.

I regard that as insufficient. It will be a worthy amendment on Committee Stage to say, "that when the local authority's opinion is being expressed". The local authority is again changed in definition in the most recent planning legislation. Once again, it is not a reserved function, so we are therefore talking about a local authority without it being involved directly or extensively through elected representatives offering their opinions on projects. What if the local authority is involved in a partnership-type project and indulges in a type of consultation where it is required to put a little advertisement in the newspaper, consult the Minister involved and under the strategic infrastructure legislation, go straight to An Bord Pleanála?

I return to my phrase, "turning the face of the Irish people towards the sea again". We all began by imagining that this was a resource that belonged to all the people. What I have just

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described is a set of consultations that really does not involve the public in any significant sense. The Minister of State in his speech suggested that foreshore legislation had two functions. One was management, which I believe he might suggest includes a planning function. The other was the management of a resource, namely, property. How may one adjudicate between competing uses without creating mechanisms that are transparent and inclusive?

This legislation continues what I would term a philosophy of exclusive ministerial discretion. It has happened in the past that the foreshore found itself being extended inland with extraordinary consequences, as for example the people of north Mayo know. The Minister retains that type of discretion. How accountable is that? Again, this is primary legislation. The advice of the Attorney General was to the effect that the transfer of functions needs to be handled by primary legislation. I recall that type of advice when I was a Minister. It is extraordinary, however, that he stopped short and said, in effect: “I would strongly recommend that you begin at the basics and go from there”, and God knows there was enough time to do that, but obviously he did not. He is really saying that when the functions are transferred to three entities, the Department of the Environment, Heritage and Local Government, the Environmental Protection Agency, as regards dumping at sea and the Department of Agriculture, Fisheries and Food in relation to agriculture matters, at that stage the Department of the Environment, Heritage and Local Government will begin the bigger task, which has all the prospects of not being achieved in my lifetime, regardless of how long I live.

The reality, therefore, is that a fundamental mistake is being made from the point at which one has begun. Again there are issues that are more specific as regards the ministerial power that is there. Addressing the Minister of State’s point about management — and managing a property — leases are being given, and if I am wrong about this I am happy to be corrected. Both leases and licences can be given out. If a 99-year lease is given, for example, the ability of the State to recover from this is not very clear, even in this legislation. What, for example, is to be attached by way of condition? How are new scientific findings to be handled?

Now I come to the fundamental point. Several times during the Minister of State’s Second Stage speech the “public interest” was referred to, as it is in the text of the Bill. How is this to be defined? If the public interest is to be defined without the ownership issue having first been established with certainty, then a process is in place which enables Ministers who hold disparate views to reach different decisions on the appropriate use of the resource. If this does not happen, there will be complete confusion. I found the absence of reference to the recent planning legislation which has been fundamentally changed extraordinary in the Minister of State’s speech. What is the position where reclamation takes place? If I understand the last amendment to the planning legislation, and the reclamation is adjacent to an area controlled by a planning authority, will it not fall under the foreshore legislation? The Minister of State might address this in his reply.

The problem is that we have the consequences of irresponsible building in flood plains. We have the consequences of irresponsible building near estuaries. Some 60% of the population live within 10 km. of the sea. We have the opportunity and funding available to do research on climate change, linking that to the fine research already being done in our institutions. What provision is there in the Bill for addressing this? The Labour Party and I strongly support the proposals for dumping at sea. There are many other features we can support in this legislation, but it would be entirely irresponsible of us not to note the points that are not being dealt with.

Why did I mention the houses built in the flood plains and too near estuaries which are now at risk because of the extreme flooding? I did this because precisely the same thing could happen from the same motivation. The same people could drive a carriage through such planning legislation as exists already. On the development of harbours and ports, what is significant

about all the recent legislation is the notion of “light regulation”, with little delay involving the opinions of the people affected being taken into account. One could have a combination of developments around ports, for example, that could seek to advance themselves under strategic infrastructure, which might not necessarily be ecologically valuable.

I want to issue a warning to my colleagues in the Green Party, An Comhaontas Glas. Somewhat like the cuckoo, they do not normally appear after Tuesday, I believe, although I saw one today. They are as rare as the corncrake in some parts of Ireland and in referring to them I am mindful of the new buzzwords that came into use just a few years ago, “sustainable development”. Just as important as sustainable development is the test of public benefit. These two phrases are redolent of the Bill. Public interest, which will be defined by the Minister and sustainable development as defined by the Department, do not deal with what every man, woman and child is entitled to insist on, namely: “This resource, not owned by landlords or strangers, but by us.” Much more, it is established under international law as belonging to all the Irish people and given in their name to the State. Suddenly this State asset finds itself encroached upon by developers, one after the other, who have talked to local officials and argued that their proposals met the test of sustainable development. If they meet the test of sustainable development after the resource has been stolen from the people; this amounts to property being stolen from the people. In the event, the test of sustainable development does not mean much.

If the development proposed is such as to not balance all the different usages that exist in respect of the sea, many a manager would state that he or she granted the permission because it was in the public interest. Such a manager might state that he or she placed a notice in the newspaper and that furthermore, the Minister had eight weeks in which to express his or her opinion and he or she also thought it was in the public interest. My response is that this is not good enough. All these little processes are out of scale when considered against the asset’s intergenerational value. I am one of those who accepts sustainable development because I am strongly in favour of intergenerational justice. It is the coming politics, wherein people will debate not taking an action, such as the development through Tara, for example, that one would visit upon future generations, who subsequently will pay the price.

We are only beginning to envisage what is possible in respect of the sea and the work being carried out by the Marine Institute is most exciting. I strongly support the contributions already made regarding energy sources but this really only constitutes the beginning in respect of food sources, the management of recreation and so forth. All this requires that one begins with the very principle encapsulated in the transition I described previously between the Free State Constitution of 1922 and the Constitution of 1937. Why are we afraid to state that we own it? Is it because we may be standing in the way of some chancers? I refer to those who believe that all one must do is to reclaim a bit, make a proposal, get it through one’s local council, satisfy the Department and then, before one knows it, one has property. Such people are not inventing the seabed, the foreshore or anything else. They are in fact making a grab.

The legislation should define the foreshore, the seabed, the public ownership, the public interest and the transparencies. It should include the public with regard to public representatives and should curtail seriously the right of officials participating in partnership activities who in turn later will constitute the planning authority. In many cases, people are clearly conflicted in this regard. They are invited to take part in some grandiose projects. Their function simply is to wave it on because heaven is about to happen. Thereafter, they find themselves on the receiving end of a planning application from which they fail to disqualify themselves. If this does not then proceed, one might argue that because the people with the money are getting impatient, one should have the right to go to An Bord Pleanála straight away. An Bord Pleanála then will shorten the process and place an advertisement in the newspaper.

[Deputy Michael D. Higgins.]

This is chaos and misery. This is the misery of the chancer's world. This is the Dublin Docklands Development Authority all over again. The reason I decided to oppose this Bill is simply because I did not want the Dublin Docklands Development Authority writ national. I seek transparency with regard to the national assets. I do not wish to see a replication of the appalling north Mayo notion whereby the foreshore heads inland at a rate of knots, depending on ministerial whim. Therefore, this is how one starts.

As for the arrangements regarding the transfer of functions, this is always a tricky issue in the public service. While some people want to give things away, others wish to retain them. I remember being in that position myself between 1993 and 1997. I recall an assistant secretary who told me that on hearing I was taking over X, he decided I would not even get the Department cat. However, on learning that he was being transferred himself, this senior civil servant was obliged to fire himself into reverse. When I asked him how successful he had been, the answer, of course, was "moderately".

I have raised a number of issues to which the Minister of State may wish to reply and I will put them to him now. The Minister of State should provide Members with a clear timeframe. For example, can the issue of the ownership of the extended Irish seabed come before the Joint Committee on the Constitution? Can the Minister of State provide Members with the timescale in respect of the fundamental legislation to which reference has been made? If the transfer of functions to the Department of the Environment, Heritage and Local Government takes place, what timescale will apply with regard to that fundamental legislation? Second, the Minister of State should explain how it is proposed to balance the Planning and Developments Act 2000, with particular reference to section 227(8), to the planning requirements pertaining to the foreshore? As for the constitutional issues pertaining to Articles 10.1, 10.2 and 10.3, is there a proposal to declare ownership in advance that is consistent with the case that was made to the law of the sea conference?

As I noted, I strongly support the proposals in respect of dumping at sea and I strongly support the work of the Environmental Protection Agency. The Minister of State's response should address the functions of the marine licence vetting committee, which advises on licences and which operates on a non-statutory basis. Is it proposed to give it either statutory or extended functions? Finally, is the Minister of State convinced he has retained sufficient flexibility to enable researchers to draw down funding and co-operate, for example, with international bodies on addressing issues of coastal management, even if this requires cancelling a licence that has been issued previously or an application that has been made within the terms of this Act for research?

Deputy Martin Ferris: This Bill would be welcomed were it to ensure that the process of granting foreshore licences and in dealing with dumping at sea is tightened up. As it stands, a number of issues have caused concern, particularly with regard to foreshore licenses. The case that immediately springs to mind is the controversy over the granting of the foreshore licence to the companies involved in the Corrib gas project. This was granted in May 2002 by the then Minister responsible, Deputy Fahey, conveniently just before the general election. There has been no indication that a proper consultation process was followed in this regard. Another issue pertaining to the Corrib project is the sale of Bellanaboy Wood to Shell for the construction of the terminal. The sum paid was not disclosed and all requests from me and others, including freedom of information requests, to have the sum paid to Coillte for Bellanaboy Wood made public have been refused.

The foreshore is defined as the area between the high water mark and the 12-mile sea limit. However, the pipeline to be laid at Rosspoint before the recent decision by An Bord Pleanála

requesting that it be re-routed was nine kilometres from the landfall of the pipeline coming onshore. It again appears as though Departmental officials or the Minister responsible simply made the decision without any real reference to the broader issues at stake and certainly without any consultation with anyone outside of the companies involved.

Section 12 of this Bill gives the Minister for the Environment, Heritage and Local Government the power to nominate bodies to submit observations on applications for licences. I have submitted an amendment to this section setting out specifically that the consultation process must also involve relevant local groups with a proven interest in the area for which the licence has been applied. This could include, for example, local fishermen and others with an economic interest in the foreshore or representative local groups with concerns regarding the environmental impact and safety issues. I will return to the foreshore licence granted for the Corrib project to note this process was not followed, with the result that whatever the overall issues, there was from the very outset an atmosphere of mistrust and a feeling on the part of local communities that something that would have a massive impact on them would go ahead without any input from them. It is also important with major projects, such as Corrib, involving the oil and gas reserves that lie off our coast, the criteria for examining the merit of the proposal also take into account the economic impact. This would involve consultation with independent experts in the field able to provide an unbiased opinion on how much revenue would be generated and the likely benefits for local employment and the national economy.

Had such criteria been applied to the Corrib proposal, there might well have been a different outcome. Indeed, in his report rejecting the application in 2002, senior planning inspector Mr. Kevin Moore of An Bord Pleanála referred to the economic aspects of the proposal, claiming it did not fit in with the need for balanced and sustainable regional development.

Given the number of projects taking place, or planned, on foreshores, it is important proper monitoring and controls are in place to take into account the impact on the environment and the traditional use of the foreshore area for fishing, amenities and so forth. Huge potential exists in the areas of aquaculture and renewable energy production. For this to be properly developed in the interests of coastal communities, legislation must be in place to ensure proper planning conditions are attached to the granting of foreshore licences. These must strike the right balance between the economic development of the areas concerned and the environmental and other issues that may arise.

The need for a proper and accountable process regarding the granting of licences for projects is underlined by the fact the Government has set such ambitious targets for the production of energy from renewable sources. A significant proportion of it will be from sea-based wind and wave. It is important the right framework is in place and that such projects are in a position to begin as quickly as possible. Therefore, with the proviso that all interests are consulted, the period of consultation involved should not be too drawn out.

Many of the problems in the past could have been avoided if the consultation process were broad and open from the beginning, therefore not subject to the same suspicions and objections after the initial decision was made.

Deputy Ciarán Cuffe: This is a good news Bill, one we do not get many of these days.

Deputy Michael Creed: No news is good news.

Deputy Ciarán Cuffe: This is good news. I am delighted to finally see the passing over of functions laid down in the foreshore Acts from the Department of Agriculture, Fisheries and Food to the Department of the Environment, Heritage and Local Government.

[Deputy Ciarán Cuffe.]

I am, however, upset by the Title. I note that in the first few months of the Obama Administration, it got good at coming up with good, snappy and positive Titles to legislation. If I were working for the Obama Administration, I would call this Bill, the clean seas ocean energy and coastal zone management Bill. I am sure we can move forward with thinking a little more laterally about the proper Titles of legislation and the Attorney general is working in this area with his departmental colleagues.

It is over 50 years since Rachel Carson's book, *The Sea Around Us*, was first published. For me, that was a magical book about life in the oceans with the changing marine environment, its possibilities and need for custody, management and careful consideration of marine development proposals. The point rings true when one considers the area from the high water mark to the 12 nautical mile mark off the Irish coast is the equivalent of two thirds, 57%, of the area of the Twenty-six Counties. It is a precious area with economic activity but one on which we do not have much information.

It is important to properly manage this resource. The growing interest in recent years in coastal zone management concentrates our mind on how precious is this area, where the land ends and the ocean begins. We must get the interface — the thin line — between land and sea right. We must ensure any developmental proposals of this area are carefully considered and the end result is a positive for Ireland.

The coastal zone management strategy is sadly gathering dust some ten years after it was drawn up. It was an excellent document in its time. Our ideas about how to be proper custodians of the ocean resources have moved on in the decade since the strategy was published. We now see the sea as a living, changing and precious biosphere. We must carefully work this resource with this in mind in a true act of stewardship.

There is enormous potential for development in this resource. An area equivalent to 57% of the State's landmass gives enormous scope for energy generation needed to support the human population, whether it be tidal, wave or ocean current based. There is always the real danger that we will rush into allowing development to take place as we see it as positive. I am a fan of ocean energy and the capacity of offshore wind energy to generate significant amounts of electricity for Ireland is only too clear from the existing limited projects. However, the planning aspect of such development needs to be got right.

At the time of the introduction of the strategic infrastructure Act five years ago, I put on record my concern at moving too fast with very large projects. Paddy Shaffrey, the architect and planner, said during the peak of the boom that the big infrastructure projects, which will be with us for 50 or 100 years, must be considered carefully to ensure we get them right. As they will be with us for many generations, so what if it takes several years to get them through the planning process.

The scale and implication of marine-based energy projects are massive for the entire maritime environment. I would love to see many hundreds of wind turbines around our coast. However, I want them put in the right places. As Deputy Higgins pointed out, there is a need to carefully assess wind farm developments. Any assessment of their planning applications must be carefully done with examination of bird migration patterns and the impact on sea life. We must ensure, for example, sediment is not churned up by wind farms, killing fish breeding stocks in the process. The work done by environmental impact assessments can assist in this regard. There is a world of difference between placing a row of turbines four miles or 20 miles off the coast. If they are 20 miles away, they will be practicably invisible.

If they are four or five miles out to sea, however, they can bring about a significant change in the visual environment. It is important to put on record the kind of scale these projects

entail. Some of the larger wind turbines that have been proposed are 100 m high with blades that are up to 80 m long. In essence, they are comparable in scale to the Pigeon House chimneys. The type of consideration that should go into where we place those turbines merits very wide consultation and a large amount of public involvement as well. We have to ensure that a mechanism is put in place to allow the public to be consulted in a meaningful way on massive developments that are proposed to take place. People have joked about putting site notices on the beach, but I think we should do that. In addition to the local newspapers, we should put up some kind of site notice to inform people about significant development that is proposed in the foreshore area.

Part of the changes in the planning system must involve greater public consultation. Getting that right is crucial. The visual assessment is crucial. I am not convinced that under the current planning regime there are people sufficiently qualified to judge the impact on the visual environment, whatever about the flora and fauna and other aspects of proposed developments. As we move the Bill towards enactment, we also need to look ahead to modernising the foreshore legislation and bring it from its current embryonic form dating to the 1930s when one simply put the plans on display in the local Garda station and the same planning regime applied whether it related to the holding of the Laytown Races or a 300 m high development in Dublin Bay. We need to think carefully about making it easy enough to run the Laytown Races but fairly complex and meaningful consultation should be required if we want to construct 200 or 300 wind turbines.

The potential for ocean energy is very significant. I did a back of an envelope calculation on the Kish Bank wind farm——

Deputy Tom Sheahan: Deputy Cuffe should stay away from envelopes.

Deputy Jim O’Keeffe: Especially brown ones.

Deputy Ciarán Cuffe: ——and realised that the output when the wind is blowing would be approximately half of that of the largest nuclear power station in the United Kingdom. We are at a comparable scale where ocean energy can deliver significant amounts of electricity into the national grid. If we can tap into ocean currents in particular, we have the potential for a steady energy supply source that could be the Holy Grail in terms of tackling our electricity needs. The work of Ocean Hydro, Wavebob and many other companies are carrying out on test beds in Galway Bay and the proposals for the Mayo coast will allow us to prototype this technology and move into feeding energy into the national grid, which is a good thing.

I wish to touch on the concerns raised by the Coastal Concern Alliance at several meetings. I have no doubt its members have met with Opposition Members as well. The essence of their thinking is that we should consider carefully how we plan what happens on the foreshore. They say we need a planning process that is comparable to what we do on dry land and that we should have meaningful consultation and visual assessment of what happens. I agree with all of those sentiments. We have to consider carefully how we go about doing that.

The Department of the Environment, Heritage and Local Government is the natural home for the allocation of foreshore licences. As always, I am concerned when someone dealing with a national issue is embedded in a Department that might not tie in as well as it should to moving the issues forward. Climate change and energy security and foreshore licensing fit slightly better together within the Department of the Environment, Heritage and Local Government. This is a positive thread.

I return to the issue of this being such a significant new frontier that occupies 57% of the land area, if one can call it that, of the State. When new frontiers are opened up, there is a

[Deputy Ciarán Cuffe.]

real danger of claims being staked that are more to do with the economic benefit to the person hammering the stake into the ground than to the State as a whole. I am worried about the possible complexity of ensuring that the rights of the State are protected and that we harvest the potential energy and benefits from the ocean, but that we do it in a democratic and equitable way. The 1930s legislation is creaking under the strain of the pressures being put on it.

We can learn from the legislation that has been put in place to deal with development in new ways. Deputy Higgins referred to the Dublin Docklands Development Authority. In many ways that was the brainchild of his colleague and former party leader, Deputy Quinn. In many respects it put in place a strong and positive framework for the development of—

Deputy Michael D. Higgins: But not the financing.

Deputy Ciarán Cuffe: —the masterplan and framework. As Deputy Higgins indicated, the financing issues are cause for considerable reflection, in particular, the operation of individuals on boards of both banks and the authority, which does not seem like good corporate governance. At a committee meeting in recent days, the chairperson, Professor Brennan, alluded to the challenges she faces in her role at the Dublin Docklands Development Authority.

Getting planning right is important. In the docklands there was a parallel planning approach. One could go to the regular planning authority, in that case Dublin City Council, or one could go directly to the authority through a planning scheme. I am not convinced that it has stood to us too well because it makes it complex and impenetrable to the ordinary member of the public. There are lessons from that in terms of how we proceed with ocean resources.

The best way forward is to put in place a strong assessment of our coastline and foreshore, and that should happen sooner rather than later. When we have that in place, it will be much easier to measure applications for development within that biosphere if we have a strong ground study of what is there and its importance.

Deputy Michael D. Higgins: And the public ownership having been defined.

Deputy Ciarán Cuffe: That is a crucial part of moving those projects forward.

I welcome the transfer of functions that is envisaged in the Bill. In the past ten years the State has done considerable groundwork on considering coastal zone management and contemporary practices in other European countries. I hope we can learn from that as we move forward to modernising the planning regime that will apply in the foreshore area. There is an unparalleled opportunity for both development and protection of the biosphere. I look forward to the developments that the Minister for the Environment, Heritage and Local Government will bring forward to modernise the legislation in this area.

Deputy Jimmy Deenihan: I wish to share time with Deputy Paddy Sheehan.

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

Deputy Jimmy Deenihan: I am pleased to have an opportunity to speak on the Bill, principally because of my first-hand experience of a number of recent applications for foreshore licences and how complex and cumbersome a process it is to get such a licence. In the case of one application for a major project, there are local and national implications. It is important to ensure licences are legally correct but, at the same time, there should be a process of a general freeflow in assessing and dealing with licences. Applicants should have ready access to people in the Department on a daily basis if it is a project of national importance. The problem is that given the human and technical resources in the Department of Agriculture, Fisheries

and Food, which had responsibility, this may not be possible. However, when we are so hungry for any positive developments in this country, particularly if they could be the catalysts for other developments, there should be no barriers to achieving those licences, particularly where no contentious issues arise and in areas where a number of industries already exist and where they would not interfere with the environment. For that reason I am glad to speak on the Bill and, having had that recent experience, to state that there is a need for it provided that it speeds up the process, will provide the expertise to assess applications for foreshore licences and will not create a big backlog at the end of a few years.

As previous speakers stated, it is critical that there should be consolidation and streamlining of the Foreshore Acts. This is long overdue. The Joint Committee on Climate Change and Energy Security addressed this matter and has provided a Bill that if implemented could resolve some of the issues I have raised. The committee seems to be one of the better committees of the Houses and has made some very good proposals on climate change and on this Bill, which deals with energy security. A large number of energy projects seem to be held up because of foreshore licence difficulties and the committee saw the need for legislation. I suggest to the officials here today that they might influence the Minister to take the committee's Bill seriously and accept it if it is introduced in Private Members' time.

As previous speakers stated, the modernisation to which I referred is not contained in the Bill; it contains a shift of responsibility and transfer of certain functions from one Department to another and the jury is certainly out on how effective it will be. One of the reasons there is such a demand for a better system is because an amount of €16 billion in potential investments in energy generating projects has been mentioned and at a time when we are crying out for development in this country, this should not be allowed to continue to happen. I am convinced there is considerable potential for offshore wind or ocean energy development. It may not be the panacea for all of our problems but potential exists.

The transfer of powers between various Departments will not remove the requirement for a new foreshore licence and process to be developed, as the current arrangements do not include any evaluation criteria with which to evaluate multiple applications for the same site. Perhaps the officials might deal with the issue of multiple applications for the same site. Will the Bill help in this respect? It is not clear what the Department of the Environment, Heritage and Local Government will do with existing applications for foreshore licences. Will the Department of the Environment, Heritage and Local Government evaluate licences that exist but have not been evaluated or will it seek new applications when it has established its own evaluation process? A new evaluation process will not be established until completion of the strategic environmental assessment, SEA. While the SEA has commenced, it is not due for completion until the end of 2010. Hence, an authority is not expected to emerge until 2011 and a process to award licences is likely to be lengthy, as evidenced recently in Scotland where a project was launched in September 2008 but is not due to be completed until 2010, 18 months later.

Will what is being put in place expedite foreshore licence issues? I am aware of two licences in Kerry for experimentation with wave energy which presents a number of opportunities for the country. Tidal energy is very much concentrated in the north-eastern part of the country whereas the western seaboard is very suitable for wave energy. A company is seeking foreshore licences for two sites but the process is being delayed. I am concerned that the companies could move elsewhere or that we might lose the opportunity if there was a change of emphasis. We might never realise the potential we have. It is hoped that the new arrangements to be put in place following the transfer of responsibilities that the Bill will put in place will help to expedite those licences.

[Deputy Jimmy Deenihan.]

Deputy Sheehan, for whom aquaculture is a big issue, will speak next but before he does I will tell the Minister of State that it is very important that we take this issue very seriously. The potential of our shoreline is considerable. At a time when we seek other possibilities and when the people entrusted with coming up with new ideas for job creation are not coming up with too many, there are ideas for our shoreline and oceans. This is an area of opportunity, as outlined by Deputy Coveney in his new era policy. Without facilitating these projects by expediting foreshore licences, we might lose this opportunity.

Deputy P. J. Sheehan: While I welcome the Bill, many points require clarification. I must state here and now that I welcome it to see whether it will expedite decisions on applications lying in the Department of Agriculture, Fisheries and Food for the past number of years that have not been dealt with. It is a sad reflection that people in my constituency who have applied for foreshore licences to develop industries that could have immense employment potential for the area are held up by red tape and bureaucracy. It is frustrating for the people concerned who are trying to play their part in the country's economy. They are being met with a stonewall fence by the Department of Agriculture, Fisheries and Food, raising repeated questions on various matters concerning same.

I remind the House that, as environmental issues and cost constraints increasingly limit the catch of the world's fishing fleets, and as the population of the world grows, it is inevitable that future global demand for fish and other seafood will be satisfied only by farming our seas and fresh waters. Even in Ireland, more than 35% of all fishery products sold in supermarkets and restaurants are now of farmed origin. These include salmon, trout, Arctic char, turbot, halibut, sea bass, sea bream, tilapia, mussels, oysters, prawns, shrimps and even tuna. Farmed cod and other white fish will become increasingly available in the near future.

We must cater for the impact of that on world fish food production. As an industry, our greatest resource is the marine environment, where aquaculture has the potential to provide a truly indigenous livelihood for those living in relatively remote areas such as those I am familiar with since I came into this House. I have advocated their cause in this House on several occasions but, alas, that has fallen on deaf ears.

All along the Irish seaboard, these small communities would be viable if they were allowed to develop the industries they are planning. They would be of immense benefit to employment in those areas. The fishing industry and inland fisheries 50 years ago were the bread and butter of the economy of people living in isolated areas. They supported jobs in many associated businesses, such as fishing equipment, including manufacturing, supply and maintenance, fish feed manufacture, channelling road haulage, vessel charter and operations, as well as in fish processing, sales and distribution, both locally and further afield.

We are entering an era where energy can benefit from this industry, with wave and wind power. That too is bedevilled with red tape and bureaucracy from environmental demands. It is a sad reflection that local people all over rural Ireland are up against a stone wall defence from faceless bureaucrats who will not even agree to their natural demands, the demands of the people concerned who know only too well that they can develop a business but will not get the opportunity to do so. It is very frustrating to sit on plans for five years and not get off the ground.

I hope I will see the effects of this Bill when it is passed but I hope the Department of the Environment, Heritage and Local Government will not carry on with the same approach to those individual industrialists who have the will, the way and the power to develop their proposed industries. At long last, I hope the Minister of State will bring my message to his senior

counterpart in the Department of the Environment, Heritage and Local Government that the Department should weed out the unnecessary bureaucracy that exists in these applications.

In the Minister's speech, he referred to the purpose of the Foreshore and Dumping at Sea (Amendment) Bill, saying it was brought forward to transfer certain foreshore functions from the Department of Agriculture, Fisheries and Food to the Department of the Environment, Heritage and Local Government. I too would like to see these functions operating well under the new transfer. When forming the Government in 2007, it was decided to transfer certain coastal functions from the Department of Communications, Marine and Natural Resources to the Department of the Environment, Heritage and Local Government. That is only now coming to fruition. Did it take two years for the Government to realise this was an urgent matter that should have been dealt with when the Government was formed, when it contemplated transferring it, and not half way through the lifetime of the Dáil, if it goes for the full term? I doubt that will happen but it is better to live in hope than die in despair. I hope the Minister of State will think hard and deliver on the points the Minister explained in his introduction.

The foreshore consists of land from the high water mark to the 12 nautical mile limit and comprises 57% of the land area of the 26 counties. There is no other Deputy in this House who knows the foreshore better than me, when I have Dunmanus Bay, Bantry Bay and half way up the Kenmare River estuary in my constituency.

Deputy Billy Kelleher: Do not forget Bandon.

Deputy P. J. Sheehan: The Minister of State can deal with that and the flooding. He is not too far from it and if he could look after the flooding in the River Lee, there would not be such devastation in Cork.

At long last it looks like the Government has seen the light of day. I am amazed at the Minister of State with responsibility for the marine dragging his feet. I know people who applied for foreshore licences in Bantry Bay and half way up the Kenmare River estuary who have been waiting four years for the Minister to make up his mind. I call on the Minister and I hope that under the new Bill things will be expedited and that these people at long last can see some light at the end of the tunnel to bring to fruition the fruits of their efforts.

Deputy Jim O'Keeffe: I wish to share time with Deputy Ulick Burke.

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

Deputy Jim O'Keeffe: This Bill is a major missed opportunity. Foreshore is one of the greatest resources of this State. Not alone has this resource not been exploited by the State, but we have down through the years constructed an almost incomprehensible regulatory regime that has all but blocked every effort by people wishing to promote any type of enterprise or development on, in or under this resource. As of now, the people of this country are on their knees not praying, but beaten down by economic circumstance. The main way forward will be through enterprise and jobs. This is a resource that should be considered in the context of promoting both. However, the State has not done so over the years and, unfortunately, the Bill will do nothing to encourage enterprise or jobs in terms of that resource.

This resource is vast and includes more than half the land mass of the State. In the past, anything up to 12 nautical miles away was considered to be water. We now know this resource has major potential. This Bill will do nothing to help exploit it. We inherited this resource from the Crown and have regulated and controlled it, and above all ensured that over the years, if at all possible, nothing constructive happened in this regard. This has been the effect of the

[Deputy Jim O’Keeffe.]

regulatory regime in place. We have piled regulation upon regulation and have had complexity compounding complexity. Now we have a tangled series of regulatory efforts which involve leases, licences, consents, approvals and environmental impact statements, EIS, from different bodies and Departments. We are out of our minds to be using this resource in this fashion.

It is no harm to mention what barrister Mr. Stephen Dodd had to say following enactment of the Planning and Development Act 2000:

The 2000 Act provides another regulatory step in the already entangled and over-complicated area of the foreshore. The requirement to obtain planning permission for development within the foreshore is a significant jurisdiction for planning authorities. However, the co-ordination of the foreshore licensing regime and the planning code in addition to over-regulatory codes is, perhaps, in need of greater simplification.

That was, perhaps, a bit of an under-statement because what it did was to apply one additional regulatory system. I am not suggesting there is no need for regulation but, if we must have it, let us have sensible, streamlined regulation in terms of this resource.

The Bill, in the main, is okay — I agree with some of the comments made by Deputy Creed — but it does nothing to address the main problem. The history of this legislation is even worse. In 2007, the decision was taken to have a complete review of the legislation. That review, which was carried out by consultants — I do not understand the reason Ministers and their assistants, advisers and top officials in the Departments cannot carry out these reviews — could have led to progress and identified areas where change was required and led to some type of strategic vision in terms of their development. It was supposed to take account of what was happening in other countries in terms of advances, of which there have been many if one cared to bother looking at them. What happened? A decision was taken, in principle, to divide the functions as per this Bill following which nothing else happened.

The effect of the decision to introduce this Bill two and a half years ago is that all other activity stopped. In the meantime, applications piled upon applications. There are now hundreds of applications awaiting decision but nobody is dealing with them. It will be somebody else’s child tomorrow, next year and so on. This is an utter disgrace and a detrimental side effect of this Bill.

The Department does not know the number of applications awaiting decision. In June 2008, I tabled a question in regard to the number of foreshore applications for marina developments — a small aspect — made in the past ten years, the number of applications granted and refused and the general reason given for refusal. I was told in response that the information required was not immediately available and when compiled would be communicated to me without delay. Of course, I never received it. In June 2009, I tabled the same question, the response to which was that the information requested by me was not readily available and would be compiled and made available to me as soon as possible. I am still waiting for it. That is an example of how this whole area is treated.

The only area in respect of which I made any progress was in regard to a couple of community applications, one involving a rowing club and the other involving a marina in a village, which had been held up owing to an inability to obtain a foreshore licence. While there was goodwill, another body, the Valuation Office, was also involved and it would not release the figures required. Following a great deal of haranguing and pestering, I got a decision that private valuations could be used, thus enabling us to get the applications concerned through. The attitude is one of control, regulate and above all not to do anything in case a mistake is made.

Everybody is aware of the potential of this resource. We have dealt over the years with the potential of the fishing industry. However, the fishing industry is in decline and we must consider other ways of developing our coastal communities. We must diversify if we are to create jobs. I am not speaking of anything new in terms of potential. We are all aware of the potential of oil, gas, windfarms, tidal energy, aquaculture and leisure facilities — I referred earlier to the marina development — and the possibilities in this regard for tourism. When speaking about matters relating to the sea, I cannot let pass the opportunity to speak about tourism and the need to support the Cork-Swansea ferry campaign which could assist in bringing people to our coastal communities. In every respect, these resources are not being encouraged to the extent they should be.

Regarding the future, I am not too encouraged by the attitude of the Government. In February 2008, I tabled a question to the Minister for the Environment, Heritage and Local Government about the plans in respect of the co-ordination of foreshore licensing and the planning code. The reply I received concerned me. It referred to the provisions in this Bill and stated:

The transfer provides my Department with an opportunity to review existing foreshore legislation and my officials have been examining the interface between the planning code and foreshore licensing with a view, over the medium term, to ensuring rigorous environmental controls in relation to foreshore licensing arrangements and maximum coherence between foreshore licensing and existing land use development consent procedures.

On the face of it, this is no harm. It is the attitude behind that approach that causes concern. It has all to do with regulation, control and ensuring damn all happens unless it actually squeezes through the tight regulatory regime. This is the wrong attitude and wrong approach. For a country that needs the enterprise available from the exploitation of this resource, this is the reverse of what we should be doing.

I accept we need a regulatory regime, to take a streamlined approach, to be transparent, accountable and to ensure consultation, in particular for local communities, but this process must result in decisions. Our approach in regard to foreshore should be to regulate to the extent necessary, but to encourage enterprise to the extent possible. This Bill does not take that approach. What is contained within it is unexceptional. However, let this be the beginning of a journey to achieving the objectives I have outlined; otherwise, we are wasting our time.

Deputy Ulick Burke: I welcome the opportunity to contribute to the Second Stage debate on this Bill. The background to all of this and the difficulties that have arisen with the Bill stem from a major failure of Government. Following the general election in 2007, the Government decided to transfer responsibility for the sea fisheries, aquaculture, marine engineering and research, foreshore licensing for all aquacultural developments and foreshore licensing for certain activities, other than those identified in the Bill, to the Department of Agriculture, Fisheries and Food. Some two years on, we are now transferring these functions, with the exception of those relating to agriculture, back to the Department of the Environment, Heritage and Local Government. That must indicate to everybody who has an interest in the foreshore and its potential that the Government has no policy for its future. When these changes occur and the areas of responsibility are moved from the Department of Agriculture, Fisheries and Food to the Department of the Environment, Heritage and Local Government will the personnel associated with these areas of responsibility within the Department of Agriculture, Fisheries and Food move with them? If they do not, the delays that are now so obvious with regard to licensing of certain projects will continue. Only one person has responsibility for aquaculture licensing and he is dealing with 300 applications. The Minister is well aware of

[Deputy Ulick Burke.]

that. That person, coincidentally, was transferred under another Government scheme from another Department to that responsibility. There is no real determination on the part of any Minister in the Government to respond in a meaningful way to the obvious needs in this area. Potential is being lost due to ongoing delay.

The intention was to provide a modern, effective, integrated legal framework for the management of the State's foreshore. I can see nothing in this Bill that will change the failure, delay and incompetence in dealing with simple issues. Now, the huge potential for development will be strangled. I can offer the Minister an example. It is an application the Minister is familiar with because representations were made to him about it many years ago. Among the responses that were received with regard to the application was one from the Department of the Environment, Heritage and Local Government, the Department to which we are now transferring all this responsibility.

The Department stated that the proposed development would occur within Galway Bay complex, candidate special area of conservation under the EU habitats directive, and the inner Galway Bay special protected area under the EU birds directive. The birds and habitats sites are collectively known as Natura 2000 sites. The Department refers to the requirements under Article 6.3 of the EU habitats directive, that appropriate assessment of the likely impact of the proposed development on the conservation objectives of these areas be carried out before the Department would be in a position to comment. It is asking for an appropriate assessment when there are no personnel to carry it out. Regardless of the embargo on the recruitment and appointment of personnel to these very important positions, the reality is that there is one person, who does not have a background in this area, dealing with those applications and there will be no appropriate assessment. How could any important project be progressed when one is obliged to go through a network of birds directives and so forth?

The original application I have referred to was withdrawn because the site chosen in Kinvara Bay was so polluted with raw sewage the applicants were told by the Department to transfer elsewhere. Another site of half an acre was found in a more suitable area by the local people who knew the area inside out, not by somebody in Clonakilty who would not even know Kinvara Bay or any of its small inlets. However, there it came under the other network where appropriate assessment was required under all of the headings of the birds directive. The person concerned has been traditionally involved in aquaculture. When he was out in the bay this afternoon he said there were several hundred Brent Geese in the habitat. They were within a stone's throw of the activities taking place in his aquaculture site and there was no interference. The people who put these requirements on paper have no regard for the reality of what is happening on the ground. The two activities I mentioned can take place without the huge impact suggested by the contents of the birds and habitats directives.

If this legislation is to succeed there must be a realisation that this network of directives must be dismantled to realistic levels to respond to the protection of the environment. If not, there will be delay after delay. The person I mentioned has huge personal savings invested in this application but there is nobody in the Department of Agriculture, Fisheries and Food or in the Department of the Environment, Heritage and Local Government to respond in a positive way or to realise the investment people put into these projects, only to be turned down and delayed. There are 300 others around the Irish coastline in a similar situation.

We are confronted with yet another legislative measure. It will only further compound the entanglement that currently exists to prevent development. One does not have to travel far to see headlines about the difficulties for major projects. There is the gas coming in from the coast of Mayo. What has happened there? There have been years of turmoil. Consider the capacity and potential for wind power development and the projects that are at pre-planning

and planning stage. Approximately 1,900 MW await development. When will these be developed? Everybody is aware of the needs at present.

The Bill would be welcome if there was appropriate parallel realisation on the part of outside agencies of the confines and restrictions that are imposed. Unless they are settled this legislation will be on a shelf gathering dust because nobody will invest due to the waste of time and the prohibitions that exist against reasonable development.

Deputy Seán Barrett: I wish to share time with Deputy Timmins.

An Ceann Comhairle: Is that agreed? Agreed.

Deputy Seán Barrett: I understood no order was made this morning for the cessation of Second Stage at a particular time.

An Ceann Comhairle: There was. I am obliged to call the Minister at 5.30 p.m.

Deputy Seán Barrett: I am astonished that a country that has more than 90% of its landmass under water does not have a Department to look after its interests. The one thing I can say on behalf of the former Taoiseach, the late Charles J. Haughey, is that he established a Department of the Marine. It is astonishing that Fianna Fáil in Government decided to scrap that Department. The marine is where all our natural resources are based and where there is enormous potential for job creation and inward investment — nothing but advantages. This is a vain attempt to transfer responsibilities. What does the Department of the Environment, Heritage and Local Government know about sea matters? That it will be responsible for future investments in this regard is outrageous because it is primarily concerned with onshore matters.

We are living in a different era. The Foreshore Act 1933 never envisaged Ireland extracting gas from its seabed or the installation of ocean energy devices like offshore turbines. Such developments are the country's future in inward investment and job creation, but the 1933 Act was never intended to handle them and nothing in the Bill will prepare us for future investment opportunities.

Speaking as Chairman of the Joint Committee on Climate Change and Energy Security, the Government has failed to attract investment that is otherwise leaving us daily for Scotland, Portugal and Denmark. We have failed to deal with the applications for investment in offshore renewable energy. It is disgraceful that we are still depending on legislation dating back to 1933. The Act's remit stretches from the high water mark to the 11-nautical mile limit, comprising 57% of our landmass. Future development will occur beyond the 12-mile limit.

Deputy Michael D. Higgins: Yes.

Deputy Seán Barrett: However, we still do not have legislation to deal with it. My all-party committee produced legislation entitled the offshore renewable energy development Bill and presented it to the Minister for Communications, Energy and Natural Resources 12 months ago, but we still have not heard anything about it. Nor has the Government done anything to introduce its own Bill.

Nothing in the Bill before the House refers to the Minister for Communications, Energy and Natural Resources. It refers to consultation between the Departments of Agriculture, Fisheries and Food and the Environment, Heritage and Local Government, but neither will handle offshore renewable energy. There is no reference to the Department of Communications, Energy and Natural Resources. There is no facility for consultation with it. Section 7 amends

[Deputy Seán Barrett.]

section 2 of the 1933 Act and states, “Where the Minister for Agriculture, Fisheries and Food or the Minister for the Environment, Heritage and Local Government (being the appropriate Minister) is considering making a lease in accordance with this section, then the Minister so considering shall consult with the other Minister on the matter before deciding on whether or not to make the lease.” What about the third Department?

Will the Minister of State explain what the Government is doing to attract inward investment? Through my committee’s work, we know that €16 billion is waiting to be invested in wind, wave and tidal energy. Some of that money is drifting to other countries because people have been waiting years on their foreshore licence applications.

An Ceann Comhairle: The Deputy’s seven minutes have expired.

Deputy Seán Barrett: This is frustrating. Through the Houses’ committee structure, people genuinely worked on an all-party basis in the country’s interests and produced legislation because a Department will not. However, the Bill before the House makes no reference to the industry’s potential.

Yesterday, my committee produced a report on the post-2020 electricity requirements. This came after a public consultation process in which submissions were made to us. I invite the Minister of State to read our report and check our website. Given the outrage expressed by potential investors over the lack of a proper planning structure for offshore renewable energy and the delays involved in dealing with these issues, I appeal to the Minister of State to speak with his friends in the Green Party, who have obviously done a deal between themselves. Any Minister for Communications, Energy and Natural Resources worth his or her salt would not have allowed this legislation to pass at Cabinet level without insisting that reference be made to the role of his or her Department in the development of an important part of the economy.

Deputy Billy Timmins: I thank Deputy Barrett for sharing time. I will make two points on this legislation. The first has been covered by many speakers. On the coasts of Wales and France are marinas and harbours, but we have an unexploited tourism resource that has never reached its potential or been cultivated because the Government has never taken the marine seriously. As Deputy Barrett stated, we do not have a Department. One can go from south County Clare to County Mayo without encountering a marina. The one in Greystones is being developed successfully, but it encountered many difficulties, including foreshore valuations. The Minister for Finance had responsibility and the Department of Communications, Energy and Natural Resources and everyone else had an input. At the same time, no one had an input. Many projects were parked because people got tired of waiting.

The most important word spoken by the Minister of State was “modernisation”. Legislation must be modernised. The Celtic tiger is over. We do not have oil or mineral wealth. Our only resources are people, innovation and education, but no legislation covers the thousands of kilometres of our seabed. The resources therein are being plundered and our seabed is being damaged because we have no control over or commitment regarding the situation. It might be one of our most important resources. It could take us out of the recession. We need to work with universities, including NUIG, and the marine industry to map the seabed, as its potential is unlimited. When we look back in ten or 20 years’ time, our neglect of that potential will be one of the great shames of this era.

Deputy Frank Fahey: How many minutes do I have?

An Ceann Comhairle: Two.

Deputy Frank Fahey: Two will be plenty.

I welcome the Bill's introduction by the Minister of State, Deputy Killeen. Like Deputy Barrett, I had the pleasure of being the Minister for the Marine and Natural Resources, when I had responsibility for foreshore licences. It must be one of the most bureaucratic and frustrating areas in which to work. It is not appropriate to the Department of Agriculture, Fisheries and Food, but to the Department of the Environment, Heritage and Local Government. I hope this legislation will ensure an efficient administration system. If one needs a good example of bad bureaucracy, it is this division. In this regard, I appeal to the Minister of State and to the Minister, Deputy Gormley, who is taking over the portfolio. This legislation must ensure an efficient approach to the processing of applications in what Opposition Deputies have rightly described as a significant area of offshore and onshore development.

Since the Bill will be passed through the Dáil quickly, I ask that we be given an opportunity at a later date to discuss the administrative and policy arrangements that will operate in the Department of the Environment, Heritage and Local Government. It is vital that we no longer have road blocks in the issuing of foreshore licences. As Deputies Higgins and Burke stated, it is important that many of the frustrations and blockages to date be brought to an end. It is critically important that this area, which is of particular significance for offshore energy, is developed. The innovation associated with this type of industry should be also attached to the development of foreshore licences, marine technologies, fishing and aquaculture. It is appropriate that this sector should come under the aegis of the Department of the Environment, Heritage and Local Government.

I support the initiative being taken by the Minister of State.

Minister of State at the Department of Agriculture, Fisheries and Food (Deputy Tony Killeen): I will be brief so that we can move on to the Committee Stage debate. Some of the issues that have been raised by Deputies can be dealt with in the context of the Committee Stage amendments.

Deputy Creed and many others suggested that the Bill represents a missed opportunity. It is important to explain that a number of options were considered as part of the modernisation of foreshore licensing functions. It was deemed necessary, on foot of legal advice and other considerations, to pursue that process in three phases. As I explained in my opening speech, the first phase of the process was completed in September of last year when a number of functions were transferred. This legislation provides for the second phase of the process — the division of responsibilities and the transfer to the Environmental Protection Agency of certain functions relating to dumping at sea. The third and final part of the process will take place after the Minister for the Environment, Heritage and Local Government has engaged in consultation. Nobody who listened to today's debate, in which a vast range of opinions were expressed, will be in any doubt about the quantity of work that needs to be done before we can reach that point. It is clear that some fundamental issues need to be considered in the context of the modernisation of the foreshore licensing regime.

Deputy Michael D. Higgins: Will the process be completed within the lifetime of the Government?

Deputy Tony Killeen: It is difficult to predict.

Deputy Michael Creed: Is it difficult to predict how long the Government will last, or how long the process will take?

Deputy Tony Killeen: It is difficult to predict virtually everything at the moment. A number of Deputies made the point that many of these functions could be best managed by a stand-alone Department of the marine. We have had such a Department on a number of occasions. Two Deputies who are present in the Chamber served in that Department. Interestingly, other European countries with long coastlines have had similar experiences. As a member of the interdepartmental marine co-ordinating group, I think people would be surprised to find that 12 Departments are involved in marine matters. Even if a stand-alone Department of the marine were reconstituted, most marine functions would have to be retained by those parent Departments. I do not have time to elaborate on the many reasons for that.

Deputy Michael D. Higgins: A single Department is needed.

Deputy Tony Killeen: Deputy Creed expressed concern about warfare between Departments.

Deputy Sheahan referred to aquaculture and to the operational programme. A number of issues need to be resolved following the European Court of Justice's adverse finding against Ireland at the end of 2007. The subsequent issuing of a reasoned opinion brought us even closer to being fined. The Departments of Agriculture, Fisheries and Food and the Environment, Heritage and Local Government have put together a roadmap for dealing with all of these issues. Significant resources — time, personnel and money — have been made available to compile the necessary documentation. It takes time to gather such material in any event, but it is being done as quickly as possible in this instance.

A number of people, who will deal with foreshore licensing in the Department of the Environment, Heritage and Local Government, have been trained in recent times. When they are in place, the staff who are currently in the Department of Agriculture, Fisheries and Food will be able to concentrate all their time and energy on applications like those mentioned by Deputy Sheahan. They will also deal with aquaculture, fishing harbours and fisheries matters. The same staff will be in place, but they will have a much narrower focus.

Deputy Sheahan also asked about foreshore licences for emergency works, which will continue to be a matter for the Office of Public Works. I remind him that the Loughs Agency has jurisdiction over Lough Foyle. Some work in that regard is being done by the Department of Foreign Affairs. As far as I can establish, the Department is not currently aware of any cases of illegal dumping at sea.

Deputy Michael Creed: That does not mean there is no dumping.

Deputy Tony Killeen: As the hydroelectric project may be based on land, it will not necessarily have a foreshore element. I am not quite sure about it. A number of the points made by Deputy Higgins would be more relevant to the third, rather than the second, phase of the process, with which we are currently dealing. The process that is under way at present involves the division of responsibilities and powers between the two Departments and the Environmental Protection Agency.

Deputy Michael D. Higgins: It is a great pity we are not at the third phase.

Deputy Tony Killeen: We are not at the third phase because a number of processes have yet to be completed. Certain people have very strong views in this regard.

Deputy Michael D. Higgins: That is right.

Deputy Tony Killeen: Members of this House expressed diametrically opposed views during today's debate. Interestingly, individual Deputies expressed diametrically opposed views within their own speeches about how this issue should be dealt with. A significant amount of work has yet to be done. Everyone who has taken a genuine approach to this matter appreciates that this serious job should be done properly.

Deputy Higgins queried the philosophy of ministerial discretion. I was in philosophical agreement with many of the points he made, including this one. It is fair to say that the scope of ministerial discretion is substantially circumscribed by a number of directives, including those relating to environmental impact assessment, public participation in decision making, access to justice on the environment and public access to environmental information. As it is not an absolute power, I do not think the Deputy's concerns in this regard are well founded.

Although the question asked by Deputy Higgins about the conditions that apply to leases has nothing to do with the process we are undertaking today, it will be fundamental to our consideration of the third phase of this process. The Deputy argued that we have not properly defined the public interest, but we have a good idea what it is. Such matters will have to be dealt with.

When I left the Chamber briefly, I took advice on the question the Deputy asked about public ownership. I am satisfied the issue of ownership by the public is as clear as one could expect it to be. It is certainly clear enough for the requirements of this Bill. I agree with the Deputy that the dangers which are associated with the transfer of ownership are compounded in circumstances in which unscrupulous types might have access to the commodities being transferred. Quite frankly, there is an obligation on the Government and on the Oireachtas to ensure the public interest is defended in this regard.

Deputy Higgins also made a point about the concept of intergenerational justice, which is beginning to gain considerable credence. It will be of great importance to the third phase of this process, if not to the Bill before the House today. I do not know the answer to his question about the timescale for the taking of the next step. The role of the marine licence vetting committee will not be changed by this legislation. I do not doubt that its role, statutory or otherwise, will be considered when a fundamental examination of foreshore licensing is undertaken. I assure the Deputy that neither this Bill nor the subsequent legislation will have negative implications for research funding.

Deputy Ferris expressed concern about difficulty in accessing information on the Corrib gas field. I have been assured that a full process of public consultation was followed in respect of that project.

Deputy Cuffe spoke about new frontiers. The important point he made about the need to vindicate the rights of the people was very similar to the point made by Deputy Higgins, although it was expressed in somewhat different language.

Deputy Deenihan referred to key infrastructural developments. Considerable progress has been made in that regard in his constituency. To the best of my knowledge, licences have been issued in respect of the project he mentioned.

I join those Deputies, including Deputy Deenihan, who commended the Joint Committee on Climate Change and Energy Security on the work it has done, which will inform the decisions of the Department of the Environment, Heritage and Local Government in this regard.

[Deputy Tony Killeen.]

Before I took up my current position in the Department, I would have agreed with Deputy Sheehan's point about the need to expedite decisions. As a Minister of State, I can make inquiries within the relevant section of the Department about any specific case raised by a Deputy, Senator or constituent. I frequently find that the information provided in response to questions that were quite clear does not address those questions.

Deputy Tom Sheahan: We are used to that.

Deputy Tony Killeen: Some of the problems associated with resources will improve when an additional 18 officials and five engineers start to work on infrastructural projects in the Department of the Environment, Heritage and Local Government, while the current staff continue to work in the Department of Agriculture, Fisheries and Food.

Deputy Jim O'Keeffe, like many other Deputies, spoke about the size of this resource. He argued that the regulatory regime has stifled development. On the other hand, public interest questions have had to be addressed in line with the principle of the Foreshore Act 1933 which, as Deputy Barrett said, could not have foreseen the challenges that emerged. I suggest that the primacy of the public interest requirement represents a major and worthwhile benchmark.

Deputy Burke asked whether staff will move. It is intended that five engineers will move. I should point out that they are not based in Clonakilty — they are based around the country. They know what happens in Kinvara Bay, Clonakilty Bay, Lough Foyle and elsewhere. He also spoke about realistic objectives, which would have been fine in 1980 or 1981. It certainly would be much more difficult to set out realistic objectives at national level in the aftermath of a European Court of Justice finding against the country. The Deputy also made a point many others made regarding opportunities in the fields of alternative and wind energy but nobody managed to answer the question I posed in my opening address in respect of the fact that of 420 wind turbines approved only seven have been built, none in recent times.

Deputy Seán Barrett: They cannot get interconnection. That is the reason.

Deputy Tony Killeen: There are many other reasons.

Deputy Seán Barrett: They cannot get connected to the grid.

Deputy Tony Killeen: Deputy Barrett may well be right but there are also issues with regard to engineering works of a particular scale that are available in other countries but not here. There are issues concerning port facilities. The Department of the Marine, which no longer exists as such, being part of the Department of Agriculture, Fisheries and Food, has a fishery harbour in Killybegs which is currently the primary port for alternative energy transfers in the country. Perhaps the Department did something right at a particular point.

Deputy Seán Barrett: It is not the fault of the Minister of State but because the Department of Communications, Energy and Natural Resources has no involvement in the process on a legislative basis.

Deputy Tony Killeen: Deputy Barrett made the point that the 1933 Act could not have foreseen many of these matters. I also made that point.

We have provision approved for between 1,100 and 1,700 megawatts, with less than 2% built. We need to look very carefully at the reasons. Deputy Barrett is right about one of the reasons being interconnectivity but there are others. At some point it might be useful for the joint

committee to consider making a presentation to the interdepartmental marine co-ordination group if its Chairman was interested in doing that.

I can assure the Deputy and the House there is constant consultation under way at present with the Department of Communications, Energy and Natural Resources regarding any projects that contain an energy element. Concerning this Bill, the process is to transfer responsibility to two Departments and the Environmental Protection Agency, EPA. That is all that is envisaged at this stage.

Question put.

The Dáil divided: Tá, 108; Níl, 21.

Tá

Ahern, Dermot.
 Ahern, Michael.
 Ahern, Noel.
 Allen, Bernard.
 Andrews, Barry.
 Andrews, Chris.
 Ardagh, Seán.
 Aylward, Bobby.
 Bannon, James.
 Barrett, Seán.
 Behan, Joe.
 Blaney, Niall.
 Brady, Áine.
 Brady, Cyprian.
 Brady, Johnny.
 Browne, John.
 Bruton, Richard.
 Burke, Ulick.
 Byrne, Catherine.
 Byrne, Thomas.
 Calleary, Dara.
 Carey, Joe.
 Carey, Pat.
 Clune, Deirdre.
 Collins, Niall.
 Conlon, Margaret.
 Connick, Seán.
 Coonan, Noel J.
 Coughlan, Mary.
 Coveney, Simon.
 Crawford, Seymour.
 Creed, Michael.
 Cregan, John.
 Creighton, Lucinda.
 Cuffe, Ciarán.
 Cullen, Martin.
 Curran, John.
 D'Arcy, Michael.
 Deasy, John.
 Deenihan, Jimmy.
 Dempsey, Noel.
 Devins, Jimmy.
 Doyle, Andrew.
 English, Damien.
 Fahey, Frank.
 Feighan, Frank.
 Fitzpatrick, Michael.
 Flanagan, Charles.
 Flanagan, Terence.
 Gogarty, Paul.
 Gormley, John.

Hanafin, Mary.
 Harney, Mary.
 Haughey, Seán.
 Hayes, Brian.
 Hayes, Tom.
 Kehoe, Paul.
 Kelleher, Billy.
 Kelly, Peter.
 Kenneally, Brendan.
 Kennedy, Michael.
 Killeen, Tony.
 Kitt, Michael P.
 Kitt, Tom.
 Lee, George.
 Lenihan, Brian.
 Lenihan, Conor.
 McEllistrim, Thomas.
 McGinley, Dinny.
 McGrath, Mattie.
 Martin, Micheál.
 Mitchell, Olivia.
 Moloney, John.
 Moynihan, Michael.
 Naughten, Denis.
 Neville, Dan.
 Nolan, M. J.
 Ó Cuív, Éamon.
 Ó Fearghaíl, Seán.
 O'Brien, Darragh.
 O'Connor, Charlie.
 O'Dea, Willie.
 O'Donnell, Kieran.
 O'Dowd, Fergus.
 O'Flynn, Noel.
 O'Hanlon, Rory.
 O'Keeffe, Batt.
 O'Keeffe, Edward.
 O'Keeffe, Jim.
 O'Mahony, John.
 O'Rourke, Mary.
 O'Sullivan, Christy.
 Power, Peter.
 Power, Seán.
 Reilly, James.
 Ring, Michael.
 Roche, Dick.
 Ryan, Eamon.
 Shatter, Alan.
 Sheahan, Tom.
 Sheehan, P. J.
 Smith, Brendan.

Tá—*continued*

Stanton, David.
Timmins, Billy.
Treacy, Noel.

Wallace, Mary.
White, Mary Alexandra.
Woods, Michael.

Níl

Broughan, Thomas P.
Burton, Joan.
Costello, Joe.
Ferris, Martin.
Gilmore, Eamon.
Higgins, Michael D.
Howlin, Brendan.
Lynch, Kathleen.
McManus, Liz.
Ó Snodaigh, Aengus.
O'Shea, Brian.

O'Sullivan, Jan.
Penrose, Willie.
Quinn, Ruairí.
Rabbitte, Pat.
Sherlock, Seán.
Shortall, Róisín.
Stagg, Emmet.
Tuffy, Joanna.
Upton, Mary.
Wall, Jack.

Tellers: Tá, Deputies Pat Carey and John Cregan; Níl, Deputies Emmet Stagg and Joe Costello.

Question declared carried.

An Ceann Comhairle: When is it proposed to take Committee Stage?

Deputy Tony Killeen: Now.

Agreed to take remaining Stages today.

Foreshore and Dumping at Sea (Amendment) Bill 2009 [*Seanad*]: Committee and Remaining Stages.

Section 1 agreed to.

SECTION 2.

Question proposed: “That section 2 stand part of the Bill.”

Deputy Michael D. Higgins: Section 2 is the definition section. I have a very simple inquiry. There is a difference between the common law definition of “foreshore” in the Foreshore Act 1933 and the later definition in the Planning and Development Act 2000, for example. Is the definition that the Minister of State is using an extension of the 1933 definition? It is important to have clarification because there are three or four possible definitions. Does the Minister of State’s definition extend the 1933 definition to include the distance seawards?

Minister of State at the Department of Agriculture, Fisheries and Food (Deputy Tony Killeen): That is the case. It is likely to be extended at some point, but it includes the amount——

Deputy Michael D. Higgins: There is nothing to preclude that.

Deputy Michael Creed: No, there is nothing to preclude that.

Deputy Michael D. Higgins: I thank the Minister of State.

Section 2 agreed.

Sections 3 and 4 agreed.

NEW SECTION.

Deputy Michael Creed: I move amendment No. 1:

In page 7, before section 5, but in Chapter 2, to insert the following new section:

“5.—The Minister shall publish and lay before the Houses of the Oireachtas a strategic review of existing foreshore legislation and a new framework for foreshore licensing and development within six months of the enactment of the *Foreshore and Dumping at Sea (Amendment) Bill 2009*.”.

In his speech, the Minister of State stated that modernisation of the legal framework is not the purpose of this Bill. Lest we have an interminable delay, it is important to use the opportunity afforded by this Bill to put down a marker which ensures that within six months we will have a report on the necessary framework.

Deputy Seán Barrett: I support this amendment and ask the Minister to accept it. It will not do any damage to the existing proposals. This country cannot afford to wait any longer to deal with the issue of applications for offshore renewable energy. The matter is too important. The number of onshore jobs which would be created by the development of offshore energy is enormous. I will outline an example. I spoke to a large multinational company yesterday which bought a company in Denmark with approximately 50 employees some years ago. Today it employs 3,500 people in the manufacturing of turbines alone.

If somebody arrived at the Taoiseach's door tomorrow and said he or she wished to invest in this country and could guarantee that within a short space of time 3,500 jobs could be created in manufacturing alone, every agency in the State would be crawling over the person involved. He or she would be having dinner in Farmleigh and would be brought to every State function, and rightly so if he or she was bringing inward investment into the country. We are ignoring those who are crying out for immediate action to be taken to enable them to get on with their investments.

That is why, as I said in my initial contribution, it is essential that in dealing with this issue the Department of Communications, Energy and Natural Resources is included. One cannot develop offshore energy unless there is a connection to the grid. A new grid must be built which is capable of carrying sufficient power so we could be net exporters of electricity into the interconnection into Britain and Europe.

The European Union is proposing a super grid structure, which is part of what we voted on in the referendum on the Lisbon treaty, namely, that we would enable the European Union to develop a European energy policy. We are an island nation sitting on the western extremity of Europe and are currently totally dependent on gas from Russia. We have a resource which people are crying out to invest in and we do not have the legislative structure for them to do so.

I ask anybody on the other side of the House to get up off their backsides and go to meet people who wish to invest. The Government should not listen to me if it does not believe me, but it can come to our committee when such people appear before it and listen to their complaints. It could look up the website where we published the remarks we received from all types of people, including investors and members of the public, regarding our future electricity requirements.

We are spending €6.5 billion each year on importing fossil fuels into the country. Within a relatively short space of time we could transfer that money into the development of a business which would produce exports. Instead of sending €6.5 billion out of the country we could

[Deputy Seán Barrett.]

develop an industry here with a natural resource, but we do not have the structures to do so. This Bill does not provide for these structures.

As I said at the outset, the Joint Committee on Climate Change and Energy Security has produced a Bill which has not been examined. There is no mention in the Bill we are debating of bodies such as the Marine Institute, which has all the necessary information and has done all the mapping. The committee has nominated the Marine Institute as the planning authority to draw up a development plan. It is based in the Minister of State's constituency, which is the correct place for it because all the major offshore development will take place off the west coast. If we get our finger out, places like Mayo and Galway will become the Aberdeen of Ireland in the not too distant future.

It is an absolute disgrace that not only will people not listen to us but they deliberately ignore us. Having produced a Bill 12 months ago, the Leader of the Opposition and I have constantly asked where the Bill has gone. We sent it to the correct place, the Department of Communications, Energy and Natural Resources, but nobody seems to care. The other side of the House is entertaining the unions, telling us how to run the country and where we will get cuts. We have an opportunity to create jobs and inward investment but nobody is bothering to create the circumstances in which such development can take place. One cannot take €16 billion, which is waiting to be invested, and throw it away. With every day that passes, investment is going to other countries. If the Government does not believe me, it should talk to the people concerned. The investment has gone to Portugal, Denmark and Scotland. People are opening their arms to such investment.

I met Irish investors recently who have spent €52 million so far on developing a machine for tidal energy, which is being tested in Nova Scotia and Scotland because they cannot get a foreshore licence to do it here as we do not have the structures in place. We are rushing this Bill through the Dáil in two hours. It is no wonder the public are cynical about what is happening in this place. It is outrageous and people like me and others on the Opposition benches are wasting our time trying to encourage people to invest in this country. The Government, which has the power to do so, will not bother to introduce the necessary structures for that to happen. It is an absolute disgrace and if it cannot be bothered to allow investment to happen and stop the haemorrhage of jobs and investment from the country, the sooner it leaves its position the better.

I apologise for taking up so much time, but it is the only chance I have on the floor of the House to discuss the disgrace which is taking place. It has taken the Government two and a half years to get to the stage where it is transferring responsibility for foreshore licences from the Department of Agriculture, Fisheries and Food to the Department of the Environment, Heritage and Local Government. We are a laughing stock. That we are an island nation and the Foreshore and Dumping at Sea (Amendment) Bill 2009 is being handled by the Department of Agriculture, Fisheries and Food is a subject for a pantomime. It is a joke.

One can imagine the outcry in the country if it were decided to abolish the Department of Agriculture, Fisheries and Food. The farmers would be marching on the streets. However, with the stroke of a pen Fianna Fáil abolished the Department of the Marine without consulting anybody. It is an absolute disgrace.

Deputy Andrew Doyle: I support this amendment. Unless amendments such as this are incorporated in the Bill, it is a wasted opportunity and time will be lost. I could not agree more with Deputy Barrett's contribution. Instead of abolishing the Department of the Marine, we should have enhanced its role to include natural resources and developed that area. Some 93% of the territory of the country is under water, which is a significant resource. The Minister of State's

speech noted that the guiding principle of moving the role and function, in terms of licensing, to the Department of the Environment, Heritage and Local Government was because its primary role was to pursue sustainable development.

We have an opportunity. We cannot bury the review of the foreshore licensing legislation any longer and waste more time. As Deputy Barrett said, Irish and non-Irish companies are waiting to invest millions of euro in this area and trials are being moved from this country to other parts of the world in an effort to develop prototypes.

It is not sufficient to say that only seven of the 420 licensed wind turbines have been allowed. There are other reasons for that. Wave and tidal power stands waiting to be developed. As I said in last night's debate on climate change, when the Gulf States discovered they had a resource and an energy source in abundance that the world needed, they got their act together and have had 40 years of sustained economic growth which they have invested well. The Celtic tiger might have been the Lotto 1 squandered, but this is an open door to the Lotto 2. We are procrastinating and waiting for another Bill. While the Bill is not perfect, it will be improved if the Minister of State accepts the amendment.

Deputy Michael D. Higgins: I support the amendment. I cannot understand why there could not be a faster track licensing system for licensing anything located at sea. We need to segregate those applications which have had an extension of the planning legislation towards them. In other words, there is a distinction between onshore applications and marine applications. Where they are purely marine applications, I suggest that the Minister of State, in the spirit of the co-operation on offer from all sides of the House, should take the survey by the Marine Institute and the economic plan — it had actually produced a plan on economic opportunities for marine based development — and in the short term look at the licensing system for that in accordance with standards already laid down. There is no reason not to fast-track that grouping. Where contentious issues arise regarding consultation, they are nearly always ones where, for example, the Planning and Development Act 2000 has extended into areas contiguous to local authority control zones and whatever. There is considerable merit in seeking to get the maximum employment yield from what can be done in the quickest possible term, driven on by organisations like the Marine Institute and the research institutions.

Deputy Tony Killeen: The Deputies have made four different points, one of which is relevant to the amendment. The question of abolishing and setting up the Marine Institute was discussed on Second Stage and I set out the reasons and history regarding this country and other countries. Deputy Barrett mentioned his committee's proposals previously, which refer to another Department. Regarding the research trials, my recollection and understanding is that the Marine Institute has approval for its research sites in Galway Bay and that a site investigation licence was issued for the only other one, of which I am aware, in the Mayo area, but it was not acted upon for reasons that had nothing to do with the grid or the granting of the licence. I understand they were for the reasons I outlined on Second Stage.

Regarding the amendment, the Bill is specifically concerned with transferring foreshore functions from one Department to the Department of the Environment, Heritage and Local Government. The Minister for the Environment, Heritage and Local Government has indicated that he intends to reform significantly the foreshore legislation. As I outlined at the end of Second Stage, three phases are involved, one of which was completed in September 2008. This legislation represents the second stage and the third stage which involves a degree of consultation with stakeholders and the wider public will come next, which the Minister, Deputy Gormley, has indicated he intends doing.

[Deputy Tony Killeen.]

Of course I agree with the arguments and principle outlined by Deputy Creed because we want to see this happening as quickly as possible. However, it would be entirely inappropriate to time-constrain a process that requires the input of stakeholders and interested parties into the legislation. It would be inappropriate if the third phase, modernising the foreshore licensing in legislation, was constrained in time and not done properly. While I understand the intent and obviously will use any influence I have to have it happen as quickly as possible, we need to have a reasonable degree of consultation.

All the major issues outlined by Deputies Higgins, Ferris, Cuffe and virtually every other speaker in elements of their speeches are taken into account.

Deputy Michael Creed: I am disappointed by the response of the Minister of State. We are seeking to put a timeframe on it because of the economic imperative. Too much of this debate is open-ended and too much is taken on good faith. Regrettably, that good faith has not been honoured. We need only consider the last amendment I tabled on aquaculture licensing and the delays there. This amendment sets a timeframe. This is a sector that has enormous economic potential and I ask the Minister of State to reconsider.

Deputy Seán Barrett: It is ridiculous to divide up responsibility and give the Department of the Environment, Heritage and Local Government responsibility for foreshore licensing. It is not possible to develop a marine policy to deal separately with offshore renewable energy, fisheries and commercial transport. They are all integrated. Our proposal is that the Marine Institute should be the planning authority and should draw up the development plan. It is not possible to draw up a development plan for offshore activities without taking into account all the other activities, including fisheries, ferries and normal commercial traffic on our seas. Here we are, an island nation, dividing responsibility between the Department of the Environment, Heritage and Local Government, which mainly deals with onshore activities and the Department of Agriculture, Fisheries and Food. The activities will now be spread all over the place. It makes basic common sense to anybody that when developing a resource — in this case our waters — we should make certain that responsibility for all the activities in that area is in the one place in order to have a co-ordinated plan. This is why the amendment placing a six-month time limit is so important. We cannot afford to wait — we do not have that luxury.

Deputy Tony Killeen: The philosophy underpinning this legislation is that there is a relationship between spatial planning on land and on sea and for that reason the Department of the Environment, Heritage and Local Government is the appropriate one for dealing with these issues. The sea fisheries responsibilities will remain with the Department that has food and agriculture responsibilities.

I agree with a number of the proposals that Deputy Barrett mentioned. However, I fundamentally disagree with undermining the independent standing of the Marine Institute as a scientific body, which is extremely important in strategic terms for Ireland, in fishery terms and indeed in consideration of any of these matters. While there is a strong case to be made for bringing that planning element under one body, I would be very strongly opposed to the Marine Institute being it.

In this instance I believe the timeframe proposed does not belong in the Bill. I do not believe it is attainable and it could impact negatively on the capacity of people to have an input if they so desire.

Amendment put and declared lost.

SECTION 5.

Question proposed: “That section 5 stand part of the Bill.”

Deputy Seán Barrett: I wish to point out to the Minister that where our proposals refer to the Marine Institute as the planning authority, it meant an authority to draw up a development plan. The planning authority in dealing with planning applications would be An Bord Pleanála through the critical infrastructure provisions.

Question put and agreed to.

SECTION 6.

Question proposed: “That section 6 stand part of the Bill.”

Deputy Michael D. Higgins: Section 6(1) proposes inter alia to insert the following:

‘1C.—References in the *Foreshore Acts 1933 to 2009* to foreshore belonging to the State shall be construed as references to foreshore which for the time being belongs to the State, including foreshore so belonging whether by virtue of Article 10.2 of the Constitution or otherwise.’.

What is meant by the phrase “which for the time being belongs to the State”? I would like the Minister of State to give an assurance that ownership by the people of the entire foreshore as outlined in Articles 10.2, 10.2 and 10.3 of the Constitution is not affected in any way. This provision disturbingly suggests that the State might dispose of the foreshore. I understand that when licensing the State gives a 99-year lease. There is, in some of the older Foreshore Acts, the dangerous possibility of adversarial possession by people who are effectively squatting on a public property. I ask the Minister to clarify that there is no mitigation of rights in this regard. I am interested in how the wording “which for the time being belongs to the State” came to be. The Minister has not in any of his speeches so far spoken about the vesting, sale or disposal by the State to private interests of what is public property.

Deputy Tony Killeen: I understand the term referred to by Deputy Higgins is a parliamentary drafting term. As far as I can see he is referring to page 9 of the Bill, which refers to “foreshore which for the time being belongs to the State, including foreshore so belonging whether by virtue of Article 10.2 of the Constitution or otherwise.” It must be pointed out that as a general principle, foreshore licences are extended for a period of 35 years. There have been some for 99 years but they are the exception rather than the rule. There may well be elements of foreshore which are currently assigned by foreshore licences to individuals, bodies or companies; I understand the wording to which the Deputy refers is the drafting device for referring to the remainder.

Deputy Michael D. Higgins: There are references in the old case law to 17th century grants by the king of rights to the foreshore. I would like an assurance from the Minister that in phase 3 — the next piece of legislation — there will be an absolute quenching of any such rights, which are an abuse of the constitutional position under Articles 10.1, 10.2 and 10.3 and have caused incredible grief in different places. There is no basis for it in contemporary law, but there are some private claims. This needs to be quenched.

Deputy Tony Killeen: Deputy Higgins has raised an interesting point which was also raised by a number of Deputies on Second Stage. There are two functions in the area of foreshore licensing; one is ownership and the other is use, which is analogous to planning. There have

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been historical ownership issues, some of which are claimed to be extant. The important thing about this legislation is that there is no change whatever in the current situation with regard to public ownership of any of the foreshore. Another Department will deal with the next Bill so I cannot give the Deputy an undertaking in that regard.

Deputy Michael D. Higgins: There must be a commitment from the new authority that it will vindicate the constitutional right of the State under Article 10.3. It is the State, on behalf of all of the people, that owns all resources on the foreshore. Therefore, any attempt to exclude the public is wrong and unconstitutional. I ask that the new authority, when it moves to the Department of the Environment, Heritage and Local Government, become the equivalent of an activist in terms of enforcing the rights of the public.

Deputy Tony Killeen: I understand there may be some interesting case law in this area.

Deputy Michael D. Higgins: There is.

Deputy Tony Killeen: I am sure the Department will consider this closely. I strongly agree with the principle enunciated by the Deputy.

Question put and agreed to.

Section 7 agreed to.

SECTION 8.

Deputy Michael Creed: I move amendment No. 2:

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

“and the appropriate Department in the Northern Ireland Assembly”.

This amendment proposes to oblige the Minister, when considering granting a foreshore licence in the vicinity of either Carlingford or Lough Foyle, to consult with the relevant Department in the Northern Ireland Assembly. This makes sense and I ask the Minister of State to accept the amendment.

Deputy Tony Killeen: The intent of this section is to ensure co-ordination between the two Departments involved after the transfer of functions, which is vital for the efficient and effective operation of the Foreshore Acts. There is already routine initiation of consultation with other authorities in certain cases and I have no doubt that will continue. In any event, there is an obligation on each of the Ministers to consult with the appropriate authorities under the European Communities (Foreshore) Regulations 2009, SI 404, which specifically provide for trans-boundary consultation in cases in which an environmental impact statement accompanies the application. Thus, the issue is already dealt with.

Deputy Michael Creed: Is the Minister of State accepting the amendment?

Deputy Tony Killeen: It is already provided for. We must avoid duplication because that would raise questions about non-duplication in other instances.

Deputy Michael Creed: I accept the Minister’s assurances.

Amendment, by leave, withdrawn.

Section 8 agreed to.

Sections 9 to 11, inclusive, agreed to.

SECTION 12.

Deputy Martin Ferris: I move amendment No. 2a:

In page 11, line 42, after “provided.” to insert the following:

“The Minister will also consult with representative community and business groups with an interest in the foreshore for which the application has been made.”.

This amendment is complementary to that tabled by Deputy Higgins in that it would ensure local interest groups are given a say in how enterprises develop in their areas. There are painful memories of certain events that have occurred in the past two years, including the jailing of what I would call community activists for standing up against powerful multinationals which, shamefully, were supported by the Government and the legal system. I am referring to areas such as Rosspoint, Ballinaboy and the Corrib area, the latter of which contains fantastic resources. Nobody was against the bringing to shore of these resources, but there was a need for provisions to ensure the safety of the community as a whole. We have seen the latest results in this regard from An Bord Pleanála, which came down in favour of the community activists.

We seek to democratise this Bill. The Green Party, which is currently in Government, sat on this side of the House and, in its position in Opposition, advocated the decentralisation of power and its delegation to local communities, yet its members now stand against the communities they claimed to support. It is amazing what power does to people. It corrupts absolutely.

We do not ever again want to see citizens imprisoned as a result of their genuine concerns for their community. We do not want to see a multinational oil company paying for a facility for a political party at the Galway races. We do not want to see substantial donations from major oil companies compromising the political system of the State. What we want to see is the utilisation of our resources for the benefit of all. In particular, we want to ensure that the rights of people and communities are protected. People who have genuine concerns, such as the concerns of those in the Rosspoint area about the laying of a gas pipeline at their own back doors, must be protected. I ask the Minister to consider accepting this amendment in the interests of safety, democracy and ownership of our natural resources by the communities at the front line.

Deputy Barrett mentioned the major resource potential of the west coast, all the way from Youghal and around the south coast, up through the Porcupine Basin and as far as the Corrib area. These resources are largely untouched. The political representatives from the latter area will testify to the disastrous decision regarding licensing. Communities must be protected. We want to bring back democracy to local communities and to undo the centralisation of power.

Deputy Michael D. Higgins: Much of this can be facilitated. The amendment is reasonable.

We will be defeated this evening, but the advantage of preparing for the third phase of the legislation is that some fundamental principles need to be laid down such as are contained in this amendment, namely, the concept of the public ownership of the foreshore, the concept of public usage, the concept of balanced multiple and differentiated usages, be it in terms of seaweed, fishing, access, recreation or public access. I have no hesitation in stating that the idea that any island people would face barbed wire cutting them off from the sea must not be accepted. It simply must be outlawed. More importantly, as Deputy Ferris has said, the sheer scale of what has been visited upon a small Irish-language speaking community is so vast that

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suddenly they are presented as the people standing in the way of something that is for the greater good, and we are right back to the definition of the public interest. There can be no serious consideration of public interest unless there is adequate consultation. The consultation, to which we will come in a moment, should be not be on behalf of local authorities with managers but with elected public representatives. Neither should it be between corporations and a few people locally but with representative community voices.

This is a simple point. We need jobs and development, but people have a relationship with place and community. The example Deputy Ferris has given is an Irish-language speaking community which one day woke up to find people with an appalling international record for trampling on native people's rights had moved in on top of them. As the Minister who was responsible for bringing into law some of the protections for the environment and for birds, I must say these were thrown aside. It really was a case of the media getting involved then and, as might be expected, it was the people who had the largest trough of money who counted in the end.

Deputy Tony Killeen: I understand the principle which Deputy Ferris is trying to establish and have included in the legislation, but it will not surprise him that I disagree with much of the remainder of what he said. The consultation requirements for foreshore consent applications are set out in sections 19 and 19A of the Foreshore Acts together with the European Communities Foreshore Regulations 2009. Public consultation via newspapers circulating in the local area, industry periodicals and the placement of application details in local Garda stations, libraries, etc., is a well-established part of the licensing process. If Deputies Ferris, Michael D. Higgins or anybody else have concerns in that regard, it is a principle established under the Aarhus Convention to which we are signatories — and a number of other directives — which guarantees that the consultation standards are set at a particular level and will continue to apply to both Departments subsequent to the enactment of this legislation.

Deputy Martin Ferris: I do not want to go back over what I stated already. I will press this amendment in the interests of democracy and local accountability. As Deputy Michael D. Higgins stated, it is disgraceful that elected local representatives are excluded and the power given over to unelected bureaucrats or county managers, etc. It is a dangerous step to exclude local democracy.

Deputy Tony Killeen: As I stated, the intent of Deputy Ferris's amendment is perfectly clear and is already more than adequately provided for in the legislation and in the convention. There is no merit in duplication in this instance. In fact, it creates all kinds of dangers. I cannot accept the amendment.

Amendment put and declared lost.

Deputy Michael Creed: I move amendment No. 3:

In page 11, after line 42, to insert the following:

“(c) regulation made under paragraph (b) shall be made within 30 days of the commencement of this section.”.

This also is a time-related amendment. We are anxious to ensure there is no undue delay.

Deputy Tony Killeen: The legislation with which we are dealing gives both Ministers — the Minister for the Environment, Heritage and Local Government following consultation with the Minister for Agriculture, Fisheries and Food — power to make regulations specifying the

bodies which are to submit their observations to either Minister on foreshore applications. I understand the intention of the Minister for the Environment, Heritage and Local Government is to make these regulations quickly. It will address, perhaps, one of the fundamental issues related to delays which was raised by several speakers in the course of the Second Stage debate because there then will be a specified period within which the bodies which have a right to make submissions must make such submissions. It will be dealt with in any event. In the context of the process for doing so, this amendment would be entirely unhelpful and I must reject it.

Amendment, by leave, withdrawn.

Deputy Michael D. Higgins: I move amendment No. 4:

In page 12, between lines 5 and 6, to insert the following:

“(4) The making of submissions by a local authority under regulations under this section or under section 19A shall be a reserved function.”.

Put simply, this means a consultation with a local authority could, if one just leaves it like that, be a consultation with a nominated official such as a director of services or a nominee of the city or county manager. This amendment provides for an element of local consultation, in that the elected representatives will be the people who will have an opportunity to hear the proposal. I understood many Members from the Government side spoke in favour of such a development on Second Stage and I hope the Minister of State will accept this amendment.

Deputy Seán Sherlock: I support the amendment. The Minister of State spoke of the Aarhus Convention. To my mind, that is a minimal set of standards. In this amendment we seek to buttress that even further to provide for some degree of democratic accountability. It also speaks to the issues raised by Deputy Ferris whereby if it is a reserved function, one is guaranteed it will be wholly democratic and wholly representative.

Deputy Tony Killeen: As Members will be aware, as a general principle a decision which is relevant to a particular site, individual grant, etc., is generally, under local authority law, a matter for the county manager, whereas the reserved functions of a council in general terms relate to policy making, the adoption of county development plans, etc. As someone who for a long time served as a member of a local authority, I wish our experience nationally had been such that we would be encouraged and in a position to transfer more functions directly to local authority members, but that is not necessarily the case. The effect of the amendment would be to quite strongly contravene Schedule 15 of the Local Government Act 2001 and would go against a principle which is set out fairly strongly in local government law and in planning law heretofore.

Deputy Michael D. Higgins: It is set out in planning legislation and it has not worked. The Minister of State draws on his experience and I draw on mine. There is a greater flair for efficient, fast consultation with those who are making a proposal than for wanting to embrace the views of the public in a wide way. I am committed as a person elected to an assembly. For a long time I was a member of two local authorities. I accept that in the long history of local authorities there have been people who behaved in different ways, but the local authority members are still the elected people in whom trust has been placed.

Frankly, I sometimes worry about the bureaucratic way. The most well-meaning suggestions are buried in the new system which has grown up around county and city managers. It would have been an interesting development if the McCarthy report had examined the question of

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the administration of the State and looked at all the managers. Maybe that is a way to save money. If the Government wants to do something very radical, we will do that on another day.

One of the principles to which I am absolutely committed is that if one holds elections and elects councillors and if one is not satisfied with them, there is another election coming. However, the same is not necessarily true of managers, assistant managers, directors of services and others. Therefore, I am pressing this amendment and will be calling for a vote on it.

Deputy Tony Killeen: Deputy Higgins is undoubtedly right that it is possible to dispose of all of us who are elected public representatives.

Deputy Michael D. Higgins: Indeed.

Deputy Tony Killeen: Unfortunately, decisions which are made by people often have an impact that lives on long past their political careers or even beyond their lifespan.

Deputy Tom Sheahan: The evil that men do lives after them.

Deputy Michael D. Higgins: Like the city manager of Dublin who was not criticised by another city or county manager in the whole country.

Acting Chairman (Deputy Jack Wall): Deputy Higgins should let the Minister of State reply.

Deputy Tony Killeen: Let me make it clear that I am not defending anybody on either side of the divide. However, there is a long-established principle in local government law and planning law that there is a division between the reserve function performed by elected members and functions performed by the management. In this instance, the particular matter we are dealing with falls into the area normally dealt with by management. I am not in a position to accede to the amendment.

Acting Chairman: Is the amendment being pressed?

Deputy Michael D. Higgins: Yes.

Amendment put.

The Committee divided: Tá, 61; Níl, 66.

Tá

Allen, Bernard.
Bannon, James.
Barrett, Seán.
Broughan, Thomas P.
Bruton, Richard.
Burke, Ulick.
Burton, Joan.
Byrne, Catherine.
Carey, Joe.
Clune, Deirdre.
Coonan, Noel J.
Costello, Joe.
Coveney, Simon.
Crawford, Seymour.
Creed, Michael.
Creighton, Lucinda.
D'Arcy, Michael.
Deasy, John.
Deenihan, Jimmy.

Doyle, Andrew.
English, Damien.
Feighan, Frank.
Ferris, Martin.
Flanagan, Charles.
Flanagan, Terence.
Gilmore, Eamon.
Hayes, Brian.
Hayes, Tom.
Higgins, Michael D.
Howlin, Brendan.
Kehoe, Paul.
Lee, George.
Lynch, Kathleen.
McGinley, Dinny.
McManus, Liz.
Mitchell, Olivia.
Naughten, Denis.
Neville, Dan.

Tá—continued

Ó Snodaigh, Aengus.
 O'Donnell, Kieran.
 O'Dowd, Fergus.
 O'Keeffe, Jim.
 O'Mahony, John.
 O'Shea, Brian.
 O'Sullivan, Jan.
 Penrose, Willie.
 Quinn, Ruairí.
 Rabbitte, Pat.
 Reilly, James.
 Ring, Michael.

Shatter, Alan.
 Sheahan, Tom.
 Sheehan, P. J.
 Sherlock, Seán.
 Shortall, Róisín.
 Stagg, Emmet.
 Stanton, David.
 Timmins, Billy.
 Tuffy, Joanna.
 Upton, Mary.
 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.
 Collins, Niall.
 Conlon, Margaret.
 Connick, Seán.
 Cregan, John.
 Cuffe, Ciarán.
 Cullen, Martin.
 Curran, John.
 Dempsey, Noel.
 Devins, Jimmy.
 Fahey, Frank.
 Fitzpatrick, Michael.
 Gogarty, Paul.
 Hanafin, Mary.
 Harney, Mary.
 Haughey, Seán.
 Kelleher, Billy.
 Kelly, Peter.

Kenneally, Brendan.
 Kennedy, Michael.
 Killeen, Tony.
 Kitt, Michael P.
 Kitt, Tom.
 Lenihan, Brian.
 Lenihan, Conor.
 McEllistram, Thomas.
 McGrath, Mattie.
 Mansergh, Martin.
 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, Peter.
 Power, Seán.
 Roche, Dick.
 Ryan, 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.

An Ceann Comhairle: I am required to put the following question in accordance with an order of the Dáil of this day: “That the amendments set down by the Minister for Agriculture, Fisheries and Food for Committee Stage and not disposed of are hereby made to the Bill, in respect of each of the sections undisposed of that the section is hereby agreed to on Committee Stage, Schedule 1 is amended, Schedule 2 and the Title are hereby agreed to on Committee Stage, that the Bill, as amended, is accordingly reported to the House, Report Stage is hereby completed and the Bill is hereby passed.”

Question put.

The Dáil divided: Tá, 66; Níl, 61.

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.
 Devins, Jimmy.
 Fahey, Frank.
 Fitzpatrick, Michael.
 Gogarty, Paul.
 Hanafin, Mary.
 Harney, Mary.
 Haughey, Seán.
 Kelleher, Billy.
 Kelly, Peter.

Kenneally, Brendan.
 Kennedy, Michael.
 Killeen, Tony.
 Kitt, Michael P.
 Kitt, Tom.
 Lenihan, Brian.
 Lenihan, Conor.
 McEllistram, Thomas.
 McGrath, Mattie.
 Mansergh, Martin.
 Martin, Micheál.
 Moloney, John.
 Moynihan, Michael.
 Nolan, M. J.
 Ó Cuív, Éamon.
 Ó Fearghaíl, 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, Peter.
 Power, Seán.
 Roche, Dick.
 Ryan, Eamon.
 Smith, Brendan.
 Treacy, Noel.
 Wallace, Mary.
 White, Mary Alexandra.
 Woods, Michael.

Níl

Allen, Bernard.
 Bannon, James.
 Barrett, Seán.
 Broughan, Thomas P.
 Bruton, Richard.
 Burke, Ulick.
 Burton, Joan.
 Byrne, Catherine.
 Carey, Joe.
 Clune, Deirdre.
 Coonan, Noel J.
 Costello, Joe.
 Coveney, Simon.
 Crawford, Seymour.
 Creed, Michael.
 Creighton, Lucinda.
 D'Arcy, Michael.
 Deasy, John.
 Deenihan, Jimmy.
 Doyle, Andrew.
 English, Damien.
 Feighan, Frank.
 Ferris, Martin.
 Flanagan, Charles.
 Flanagan, Terence.
 Gilmore, Eamon.
 Hayes, Brian.

Hayes, Tom.
 Higgins, Michael D.
 Howlin, Brendan.
 Kehoe, Paul.
 Lee, George.
 Lynch, Kathleen.
 McGinley, Dinny.
 McManus, Liz.
 Mitchell, Olivia.
 Naughten, Denis.
 Neville, Dan.
 Ó Snodaigh, Aengus.
 O'Donnell, Kieran.
 O'Dowd, Fergus.
 O'Keeffe, Jim.
 O'Mahony, John.
 O'Shea, Brian.
 O'Sullivan, Jan.
 Penrose, Willie.
 Quinn, Ruairí.
 Rabbitte, Pat.
 Reilly, James.
 Ring, Michael.
 Shatter, Alan.
 Sheahan, Tom.
 Sheehan, P. J.
 Sherlock, Seán.

Níl—*continued*

Shortall, Róisín.
Stagg, Emmet.
Stanton, David.
Timmins, Billy.

Tuffy, Joanna.
Upton, Mary.
Wall, Jack.

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

Question declared carried.

Estimates for Public Services 2009: Message from Select Committee.

An Ceann Comhairle: The Select Committee on Agriculture, Fisheries and Food has completed its consideration of the following Supplementary Estimate for Public Services for the service of the year ending 31 December 2009: Vote 31.

Civil Partnership 2009: Order for Second Stage.

Bill entitled an Act to provide for the registration of civil partners and for the consequences of that registration, to provide for the rights and obligations of cohabitants and to provide for connected matters.

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I move: “That Second Stage be taken now.”

Question put and agreed to.

Civil Partnership Bill 2009: Second Stage.

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I move: “That the Bill be now read a Second Time.”

The commitment to civil partnership is shared by all parties in this House. It is a core Government commitment and is contained explicitly in the programme for Government negotiated between Fianna Fáil and the Green Party. My own party’s 2007 manifesto contained the clear commitment that, “based on our republican ethos and building on the agenda for equality to which we are committed” Fianna Fáil, if re-elected, would introduce civil partnership legislation in order that same sex couples could live in a supportive and secure legal environment. Today, through the Civil Partnership Bill 2009, the Government responds to these commitments.

Its response, set out in 206 sections and a schedule that contains 119 consequential amendments of existing legislation, is one of the most comprehensive measures to come before the House for debate. The attention to detail required of this Bill has inevitably taken time. However, given the complexity, scope and range of the subject matter, I suggest it has been time well spent in putting the required form and shape on the Bill. For a Bill so large and complex, its Long Title probably comes as a surprise. It simply states:

An Act to provide for the registration of civil partners and for the consequences of that registration, to provide for the rights and obligations of cohabitants and to provide for connected matters.

This Bill takes nothing from anyone but what it gives is profound and is positive.

It creates for the first time in Irish law a scheme under which a same sex couple can formally declare their allegiance to each other, register their partnership under new provisions in the

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Civil Registration Act 2004, commit themselves to a range of duties and responsibilities and at the same time be subject under new law to a series of protections in the course of their partnership in the event of a failure of either party to maintain the other and in the event of disputes between them as to ownership of property.

Such a couple will have additional protections in the event of violence between them in their home and new rights to succeed to the property of each other are also being established. In the event of a dissolution of the partnership, there will be considerable protections in place for a dependent partner, where necessary, by way of power to the court to order maintenance, to order financial relief by way of lump sum payment, to redistribute the ownership of property between them and to provide for transfer of rights between them under any pension scheme of which either is a member. Where a person dies after dissolution of a civil partnership, the court may order provision from the estate of the deceased for his or her surviving former partner.

These are highly specific measures that are being provided for in the law for the first time. Up to only a few short years ago they are measures that would have been unheard of in any jurisdiction. In many other respects, however, our laws regarding gay and lesbian persons have been the subject of a modern code. The Prohibition of Incitement to Hatred Act 1989 banned incitement to hatred of a person or a group of people on a range of grounds, including sexual orientation. In 1993, the Criminal Law (Sexual Offences) Act finally decriminalised male homosexual acts. The Employment Equality Act 1998 and the Equal Status Act 2004 made it an offence to discriminate against people in employment or in the provision of goods and services, on a range of grounds, again including sexual orientation. Through these legislative measures, the State clearly has shown that people as individuals are entitled to receive fair and equal treatment whether they are gay, lesbian or heterosexual. The State has put in place the legal infrastructure to safeguard this entitlement to equal treatment. It is now time to move forward and to add to the legal protections in place for persons against discrimination and exclusion. The absence of official recognition and affirmation for same-sex relationships only helps to reinforce prejudice and inequality in society.

The Bill will substantially change the legal landscape for same-sex couples. As well as dealing with many vital and pressing legal difficulties experienced by same-sex couples, including maintenance, pension provision, protection of tenancies, their shared home and succession, it will also address very practical matters for same-sex partners. The Bill ensures they will be always entitled to visit if one is hospitalised, can be treated as next-of-kin and on the death of a partner are entitled to notify the death and arrange the funeral. Gay and lesbian organisations deal daily with problems about which most of us never have to think but which routinely arise for gay couples or a surviving partner. These can range from the inability to access State benefits like the carer's allowance to care for a seriously ill partner, to a man's additional grief that his partner is recorded on his death certificate as being single, an official denial of thirty years of life together.

These are not hypothetical cases. They are the real experiences of gay Irish couples in recent years and ones more couples will have if we do not reform the law. Enactment of the Bill will mean that gay couples will no longer have their relationships ignored. They will have the protection and the recognition of the State in its laws.

Deputies will appreciate that a Bill of this kind has had to be carefully prepared with the provisions of our Constitution. Were the Bill to go beyond what is allowed under the Constitution, it would fundamentally undermine the balance it attempts to achieve. In this complex exercise of trying to achieve balance, I am grateful to the Attorney General and his office for the advices he has provided. I also thank the Colley group for examining the background,

taking on board submissions and presenting options for making new provision in our law for same-sex couples and other cohabitants. The recommendations of the Oireachtas Committee on the Constitution have also informed the policy proposed in the Bill.

The Attorney General has advised in particular that to comply with the Constitution, it is necessary to differentiate the recognition being accorded to same-sex couples who register their partnership with the special recognition accorded under the Constitution to persons of the opposite sex who marry. While there is the need to respect the entitlement to equality that same-sex partners enjoy under Article 40.1 of the Constitution, there is also the need to respect the special protection which Article 41 gives to marriage. The Bill, therefore, has been carefully framed to balance any potential conflict between these two rights.

Another key feature of the Bill is that it gives recognition to the fact that the law needs to intervene to offer better protection to vulnerable persons in long-term same-sex or opposite-sex relationships when that relationship ends. At present, cohabiting couples have few legal responsibilities to each other. Many cohabiting couples do not realise just how little protection they are entitled to until things go wrong, whether through the acrimonious break-up of a long relationship or the sudden unexpected death of a partner.

When I launched the general scheme of the Bill, I was asked how the provisions relating to cohabitants differed from common law marriage. Many couples are under a misapprehension that the longevity of a relationship is sufficient to provide them with certain rights and protections in all sorts of areas from common ownership of property to next-of-kin or inheritance rights. Under the law, this is not the case. There is no entitlement to financial support and property rights do not accrue to a cohabiting partner unless he or she is making express financial contributions.

The redress scheme provided for in the Bill is largely as recommended by the Law Reform Commission. It will provide protection in the law to long-term cohabiting couples and a safety net for an economically dependent cohabitant at the end of the relationship on break-up or on death.

On break-up, a financially dependent cohabitant may apply to court for maintenance from the other cohabitant, possibly for a pension adjustment order or a property adjustment order. If the relationship ends on death, a dependent cohabitant may apply to court for provision from the estate of the deceased if, as often happens, no provision is made for the surviving cohabitant. The courts will have a substantial discretion in considering such applications.

The Bill recognises the right and capacity of couples to freely choose the legal form their personal relationships will take and the legal consequences of this choice. Some couples will prefer to opt out of the redress scheme. We should respect their autonomy to choose not to regulate their relationships. The Bill addresses this by providing for the legal recognition of cohabitants' agreements made by couples regulating their joint property or financial affairs. At the same time, it is important to achieve a balance between interfering in personal autonomy and protecting vulnerable persons. The Bill strikes that balance by providing that the courts in exceptional circumstances can vary or set aside a cohabitants' agreement where its enforcement would cause serious injustice.

In the registration of a civil partnership, same-sex civil partners will be treated in the same way as spouses under the tax and social welfare codes. The necessary legislative provisions are being provided for in the finance and social welfare Bills that will, on enactment, come into effect at the same time as commencement of the registration provisions in this Bill. There is no question of the same tax and social welfare provisions being extended to cohabitants, be they same-sex or opposite-sex couples.

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The general scheme of the Bill, published in June 2008, outlined the Government's policy proposals on immigration issues for registered civil partners or people whose relationships would be recognised as civil partnerships for the purposes of Irish law. The scheme included proposals to amend the Immigration, Residence and Protection Bill 2008 to ensure registered civil partners or equivalent relationships would be treated in the same way as spouses. For timing reasons, this has not been provided in the Civil Partnership Bill as the Immigration, Residence and Protection Bill has not yet been enacted but the appropriate amendments will be moved in due course.

A detailed explanatory memorandum, 28 pages, accompanies the Bill. No doubt a good deal of discussion will be had on Committee Stage about the Bill's various provisions which I will now outline.

The largest Part is concerned with civil partnership for same-sex couples. Part 2 confers power on the courts to make declarations that may be required about the status of a civil partnership where the legal status may be in doubt. It also empowers the Minister for Justice, Equality and Law Reform to prescribe certain categories of relationship contracted in other jurisdictions as entitled to be treated as equivalent to civil partnership under Irish law.

Part 3 inserts a new Part into the Civil Registration Act 2004 to provide for the registration of civil partnerships. Section 16 makes detailed provision for notification of civil partnership registrations, the registration process and objections. Three months notice of an intended registration is required unless, for example, one of the parties is very ill in which case an exemption may be provided. Registration will take place at the office of a registrar, or another approved venue, and a registration ceremony may be conducted if the couple so choose. The minimum age requirement is 18 years.

Part 4 provides protection for the shared home of registered civil partners. It is analogous to the Family Home Protection Act 1976 and prevents the sale of the shared home by one civil partner without the consent of the other.

Part 5 allows a civil partner to apply to court for maintenance from the other civil partner during the course of the relationship, where the other civil partner has failed to maintain the applicant civil partner. These provisions are in general analogous to Part II of the Family Law (Maintenance of Spouses and Children) Act 1976. Part 6 allows the court to make an attachment of earnings order if it considers it desirable to secure payment under a maintenance order, an interim order, a variation order or a maintenance pending suit order.

Part 7 provides that payments under maintenance orders are made without deduction of income tax, makes such orders enforceable under the Enforcement of Court Orders Act 1940, provides that certain property is joint property and makes unenforceable any provision in agreements which preclude the payment of maintenance by either civil partner to the other. Part 8 provides that for succession purposes on testacy, registered civil partners will have the same entitlements as spouses to a legal right share. So where there is a will, the entitlement is to one half of the estate if the deceased has a civil partner and no issue, and to one third of the estate if the deceased has a civil partner and issue. A child of the deceased may apply under section 117 of the Succession Act 1965 for provision from the estate if the deceased has failed to make proper provision during his or her lifetime. Unlike in existing provision in law for spouses, an order made in favour of a child may reduce the share of the estate available to a civil partner.

Where there is no will, the rules of distribution will operate in the same way for civil partners as they do for spouses. If the deceased dies leaving a civil partner and no issue, the civil partner inherits the whole estate; if the deceased dies leaving a civil partner and issue, the civil partner

inherits two-thirds of the estate and the remainder is divided between the issue. These rules are modified to provide greater rights to a child of an intestate civil partner. Where a civil partner dies intestate, a child of that civil partner may apply to court for a greater share of the estate. If satisfied that it would be unjust not to make an order, the court may order that a share be provided for that child not exceeding the share to which the child would be entitled if the parent had died with no spouse and no civil partner. Such an order may not reduce the amount to which any other issue of the deceased are entitled and the net effect would be to reduce the share of the surviving civil partner.

Part 9 extends to registered civil partners the range of civil protections for spouses provided under the Domestic Violence Acts. Part 10 provides for a wide range of miscellaneous but nevertheless important legal consequences of registration including in relation to ethics and conflict of interest — a civil partner will be treated as a “connected person” or “connected relative” in determining matters concerning ethics and conflicts of interest and declaration of interest required in regard to a spouse must likewise be made in relation to a civil partner; civil liability — a civil partner is added to the list of dependents in respect of whom a person may sue for damages for wrongful death; pensions — a pension scheme which provides a benefit for a spouse is deemed equally to provide a benefit for a civil partner; protection from discrimination — the term “civil status” is substituted for “marital status” throughout the Employment Equality Act 1998 and the Equal Status Act 2000 so that the statutory obligation not to discriminate against a person on the ground that the person is single, married, separated, divorced or widowed is extended to prohibit discrimination against a person based on the person being in a registered civil partnership or formerly in a registered civil partnership which has been dissolved.

Part 11 provides for decrees of nullity of civil partnership and the effect of a decree of nullity. The grounds for nullity are that there was an impediment to the civil partnership at the time of its registration, such as, one or both of the parties being under age at the time of registration or one or both of the parties not having given informed consent. Part 12 makes provision for dissolution of civil partnerships and the effect of a decree of dissolution. To obtain a decree of dissolution the partners must have lived apart for a period of at least two years in the previous three years and the court must be satisfied that proper provision is made for both partners. Jurisdiction in dissolution of civil partnership will lie with the Circuit and High Courts who will have powers to make extensive ancillary financial relief, property and pension orders.

Part 13 provides for matters of jurisdiction in civil partnership law proceedings including, that cases will be heard in camera; proceedings will be as informal as possible; the Circuit Court and High Court have concurrent jurisdiction to hear civil partnership dissolution proceedings and make ancillary relief orders and the District Court has jurisdiction in domestic violence cases and in certain property disputes and maintenance matters. These provisions are similar to jurisdiction in family law proceedings.

Part 14 provides for consequential amendments to other enactments, in particular the Family Law Act 1995 and the Family Law (Divorce) Act 1996. These amendments ensure that if a former spouse registers in a civil partnership, any ancillary relief orders provided to that former spouse under those Acts lapse on registration. This mirrors the position in current family law whereby many of the ancillary relief orders available under those Acts lapse on the remarriage of the spouse for whose benefit the orders were made. Other enactments are amended by means of Schedules to the Bill to confer certain property rights, rights of redress and other miscellaneous rights and responsibilities on civil partners as a consequence of registration.

Part 15 establishes the qualified cohabitants redress scheme for unregistered or unmarried cohabiting couples. As I explained earlier the redress scheme will provide protection to an

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economically dependent party at the end of a long-term same-sex or opposite-sex relationship. The redress scheme provides a protective mechanism for a financially dependent partner where the couple have not formally regulated their relationship. It is available only to cohabitants defined in the Bill as “qualified” and may be activated on termination of the relationship whether by break-up or death.

Section 170 provides that a qualified cohabitant is one of a couple who have cohabited in an intimate and committed relationship for at least three years, or two years where there is a child of the relationship. However, where one of the cohabitants is still married neither of the cohabitants may be a qualified cohabitant until the married cohabitant has lived apart from his or her spouse for a period or periods of at least four years during the previous five years, which is the separation period provided in the Constitution for divorce. The reliefs available on termination of the relationship on application to the courts are at the court’s discretion and include orders for provision from the estate of a deceased cohabitant, property adjustment orders, compensatory maintenance and pension adjustment orders.

Part 15 also establishes that an agreement between cohabitants regulating their joint financial and property affairs can be enforceable subject to the observation of certain formalities. The court may set aside a provision in an agreement only in exceptional circumstances where its enforceability would cause serious injustice. Finally, Part 15 extends certain statutory protections to cohabiting unmarried opposite-sex and unregistered same-sex couples. The Domestic Violence Acts, the Residential Tenancies Act 2004 and the Civil Liability Act 1961 are amended so that provisions in those Acts which currently apply only to couples defined as “living together as husband and wife” will apply equally to same-sex couples. A further amendment is made to the Domestic Violence Acts so that a cohabitant may apply for a safety order without a minimum period of cohabitation.

I believe this Bill is as comprehensive as possible consistent with the requirements of the Constitution. The Bill recognises that there are persons who are in committed same-sex relationships who wish to share duties and responsibilities. It affords them an opportunity to register their partnership and to be part of a legal regime that fully protects them in the course of that partnership and, if necessary, on termination of the partnership. The redress scheme is a response in law to a growing need for protection of vulnerable cohabitants. I look forward to debate on the many issues the Bill inevitably raises.

I take this opportunity to again thank the Attorney General and my staff for their intensive work on this Bill. Equally, I thank the groups who have lobbied on this issue in the past number of years. I believe today is a significant milestone for them, some of whom are represented in the Visitors Gallery. I thank them for their understanding in regard to the balance that Government had to achieve in this Bill, in particular in the context of Articles 41 and 40.1 of the Constitution. As far as we on the Government side are concerned, we have fulfilled that balance and this legislation will stand the test of time.

I commend the Bill to the House.

Deputy Charles Flanagan: Is it proposed to adjourn the Second Stage debate on this Bill this evening?

An Ceann Comhairle: Yes, at 8.45 p.m.

Deputy Charles Flanagan: On behalf of the Fine Gael party, I am proud to welcome this Bill this evening. We welcome the legislation and will support it. As the Minister stated, the legislation is a milestone and is important. The Bill is long and detailed and includes more than 200

sections, almost 120 pages, and five Schedules. It also amends 130 pieces of legislation and will require detailed debate on Committee Stage. It is important that certain aspects of the Bill that require amendment or improvement are debated at that Stage.

Essentially, the Bill is a hybrid of two separate schemes. For the purposes of this debate, I wish to address each individually beginning with civil partnership. Legislating for civil partnership is a tangible testament to how far Irish society has come. Until recently, this country was characterised by oppression, patriarchy, dogmatism and a particularly rigid and domineering brand of Roman Catholicism with an inflexible set of social rules that meant one either had to conform to or leave. Church and State were intertwined to an inappropriate degree, and religious dogma dominated discourse not only throughout society but in this Legislature. We are only too well aware of the fate of single mothers, enslaved in laundries and socially ostracised for having a child out of wedlock, a “sin” in the eyes of the church. We now know the harrowing suffering that such girls endured, and these factors must be borne in mind by parliamentarians when we shape legislation.

In the Ireland of the past, homosexuality was not tolerated to such an extent that it was a criminal offence to engage in homosexual activity. It remained a criminal offence until 1993 when the European Court of Human Rights found Ireland in breach of the European Convention on Human Rights. It is to the credit of Members of the Oireachtas, particularly Senator David Norris and others, that they played a key role in having that law removed from the Statute Book. The Ireland of the past was undoubtedly an extraordinarily difficult place for gay and lesbian citizens. There was virtually no understanding of difference. The way the churches treated homosexuality as a “sin” and a “choice” must have led to painful turmoil for gay people in this country. Thankfully, we have made great strides as a nation and we now live in a more tolerant era, characterised more by reason and science than by bigotry, superstition and fear. This Bill will help us move to a place where tolerance, diversity and inclusivity are more than mere buzz-words, but are characteristics that define our corpus of family law.

In the concluding paragraph of the judgment in the case of *Zappone and Gilligan v Revenue Commissioners*, Judge Dunne commented:

Undoubtedly people in the position of the plaintiffs, be they same sex couples or heterosexual couples, can suffer great difficulty or hardship in the event of the death or serious illness of their partners It is hoped that the legislative changes to ameliorate these difficulties will not be long in coming. Ultimately, it is for the legislature to determine the extent to which such changes should be made.

The plaintiffs in this case, Katherine Zappone and Ann Louise Gilligan, are a same sex couple who sought a judicial review after the Registrar General and the Revenue Commissioners refused to recognise the validity of their 2003 marriage in Canada. Although the High Court found against the plaintiffs, the comments of the presiding judge on the need for us as legislators to “ameliorate” the painful difficulties faced by same sex couples in Ireland highlight once again the need for this Bill.

I have referred to the Ireland of the past being a difficult place for gay and lesbian people but, unfortunately, the Ireland of the today can sometimes reflect an ignorant, bullying prejudice that a majority want to consign to the history books. A comprehensive study by the Gay and Lesbian Equality Network, GLEN, published earlier this year revealed some horrifying statistics. One in four homosexuals has been punched, kicked or beaten in violent homophobic attacks. Almost one-fifth have tried to take their own lives — with many saying this was related to their sexual identity. A total of 58% of respondents said there was homophobic bullying at school, with more than half saying they had been called abusive names and a quarter saying

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they had been physically threatened by other students. More than a third said they had heard homophobic comments by teachers, while 8% said they had been called names by them. A third of respondents said they self-harmed over the stress of concealing their sexual orientation during their teenage years. Some 80% of those surveyed said they had been verbally insulted, while 40% had been threatened with physical violence.

The survey results paint a very bleak picture of life for young gay men and women in our country. We are all well aware that difference can give rise to bullying, whatever that difference may be. I believe we have an important role to play in addressing homophobia in Irish society. Introducing equality measures such as civil partnership legislation sends out the message that there is nothing wrong with being gay and that all our citizens are entitled to live in a society characterised by equality and tolerance.

The Fine Gael Party has long had a proud tradition of promoting social justice. My party's seminal equality and social justice policy, The Just Society, which was launched in the 1960s, has guided our social policies in the years since then. I am proud that it was a Fine Gael-led Government that in the 1980s introduced significant legislation to improve the legal position of women as well as introducing remedies for abuses such as domestic violence. It was a Fine Gael-led Government that introduced divorce. In doing so, we were not seeking to undermine marriage but to give a legal remedy to those whose marriages had broken down and who were left stranded in a legal limbo.

The rationale that informed the decision to legislate for divorce is very evident in the Bill before the House today. Civil partnership and the cohabitation scheme are about providing legal remedies and rights rather than undermining marriage. Similar to divorce, the rights and remedies contained in this Bill will be often the most relevant when people are experiencing difficulties or heartache in life, for example, when there has been a death, when a long-term relationship has broken up or when someone is seriously ill. Fine Gael recognised the need to address the legal difficulties faced by same sex couples in 2002 when we committed to removing legal barriers in areas such as property and inheritance rights. In 2004, we published a more comprehensive policy on civil partnerships, seeking to create an atmosphere of acceptance for gay people in Ireland through a range of measures not limited to civil partnership. I take this opportunity to pay tribute to those involved in framing that policy, particularly, former Senator Sheila Terry and Deputy Alan Shatter.

There have been objections to this Bill on the basis of marriage. Some have attempted to portray the Bill as an attack on the institution of marriage. That allegation must be refuted. Marriage is a matter of personal choice and religious conviction and the fact that there are many same-sex couples in Ireland who would like to get married only indicates how popular and desirable marriage is for many people. The process that has led to this Bill being read today in the Dáil has been described by some as a model process due to the raft of significant options papers and reports that preceded it, particularly in the past ten years. The Minister has referred to these, the most significant among them being the Colley report and the report of the Law Reform Commission on cohabitants. Many of the recommendations of the Law Reform Commission report are in this Bill.

We also had the opportunity to examine systems in other countries. Civil partnership for same sex couples is now available in a number of European countries, including Denmark, Iceland, Finland, Germany, Switzerland, the UK and Slovenia. Many countries have gone further and legislated for same sex marriage, including the Netherlands, Belgium, Spain, Sweden, Canada, Norway and South Africa. Ireland is part of a growing trend towards a more rights-driven world that permits and celebrates difference. I am pleased Ireland is moving in that direction.

We will have an opportunity on Committee Stage to deal with the legislation line by line. However, I am very concerned about the glaring omission of children from the civil partnership provisions. Such an omission fails to recognise the *de facto* situation in which an estimated one third of the approximately 2,000 same sex cohabiting couples registered in the 2006 census have children. Failing to take children into account fails these children in an unacceptable way. This was brought home to me just two years ago when a former constituent, Barbara Gill, was knocked down and killed, leaving behind a devastated partner and child. Barbara and her partner comprised a same sex couple, and they had a baby son to whom Barbara's partner had given birth. Barbara did not have a biological link to her son, yet he was her son and she was his parent. When Barbara was killed, her partner and her son were left in a legal quagmire with no relief.

I am delighted to welcome Barbara's parents who are in the Visitors Gallery this evening. They were distraught. Having lost Barbara, her loving partner and son were now faced with further trauma, this time caused by the failure of the Oireachtas to legislate to protect the inheritance rights of children in same sex partnerships. Barbara Gill contributed enormously to Ireland during her all too short life. She lectured in the Church of Ireland College of Education and in St. Patrick's College, Drumcondra. She espoused human rights and inter-cultural education before such causes became fashionable. She was a good person and a good parent. We owe it to people like Barbara Gill, her partner and her son to address the vulnerable legal position of children of same sex couples and their non-biological parents.

Studies have shown that children who are raised by same sex couples do just as well as those raised by heterosexual couples. Such studies have been carried out by the UK Royal College of Physicians, the American Academy of Pediatrics and the American Psychological Association. My understanding is that it is unusual not to address the matter of children in a scheme for civil partnership. It is not too late to make significant changes to this Bill and I hope the Minister will commit to addressing the gaping lacuna in the proposed legislation. Otherwise our law will remain out of step with reality and fail to protect the vulnerable.

The second major pillar of this Bill relates to rights and responsibilities for cohabiting couples, both same sex and opposite sex. It might have been more appropriate to introduce measures for cohabitants in a separate Bill. However, in recognising how infrequent it is for a significant Bill overhauling family law to come before the Oireachtas, I accept that there may be merit in including a scheme for cohabitants in this Bill. The scheme for cohabitants is a presumptive scheme and I believe this will give rise to challenges in respect of communicating to people that the law has changed significantly. I would be interested to hear the Minister's comments on how he intends to proceed in that regard. Some legal experts have warned that the presumptive nature of the scheme could give rise to legal challenges and that ambiguities in the Bill regarding the establishment of when cohabitation began may present problems.

I note again that we are following the precedent set elsewhere, in that similar presumptive schemes for qualified cohabitants are in operation in jurisdictions such as Scotland, Austria, France, Hungary, the Netherlands, Portugal, Spain, Sweden, Australia, New Zealand, Canada and the United States. Perhaps the Minister could brief the House on how these schemes operate and whether any significant legal difficulties have arisen.

Notwithstanding these technical issues, we must acknowledge that provisions recognising cohabitants and qualified cohabitants reflect the reality of modern Ireland. The 2006 census registered 121,800 cohabiting couples with 74,500 children. The census further recorded more than 2,000 same sex cohabiting couples, one third of which have children. Therefore, it is important that this Bill introduce a mechanism for cohabiting couples to regulate their financial

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affairs as well as providing a financially vulnerable cohabitant with access to apply for a number of financial reliefs, such as maintenance or a share in the family home.

Non-conjugal couples are omitted from the Bill. In Fine Gael's civil partnership policy paper, we included reliefs for cohabiting couples in non-intimate relations. Speaking as a rural Deputy, there are situations in which two elderly brothers or sisters might have lived together all their lives and wish to look after their siblings should one predecease the other. Both the Colley report and the Law Reform Commission, LRC, report referenced non-conjugal couples, but stated that they had received "few submissions". The Government should examine this issue. If we do not allow for relief in this regard, it would appear as if we do not consider the matter raised in those reports as an issue. Perhaps the Bill is not the most appropriate vehicle to address it, but it should be addressed in the context of further legislation. It is hardly surprising that there were few submissions, as the people that Fine Gael is seeking to protect in its policy document are not plugged into any advocacy group of which I am aware. The making of a submission to a Government report would not be easy for them, particularly given that, more often than not, they live in rural and remote parts of the country.

Both reports referred to "a lack of research in this area". I assume it is on this basis that non-conjugal couples have been omitted from the Bill or any indicative Government report on further proposals. Difficulties present in terms of inheritance tax, succession rights and family homes. The reports have indicated that there has been insufficient research. Research is required, as some people need greater legal protection. If a lack of research is the primary obstacle to helping them, it is time that it be commissioned.

I welcome the Bill and pledge Fine Gael's support to it. While many welcome it, others believe it does not go far enough. To those people, I would say that change is incremental and I hope that full equality is not far away. Objections have been made and I have received many items of correspondence from people, some of whom may hold a genuine belief that it should be possible to allow for opt-outs in this legislation on the basis of one's religious beliefs or otherwise. This poses a problem, as I do not know how such an opt-out could be framed, particularly for registrars. They perform a variety of statutory functions, namely, the registration of marriages, births, deaths and still births. They are statutory officers and are required to solemnise and register marriages of, for example, previously divorced people. This did not pose an issue when the divorce legislation was passed, yet people are seeking an opt-out from their responsibilities under the Bill. Were we to allow such an opt-out, we would effectively be dismantling much of our equality and anti-discrimination legislation.

To those who oppose the Bill, of whom there are many for a variety of reasons, and to those who have written to me outlining their objections, I would say that we live in a democracy, not a theocracy. As democrats and Members of Parliament, we must recognise and protect the rights of all citizens, not just some. We cannot have a tyranny of the majority. As legislators, we are charged with the responsibility of looking after our citizens. This Bill is a part of that process.

"Secular" is not a dirty word, as some have tried to assert. Secular, democratic measures have given women equal rights and blown the lid off decades of sexual abuse by religious congregations by conducting important investigations, the most recent of which was the Murphy report of this week. We do not inhabit a flat Earth. We exist in a diverse society where minorities make vital, welcome contributions. As Prime Minister Zapatero, speaking in the Spanish Parliament, stated before the final vote introducing gay marriage in 2005, "...a decent society is one which does not humiliate its members". I agree with those sentiments and I believe they are appropriate to this Bill. I welcome the legislation and look forward to dealing with its technical, detailed aspects on Committee Stage, perhaps in the new year.

Deputy Brendan Howlin: This day has been a long time coming. The recent chronology of key events leading up to it has been published in a GLEN document. In recent years, we have quickly come to this conclusion. It is heartening to have a large consensus on what needs to be done on these important social issues.

Tonight's debate and the Bill comprise an important milestone on the road to equality, but they are not the journey's end. Article 1 of the Universal Declaration of Human Rights states:

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

This basic and simple concept has consistently proven to be one of the most difficult principles to put into practice. It was proclaimed by the UN's General Assembly on 10 December 1948. As various debates in the House this week have indicated, we are still struggling as a republic to make that simple and fundamental declaration a reality.

The Labour Party welcomes the Bill. It is not the end of the journey, but it is a long way down the path. It clearly does not go as far as the Labour Party's Civil Unions Bill, which I twice had the honour of introducing into the House, once in the previous Dáil and once in this Dáil. The first time, it was cynically kicked to touch, but I believe it formed a basis for a consensus that has led to tonight. I am proud of my party's role in this regard.

While the Bill before the House does not achieve equality, it gives same sex couples rights that are long overdue. It gives legal protection and recognition to same sex couples, as well as other non-traditional families. I refer to citizens of our Republic whose essence we have ignored and denied for far too long. The Bill does not provide for same sex marriage, as the Minister has said, nor could it under the Constitution, as it is currently interpreted by the courts. We are not legislating for true equality in this important measure. It is worth reflecting on the words of the Honourable Justice Michael Kirby, of the Australian high court, in his foreword to a report on this Bill produced by the Irish Council of Civil Liberties. He stated:

Marriage is a civil status, created and defined by the law. To it many legal consequences and some benefits attach. Civil partnership is a status, separate but equal, which goes part of the way, but risks leaving neither side very happy. The same-sex partners are then denied true equality which they know is now recognised in other civilised jurisdictions. The conservative traditionalists complain that civil partnership "mimics" marriage and therefore, in a mysterious but unexplained way, damages that institution for heterosexual couples who are now staying away from it in droves.

The argument against equality is a strange one. How can the extension of the right to marry, to more of our citizens who want to bond themselves with another human being in a loving relationship that is recognised by law, be said to undermine marriage? I assume those who believe that allowing same sex couples to marry would undermine the institution of marriage would not suggest that homosexual citizens of this nation should reconcile themselves to marriage as we understand it under the Constitution today. That would be absurd. Do such people believe that to offer marriage to same sex couples would somehow lure heterosexual people away from marriage? That would be a ludicrous suggestion. The fundamental debate on taking the final step can wait for another day. It is important to point out that this legislation is a step on that journey, rather than the end of the journey.

Given that there is such agreement across the House, I do not want to sound any note of discordance. This Bill has been produced two and a half years into the coalition between Fianna Fáil and the Green Party. I would like to remind Members of what Deputy Cuffe said on 21 February 2007, during the debate on the Labour Party's Civil Unions Bill 2006. I agree with

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his suggestion that “to relegate same-sex couples to some marriage-like institution is to deny them their human rights, dignity and rights as citizens of the State”. It is probable that we could build a consensus to take the final step. I do not think it should be too far away. I am sorry that legislation to provide for the option of taking the final step, even if it meant a constitutional amendment, is not before the House tonight. I do not want to sound discordant, as I have said, because the Bill before the House, which is of profound importance to thousands of our fellow citizens, should be recognised, applauded and celebrated.

The stated purpose of this legislative measure is to establish a statutory civil partnership registration scheme for same-sex couples. It sets out a range of rights, obligations and protections that are consequent on registration. It prescribes the manner in which civil partnerships may be dissolved and the conditions that may apply. The Bill also establishes a redress scheme for opposite-sex and same-sex cohabiting couples who are neither married nor registered in a civil partnership, as the case may be. The proposed redress scheme has far more limited provisions than the civil partnership provisions, or marriage as we know it. The scheme focuses primarily on addressing a number of areas in which cohabiting couples are vulnerable, such as the protection of residential tenancies and maintenance rights. In general terms, the Labour Party supports these provisions, as detailed in the Bill. It is obvious that the Labour Party will table amendments in this respect on Committee Stage. I agree with some of the points Deputy Charles Flanagan made about the lack of clarity with regard to these provisions of the Bill.

I would like to signal two particular issues that I will pursue during the Committee Stage debate. There is a need for retrospective recognition of foreign civil partnerships if one partner dies before the provisions of section 5 of this Bill become operable. We can debate and tease out the extent to which it should be retrospective — how far back we should go — on Committee Stage. Many same-sex couples who live in this jurisdiction have obtained civil partnerships in Northern Ireland since 2005, when such a legal provision was first afforded in that jurisdiction. If one party to a relationship that is legally recognised on one part of this island dies before the provisions of this Bill become law, the surviving partner may be disadvantaged for the purposes of inheritance tax, for example, or may be made ineligible for the survivors’ pension. Particular examples have been brought to my attention. I understand that dozens of same-sex couples who live in the Republic have obtained civil partnerships in Northern Ireland. A case in which the older person in a civil partnership has advanced cancer, and could die before the date on which the Minister for Justice, Equality and Law Reform signs this provision into law and thereby makes the partnership legally binding in the Republic, has been brought to the attention of the Human Rights Commission of Ireland and the Northern Ireland Human Rights Commission. If this legislation does not become law before the person in question dies, the partnership will not be recognised and the surviving partner will have no legal rights. That would be a disturbing and unfortunate consequence of our efforts. We should seek to make provision for such cases before we conclude our deliberations.

The second issue to which I would like to alert the House is a potential implication of section 4(2) of this legislation. The Bill as it stands requires at least one of the civil partners hoping to enter into a civil partnership to be domiciled in the State on the date of application. This may exclude some couples from the right to take a court action in this jurisdiction. I am advised that this residency requirement may affect couples who reside in Northern Ireland — they may have moved from this jurisdiction to formally legalise their relationship under the 2005 provisions there. If, after this measure has been enacted, they wish to argue for the recognition of their foreign partnership — the Northern Ireland partnership, in this case — they may wish to

have recourse to the courts in this jurisdiction. These are technical matters we can debate in some detail on Committee Stage.

I am advised that section 2 of the Marriage Act 1972 provides retrospective recognition by the State of 33 services of blessing, namely, non-civil marriages performed in the département des Hautes-Pyrénées in France — so-called “*Lourdes marriages*” — between citizens of Ireland which were solemnised at Lourdes between 1953 and 1960 only.

By the provisions of the 1972 Act, these non-civil marriages were deemed always to have been valid marriages and have been recognised as if they had been performed and solemnised in this State. If we can do that for a blessing at Lourdes I believe we can provide legal measures within our own jurisdiction to recognise legally binding civil partnerships entered into by Irish citizens in other jurisdictions where, up to now, those partnerships have been recognised.

I should mention another possible difficulty with section 5 that, again, was pointed out in the submission from the Irish Council for Civil Liberties. In most equivalent foreign recognition provisions, there is a general provision of recognition. For example, the UK legislation expressly provides that same-sex marriages celebrated elsewhere will be recognised as civil partnerships in the United Kingdom. Section 5 of the measure before the House leaves it to the Minister to make that determination, stating: “The Minister may, by order, declare that a class of legal relationship, entered into by two parties of the same sex, is entitled to be recognised as a civil partnership if under the law of the jurisdiction in which that legal relationship was entered into”. It enumerates a number of conditions. The essential point, however, is the first sentence, namely, the Minister “may” recognise such civil partners. It is important we should have clarity about the exercise of the authority we will divest to the Minister after the enactment of these provisions.

I will seek to address these issues on Committee Stage. I will address one major argument which Deputy Flanagan touched upon that is in circulation concerning the Bill. This is a matter concerning which most of us received more e-mails than any other. They seem to have been generated because many of them were standardised. The argument was that the Civil Partnership Bill, if enacted, will introduce a law by which those whose religious convictions may prohibit them from being involved in a same-sex partnership will somehow be compelled, under duress of law or for fear of being sued, to aid or assist in a ceremony to which they have a genuine conscientious objection.

People may have regard again to the Labour Party’s Bill. In that Bill we sought to create a formal civil union which, in virtually every respect, mirrored marriage. We proposed that a solemniser would perform that union in the same way that a marriage would be solemnised. For that reason, in section 3(2) of our Bill, we included an opt-out clause that stated: “Nothing in this Act requires a registered solemniser who is not registered to solemnise a civil union if the religious body of which he or she is a member has no recognised form of ceremony for the purpose of which he or she has a conscientious objection from so doing”.

The Bill the Minister presented to the House today is quite different in context. It is different in a very significant respect. Under this Bill, a civil partnership can be entered into only in front of a civil registrar. Even if he or she wanted to, a registered solemniser, for example, a priest or minister of religion, would have no competence and no capacity to preside over or register a civil partnership as envisaged in this proposal. Therefore the question of inserting a conscience clause is moot. It does not arise. That point has been made clear and abundant.

The point was raised by Deputy Flanagan whether those who will be charged with presiding over civil partnerships, namely, officers of the HSE or old officers of the health boards who are registrars should be allowed opt out. My answer is “Certainly not”. We are not going to have a situation where officers of the State can determine they will perform this function but

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not that one. It would be like saying that nurses and doctors could no longer give blood transfusions if they became Jehovah's Witnesses. That is not the way a republic operates. Laws are enacted and officers of the State, paid for by the State, carry out the legislation as enacted by this House. I do not see this as being an issue. As Deputy Flanagan rightly pointed out, other issues, for example, the re-marriage of divorced persons which is now the civil law of the land, have not been such that people may opt out from them in the future.

There is one other issue in respect of that plethora of odd e-mails we received, namely, whether we should provide a conscience opt-out for florists, bakers or candlestickmakers or anybody else who might be offended. In these challenging financial times I do not feel there will be a conscientious impediment among florists or anybody else who provides their wares or services.

For clarity in this respect, we enacted laws as far back as 2000 to protect against discrimination with regard to orientation. In this Bill, the Minister seeks only to replicate those laws. I see no argument or basis for suggesting that florists, photographers, printers or providers of any service can be allowed to discriminate against any citizen in respect of his or her sexual orientation. I do not see any scope for that point.

I wish to move to one major deficiency, as I see it, in this Bill. Again, Deputy Flanagan properly raised this point, namely, that the Bill is largely silent on the rights of children. It does not address in a clear or comprehensive way the rights of children who live with a couple who, in the future, will be civil partners. Of course, a child has full rights in respect of a person who is his or her biological parent. However, the child's right to the continuing parenting of the civil partner of his or parent is not enshrined in this measure. The very compelling, real and specific human case outlined to the House by Deputy Flanagan underscores the importance of addressing this deficiency. It cannot be that we will allow a Bill to be enacted that is silent on this critical issue, particularly that a child in such a relationship will not be able to seek maintenance from the non-biological parent and will have no succession rights if the civil partner of the child's biological parent dies. The civil partner will not be able to adopt the child jointly. It seems to me a ludicrous notion that under our current adoption law a single person can apply to adopt but a couple, even legal partners recognised by law, will not be in a position after the enactment of this provision to adopt jointly a child, even a biological child of one of the couple. That is a major deficiency.

The Joint Committee on the Constitutional Amendment on Children has focused on a number of issues concerning the safety, well-being and best interests of children. The Minister has attended many of the meetings. It has been a very important learning process on how the Oireachtas can shape better laws to advance the rights of children. God knows that, in light of the reports published this year, and previously in the Ferns diocese in my part of the country, we need far more robust protection of children.

The committee sought all-party consensus on recalibrating rights so the well-being and best interest of the child would be at the core of policy. Nobody has the right to adopt a child but a child has the right to be in the best place for himself or herself. That was the core of the Labour Party's Bill. We determined we could not bring legislation to this House without addressing the issue of children. The way we did so was simply to recognise that the best interest of the child should be the only criterion, such that one would not give a right to anybody to adopt but give a right to the child to be in the best place for himself or herself, be that with biological parents, grandparents, foster parents of long standing or a same sex couple who would serve as loving parents to the child. The decision should be made without regard to anything other than the best interest of the child. That is what the Labour Party proposed.

With regard to dependent children, our Civil Unions Bill proposed, “the rights and obligations of parties to a civil union with respect to a dependent child are the same, *mutatis mutandis*, as those of a married couple with respect to such a child”. A dependent child, according to our definition, was a child adopted by both parties or in relation to whom both spouses are *in local parentis*, or a child of either party or adopted by either party or in relation to whom either party is *in loco parentis* where the other party has treated the child as a member of the family where the child is under 18. The legislation also included children above that age in full-time education with a mental or physical disability “to such extent that it is not reasonably possible for the child to maintain himself or herself” independently.

A child-centred approach that mirrors the developing conclusions of the all-party committee is the right approach. I will be interested in hearing the response of the Minister to the debate to learn whether he is open to determining whether we can craft, by consensus, a provision for children in this regard.

I have spoken almost exclusively on same-sex couples but now want to discuss the part of the Bill that deals with cohabitants. The duration proposed for the legislative provisions to have effect is three years, or two if a child has resulted from the relationship. I welcome the provisions in section 171 of the Bill. Qualifying cohabitants may apply to court for a range of orders — for example, property adjustments, maintenance and pension adjustments — where the applicant is financially dependent on the other cohabitant and complies with a range of other specified requirements, as set out. This was recommended by the last All-Party Oireachtas Committee on the Constitution in the report it produced in January 2006. There may be some tweaking to be done to ensure we recognise a legal starting point for cohabitation and to ensure there is no confusion in the courts.

In truth, there are many relationships that do not involve standard marriage. We need to provide some form of support when they break down or when one of the cohabitees dies. The provisions are, by and large, good in respect of this issue. One wonders whether it is proper to enshrine them in this legislation rather than address them in conjunction with the issue Deputy Charles Flanagan raised.

Conjugal relationships are unique. It upsets and annoys me when people blur the distinction between a loving conjugal relationship and that of any pair of people living together for convenience or mutual support. It denies the essence of the relationship, which is fundamental. We should be very clear and not obfuscate on that absolute point.

We have come to an important point in the legislative process. As speedily as we can, we should enact this measure. We will crawl ever slowly to be faithful to the first article of the Universal Declaration of Human Rights which recognises the essence of the equality of every individual. We should move to Committee Stage speedily. I hope we will address consensually the issues that have been addressed on this side of the House and provide a basis for acknowledging the fundamental worth of every citizen of this Republic.

Deputy Ciarán Cuffe: I wish to share my time with Deputy Gogarty.

We do not often talk about love in this House. In a week dominated by floods, pay talks and the Murphy report, it is good to turn our attention to love for a change. I am pleased we are providing real recognition of the love between adults in a committed relationship. It is enshrined in the Civil Partnership Bill.

One would be forgiven for believing this Bill is unwelcome in some quarters and that its introduction to the House, after a lengthy period of gestation and public debate, is somehow a letdown. There are those in society for whom any formal legal recognition of same-sex partnership offends. They perceive civil partnerships as an affront to religious marriage, a challenge

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to the traditional family unit of man and woman and as representative of unwise legislating. However, there are members of the gay and lesbian community for whom this Bill is a disappointment in terms of what it does not do, that is, establish full civil marriage for all, regardless of sexual orientation.

I agree with Deputy Howlin that the Bill does not go as far as he or I would like, but neither Fine Gael nor Fianna Fáil has made that commitment. Deputy Flanagan spoke eloquently but I am not aware his thoughts are shared by his party or his leader, Deputy Kenny, in the form of a policy commitment. In that regard, politics is the art of the possible and this Bill heads in the right direction to an end point on which I agree with many Deputies.

Before this Bill is labelled as an unnecessary intrusion into traditional marriage or legislative discrimination, let us take a step back and analyse the practical benefits of civil partnerships for gay and lesbian couples. Currently, same-sex partners living together in a committed loving relationship have precious little recognition and few rights and obligations. There is little more recognition in law for such arrangements than there is for flatmates living together.

The Civil Partnership Bill will recognise rights, responsibilities, safeguards and obligations for same-sex couples in a loving relationship where there were none before. These are significant, substantial changes which will make a real difference. The Bill amends more than 130 pieces of legislation and stitches the recognition of the unit of civil partnerships into the corpus of our legislation. It creates maintenance rights, so that when one civil partner is financially dependent, the other must provide for him or her. It strengthens our equality legislation and prevents discrimination against civil partners in employment as well as in the provision of goods and services.

When a civil partner presents at a hospital seeking access to see a loved one who has fallen ill, he or she will have the same rights and powers of decision as a husband or wife in such difficult circumstances. When an employer chooses to give special marital leave to newlywed employees, the same arrangements will, by law, have to be given to civil partners. When a pension scheme provides that a benefit accrues to a spouse, the same benefit will extend to a civil partner. This Bill will create legal protection and recognition where there was nothing before.

Civil partnerships will make a significant difference to the law in the area of inheritance. Currently, when a person in a same-sex relationship dies without a will, the non-marital partner has no right of claim on his or her estate. No matter how long they have been together, he or she has no claim on the inheritance of a loved one when he or she dies intestate. Civil partnerships will dramatically improve this situation. Under this Bill, a civil partner will have the same rights to an estate as a widow or widower. They will have an entitlement under law to claim a portion of the estate. This will provide a real and tangible benefit and legal protection and recognition where there was nothing before.

Civil partnerships will transform the treatment of same-sex couples for taxation and social welfare purposes, so that a couple in a civil partnership may share tax credits or a widow's pension can be extended to a civil partner. A civil partnership will cast a legal safety net for couples who break up. It will provide surety and security during the difficult times of an illness of a loved one, when legal protection should be furthest from the mind. It will provide protection for the shared family home and give relief in cases of domestic violence and provide security of tenure in rented accommodation in succession situations. All of this will be in place where there was nothing before.

Many of the rights, obligations and responsibilities spouses enjoy will now be shared by same-sex partners. Some may characterise this Bill as an attack on traditional values or an

inadequate solution. Therefore, we must ask if this is a positive development? Do we not become a little more enlightened as a country which has chosen to open the door to recognition of same-sex relationships? This Bill marks substantial, purposeful progress on our equality agenda. It will be of significant practical benefit to gay and lesbian couples across this country

In addition to the rights it confers, however, the creation of civil partnerships sends important messages to those couples seeking to formalise their relationship, that is, recognition and acceptance. If a couple so wishes, their partnership may be brought under the wing of the State, allowing the couple concerned to benefit from its safeguards and grow into the responsibilities it creates. In extending our body of equality legislation like this, we progress our understanding and we mature a little bit as a society.

I have received many letters and telephone calls from those not in favour of civil partnership and who do not wish to grant formal recognition to same-sex civil partnerships. Many people have a religious objection to the recognition of wholly State recognised civil partnerships. Putting aside the lack of religious linkages, I am struck by the distance some of these people put between gay couples and themselves. Are our brothers, sisters, cousins and friends in loving same-sex relationships not deserving of State recognition? Are these people not as much a part of the fabric of our society as heterosexual married couples?

Civil partnership asks for no religious blessing. It does not seek to intrude into that space nor offend its proponents. It is a matter of the State's legal and administrative support of loving same-sex couples. Civil partnerships are not an endpoint but, rather, a significant achievement on the journey toward full marriage equality. I still believe in that end goal and the words I spoke some three years ago, but I see this Bill as progress.

We await the decision of the Supreme Court in the Zappone and Gilligan case to see in what framework the Oireachtas can proceed to legislate for civil marriage, but separate from this there are political challenges to be overcome in getting support from all sectors of society and from all parties in this House for civil marriage irrespective of gender, a position I and my party fully support and have enshrined in our party's policy document, *Valuing Families: A Policy on Marriage and Partnership Rights*.

As many of those campaigning for gay marriage will acknowledge, this is not a process that happens overnight. Civil partnerships can be a significant political building block in the move toward full gay marriage; we are not engaged in zero sum game. The Civil Partnership Bill is long and complex, but ultimately it boils down something very simple, that is, the State recognising, protecting and cherishing the love between two adults, be they men or women, and this can only be a good thing.

As a Green Party member, I applaud the work my colleagues, in particular Roderic O'Gorman, put into pushing the party's policies forward. As a campaigner I applaud the many organisations, including the Gay and Lesbian Equality Network and the Irish Council for Civil Liberties, for the work they have done to advance the cause of equality. As a legislator, I thank the Minister, Deputy Dermot Ahern, and his Department for the hard work which has brought us here. As a father, I am proud of the recognition we are giving to loving relationships, regardless of sexual orientation.

I would like to say I was a florist but Deputy Howlin got there first. All florists, if they were here this evening, would be pleased with the Bill before the House. As a liberal I am proud of the staging post we have reached on the journey towards full equality. I commend the Bill to the House.

Deputy Paul Gogarty: I will not admonish Deputy Cuffe, given the integral role he played in the party. I will not repeat what he said about the Civil Partnership Bill. I agree with his

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comments wholeheartedly and acknowledge the progress that has been made to date and his role as justice spokesperson for the Green Party in pushing this process forward for many years. I also welcome the Minister's key role in bringing this Bill before the House.

The Bill is, as Deputy Cuffe said, a significant milestone. As he outlined, it will provide new legal protection and recognition for same-sex couples. However, as the Green Party acknowledges, the legislation, while welcomed by many, does not go far enough. The Bill is not solely concerned with same-sex rights. It also establishes a redress scheme for opposite-sex and same-sex cohabiting couples, which was alluded to by the Minister, and makes provision for the recognition of various financial agreements.

In the eyes of the media, the Civil Partnership Bill is a key step in implementing the Government's commitment in the programme for Government to legislate for civil partnership at the earliest possible opportunity. It is about lesbian, gay, bisexual and transgender rights and I welcome the Bill from that perspective. However, I am realistic enough to acknowledge for that tonight, this year and perhaps several years to come, the process of equal rights for same-sex couples has reached a plateau.

Even allowing for the progress made, I know and acknowledge that this causes frustration, hurt and bitter disappointment for some who would have liked the Bill to go further. I empathise with the hurt and sense of dismay at what is after all only a partial validation of people and their humanity. How long we stay at this point depends on the will of those with the power to effect legal change or to at least give people the power to effect such legal change. While there are obstacles to full marriage, these obstacles are far more political than they are legal or social. These obstacles can and should be overcome and Ireland should and will take its place as a country that cherishes all of its citizens equally regardless of sexual orientation to join progressive countries that have already done so such as The Netherlands, Belgium, Spain, Canada and South Africa.

I am disappointed that some in Government and some in Opposition would prefer that this legislation should be as far as it goes. However, same sex marriage is still very much on the agenda I am sure this is a view shared by other colleagues in the Green Party, Fianna Fáil and across the House.

The case taken by Dr. Katherine Zappone and Dr. Ann Louise Gilligan is still before the Supreme Court, so it is still too early to tell what constitutional barriers exist in terms of how marriage and family are defined under articles 40 and 41 of Bunreacht na hÉireann. However, these articles are not set in stone. It is up to those who cherish civil rights and equality to push the boundaries, to propose sensible amendments to the Constitution as required after careful deliberations and to persuade the people that such constitutional change should be supported in a referendum. This cannot happen overnight as I stated, but it would be helpful if a public commitment was given by all parties and individuals in these Houses to work together in a non-partisan way to bring about full marriage rights on an equality basis.

Progress has been painful and slow, but in today's enlightened society it should not be. In 1983 the Supreme Court upheld the constitutionality of Ireland's sodomy laws citing Article 41.3.1°, which states: "The State pledges itself to guard with special care the institution of Marriage, on which the Family is founded, and to protect it against attack." Homosexuality was a criminal offence until 1993 when it was decriminalised thanks to pressure from Europe and action by the then Minister for Justice, Ms Máire Geoghegan-Quinn. The Equality Act 1998 included gay men and lesbians in its groups to be protected against discrimination. In 2001 the Law Reform Commission recommended equal taxation and inheritance rights for same-sex couples. Now, a long and lonely eight years later, we have this Bill.

As this is a Second Stage debate I want to refer to conscientious objection clause that others have mentioned. I am glad that no solace has been given to those who want to discriminate against same-sex couples on the grounds of their differing moral or religious beliefs. Any beliefs expressed in such a public way would be in breach of the Equal Status Act in any event. While Christianity, Islam or other religions can refuse to marry a couple in the eyes of God, no one should or can refuse to provide registration functions in a civil capacity or any services at a civil ceremony. Deputy Howlin dealt with that matter in some detail. Some Members in these Houses may table amendments and I hope they are given short shrift.

Speaking of religion, we could have come much further were it not for the views of religious organisations. For example, the Catholic church has long opposed homosexuality and lesbian, gay, bisexual and transgender rights. Cardinal Seán Brady of the Archdiocese of Armagh has gone so far as to threaten the State with legal action if it proceeded with the Civil Partnership Bill. He has stated that “those who are committed to the probity of the Constitution, to the moral integrity of the Word of God and to the precious human value of marriage between a man and a woman as the foundation of society may have to pursue all avenues of legal and democratic challenge to the published legislation”. It is a pity that at this time the same moral integrity, probity and tenaciousness was not put into tackling the systematic abuse by those in the institution of the Catholic church.

However, let us give credit where it is due. I was not in a position to contribute to statements on the Murphy report, but I welcome Archbishop Martin’s unequivocal statements regarding those who have questions to answer. I was also happy that Cardinal Brady this week said that he was shocked and ashamed by details of what happened in the Dublin Archdiocese. He apologised to all those who were hurt and extended the apology to all the people of Ireland that the abuse was covered up to protect the reputation of the Church. He said:

I am deeply sorry and I am ashamed... No one is above the law in this country. Every Catholic should comply fully with their obligations to the civil law.

This obligation to the civil law by Catholics should also apply to any civil laws passed in this House and no obstruction should be put in the way of bringing civil marriage into Ireland. The same empathy and concern for shown for sexual abuse victims this week should also extend to the other victims in society. Deputy Cuffe spoke of our brothers and sisters and other family members who were born with homosexuality, bisexuality or transgender. I believe that is the way they are born and that should be respected. Everyone should be equal under the eyes of the State. If a person is born with a certain inclination, that should be respected. Unfortunately it has not been respected under the eyes of the church and has put pressure on those who are Catholic legislators to be obstructionist. In that context the bible quotes Jesus as saying “Render unto Caesar the things that are Caesar’s, and unto God the things that are God’s”. If people believe that same-sex marriage is wrong in the eyes of God, let not the church marry people under the eyes of God. However, the State is different and people should have the right to be equal under the eyes of the State if we value our brethren. Therefore it is not hypocritical for the church to take a more Christian view. I believe it is a truly Christian thing to do.

As I stated earlier I welcome the Bill, but it should be a short-term sticking plaster. How quick it is improved upon depends on the level of basic respect and charity shown by those whose religious convictions lead them to believe that homosexuality — the way people are born — is somehow wrong. The question also remains as to whether our society is mature enough to amend our Constitution to allow for same-sex couples to marry in the eyes of the State. We have come a long way on this matter and much more needs to be done. At this stage the people are sufficiently mature and human to allow for same-sex marriage. Whether people are given such a choice in a referendum very much depends on political will. Whatever consti-

[Deputy Paul Gogarty.]

tutional issues exist can be overcome if there is the political will. I urge all elected representatives in the Dáil and Seanad to press for further progress to introduce same-sex marriage as quickly as possible.

Deputy Catherine Byrne: I welcome the Bill, which has been a long time coming. The road to equality for cohabiting couples, and for the gay and lesbian community in Ireland has been a long one, and this is another important step in the right direction. Getting to this stage has been a tough battle and, for me, it represents a watershed in Irish society.

There has been considerable debate and protest about this Bill, and we need to clarify that this legislation is about giving legal recognition to cohabiting couples of same sex and of opposite sex, and allowing for the registration of civil partnerships as well as home protection, succession and pension rights.

When we look at the current system, and the lack of real recognition given to cohabiting couples by the State, we have to admit that elements of this Bill are ground-breaking. It makes great advances as regards protections for cohabiting couples, which are long overdue. Modern Ireland is a very different place and cohabitation has become the norm. There are currently more than 120,000 cohabiting couples in Ireland but legally, they have very few rights. These men and women have little or no legal protection when it comes to the break-up of a relationship or death of a partner. That is why it is so important to legislate for civil partnerships. It will help to resolve complex legal issues which face many cohabitants, whether they are same-sex or opposite sex. It will help them to regulate their financial affairs and benefit from pension schemes in respect of their civil partners, which was only ever available to a spouse in the past. The Bill also gives civil partners protection under domestic violence legislation, which is a very welcome addition.

While I commend this Bill for what it sets out to achieve, I believe it also neglects some very important aspects of civil partnership. Although the Bill will give a surviving civil partner the same succession or inheritance rights as a spouse, it does not address the issue of friends or siblings living together and does not give them any legal protections. This is a lost opportunity to help many family members to sort out complicated financial affairs. To give one example, there are many elderly siblings sharing a family home in this country without any proper legal claim over the property. This is especially relevant in rural areas, where farms are passed down through generations and the names on the deeds may never have been changed. There have been cases in which the death of one sibling has left major uncertainty about inheritance and ownership. This needs to be regulated in order to avoid bitter legal battles between relatives over property.

The UN Commission on Human Rights has voiced its concern about the lack of detail concerning the tax and social welfare implications of this Bill. I understand the Bill will allow cohabiting couples to avail of the same legal rights and entitlements as married couples in the areas of taxation and social welfare. However, this is not a money bill, and therefore separate legislation is needed in the form of new finance and social welfare Bills to give a legal basis to the new tax and social welfare entitlements for couples in civil partnerships. There can be no delay in implementing this legislation. These people have waited long enough.

The Bill does not refer in any real way to the custody and guardianship of children of cohabiting couples. There is no legal certainty regarding where these children stand if their parents split up and maintenance is to be paid, or if a parent dies. The majority of these children are in loving homes and their happiness and welfare must be a priority. This is a complex area which needs to be dealt with and which will throw up a wide variety of problems for children and parents in years to come if their status is not addressed in a legal context now.

Although this Bill is not about marriage, I can understand the argument made by many different interest groups for same-sex marriage. Many people feel the provision of civil partnership does not go far enough, and this is frustrating for many couples who love each other and feel this Bill does not grant them full equality through marriage. However, the Bill is a legal text. Sadly, it does not concern itself with feelings, love or the commitment made by one person to another. When it comes to love and commitment, who am I, and who are we in this House, to judge how people live their private lives or what is deemed to be acceptable? We are all entitled to our privacy and cohabiting couples in committed same-sex relationships deserve as much respect as heterosexual couples.

It is important to realise that the Bill is a major step forward in recognising the increasing number of same-sex couples in Ireland. I do not agree with the claim that this Bill only goes halfway towards equality for gay couples. Given the fact that this country that has traditionally been very conservative about homosexuality, we must take one step at a time while ensuring that equal rights are always at the top of our agenda. Countries such as Sweden, Norway, Belgium and the Netherlands introduced civil partnerships a number of years before civil marriage. This happened gradually, and has been very successful.

Some people feel strongly that the failure to introduce same-sex marriage in the Bill is discrimination. I wish to make it clear that I and the Fine Gael Party do not support discrimination in any form, nor do we support any measures which would allow discrimination and marginalisation to exist in our society. Furthermore, I do not agree with people who say the Bill undermines the institution of the family and the values surrounding having children. They need to realise that it is not who we love but how we love that is important.

I recently met a man who had lost his life partner. They had been together for more than 30 years. Sadly, the man's partner had a massive heart attack and was rushed to hospital. At his bedside, the man asked whether he had the legal right to switch off his partner's life support machine and was told he did not. A long-lost relative had to be found in Australia and brought home to make the decision that this man's partner, a man with whom he had shared his life, his business and a loving relationship, had no right to make.

If the Bill is passed without amendments and without including the missing aspects I have just outlined, it will deny cohabiting couples many of the basic human and civil rights that I as a married woman enjoy. Therein lies the real inequality.

Debate adjourned.

Ceisteanna — Questions.

Priority Questions.

National Assets Management Agency.

1. **Deputy Richard Bruton** asked the Minister for Finance if his attention has been drawn to the comments made by senior bankers to the Joint Committee on Finance and the Public Service that the transfer of loans under the National Asset Management Agency would neither reduce the cost of credit nor increase the availability of credit to businesses and persons; and if he will make a statement on the matter. [45160/09]

Minister for Finance (Deputy Brian Lenihan): I am aware of the discussions that took place at the Joint Committee on Finance and the Public Service last week. My understanding is that the bankers in question expressed the view that there is not a shortage of credit available to

[Deputy Brian Lenihan.]

business but that the risks taken by financial institutions must be compatible with the amount of capital they hold. Banks can currently access funds but the cost is higher than was previously the case. The banks' balance sheets will be stronger once NAMA has taken over the riskiest loans and replaced them with Government-guaranteed bonds; this will give the banks greater access to liquidity and make long-term funding cheaper.

I must point out that the value of the NAMA bonds will far exceed the incremental borrowing requirements of business and it would not be realistic to expect all of this money to be lent on. However, it is fair to assume the banks will be in a better position to lend once the riskiest loans have been removed from their balance sheets and that viable businesses should expect a fair hearing when seeking funding. I intend to issue guidelines to participating institutions to ensure this is the case and to devise appropriate appeal mechanisms.

A core Government objective is to free up lending on a commercial basis 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. An independent review of credit availability was agreed in the context of the recapitalisation of AIB and Bank of Ireland. The report made a series of recommendations, including the further development of a framework for monitoring credit availability and measures to improve communications between the banks and SMEs. The report also suggests consideration of specific supports to ease the working capital requirements of SMEs and measures to help investment levels. A follow-up independent review of credit availability is currently under way and I expect it to be published shortly.

In addition, a code of conduct for business lending to small and medium-size enterprises took effect last March. As part of the recapitalisation package, AIB and Bank of Ireland confirmed their commitment to increase lending capacity to SMEs by 10% and provide an additional 30% capacity for lending to first-time buyers in 2009.

The latest statistics for credit availability, covering the period to October 2009, were published by the Central Bank on 30 November. They show that non-mortgage credit, which excludes lending to non-bank IFSC companies, was unchanged over the previous year. Headline private sector credit declined by €2.3 billion in October but this was mostly as a result of bad debt provisions for the month. Repayments were in fact marginally lower than drawdowns for the month. There was a 9% annual decline in credit outstanding to non-financial corporations in October, but three quarters of this was as a result of valuation effects.

Deputy Richard Bruton: I thank the Minister for his reply. Does he agree with the statement he read out, that there is no shortage of credit in the economy?

Deputy Brian Lenihan: I did not read that out to the Deputy.

Deputy Richard Bruton: He read that out as the inference that he drew from the discussions by the banks. I am asking the Minister for his opinion. Does he believe that there is no shortage of credit in the economy? That is what the banks stated and he is now repeating that. Does he agree with them when they stated that NAMA will not improve in any way the availability of credit and will not reduce in any way the cost of credit? If he agrees with those statements from the banks, what is the point of NAMA if we do not get the flow of credit? Those were the reasons the Minister advanced and the reasons we were assured this was worth doing.

Having received this appalling shock from the banks, has the Minister initiated discussions immediately with them about the availability of credit and the guidelines that he will issue, and can he give us details of the guidelines that will be put in place so that this significant under-

taking by the taxpayer will not result, as the banks stated, in no improvement in credit availability and no reduction in the cost of credit?

Deputy Brian Lenihan: First, as I stated in my reply, my understanding is that the bankers in question expressed this view. I certainly did not make myself a party to their view. I do not agree with their view, as stated to the committee, and that is why the legislation confers power in the Minister for Finance to issue guidelines and to devise appropriate appeal mechanisms on the giving of credit.

The banks, as I indicated clearly in the course of the NAMA, and I reiterate here today, must ensure that there is an adequate flow of credit to the economy. There are very difficult questions to determine on whether a particular business may be viable for credit purposes or not, but I am concerned about the total volume of credit in the banking system and it is my intention to ensure that the powers conferred upon me under the legislation are exercised to that end.

The guidelines have been the subject of discussions between my officials and the relevant financial institutions. I understand the particular banker to whom Deputy Bruton is referring is the retiring chief executive of the Allied Irish Bank.

Deputy Richard Bruton: Specifically,—

An Ceann Comhairle: There is a limited time for each question.

Deputy Richard Bruton: The Minister absorbed virtually all of the time and the Ceann Comhairle should have called a halt when he overran his time.

Deputy Brian Lenihan: The Deputy asked many questions.

Deputy Richard Bruton: I am not objecting but I do not want to be squeezed out by the Minister's long answers.

As a result of the Minister's guidelines, will we see cheaper credit coming from the banks? That is a specific question. Will we see guidelines that will increase the flow of credit? Can the Minister give categorical commitments to the small businesses which will be listening to what he has to say? Will we have cheaper credit and more availability?

Deputy Brian Lenihan: Certainly, the purpose of the operation, as I understood it and as discussed in this House, was to ensure greater availability of credit. As to the cost of credit, that, of course, is a matter determined by financial markets. Deputy Bruton knows that perfectly well.

Deputy Richard Bruton: Why did the Minister tell us and all his spokesmen that this new ECB money at 1.5% rate would dramatically reduce the costs of borrowing and we would see a reduction in credit costs?

An Ceann Comhairle: Deputy Bruton will await the answer.

Deputy Brian Lenihan: It is quite clear that the question of availability and the price of credit are distinct questions, but if credit is more available, credit is thereby cheaper as well.

Deputy Richard Bruton: So the Minister will issue guidelines to—

Deputy Brian Lenihan: Yes. However, I will not specify rates of interests that should be applied by financial institutions—

Deputy Kieran O'Donnell: That is not the question.

Deputy Brian Lenihan: —and that would not be my function under the relevant legislation.

Deputy Richard Bruton: The Minister can understand——

Deputy Brian Lenihan: That is the reason I would be very careful about banking.

Deputy Richard Bruton: I do not want to hold up the time, but the Minister can understand Deputies were lining up to tell us that access to 1.5% money from the ECB would see a dramatic reduction in the cost of credit. Now that is evaporating, the banks will not deliver it and the Minister will not insist upon it.

Deputy Brian Lenihan: I do not accept the premises in Deputy Bruton's question at all. The purpose of NAMA, as I made clear at the time, is to clean up the balance sheets of the banks in accordance with the best international guidance on that subject. The President has now signed the necessary legislation, consultations will take place about the appointment of the board with the Opposition leaders and it is my intention, on my legislative powers, to issue appropriate directions to the banks on credit supply in the economy.

Deputy Richard Bruton: Live horse and one will get grass.

Fiscal Policy.

2. **Deputy Joan Burton** asked the Minister for Finance his views on the latest Exchequer figures; their implications on the fiscal position here moving into 2010; and if he will make a statement on the matter. [45078/09]

Deputy Brian Lenihan: The Exchequer returns for the period to the end of November, which were published yesterday, showed an Exchequer deficit of €22.1 billion. This compared to a deficit of €7.9 billion for the same period last year. The deterioration reflects an €8.1 billion decline in tax receipts along with a €4 billion capital injection for Anglo Irish Bank and the bringing forward of next year's contribution to the NPRF to facilitate the recapitalisation of AIB and Bank of Ireland. Total voted expenditure was 1.6% below profile at end-November, but it is expected that this shortfall on target will be reduced by the year end.

As Deputy Burton will be aware, November is a crucial month for tax revenue and while still below my Department's forecasts, receipts were not as weak as had been feared in some quarters. By the end of November, approximately €30.8 billion in tax revenue had been collected, which was €1.4 billion or 4.2% lower than profiled. This represented a 21% decline on what was collected in the same period last year.

In particular, November is a significant month for income tax, as returns from the self-employed are received. These returns were broadly on target, leaving income tax €50 million above profile for the month of November. However, it should be noted that revenues were still substantially below the level collected last year, with receipts from the self-employed being down by approximately €379 million or 32% and overall income tax is showing a €1.3 billion or 10% decline in the year to date. The bulk of the remaining shortfall is accounted for by VAT which was €749 million below profile at the end of November, reflecting the continued weakness in consumer spending. Overall, tax receipts are now €1.4 billion behind target.

While the slightly better than anticipated tax performance in November is welcome, it does not in any way lessen the need for action on the Government's part. Taxes are still weaker than was forecast at the time of the supplementary budget and will likely finish the year approximately €1.8 billion below target. Deputies will appreciate that my officials are engaged

in an intensive analysis of this issue this week in preparation for the budget and that figure should not be taken as final for that purpose.

This small improvement on the tax shortfall from that anticipated in the Pre-Budget Outlook must be kept in context. Taxes are still down by almost €14 billion on the same point in 2007 and will finish the year at a level that has not been lower since 2003. As the Deputy will be aware, in that time current expenditure has risen by 70%, and that is not sustainable.

We are borrowing to fill the gap between revenue and expenditure and failing to take action now means that our debt levels will increase further and consequently, the cost of servicing that debt will rise. The objective of the forthcoming budget is to stabilise the deficit in 2010. Taking the necessary action now will ensure that confidence is maintained in the Irish economy and that Ireland is favourably placed to benefit from a global recovery as it takes hold.

As is customary, I do not propose to comment in advance of the budget on any matters that might be the subject of budgetary decisions. However, the White Paper on Receipts and Expenditure, which sets out the likely end-year position for 2009 and the no-policy change opening position for 2010, will be published at midnight tomorrow. Full economic and fiscal forecasts on a post-budget basis will be published on budget day, 9 December.

Deputy Joan Burton: The Pre-Budget Outlook the Minister mentioned forecast that a further 75,000 jobs will be lost in 2010. In the context of the figures, has the Minister any plans to address the personal tragedies for many of those 75,000 persons?

In particular, the Minister noted that income taxes are down significantly. Does he have any plans to get people back to work and thereby increase the income tax take? As he will be aware, with every person who loses a job the loss to the Exchequer is approximately €10,000 in terms of various tax contributions and PRSI whereas the cost of social welfare is likely to be at least €10,000, and the net cost-loss to the Exchequer is at least €20,000. In the context of the Pre-Budget Outlook and the Exchequer figures, is that still the Minister's forecast? What does he expect net emigration to be?

The Minister mentioned specifically VAT. VAT is down approximately €800 million, according to yesterday's figures. Does he now accept that his decision to put a half-point last year in the first budget for 2009 on the VAT rate bringing it to 21.5% was one of the most disastrous decisions he made and that it drove people north of the Border in droves to shop and look for better value? Has the Minister given any consideration to measures that might attract shoppers back? The Minister is strong on appealing to patriotic duty, but that does not butter too many parsnips when prices in the North can be 60% cheaper. I would like the Minister to address those issues.

9 o'clock

Deputy Brian Lenihan: All of the matters referred to by Deputy Burton are being taken into account in the context of preparing the budget. First, as regards the statistics and the projection for those who will be out of work next year, in light of the general economic data available to my Department, a final forecast in that regard will be made on budget day. Conditions in the labour market remain poor, as labour intensive areas, such as construction and the retail sector, have been worst affected by the recession. Employment is expected to fall by 7.75% this year. In recent months, the pace of increase in unemployment has slowed significantly with the underlying unemployment trend falling for the first time in two and a half years. Nevertheless, the rate of unemployment has doubled over the past year. This is a very serious problem and, clearly, measures have to be taken by the Government to ensure that people go back to work. People will go back to work when this country is placed on the road to economic recovery. It will be placed on this road by making the necessary adjustments that must be made in this budget to secure the viability of the economy.

[Deputy Brian Lenihan.]

The Deputy referred to shopping in Northern Ireland and the 0.5% VAT rate, but I do not accept her suggestion in that regard. It is interesting to note that the general consensus among United Kingdom commentators is that the decision of the UK authorities to reduce VAT has been an economic failure. I do not believe that the sum of 0.5% in the context of an underlying rate of 21% — which remained constant for many years, with one notable exception in the earlier part of this decade — had much of an impact on shopping in Northern Ireland. This is borne out by the Revenue Commissioners' own investigation of this matter. As I have pointed out many times in this House, the single biggest attraction in Northern Ireland has been the relative price of alcohol compared to the price that obtains in this State. That is as far as I can help the Deputy at this stage.

Deputy Joan Burton: Will the Minister set out the facts again? The deficit is €22 billion. There was almost €4 billion for Anglo Irish Bank and €1.5 billion concerning the National Pensions Reserve Fund. That would bring the total deficit for the year to €27.5 billion. Is the Minister not shocked at the sheer scale of the collapse that Fianna Fáil has reduced this country to? When Fianna Fáil came into power, Deputy Ruairí Quinn was the Minister for Finance.

An Ceann Comhairle: It is Question Time now, Deputy, not an occasion for Second Stage speeches.

Deputy Joan Burton: He bequeathed a modest surplus to the incoming Fianna Fáil Minister for Finance, Mr. McCreevy. In 12 years, Fianna Fáil have managed to turn that modest surplus — when the country was doing well, employment was growing and manufacturing and competitiveness were never stronger — into a catastrophic deficit.

An Ceann Comhairle: Does the Deputy have a question?

Deputy Joan Burton: The Minister takes an interest in history, but does he not have some regrets? He is defending his decision last year to raise VAT by 0.5%. I only wish that the intelligence of what he was saying was borne out in any way.

An Ceann Comhairle: Can we have a question please?

Deputy Joan Burton: If one talks to traders in the Border counties, one will find that not only are people shopping for alcohol, but they are also shopping for Pampers and almost anything else where mark-ups in the North are 60% or 70% below mark-ups in the Republic. Why is the Government so utterly powerless to do anything to help traders in the Republic?

Deputy Brian Lenihan: It is difficult to reply to a statement. I have always made it clear that, in hindsight, I would prefer not to have introduced the rate, given what the UK authorities did in their budget, which was a competitive, aggressive VAT reduction. It was criticised in all the other European states at the time. I did not defend the increase. I made it clear to Deputy Burton, however, that I did not believe the increase of 0.5% on a standard rate of VAT that had obtained for many years, apart from a particular period earlier this decade, had a material bearing on the issue about which she was concerned. I stand over that view.

As regards the wider questions about the grave fiscal position the State faces, it is a very serious position. It is worth noting, however, that the Commission predicted our deficit this year would be about 12.5%. It is clear from the returns we have to the end of November, on an actual basis, that the deficit will be less than 12%. That is lower than the United Kingdom's deficit this year. I take it, therefore, that the Deputy will be raising similar concerns with her comrades who have been running the United Kingdom in recent years.

Deputy Joan Burton: I did not realise the Minister was a supporter of the Tories.

Deputy Brian Lenihan: I am not.

Deputy Joan Burton: He always wants to have it both ways.

Deputy Brian Lenihan: We are allied to the Liberals now.

Deputy Joan Burton: He is a green Tory.

Deputy Brian Lenihan: No, we are allied to the Liberals. The Deputy was not listening.

An Ceann Comhairle: We are getting into extraneous matters. We are on Question Time now.

Deputy Joan Burton: We used to have three socialists, but now we have three Tories.

Deputy Brian Lenihan: Our allies in the United Kingdom are the Liberal Party. That is where our allegiance lies in the UK. They have a great record in relation to this country.

Tax Code.

3. **Deputy Kieran O'Donnell** asked the Minister for Finance the price difference in euros between Northern Ireland and the Republic of Ireland in respect of a standard bottle of wine, a half litre can of beer and a standard bottle of spirits; the percentage of the difference in each case made up by a differential in tax; the latest estimate of the loss of revenue in excise and VAT as a result of North- South shopping; and if he will make a statement on the matter.
[45165/09]

Deputy Brian Lenihan: I am informed by the Revenue Commissioners that a periodic informal survey, which provides a snapshot of retail prices for the main excisable commodities observed in market outlets in Dublin and Newry, was most recently carried out on 14 October 2009. A summary of the results of that survey and a number of other surveys since February 2007 are published on the Revenue's website:www.revenue.ie/en/about/publications/index-cross-border-price-comparisons.html.

For good health reasons, Ireland and the United Kingdom have applied high rates of excise to alcohol products over the years compared to many other EU member states. The detailed information requested is outlined in the table set out in the Official Report.

In summary, on 14 October, using an exchange rate of €1 being equal to 0.9302 sterling, a bottle of wine cost €9.24 here and €6.74 in Northern Ireland, with tax being €1.49 higher here and representing some 60% of the overall cost differential. A 500 ml can of beer cost €2.04 here and €1.52 in Northern Ireland, with tax being 21% higher here and representing some 40% of the overall cost differential. A bottle of whiskey cost €25.99 here and €17.17 in Northern Ireland, with tax being €6.53 higher here and representing some 74% of the overall cost differential.

As the Deputy may be aware, the Revenue Commissioners and the Central Statistics Office, CSO, prepared a report, at my request, on the implications of cross-Border shopping for the Irish Exchequer. The report was published on my Department's website on 20 March 2009. The report estimated the likely value of cross-Border shopping in 2009 to be in the range of €450 million to €700 million, with a potential loss in Exchequer revenues arising from reduced VAT and excise yields of between €72 million and €112 million. In addition, a possible corporation tax loss in the range of €20 million to €31 million is tentatively estimated. It should,

[Deputy Brian Lenihan.]

however, be noted that any estimate for corporation tax is provisional and should only be considered as indicative of the potential loss.

The report noted that the main causes of price differentials between goods in Northern Ireland and the Republic are operating costs, profit margin or mark-up, taxes, and the rapid depreciation of sterling against the euro. While changes in the standard VAT rates widened some price differentials, their impact remains small compared to the size of the change in the exchange rate. For example, sterling has fallen in value relative to the euro by around a third since mid-2007.

The report also noted that there is rather limited availability of quantifiable data on cross-Border shopping. With a view to improving the data available, Revenue and the CSO have worked on questions for inclusion in the quarterly national household survey, QNHS, that should facilitate a more detailed assessment of cross-Border shopping in future. I understand that the results of the CSO's QNHS cross-Border shopping module are due to be published tomorrow.

It is a long-standing practice for the Minister for Finance not to comment in advance of the budget on any tax or expenditure matters that might be the subject of budget decisions and I do not propose to deviate from that practice.

Cross-Border Differentials

Product	Price in this State	Price in N.I.	Diff.	Total Tax/Duty in this State	Total Tax/Duty N.I.	Difference Total Tax/Duty	% Diff. made up of Differential in Tax
	€	€	€	€	€	€	
Bottle of Wine	9.24	6.74	2.50	4.10	2.60	1.49	60.0%
Beer (500ml can)	2.04	1.52	0.52	0.78	0.57	0.21	40.4%
Bottle of Whiskey	25.99	17.17	8.82	15.59	9.05	6.53	74.10%

The Euro exchange rate used on the survey date was 0.9302 sterling. Small differences in calculation are due to the rounding of figures.

Deputy Kieran O'Donnell: In the report prepared by the Revenue Commissioners which the Minister provided on foot of a request I made to him at a meeting of the Joint Committee on Finance and the Public Service, reference was made to the household survey to be done in the second quarter. That did not actually happen and I welcome the fact that it is to be published tomorrow. it was a major weakness in the initial report.

I believe the Minister has got the whole issue of VAT wrong in terms of his analysis and as regards the increases in VAT. If one's business is going badly one does not increase the prices, but that is exactly what the Minister did in the last budget. The economy was going badly and instead of effectively looking at a possible reduction, he decided to increase the VAT rate. Not only did he increase the VAT rate but he also increased the bi-monthly VAT period for business in the month before Christmas. It made no sense. There are certain areas we have no control over, particularly as regards the exchange rate and if one looks at the whole issue of VAT throughout the country——

An Ceann Comhairle: Can we have a question, Deputy?

Deputy Kieran O'Donnell: Does the Minister not accept he must reduce the VAT rate, particularly in terms of cross-Border activity? In the report he has just mentioned operating costs only account for 6% of the price differential between Northern Ireland and here. The Government has admitted its mistake in this regard, and this being so, the best way to remedy that is to change it. Will the Minister now give an assurance that he will at least restore the VAT rate to its former level to help people in cross-Border areas in particular, although this has affected business throughout the country?

Deputy Brian Lenihan: It is not my practice to comment on the budget in advance. Clearly, any budgetary decisions will have to be made in the context of a coherent framework of taxation and expenditure. However, I reiterate that with the notable exception of the United Kingdom, EU member states have generally not opted for VAT rate cuts as a way to boost consumer spending.

Deputy Kieran O'Donnell: They certainly have not got the VAT rate increases we have.

Deputy Brian Lenihan: In contrast, some member states have increased VAT rates, curtailed the scope of exemptions and reduced rates to help cover the budgetary shortfall generated by the slump. Indeed, it is understood that some other member states are considering increasing their VAT rates as part of the ongoing response to the general fiscal crisis. The United Kingdom standard VAT rate is due to revert from 15% to 17.5% on 1 January next year, so the position in relation to VAT is far from consistent throughout the EU. Although the UK cut its standard rate of VAT from 17.5% to 15% on a temporary basis, from 1 December 2008 to the end of this year, at the same time it increased excise duties on alcohol, cigarettes, petrol and diesel, to offset the 2.5% reduction in VAT on these items. Consequently, there was no reduction in the price of these products in Northern Ireland as a result of the reduction of the UK VAT.

The VAT rate, as I pointed out earlier, is only one factor in the price differential between North and South. The considerable weakening of sterling has had a far more significant impact on relative prices than any VAT changes. Past experience has shown that fluctuations in the relative exchange rates can have a direct effect in terms of the level and balance of cross-Border trade with Northern Ireland.

Deputy Kieran O'Donnell: The Minister seems to be taking both sides of the argument. He was quite critical of the Labour Government in the UK in his response to Deputy Burton. We cannot tax our way out of a recession and he is quoting here about increasing tax rates. Are we to take it, therefore, that he might be increasing rather than reducing VAT rates?

It is critical that the Minister deals with the matter in hand. We are competing with Northern Ireland and we have no control over the exchange rate. The one thing the Minister has control over is VAT rates. An estimated 400 jobs are involved as against €143 million in lost revenue. I am concerned here with jobs. The only way we can come out of this recession is to ensure people retain their jobs. Can the Minister say whether he agrees with the Labour Party in the UK?

Deputy Brian Lenihan: The Deputy can take nothing from my answer as regards what will appear in next week's budget. I have simply been drawing his attention to certain general considerations in these areas. In mentioning the fact that other member states increased VAT, I was not in any way suggesting that this should be a precedent or a model for our own practice in this area.

Flood Relief.

4. **Deputy Kieran O'Donnell** asked the Minister for Finance the range of measures he plans for immediate relief of those affected by flooding and for longer-term prevention; the funding he intends to put in place; if EU support has been obtained; and if he will make a statement on the matter. [45166/09]

Deputy Brian Lenihan: A number of Government Departments and agencies have responsibility for emergency planning functions. In the current flooding situation, the Department of the Environment, Heritage and Local Government chairs an emergency response co-ordination committee which meets on a daily basis to handle the current emergency situation. I am informed that his Department will shortly ask the local authorities for reports on the impact of the flooding and an assessment of the remedial works required.

While actual funding requirements will not be known until the assessments are completed, the Minister for the Environment, Heritage and Local Government has provided supplementary funding of €10 million to assist local authorities in meeting the exceptional costs associated with the current flooding crisis. In addition, the Government has announced the provision of an initial sum of €10 million for humanitarian aid to be administered by the community welfare division of the Health Service Executive on behalf of the Department of Social and Family Affairs. This supplements existing schemes administered by the community welfare service. A further €2 million has been provided for the agricultural sector.

When more complete information on the scale and cost of the damage arising becomes available, full consideration will be given to ways of meeting these costs, including if appropriate, making application to the EU for financial support. In the course of attending ECOFIN in Brussels, yesterday, I raised this issue with the Commission. My Department has been in contact with the Commission to establish eligibility criteria already and the scale of funding that might be available. I am also informed that the Joint Committee on European Affairs is travelling to Brussels tomorrow, 4 December to meet with the Commissioner for Regional Policy, Mr. Pawel Samecki to discuss the flooding situation and opportunities for assistance from the EU under the EU Solidarity Fund.

Last Monday the Minister for the Environment, Heritage and Local Government, Deputy John Gormley, and my colleague, the Minister of State at the Department of Finance, Deputy Martin Mansergh, jointly published statutory planning guidelines on the planning system and flood risk management, which are aimed at ensuring a more consistent, rigorous and systematic approach to the avoidance and minimisation of potential future flood risk and to fully incorporate flood risk assessment and management into the planning system.

Deputy Kieran O'Donnell: Is the Minister not aware of the turbulent situation throughout the country? The Minister of State, Deputy Mansergh, would be because he has visited many of these areas. We have high tides in Limerick right now as we will tomorrow morning. In terms of the impact of the floods, I hope matters will be all right. However, does the Minister not accept that the €10 million being provided is grossly inadequate and that there is a need for extra funding? In that context he might elaborate in terms of his initial discussions yesterday at the ECOFIN meeting with his counterparts, in terms of the general reception he received on this matter, the level of funding to be made available, when it will be forthcoming and the type of purpose it is to be used for. A practical issue that needs to be examined, too, in terms of humanitarian aid is the fact that people who have insurance in their own right might have to wait months before receiving payments from their insurance companies.

It will be important for the Minister to meet the Irish Insurance Federation and come up with a formula whereby the Government can advance money to people who will receive insurance awards to enable them to get works under way. Many people throughout the country have been forced from their homes.

The Minister should elaborate on the ECOFIN meeting, the level of funding he envisages, when it will be made available and the purposes for which it can be used. Does he agree the €10 million in funding he intends to provide is grossly inadequate?

Deputy Brian Lenihan: No Minister for Finance will ever accept that a sum allocated is grossly inadequate.

Deputy Kieran O'Donnell: In the current circumstances.

Deputy Brian Lenihan: No. However, it must be understood that this is an initial sum. In a matter of this type, what is required is an assessment of the loss and of where insurance cover is available. It would be irresponsible of any Minister for Finance to provide an open-ended commitment at the beginning of such a process. This is an initial sum to deal with the immediate position that has arisen. The Minister for the Environment, Heritage and Local Government, Deputy Gormley, the Minister of State at the Department of Finance, Deputy Mansergh, as well as the Minister for Social and Family Affairs, Deputy Hanafin, will draw to my attention to the need to allocate additional funds, where the case for that need is made. Such requests will be considered sympathetically and expeditiously.

As for discussions with the European Union, aside from the European Union Solidarity Fund, no additional European Union funds are available to Ireland for flood relief. Ireland has been allocated €901 million in Structural Funds for the period from 2007 to 2013. As this funding is allocated fully to other projects under the various relevant programmes, it is not possible to reallocate from within those programmes. As for the Solidarity Fund, the ambassador raised the matter with the Commission yesterday. I also raised with a Commission official the question of the criteria for the Solidarity Fund and the Government is exploring ways in which to bring Ireland within those criteria.

An Ceann Comhairle: Deputy O'Donnell, briefly, as we need to move on.

Deputy Kieran O'Donnell: Does the Minister expect that Ireland will qualify for funding on foot of the scale of the crisis? This has been Ireland's tsunami and people's homes have been destroyed throughout the country. I also refer to the funding that will be made available to local authorities. They have carried out considerable work at considerable cost in recent weeks and funding to them should not be reduced.

Deputy Brian Lenihan: First, as a result of introducing the second home levy there has been a substantial increase in the funds available to local authorities last year. Local authorities must take their share in the adjustment and I hope that members of the Deputy's party, which has a rather commanding position in local authorities, will concentrate their minds and energies on making the necessary economies in the areas for which they have responsibility and will play their parts in the united national effort that is required. As for the question on the funding criteria, they are community criteria and the evaluation takes place at community level. The Government will do everything in its power to ensure that Ireland falls within those criteria on the basis of the submission it will make. I am well aware that flooding has done great damage, not just to households——

Deputy Kieran O'Donnell: To businesses and farms.

Deputy Brian Lenihan: —but also to agricultural stocks, businesses and in some cases, to individuals' motor cars.

An Ceann Comhairle: We will move to Question No. 5.

Deputy Joan Burton: Did the Minister swim or walk?

Deputy Kieran O'Donnell: How is the Minister's car?

Deputy Brian Lenihan: It is a write-off.

Deputy Joan Burton: Was the Minister insured?

An Ceann Comhairle: We will move to Question No. 5. We can revisit that matter later.

Deputy Brian Lenihan: It is a legal requirement to insure one's car. The Deputy meant comprehensive insurance.

Deputy Joan Burton: Was the Minister comprehensively insured?

Deputy Brian Lenihan: Yes.

An Ceann Comhairle: Question No. 5.

Deputy Kieran O'Donnell: The Minister should rest assured that unlike his party, the Fine Gael Party is committed to freezing rates throughout the country.

Deputy Brian Lenihan: I discovered that as it was a Sunday, I will not be getting any days off, irrespective of what happens at these negotiations.

Deputy Joan Burton: I heard the helicopter rescued the Minister.

Tax Yield.

5. **Deputy Richard Bruton** asked the Minister for Finance the latest estimate of the revenue to be earned from the air travel tax; his assessment of its impact on foreign visitors; and if he will make a statement on the matter. [45481/09]

Deputy Brian Lenihan: I am informed by the Revenue Commissioners that the air travel tax arising from travel undertaken in any month is payable by airline operators by the 23rd of the following month. The yield from the air travel tax received in the period from May to November 2009, in respect of travel undertaken during the months April to October 2009 is €76.9 million. It is estimated that the air travel tax will yield approximately €125 million in a full year.

The Finance (No. 2) Act 2008 confirmed the introduction of an air travel tax from 30 March 2009. However, I took account of concerns raised by the regional airports, particularly those on the western seaboard. The lower rate of €2 applies to departures from any Irish airport where the destination is 300 km or less from Dublin airport. This means that all Irish departures to locations such as Manchester, Liverpool and Glasgow are subject to the €2 rate.

Ireland is not unique in regard in applying a tax on air travel. Other countries within the EU, such as the United Kingdom and France, apply similar taxes, as do Australia and New

Zealand. The rates for the Irish air travel tax are not unreasonable, both for shorter and longer journeys, when compared with rates in other countries. It should be recognised that tourists are only subject to the tax on their return journey. The additional €10 or €2 in the context of a much larger purchasing decision involving travel, hotel expenditures and so on should have only a limited effect on tourism numbers. The Government appreciates the airline industry continues to go through a difficult period. However, this difficult trading period arises primarily from weak world economic activity.

It should be noted that at present, the decline in air travel is an international phenomenon and as a result aviation services are contracting on a global basis. In the case of Ireland, the decline in passenger numbers through our airports is broadly in line with our international counterparts. This downward trend is evident for periods prior to the introduction of the air travel tax. Furthermore, passenger numbers for other modes of transport also have experienced broadly similar declines. While this is not a desirable position, it is clear that the air travel tax is not the substantive cause for the decline in passenger numbers.

We currently face significant financial challenges and the air travel tax is an important revenue-raising measure. The Government has tried to be as fair as possible in considering areas for additional tax revenues. It is worth noting that as fuel used by commercial airlines is completely exempt from tax, this is a sector that already has considerable preferential treatment.

Deputy Richard Bruton: Is the Minister aware that the number of visitors to Ireland has fallen by approximately 700,000 since the introduction of the air travel tax? Contrary to what the Minister suggests, the information I have seen demonstrates that Ireland has moved from being one of the fastest growing destinations to now being among those worst hit by the reversal. Has the Minister had sight of the study that was carried out, admittedly by a vested interest? This analysis suggested that the impact of this tax on the tourism sector has been €500 million, compared with the hoped-for revenue of €125 million. For a country like Ireland, which seeks to trade its way out of this recession, does the Minister not agree that handicapping the tourism sector is particularly short sighted?

Deputy Brian Lenihan: I do not accept the premise that led the Deputy to the conclusion that the air travel tax led to the decline in Irish visitor numbers. I do not accept it because it is not in accordance with the international data. What is happening in Ireland is happening in every other country. There is a decline in passenger numbers but it is not caused by the air travel tax. Many other countries have such taxes and there is no correlation between the presence of an air travel tax and the number of passengers in a given country.

Deputy Richard Bruton: Is the Minister aware the Belgian, Dutch, Greek and Spanish Governments all have removed such taxes in an effort to try to stimulate their respective tourism sectors? Furthermore, is he aware that many Irish airlines are moving their aircraft out of Ireland to other destinations to achieve cheaper onward movement? As the Minister is aware, even Aer Lingus is doing this and effectively is offshoring its aircraft. Does it not constitute a serious development for a country that seeks to make its living from tourism to find its own aircraft being offshored to avail of better conditions in other markets? Surely this matter deserves some attention from the Government.

Deputy Brian Lenihan: It is not my practice to divulge details of budgetary decisions in advance of the budget and I drew attention in my reply to various general considerations that

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apply to this area. I reiterate that I do not accept that the various different considerations to which Deputy Bruton referred do not stem from the travel tax, but from other commercial considerations that obtain in airlines, as well as from the general decline in world passenger numbers.

Other Questions.

Departmental Agencies.

6. **Deputy Enda Kenny** asked the Minister for Finance if he will indicate the start-up date for the transfer of assets to the National Asset Management Agency; and if he will make a statement on the matter. [44821/09]

Deputy Brian Lenihan: The National Asset Management Agency Act 2009 provides for the acquisition of eligible assets from participating institutions by NAMA. In accordance with the terms of Part 6 of the Act, it is expected that the first acquisition schedules will be served by NAMA on participating institutions in January 2010. This will prioritise the loans of the larger borrowers across the participating institutions. Section 87 of the NAMA Act provides the date of acquisition of a designated bank asset shall be at least 28 days after the relevant acquisition schedule is served on the participating institution concerned unless NAMA specifies a shorter period in the acquisition schedule. The precise timing of the acquisition process and of the transfer of the first tranche of assets to NAMA will be dependent on the extent to which credit institutions have conducted the necessary preparatory work and on EU state aid approval. My officials continue to work closely with the European Commission in an effort to secure early approval for the scheme.

Deputy Richard Bruton: I understand the preference shares in AIB will not have a coupon paid to the Government. It may then be put into a position that it will have to acquire ordinary shares as a result of the effect of default. Will the Minister comment on this?

Is restructuring of the banks a core issue to getting EU state aid approval? Will the Minister inform the House where the debate now stands as to the necessary restructuring? Will we see the banks required to divest some of their existing activities, perhaps to a third banking force or elsewhere?

Deputy Brian Lenihan: An issue arose with AIB about the payment of a coupon related to an instrument other than an instrument issued by the State. In view of the submission of the restructuring plan, the European Commission felt the payment of coupons should be suspended pending the determination of the restructuring plan. A decision, therefore, has not been taken as to whether the coupon on the preference shares taken by the State in AIB will be paid. That decision will be made in the context of the restructuring plan and having regard to state aid issues which arise from it.

Deputy Richard Bruton: Will this trigger the takeover of ordinary shares by the State?

Deputy Brian Lenihan: It is a contingency; it is not something that will necessarily happen. The European Commission has advised us that this issue will be considered in the context of the request for its approval of the structural plan. The Commission expressed the view that

were AIB able to raise private capital, then it would expect the State to continue to receive its coupon. That is only, however, a preliminary view.

The term sheet governing the preference shares made clear that if there were a default on the payment of the coupon, the State would then acquire an increasing share in the ordinary equity of the relevant institution.

The restructuring plan has been submitted to the Commission. In assessing it from a competition and state aid perspective, the Commission is anxious banks focus on their core business and divest themselves of assets not central to that. That is a matter which will engage the attention of the Commission in the coming weeks.

Deputy Richard Bruton: Would the Minister agree the State's acquisition of these ordinary shares compared to the preference shares represents appalling value for the taxpayer? Does he envisage that part of the restructuring of the banking sector will require them to divest some of their activities in the Irish market so the too-big-to fail problem will not afflict us in the future?

Deputy Brian Lenihan: That is an issue that will be examined. The current preference share-holding arrangement assures the taxpayer of a fixed repayment from the institution concerned. Were the State to take ordinary equity, it would have the expectation of a dividend and the hope of an eventual value in an item which is pure risk capital. That is the contrast between a pure equity investment and the preferential arrangements negotiated with Bank of Ireland and AIB.

Deputy Richard Bruton: However, the State would be vastly overpaying for this.

Deputy Brian Lenihan: That issue can only be determined in a particular context at a particular time when the matter comes for determination which it does not at this stage.

Deputy Joan Burton: The recent revelations in this matter are very disturbing for taxpayers. The State gave AIB €3.5 billion, €500 million short of the Minister's gap next Wednesday. For this, the Minister will inflict incredible pain on families and workers across the country. That €3.5 billion was for the purposes of acquiring a preference share interest in the bank. If it were to be converted into ordinary equity, the State stands to get, on the basis of the deal the Minister insisted was fantastic, 25% of AIB.

Deputy Brian Lenihan: The State will get a greater share.

Deputy Joan Burton: Today, the bank could be bought in its entirety for €5 billion. We stand to lose over €2 billion on this deal the Minister entered into with the National Pensions Reserve Fund.

The Minister is always at pains to suggest there is no link between the budget woes that people will hear from him on Wednesday and the bail out for the bankers and developers. The figures in question are deeply worrying, especially for the Minister, as they suggest the arithmetic has gone badly askew.

The indications during the debate on the NAMA legislation——

An Ceann Comhairle: Does the Deputy have a question?

Deputy Joan Burton: —were that the top ten and then top 30 developers' loans would be transferred before Christmas. How many does the Minister expect to be actually transferred? Has the Minister revised the transfer date to the end of January or even February? What is the value of those assets? What is the revised date for the transfer of all toxic debts to NAMA?

Deputy Brian Lenihan: I do not know where to begin with the various assertions and statements made by the Deputy about bail outs for developers and bankers. Deputy Burton is well aware that with the budget there is a profound gap between the State's receipts and expenses in Vote capital and Central Fund payments.

Deputy Joan Burton: There is €7.5 billion this year for the banks.

An Ceann Comhairle: Deputy Burton, allow the Minister to reply.

Deputy Brian Lenihan: It is the narrowing of that gap that has to be addressed in the budget next Wednesday.

Apart from that gap, the State has had to make a substantial investment to ensure that we continue to have a viable banking system. It was made on the basis of a defined return from Bank of Ireland and AIB. If that investment is converted into ordinary equity by way of a capitalisation, then the State's interest, while more long-term and greater in character and eventual value, will lose the short-term advantage of an income flow. It is not correct, as Deputy Burton suggested, that if the State obtains shares in lieu of coupon payments then these shares are part of the 25% stake which the State already has in the institution.

The NAMA draft business plan was published in early October, based on the best available information then. Minor delays took place with the completion of the legislative process. This was due to final proofing of the Bill before presentation to the President. Operational issues have also arisen concerning shareholder approval in the different applicant institutions. These factors have extended the timetable but it is not a significant delay. I expect the first set of acquisition schedules will be served on participating institutions in January. The agency will begin with the largest aggregate exposures and the first tranche will take place in January. The business plan indicated that the transfer process will be completed by July 2010. As I have stated previously, the commencement of the transfer assets will begin in January and a final business plan will be prepared in the coming weeks for approval by the NAMA board. I do not expect the timetable as set out in the draft business plan to change to any significant extent.

An Ceann Comhairle: I will allow a brief question from Deputy O'Donnell. We have already spent a great deal of time on this question.

Deputy Kieran O'Donnell: I have two brief questions. Am I correct that the extraordinary shares will be based on coupon foregone in terms of preference shares?

Deputy Brian Lenihan: No. The term sheet provides that additional ordinary shares are allocated in the event of non-payment of the coupon.

Deputy Kieran O'Donnell: What extra percentage of ordinary shares would the Minister expect?

Deputy Brian Lenihan: I do not have those particulars before me and will arrange for the information in relation to the term sheet to be forwarded to the Deputy. It is calculated by proportion to the value of the institution and the——

Deputy Kieran O'Donnell: The Minister referred to the restructuring of AIB or any of the banks. What level of additional private capital will the two main banks, Allied Irish Bank and Bank of Ireland, require?

Deputy Brian Lenihan: Again, the determination of what additional capital will be required will turn, first, on the impact of the acceleration of losses imposed by the NAMA exercise and, second, by a determination on the part of the Governor of the Central Bank and Financial Regulator in terms of what will be the appropriate percentage required by these institutions.

Deputy Kieran O'Donnell: The market is determining that, as the Minister is well aware.

Economic Competitiveness.

7. **Deputy Emmet Stagg** asked the Minister for Finance his views on the fact that about two thirds of lost competitiveness here in recent years has arisen from adverse currency movements; the extent he attributes the loss of competitiveness to increased labour costs; and if he will make a statement on the matter. [44884/09]

Deputy Brian Lenihan: In recent years Ireland's harmonised competitiveness indicator — the euro's exchange rate adjusted for Ireland's trading patterns — has increased, which implies a loss of international competitiveness. There are two reasons for this. First, Ireland trades relatively more with the UK and the USA, and both sterling and the US dollar have depreciated against the euro in recent years. Second, until last year, inflation in Ireland was higher than in the rest of the euro area while wages also grew rapidly. Part of these increases in labour costs and prices were justified as productivity growth in Ireland was higher than in the euro area. However, some of the growth in labour costs, in particular in recent years, was out of line with productivity developments. The National Competitiveness Council has outlined a range of wider cost factors that have also damaged our competitiveness.

As a small member of a currency union we have no control over the exchange rates we face and must focus on improving competitiveness at home. As such, we need to improve our competitiveness as quickly as possible and there are already a number of positive developments in this regard. Consumer prices in Ireland are now declining at the fastest rate in the euro area, by 2.8% in the year to October on the harmonised measure and by 6.6% using the national measure. In addition, we are also seeing the benefits of our labour market flexibility. Much available evidence points to recent downward pressure on wages in the economy. Unit labour costs, wages adjusted for productivity, are forecast by the European Commission to fall in Ireland this year, uniquely in the euro area. It is predicted they will fall by a cumulative 5% by 2010 and 2011, the largest fall in the euro area over the two years.

A highly educated workforce as well as the policies outlined in the Government's smart economy document will also help. While the falls in domestic prices, easing wage pressures and improvements in productivity are helpful, we must not be complacent as further improvements in our competitiveness are essential to take advantage of the global recovery.

Deputy Joan Burton: I thank the Minister for his reply. The previous question also alluded to the following matter. The biggest single element is the differential between the euro and sterling. Given that North and South comprise one island, people have easy access to crossing the Border. If the Minister cares to shop for a day or afternoon in Grafton Street and to visit a range of UK owned multiples he will find that products priced there at €100 are more than likely available in the North or UK for approximately £65 sterling. This means, allowing for

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competition differences and the fact that costs and VAT are somewhat higher, that a product priced at approximately £65 sterling should not cost any more than €80. This would allow for a good return and mark-up.

An Ceann Comhairle: The Deputy is making a statement and must put a question to the Minister.

Deputy Joan Burton: We are finding that such products are priced at €100, thus there is gross profiteering by shops, in particular multiples of UK high streets. Does the Minister propose to do anything about this? This is driving people, whether in Dundalk or Dublin, to cross the Border to purchase pampers and so on. I accept the purchase of alcohol is a factor in this regard. A pair of shoes costing €100 in any particular shop in Grafton Street are available for £65 sterling. There is a huge difference between the cost of pampers North and South of the Border. Anyone within a 40 or 45 mile drive will inevitably end up in ASDA in Enniskillen or Sainsbury's in Newry. Retailers are also shopping in these outlets.

An Ceann Comhairle: The Deputy must put a question to the Minister.

Deputy Joan Burton: They are able to purchase goods at retail prices that are cheaper than wholesale prices in the Republic and the Minister is doing nothing about this. What does he propose to do?

Deputy Brian Lenihan: Where do I begin? First, a new shopping centre was recently opened in Dundalk and, in fairness to individuals living there, they are shopping locally because they know how much damage is done to their local economy by cross-Border trade. I wanted to mention that in passing.

As far as the general question raised by Deputy Burton is concerned, a few points need to be made. First, when a currency depreciates as rapidly as sterling has it takes a while for the stock prices to reflect that depreciation in the importing State. There has been considerable evidence of a reduction in prices. Traders have reduced their prices. One of the reasons for the reduction in the cost of living in this State is the depreciation of sterling. For example, it is noteworthy that the cost of clothing has fallen to a far greater extent than has the cost of food, which reflects that most clothing originates in the sterling area.

Deputy Burton asked what I am doing about this. This is a matter for the Government collectively rather than a distinct responsibility of the Minister or Department of Finance. The Government must ensure that our competition laws are vigorously enforced in respect of abusive behaviour.

Deputy Joan Burton: I have many connections with Dundalk. I am married to a man from Dundalk and I am aware of what the traders in Dundalk are experiencing. Despite their great efforts they are losing a huge amount of trade and are at the pin of their collars to survive. Platitudes will not get them very far. We have a Competition Authority and National Consumer Agency. The Competition Authority takes action against the Kennel Club to ensure there is more than one licensing authority for championship breeds in this country. That is the type of play-acting in which the Competition Authority has been engaging.

An Ceann Comhairle: A question to the Minister, please.

Deputy Joan Burton: Does the Minister propose to ensure consumers receive a fair deal in terms of the manner in which rates of exchange in respect of the euro to sterling are calculated? We are being ripped off. If one looks at the websites which compare prices in respect of cosmetics or clothes, or even items in respect of which VAT is not payable, one will see that the mark-up from sterling to euro in the case of the Republic of Ireland are extraordinarily high. Does the Minister intend to introduce proposals to address this?

Deputy Brian Lenihan: The question should be directed to the Minister for Enterprise, Trade and Employment.

Deputy Richard Bruton: The Minister correctly indicated that what Ireland is trying to achieve or must achieve now is the equivalent of a devaluation. We must do it by pushing down wages, prices, fees and charges. I wish to put two simple suggestions to the Minister. Would he consider leading this by at least agreeing to a freeze on every charge made by the State, so that no charge would be increased by the State? Second, would he consider an initiative to target rip-off wherever it is occurring, be it in the board rooms or on the high street? I can offer an example. I went into a shop today and was told by the proprietor that his rent had increased by 100% last December. Although trade has collapsed, there is no question of him negotiating an agreement to reduce it. Is that not immoral? It is economic suicide for this country if some people can increase their rents in that manner at a time when the Minister is, rightly, trying to get costs down. Will the Minister take the lead in a campaign to drive down these costs, which are really hurting our ability to trade our way out of this problem?

Deputy Brian Lenihan: I have taken the lead in so far as the Department of Finance funds different branches of Government. It is very important that we ensure that the cost of government is reduced. It is also important that citizens reflect on the fact that there has been a fall in the cost of living and that the provisions in the budget will have to reflect that. Above and beyond that, I agree there are issues about charges by the State. In preparing budgets and examining departmental estimates it is essential to examine appropriations-in-aid as well as amounts taken in taxation to ensure that they are not simply used as a substitute form of taxation instead of real cost economies in the particular operation. Local authorities have an important role to play as well, and members of local authorities will have to face up to their responsibilities in their management of the authorities.

Deputy Richard Bruton: What about landlords? Do they not have a responsibility too?

Deputy Brian Lenihan: There have been substantial decreases in rents, far above most other——

Deputy Richard Bruton: They are household rents. I am referring to commercial rents for businesses.

Deputy Brian Lenihan: I am sorry, the Deputy's question was about the retail sector. I understand that the Minister for Justice, Equality and Law Reform intends to commence the relevant legislation with regard to greater flexibility early in the new year.

Deputy Joan Burton: Is that after the NAMA valuations are done?

Deputy Brian Lenihan: No, there is no connection as I understand it.

Deputy Joan Burton: It is keeping the valuations up.

Deputy Brian Lenihan: The Minister brought forward legislative proposals and is considering their implementation. There is considerable evidence of a reduction in commercial rents, notwithstanding upward review clauses.

Deputy Joan Burton: Most traders have one opportunity between now and the January sales.

Tax Code.

8. **Deputy Seán Sherlock** asked the Minister for Finance if he will introduce measures to ensure that persons living here, but who are non-resident for tax purposes, make some contribution to the Exchequer; his views on the introduction of a flat fee for tax exiles along the lines of a similar measure introduced in the UK in recent years; if he has studied and will comment on the application of this measure in the UK; and if he will make a statement on the matter. [44880/09]

Deputy Brian Lenihan: The taxation of individuals in the State is in line with that prevailing in most other OECD jurisdictions, that is, individuals who are resident in the State for tax purposes, based on the number of days of presence in the State, are taxable here on their worldwide income; and individuals who are not resident here for tax purposes pay tax here only on income arising in the State and on income derived from working here. In section 15 of the Finance (No. 2) Act 2008, I amended the tax residence rules to provide that an individual will be regarded as present in the State for a day if he or she is in the State at any time during the day, not just at midnight. This applies for the 2009 tax year and subsequent tax years. It makes it more difficult for individuals based in Ireland to become non-resident for tax purposes. I remind the Deputy that, as outlined above, such persons pay tax on any income earned in Ireland.

I am aware that HM Revenue and Customs introduced changes to the remittance basis of taxation, under which certain individuals pay tax on foreign income or gains only if the money is remitted or brought into the country. The charge to which the Deputy refers is not imposed on non-residents. It is levied on UK residents who are either not ordinarily resident or not domiciled in the UK and who therefore can claim the remittance basis. These individuals now must pay a fee of £30,000 in order to claim the remittance basis and avoid paying tax on foreign income and gains unless this money is remitted to the UK. I am not considering implementing such a measure at this time.

The Deputy might ask whether I intend to impose a charge on individuals who become non-resident for tax purposes. There is no requirement on an individual leaving the State to declare, whether on a tax return or elsewhere, the reason he or she left Ireland, so there is no way to identify someone who has left for tax purposes. Individuals are perfectly entitled to change their residence and they do so for a variety of reasons, most of which have nothing to do with tax.

Deputy Joan Burton: Would the Minister agree that in a republic it is right that everybody makes a contribution proportionate to their means, and that in the case of those who, through hard work and good fortune or through inheritance, have very large incomes and fortunes, it is a republican thing that they should make a contribution? Would he agree with very successful and distinguished businessmen such as Warren Buffett and Bill Gates that the rich have obligations to contribute to taxation? Everybody has a moral obligation to contribute to charity but in a republic there is also an obligation to contribute to the costs of the infrastructure of the state of which one is a citizen. Will the Minister outline his philosophy with regard to

people making a contribution, particularly as next Wednesday it is quite likely he will ask people on very low and modest incomes to make an enhanced contribution or to take cuts in income?

Deputy Brian Lenihan: I agree with the sentiments expressed by Deputy Burton that in a republic such as ours there is an onus on all persons who are citizens and who are resident here for tax purposes to comply with their tax obligations. That is the law of the State and I agree with it. The law of the State in this regard is no different from the laws of other states. However, there is a difficult issue to be resolved relating to tax administration, which is that persons might reside in different places and the law must strike a balance in that regard. One can tax a person on their income that arises in Ireland, and all persons resident here, irrespective of duration, pay tax on income they receive in Ireland.

However, in the case of the overseas income of persons who are not resident here, there is a difficulty under the OECD arrangements. Under the current arrangements there must be reciprocity. If a person spends the majority of their time elsewhere, they are clearly not living in Ireland for the purposes of taxing their worldwide income. That is the practical difficulty which any Minister for Finance faces in this area. A rule was introduced by a previous Government which enabled midnight to count as a day for tax purposes. I eliminated that last year, which is a substantial restriction on the scope for any possible abuse of this provision. However, it is a fact that if one does not live half the days of the year here, one does not pay tax on one's overseas income. There is nothing unusual in that. The rule does not just apply in Ireland but in many countries throughout the world.

Deputy Richard Bruton: Will the Minister comment on the proposal by the Commission on Taxation to move to a more economic definition of where people's interests lie as a basis for deciding whether they pay tax? Would that offer an opportunity to trap the tax of some very prominent individuals whose business interests are predominantly in Ireland and who ought to be paying tax here?

Deputy Brian Lenihan: The commission proposed a test relating to the centre of vital interests. That formula is being examined by my Department but it is a formula of vague and uncertain application.

Deputy Bruton referred not to the centre of vital interest, but the centre of economic interest, which is a different test. Regarding many of the more high-profile individuals identified as persons with connections to Ireland, it should be said that many of their economic interests do not appear to lie in Ireland. This issue is not an easy one to resolve. I am not departing from my practice of not commenting on budgetary matters.

Written Answers follow Adjournment Debate.

Adjournment Debate Matters.

An Ceann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 21 and the name of the Member in each case: (1) Deputy Joe Costello — the measures in place to prevent flooding in Dublin; (2) Deputy Paul Kehoe — the need to instruct local authorities to issue a waiver in respect of water and commercial rates for businesses affected by recent flooding; (3) Deputy Kieran O'Donnell — the future of the Dell plant in Limerick. (4) Deputies Joan Burton and Leo Varadkar — the provision of permanent accommodation for Tyrrelstown Educate Together school and Mulhud-

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dart national school; and (5) Deputy Thomas P. Broughan — the future of the jobs initiative and community employment schemes in view reported changes in the regulations.

The matters raised by Deputies Paul Kehoe, Joan Burton and Leo Varadkar, Joe Costello and Kieran O'Donnell have been selected for discussion.

Adjournment Debate.

Deputy Joe Costello: I appreciate the Ceann Comhairle choosing my motion for debate this evening. In recent weeks, we have experienced the worst floods in living memory. The south and west have been inundated and the Liffey burst its banks in County Kildare, flooding many areas. My constituency of Dublin Central has experienced widespread flooding during the past decade. The Ceann Comhairle will remember the former Taoiseach in wellingtons outside St. Luke's. The current Taoiseach did not get around to getting his wellingtons out in time, but the former Taoiseach was well supplied.

The flooding in that instance occurred around the Botanic Gardens and along the Tolka to East Wall, Ballybough and the Royal Canal, where there were many problems. As such, there have been substantial flood warnings, but the Government does not seem to have shown any sense or urgency in addressing the problems. In some areas of my constituency, getting home or property insurance is impossible because of the perception that they will be flooded again. Therefore, why insure the inevitable? Insurance is about the risk of something occurring, not its inevitability.

It is important that the Government addresses the issue and has a long-term strategy. It was not just today or yesterday that the warnings about climate change arrived. In January 2006, the European Commission drafted a directive, which was agreed by the Council at a summit and the European Parliament in 2007. It was passed on to the Government to enact. At this time last year, I asked the Minister for the Environment, Heritage and Local Government about the legislation's status. He replied to the effect that, up until then, the Government had not considered it sufficiently even to determine which Minister would deal with it or whether it would be handled by primary or secondary legislation, namely, brought before the House or dealt with via statutory instrument. That was 12 months ago. Guess where we are now. The date of expiry for the directive's transposition has passed, but no answer has been given.

There is no sense of urgency about dealing with the matter. The directive was intended to ensure that each member state assessed the risk of flooding with a view to reducing the incidence of flooding and disasters within the EU as a whole. I would like definite information regarding the directive's status, as it impacts on the entirety of Ireland, not just my constituency.

Dublin was fortunate to escape the worst effects of the flooding, but the Liffey breached its banks. In the previous floodings, the Liffey did not do so. Had the Liffey breached its banks further down, closer to Dublin than to Kildare, there could have been substantial damage. Television images and photographs show the damage caused in Kildare, but it could have been more widespread, given the greater torrent of water close to the Liffey Estuary in the heart of Dublin. Does the Government know what it is doing and does it have a plan for flooding across the country and, more specifically, in Dublin?

Minister of State at the Department of Finance (Deputy Martin Mansergh): While I am replying on behalf of the Minister for the Environment, Heritage and Local Government,—

Deputy Joe Costello: The Minister of State is eminently qualified.

Deputy Martin Mansergh: —I also have responsibilities in this regard. To answer immediately, the directive will be transposed before the end of the year. It probably would have been transposed before the end of November had much of the country not been hit by the flooding crisis, which required everyone's concentration.

The Department of the Environment, Heritage and Local Government's role where there is serious flooding is to ensure that local authorities are prepared to respond promptly to ameliorate the worst effects in respect of those aspects within their direct responsibility and that they act in co-operation with the other principal response agencies — An Garda Síochána and the Health Service Executive, HSE — the voluntary agencies, the Defence Forces and the Office of Public Works, OPW, to limit the effects on individuals whose lives may be put at risk or who may be exposed to serious hardship and, where possible, to protect homes and business premises.

The local authorities are geared to respond promptly and effectively to offset the worst effects of flooding. In responding to the current flooding, local authorities have been using the procedures set out in the framework for major emergency management, which enables the three principal response agencies — An Garda Síochána, the HSE and major local authorities — together with the Defence Forces, Civil Defence and other voluntary agencies to make and co-ordinate the response to flooding. Reports from the areas experiencing major flooding in the past two weeks show that this interagency response has worked in a satisfactory manner. In the past year, I attended interagency meetings in Clonmel and, more recently, Ennis. Regarding the Dublin area, which escaped the severe flooding of the west and south, I understand that the authorities' crisis management teams were on stand-by last weekend, with the position being monitored during the heavy rainfall on Friday night and Saturday.

The OPW is the lead agency for purposes of devising and implementing measures to deal with flooding, including flood relief schemes. I understand from my office that it has provided Dublin City Council with advice, funding and direct labour, on an agency basis, for the carrying out of flood relief works, particularly on the Rivers Dodder and Tolka and elsewhere in the country. Dublin City Council has been the main contracting agency for flood relief works already completed or currently under construction in Dublin.

The need to deal in a proactive manner with the issue of flood risk was recognised by the review of flood policy agreed by the Government in September 2004. In this regard, the OPW has begun pilot studies for the River Dodder and the Fingal-east County Meath area. Procurement of flood risk studies for the additional river catchments will commence in late 2010. The end result of each study will be a catchment flood risk assessment and management plan to meet the dates set out in the EU floods directive, which will be transposed before the end of this year.

The Department has asked the local authorities for reports on the effects of the flooding on individuals and businesses in their areas and proposals that could be pursued to reduce the risk of further flooding. The reports, when received, will be sent to the OPW and other relevant Departments for consideration and necessary remedial works required. I also understand that the county enterprise board network is being used to collate reports from affected businesses, which will be sent to the Department of Enterprise, Trade and Employment.

Job Protection.

Deputy Kieran O'Donnell: I am pleased to have an opportunity to raise this important matter in the House tonight. I have raised the long-term future of Dell in Limerick on a number of

[Deputy Kieran O'Donnell.]

occasions since the closure of company's manufacturing plant there was announced. Dell is a great employer in Limerick. It continues to employ more than 1,000 people in high-end manufacturing there. The 1,900 jobs that will soon have been lost at the Dell manufacturing plant in Limerick are, in effect, being moved to the Dell plant in Lodz. It appears that the ownership of the plant in Poland is to transfer to Foxconn, a large global company that is taking over the manufacture of computers for Dell. My understanding is that Dell will become a customer of Foxconn's manufacturing services in Poland. I would like the Tánaiste and Minister for Enterprise, Trade and Employment to confirm that transfer of the ownership of the Polish plant to Foxconn will not have negative or adverse implications on the sustainability of the Dell plant in Limerick. There is a great relationship between the plants in Limerick and Lodz.

We need to be assured that Dell has a viable future in Limerick and that the 1,000 remaining jobs will be preserved. It is extremely important for the Tánaiste to confirm that funding under the European globalisation fund will be made available to the 2,500 workers — I refer to Dell workers and their counterparts in related companies like Banta and Flextronics, who have been made redundant as a result of the closure of the Dell manufacturing plant in Limerick. Further, I would like the Tánaiste to confirm that the mid-west region, which includes Limerick, will become IDA Ireland's priority region as it tries to attract foreign direct investment. IDA Ireland has not brought any foreign direct investment into Limerick since Dell announced the closure of the manufacturing plant in early January of this year. In that time, Cork has got 850 IDA Ireland-backed jobs and Galway has got 164 such jobs. Although Limerick has had a higher rate of loss of foreign direct investment jobs than anywhere else in the country, not a single job has been delivered to Limerick by IDA Ireland this year. In the run-up to the Dell announcement, I called for a jobs task force to be established. IDA Ireland took no part in the task force even though it was established as a direct result of the loss of IDA Ireland jobs.

It is critical for the Tánaiste to confirm that she has made direct contact with Dell to ascertain whether the Limerick plant has a sustainable future. Can she say whether the 1,000 remaining jobs will be retained? Will the Government support Dell so that it can grow in Limerick, as Apple did in Cork, by means of the creation and development of high-end value jobs? Can the Tánaiste confirm when the €23 million of vital funding under the European globalisation fund will come on stream, in a practical way, in Limerick and the mid-west? People are entitled to benefit from the funding, €15 million of which will come from the EU and €8 million of which will come from the Government. They have been waiting for it for many months. It will enable people who have lost manufacturing jobs in Dell and related companies, through no fault of their own, to get on their lives by finding jobs, becoming self-employed or getting properly retrained. Further, it is extremely important for the Tánaiste to clarify whether she will discuss with the European Commission the grant of €54.5 million that was given by the Polish Government to Dell to encourage it to establish its Lodz plant. The ownership of the plant in question has been transferred, in effect, from Dell to the Foxconn enterprise. Was the European Commission aware at the time of the possibility of Dell not remaining in Poland? If that had been known, some of the manufacturing plant in Limerick might still be functioning and vitally needed jobs might have been retained in the region. I want my questions to be answered so that we can ensure that the 1,000 remaining jobs at the Dell facility in Limerick have a sustainable future.

Deputy Martin Mansergh: I thank the Deputy for raising this matter on the Adjournment. I will reply on behalf of the Tánaiste and Minister for Enterprise, Trade and Employment. The matter is of some interest in west Tipperary, where a number of Dell employees live. I am

advised that IDA Ireland is aware of recent developments at the Dell plant in Poland. IDA Ireland has been in constant contact with Dell at local and corporate levels. I understand that the planned transfer and alignment of its Lodz manufacturing operation to Foxconn Technology Group is in line with Dell's strategic plan. The company has said that this announcement will not affect any of the 2,000 remaining Dell employees in Ireland. Dell's employees in Limerick and Dublin are engaged in a wide range of high-end functions. They support the company's global operations, particularly in its Europe, Middle East and Africa area. IDA Ireland's strategy for the mid-west region, which includes Limerick, involves facilitating the transition to a knowledge economy, by winning new foreign direct investment in innovation-driven, high-value and high-skill sectors; working with the existing company base to expand its presence, by increasing the number and scale of functions being carried out and adding further strategic functions; to promote balanced regional development; to provide modern properties with supporting infrastructure; and to work with local authorities and other partners to influence the creation of the right infrastructural environment in which new foreign direct investment can be won throughout the region.

Limerick's foreign direct investment base is mainly concentrated in the city environs of the national technology park and in Raheen. According to the Forfás employment survey of November 2008, 40 companies with State-supported foreign direct investment were employing 8,601 people in permanent jobs, and a further 595 in temporary and contract employment, at the date of the survey. Since then, however, it has been announced that over 2,500 job cuts, including approximately 2,000 in Dell, will be implemented by the end of 2009. The magnitude of the job losses, and the ongoing fallout from the Dell decision, led to the establishment by the Tánaiste of a mid-west task force to address the future development of the mid-west region with a particular emphasis on supporting sustainable employment. The investment projects that IDA Ireland is seeking to attract to Limerick are different from those of the past. IDA Ireland is relying principally on the skills of the people and the strong business and educational infrastructure to attract investment to the county. IDA Ireland's strategy is to re-position the region as a hotspot for knowledge-based industry, while focusing on marketing Limerick as a key location for investment by building on the strengths that are already evident in the county. To support this strategy, IDA Ireland works closely with educational institutions in the region to develop the skill sets necessary to attract high value-added employment to the county. IDA Ireland is working closely with the existing base of employers to encourage additional investment, particularly in activities such as research and development, customer support and back office functions. IDA Ireland is working closely with Shannon Development to provide suitable property solutions for potential investors to the county. I suggest that Deputy O'Donnell should submit parliamentary questions to the Tánaiste if he feels that some of his queries were not answered in my reply.

Deputy Kieran O'Donnell: I suggest that the Minister of State might to refer my questions to the Tánaiste, and she might reply to them.

Schools Building Projects.

Deputy Joan Burton: Listeners to "Morning Ireland" today may have heard an item towards the end of the programme featuring parents from the suburb of Tyrellstown who were very upset. Tyrellstown is a very large area in Blanchardstown-Castleknock where there are more than 2,000 homes, most of which are occupied by families with young children. It is serviced by two local primary schools, both excellent, Mulhuddart national school and Tyrellstown Educate Together school.

[Deputy Joan Burton.]

For the past seven years those schools have been endlessly and fruitlessly in search of a permanent site. We are coming again to crunch time where parents will seek to enrol their children in January for a place next September. As many parents explained at a packed public meeting held some weeks ago — one of many — they do not know what to do or where to go. It seems extraordinary that this Government can give the go ahead for 2,000 houses to be built in a new suburb of Dublin 15. They are very nice houses and it is a lovely population. All the bases for long-term prosperity and happiness are there for these families and their children except they have no school places and are being educated in pre-fabs.

This situation has gone on for years. When the estate was planned more than 12 years ago there were three school sites. Between them, the Department of Education and Science and the developer managed to lose or magick away all those school sites that would have accommodated two primary schools and one second level school. In a way, the people who bought their houses, paying high mortgages and high management company fees, are the victims of Fianna Fáil's vision of proper management and development in which developers make the fortunes and schoolchildren and their parents are left waiting.

We were told some time ago by no less a figure than the Minister for Finance, Deputy Brian Lenihan, that the cheque had been written for the acquisition of the school site. We were told by the developers they were prepared to give the school site for free. Now we have been told that the contracts are ready between the two parties and still we have no idea what is happening. We are coming to the end of the financial year and no funds have been allocated by the Department of Education and Science for the construction and commencement of the permanent buildings of these schools. We are in a recession and there are builders and construction workers queueing up for work in such projects.

Why is Fianna Fáil denying the children of Tyrellstown their proper school sites and their permanent schools?

Deputy Leo Varadkar: In many ways, the Tyrellstown area is a case study of disintegrated planning in this country. The estate is nearing completion but the original houses are ten years old at this stage. There are 2,500 houses and the area is home to 8,000 people, most of whom are families with young children, paying very large mortgages. They should not have to worry about basic matters such as whether there will be a school which their children can attend next year. There is no park, no community centre and no secondary school site, which will be needed soon.

There are two excellent primary schools, both in temporary buildings on an inappropriate temporary site owned by the council. For a very long time we have been promised that a site will be acquired for permanent schools. The site has been identified. The owner has sought and received planning permission for a school and community centre on the site and has offered to sell it for €1 to the Department of Education and Science, or to the council, as the need may be, but for the past number of years there has been a triangle of denial and disinterest, with the council, the developer and the Department passing the buck among themselves as to whose responsibility it is to acquire the site and whose fault it is that matters are not progressing at this time. I do not know whose fault it is at this stage and I do not care.

The Minister for Finance, who is a local Deputy, promised people in both the run up to the last general election and during the recent local elections that the acquisition of the site was imminent and that school buildings would be there in time for the following September. On

both occasions he reneged on those promises which clearly were made in bad faith in the run-up to electoral contest.

The situation is a disgrace and is an indictment of this Government. It is an embarrassment to all of us who are involved in politics that people have been let down in this way. I ask the Minister of State to give us some good news this evening, some real evidence of progress and at least allow the parents of these young children, coming towards Christmas, the security of knowing that progress is being made, the site will be acquired and the new buildings will be there in time for next September so their children will have a school to attend.

Deputy Martin Mansergh: I am taking this Adjournment matter on behalf of my colleague, the Minister for Education and Science, Deputy Batt O’Keeffe.

I thank the Deputies for raising this matter as it provides me with the opportunity to outline to the House the Government’s strategy for capital investment in education projects and to outline the current position with regard to the future plans for the schools in question.

As the House will be aware, in the past few years the Government has increased dramatically investment in the school building programme to an unprecedented level of capital investment which reflects the commitment of the Government to continue its programme of sustained investment in primary and post primary schools. Notwithstanding the financial challenges facing our country in the years ahead, I am confident the Government will continue to prioritise investment in the school building programme.

With regard to the specific matter, the Minister wishes to advise the House that earlier this year the Department requested Fingal County Council to acquire a number of sites for schools in the council’s administrative area, including an already identified site for the two schools in question, under the terms of the Fingal memorandum agreement. While the Department had been in the process, through the Chief State Solicitor’s Office, of exchanging contracts for the sale of the site, it became apparent at that time there was a high possibility of further ongoing delays in securing the site. As a result, the Department requested the local authority to acquire the site under the Fingal model agreement. The Department has maintained ongoing liaison with the local authority in relation to the acquisition of this and the other requested school sites and understands the negotiations for the acquisition of the Tyrellstown site are ongoing.

In the circumstances, the House will appreciate that as the Department is not a direct party to the negotiations, the Minister cannot comment further. That said, the House can be assured that the Department is fully aware of the rapidly developing nature of the Dublin 15 area and the associated demands on school places. In this regard, the Minister can confirm that the Department has recently received correspondence from the board of management of the Tyrellstown Educate Together school to the effect that it intends to limit its junior infants intake to one class for the forthcoming school year. The Department has written to the school authorities advising them of the latest position and will keep them informed of any progress. In order to address any short-term deficit, pending closure on the site and the delivery of the school building, the Department has recently written to the county council requesting its permission to use neighbouring lands under its ownership for the purposes of locating, on a short-term basis, temporary accommodation if required as a last resort.

The Minister is hopeful the council will respond in a positive fashion to this request, particularly as it has been of invaluable assistance to the Department in helping to address such unprecedented demand for school places in their functional area.

[Deputy Martin Mansergh.]

Department officials recently met with senior officials from the local authority and in particular discussed the need to close on the Tyrelstown site as a matter of urgency. The Minister is satisfied that the local authority shares the Department's sense of urgency. The Minister would also like to confirm to the House that the required building project will receive top priority in the Department and has instructed Department officials to consider the scope for providing the schools under its modular building programme, which should result in the schools being completed earlier than normally would be expected.

I thank the Deputy once again for affording me the opportunity to outline to the House the current position in relation to the future plans for the area in question.

The Dáil adjourned at 10.30 p.m. until 2.30 p.m. on Tuesday, 8 December 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.

Financial Institutions Support Scheme.

9. **Deputy P. J. Sheehan** asked the Minister for Finance if he has drafted a scheme for the extension of the guarantee scheme beyond 2010; if the premium to be charged will differ from that under the existing guarantee; and his plans to present this scheme to the Houses of the Oireachtas. [44854/09]

Minister for Finance (Deputy Brian Lenihan): As the Deputy is aware, I signalled in the Supplementary Budget last April the Government's intention to revisit and make technical adjustments to the Bank Guarantee in ways which would continue to underpin financial stability and also support banks in Ireland in accessing longer-term finance.

In June of this year, the House approved the Financial Measures (Miscellaneous Provisions) Act 2009 which contained an enabling provision to allow for the extension of period of financial support contained in the Credit Institutions (Financial Support) Act 2008 beyond the current expiry date of 29 September 2010 by Ministerial Order. The main elements of the revised guarantee Scheme were announced as part of my second stage speech on the NAMA Bill in mid-September and an outline of the Scheme was also published by my Department at that time. On foot of this, I have drawn up a new guarantee Scheme — the Eligible Liabilities Guarantee Scheme or ELG Scheme which was brought before the Houses of the Oireachtas earlier today. The ELG scheme was approved in accordance with EU State aid rules on 20 November 2009 and following Oireachtas approval it will commence shortly.

The ELG Scheme is intended to facilitate the ability of credit institutions in Ireland to issue debt securities and take deposits with a maturity post-September 2010 of up to five years, on either a guaranteed or un-guaranteed basis. This access to longer term funding in line with the mainstream approach in the EU will help maintain the continued stability of the banking system in Ireland.

Demand deposits will be guaranteed under the Scheme until 29 September, 2010, (subject to six-monthly review by the Commission). Term deposits with a maturity of up to 5 years taken before 29 September 2010 will be guaranteed for the duration of the term.

[Deputy Brian Lenihan.]

As is the case for the current CIFS guarantee, the participating institutions in the ELG Scheme will pay a fee for the State guarantee. This fee will be priced in accordance with ECB pricing recommendations and it will be higher than that charged for the CIFS guarantee, albeit for a lower quantum of liabilities.

The revised guarantee Scheme will represent the necessary first steps in the exit strategy for the State from the blanket guarantee offered in September 2008. A key feature of the revised guarantee Scheme is that it allows the participating institutions to access un-guaranteed funding which will help reduce their reliance on State support over time in line with improving market conditions.

Banking Sector.

10. **Deputy Ulick Burke** asked the Minister for Finance if he is satisfied with the efforts made by banks under State protection to find executives who would make a clean break with the culture of banking that has prevailed here in recent years; if he is further satisfied with the arrangements in place in respect of both pay and leadership in the banks; and his plans to introduce further changes. [44778/09]

Minister for Finance (Deputy Brian Lenihan): All but one of the 6 covered institutions have replaced their CEOs since 2008. All but one of the 6 covered institutions have had a change of Chairman since 2008.

Furthermore, each of the covered institutions has also had changes to the membership of their Boards of Directors and there have also been other very significant changes at senior management level in a number of these institutions.

The Government has appointed a new Central Bank Governor. The new Head of Financial Supervision at the Financial Regulator was recently appointed following a wide-ranging and comprehensive international search. Reform of the regulatory structure is well advanced.

I welcome the changes to senior personnel at the covered institutions, and there will be further changes. But changing personnel on its own will not address the problems facing the banking sector. Cultural changes such as implementing best practice and taking a more prudent approach to risk management are essential features along with appropriate and relevant supervision.

Finally, the appointment of 2 public interest directors to the 6 covered institutions represents a significant shift in the culture of banking. Further public interest appointments will be made shortly.

Flood Damage.

11. **Deputy Seán Barrett** asked the Minister for Finance his assessment of the impact on the economy of the flooding that has occurred in recent weeks in November 2009; his assessment of the long-term investment strategy needed to reduce flooding risks in the affected areas; and if he will make a statement on the matter. [44771/09]

Minister of State at the Department of Finance (Deputy Martin Mansergh): The scale and magnitude of the flooding that has occurred over the past two weeks have not been seen before in living memory. They have resulted in widespread misery and devastation. People have been forced from their homes, farms have been overrun by water and businesses have had to cease operations. Every sector of the economy has been adversely affected. All efforts at present are primarily focused on responding to the immediate crisis. Emergency response teams including

the Defence Forces, local authorities, the Gardai, Civil Defence and voluntary groups are busy working either to erect temporary flood defences, to evacuate people from their homes, to restore drinking water to homes or to provide clothing to flood victims. While there is some evidence of water receding in some areas, others remain on flood alert. Once the immediate crisis has passed and the situation starts to improve, attention will switch to the clean-up phase and to restoring displaced people to their homes.

It is only when some degree of normality is restored that the job of assessing the full scale of the damage that has been caused can be seriously addressed. However, even at this early stage, it is clear that the economic and social damage has been substantial. Already, some insurance industry sources are speculating that the cost of flooding damage to homes and businesses around the country may exceed €250 million. The cost to the insurance industry of one of the most recent significant flooding events (in August 2008), was of the order of €100 million.

Following the Review of Flood Policy in 2004, the OPW was assigned lead agency responsibility for the management of flood risk. Central to the policy is a Catchment Flood Risk Assessment and Management (CFRAM) Programme, which focuses on the assessment of flood risk and the long-term planning of the flood risk management measures throughout the country, including non-structural and structural measures.

The CFRAM Programme is being delivered through the CFRAM Studies, led by the OPW but undertaken in partnership with local authorities and in consultation with stakeholders and the public. The CFRAM Studies are comprehensive catchment-based studies focused on areas of potentially significant risk, for which detailed flood maps are produced and flood risk management measures are assessed and taken to outline design. These measures will be prioritised and set out in a Flood Risk Management Plan (FRMP). The CFRAM Programme will, as well as delivering on national policy, meet the requirements of the EU 'Floods' Directive that came into force in November 2007. The procurement process for the national programme of CFRAM Studies has been initiated, and the studies will commence in 2010.

In addition, OPW has programmes of major and minor capital works to address existing areas at risk from flooding, and a range of non-structural initiatives which have been brought forward by OPW in order to mitigate the effects of flooding. These initiatives include, a Public Awareness Programme, and flood mapping information and guidelines with D/EHLG on the Planning System and Flood Risk Management issued earlier this week.

Inland Waterways.

12. **Deputy Denis Naughten** asked the Minister for Finance the steps which he is taking to address the lack of maintenance of the Shannon waterway; and if he will make a statement on the matter. [44909/09]

Minister of State at the Department of Finance (Deputy Martin Mansergh): Maintenance of Shannon Waterway is not the responsibility of the Office of Public Works (OPW). OPW operates a maintenance programme on all schemes where it has undertaken works. Effective maintenance of river courses and channels can contribute to the moderation of the impact of flood events. However, expert engineering opinion is that maintenance of channels alone is not sufficient to protect against flood events of the extent and magnitude of those witnessed in the past few weeks. The River Shannon is at its highest level since the Office of Public Works began continuous recording of water levels in the late 1940s. The current flow in the Shannon is in excess of the 100 year flood event, which is the standard level of protection afforded by modern flood defences.

[Deputy Martin Mansergh.]

To facilitate planning for the management of future flood risk, OPW has embarked on a programme of Catchment Flood Risk Assessments. These studies, which are required by the National Flood Policy and the EU Floods Directive are designed to identify the areas at risk from flood events for a range of severities and to produce a prioritised plan of measures for dealing with areas where the risk is significant. The Shannon study is expected to be commissioned in mid-2010.

Pending completion of the Study for the Shannon Catchment, OPW through the minor works scheme will work with the relevant Local Authorities to identify areas that may benefit from interim localised mitigation measures.

National Asset Management Agency.

13. **Deputy Thomas P. Broughan** asked the Minister for Finance if he has had contact from a bank (details supplied) regarding the possible participation of another bank in the National Asset Management Agency; if so, his plans to accept the application; and the amount of the £15 billion quarantined loans he plans to incorporate into the NAMA scheme. [44859/09]

Minister for Finance (Deputy Brian Lenihan): NAMA has not yet been established and it would be inappropriate for me at this stage to comment on whether particular institutions will apply for designation.

Should any credit institution decide to apply for designation as a participating institution, it will do so under Section 62 of the Act, which provides that credit institutions may apply for designation as participating institutions. The relevant provisions dealing with the designation of participating institutions are in Section 67 of the NAMA Act 2009. This sets out the criteria to be taken into account by me, after consultation with the Governor of the Central Bank and the Financial Regulator, when designating applicant institutions as participating institutions. Under Section 67(2), to be designated as a participating institution:

- the institution must be systemically important
- the acquisition of bank assets from the institution must be necessary to achieve the purposes of the Act, having regard to the support available or received by the applicant institution, the financial position of the applicant institution and the resources available to me as Minister for Finance.
- the applicant institution must have complied with all relevant obligations under the Act.

Tax Refunds.

14. **Deputy Brian O'Shea** asked the Minister for Finance if he will comment on the fact that some €1.59 billion has been refunded in respect of 2008 preliminary tax and losses attributed back to 2007; the way this compares to tax refunds in previous years; the steps he has taken to ensure that financial institutions and property companies will not be able to avail of significant tax refunds arising from their participation in National Asset Management Agency; and if he will make a statement on the matter. [44869/09]

Minister for Finance (Deputy Brian Lenihan): Figures providing a breakdown of refunds of Income Tax (non-PAYE) and Corporation Tax in 2007 and 2008 are set out in the following tables.

Refunds of tax associated with losses are not separately identifiable from refunds made for other reasons such as people making claims for medical expenses, etc.

Income Tax — refunds in 2007 and 2008.

Year	Total refund amounts
	€m
2007	368.8
2008	469.2

Corporation Tax – refunds in 2007 and 2008.

Year	Year Total refund amounts
	€m
2007	888.9
2008	891.8

The question of possible refunds of tax to participating institutions as a result of the transfer of assets to NAMA does not yet arise since no such transfers have yet taken place. As the Deputy will appreciate, it will not be possible to quantify the losses until the transfers actually take place.

The Irish tax system provides that where a company incurs losses in the course of its trade, those losses may be carried back and used against the profits, if any, of the immediately preceding accounting period of the same length (an accounting period cannot exceed one year). For example, if as a result of transfers of bank assets in the year to 31 December 2009, a participating institution makes an overall loss in that year then it would be entitled to set off that loss against profits, if any, arising to the institution in the year to 31 December 2008 only. Where there were no profits in 2008 against which to set the loss carried back, no refund would arise since no tax would have been chargeable. In such cases, the losses may be carried forward.

For the future, I have included in the National Asset Management Agency Bill 2009 a provision to limit the amount of relief that can be claimed by participating institutions for losses carried forward from earlier years. It will limit the set-off of carried-forward losses against trading income of a participating institution and all other participating institutions in the same group, to no more than 50 per cent of that income. The net effect of the provision is that the income of a group of participating institutions cannot be reduced by more than 50% by set-off of losses carried forward. A minimum of 50% of trading income of any year will continue to be chargeable notwithstanding claims for relief for losses carried forward into that year.

Financial Regulatory Authority.

15. **Deputy Joe Costello** asked the Minister for Finance if he will confirm that the salary of the new chief executive of the Financial Regulator is higher than his predecessor by as much as €150,000; and if he will make a statement on the matter. [44893/09]

Minister for Finance (Deputy Brian Lenihan): Under the Central Bank Act, 1942, as amended, the Chief Executive of the Financial Regulatory Authority is appointed by the other members of the Authority and the conditions of employment are agreed between the person and the other members of the Authority.

[Deputy Brian Lenihan.]

However, I know that extensive efforts were made to get a high calibre candidate and I will be pleased to see Mr. Elderfield take up his post in the very near future. My principal concern is to see him operate successfully in rebuilding confidence in our financial regulatory system.

Tax Code.

16. **Deputy Seymour Crawford** asked the Minister for Finance if he has studied the impact of the proposed carbon tax on cross-Border trade in fuels covered by the tax; and if he will make a statement on the matter. [44791/09]

Minister for Finance (Deputy Brian Lenihan): On considering the introduction of a new tax or indeed an increase in current taxes a wide variety of factors are taken into consideration including the impact on cross-border trade.

When new taxes are being introduced there are always practical issues in relation to implementation that require consideration. In that regard, as is normal practice, my officials in conjunction with the Office of Revenue Commissioners and other relevant Departments will, if the need arises, engage with those sectors involved in the implementation of the carbon tax to minimise, in so far as it is reasonably possible, practical difficulties.

Banking Sector.

17. **Deputy Tom Hayes** asked the Minister for Finance his views on the development of a third banking force in the economy centred solely on the former building societies; if he envisages a role for other banking entities; if he has estimated the pay roll savings that will be secured from the initiatives for public service reform being developed by him over and about those being generated by the proposals for pay cuts or embargos; and if he will indicate the make up of these savings. [44815/09]

Minister for Finance (Deputy Brian Lenihan): As far as the development of a third banking force is concerned, the Deputy will be aware two Building Societies have recently announced their intention to commence merger talks. In these circumstances where significant commercial considerations apply, it would not be appropriate for me to comment further on the matter.

With regard to the question of pay roll savings, the discussions with the Public Service Unions to date concentrated on the measures to be implemented to achieve the necessary immediate savings in the Public Service pay and pensions bill in 2010. In response to the request of the Public Service Unions in that context, the Government outlined a medium term vision for the public service over the next five years. The vision document identifies significant revised sectoral, and cross-sectoral, work practices and other initiatives which would contribute to achieving efficiencies and improving productivity in the use of resources in the medium term.

The structural, productivity and efficiency improvements will be necessary to facilitate the maintenance of service standards as public service numbers reduce due to retirements and the application of the moratorium. As the payroll savings will largely arise from the overall reduction in public service numbers, payroll savings from the vision document have not been separately costed on an individual basis.

Financial Institutions Support Scheme.

18. **Deputy Joe McHugh** asked the Minister for Finance the discussions he has had with the UK authorities regarding the participation of banks operating in both jurisdictions in the

respective State support schemes for banking; and if he will make a statement on the matter. [44831/09]

Minister for Finance (Deputy Brian Lenihan): At all stages of the international financial crisis, I have had contact with my UK counterpart regarding all aspects of the response to this crisis, including the respective State support schemes in both jurisdictions for financial institutions. In addition, there has been close contact on issues of mutual interest between representatives of the central banks, financial services regulators and financial ministries in the UK and Ireland to facilitate cooperation and coordination in financial crisis prevention, management and resolution for cross-border institutions.

National Pensions Reserve Fund.

19. **Deputy Martin Ferris** asked the Minister for Finance the monetary status of the National Pensions Reserve Fund; the expected impact of the National Asset Management Agency and other banking matters on this fund; and if he will make a statement on the matter. [44904/09]

Minister for Finance (Deputy Brian Lenihan): The value of the Fund at 30 September 2009, the most recent value published by the National Pensions Reserve Fund (NPRF) Commission, was €20.9 billion.

In relation to this figure, it should be noted that the National Pensions Reserve Fund Act 2000 was amended by the Investment of the National Pensions Reserve Fund and Miscellaneous Provisions Act 2009. The amendments in the 2009 Act allow the Minister for Finance to give a direction to the NPRF Commission to invest in a listed credit institution and to make payments into the Fund for the purposes of such an investment, such additional contributions to be offset against the contribution liability in future years. These amendments reflected the Government decision, announced on 11 February 2009, that the recapitalisation of Allied Irish Bank and Bank of Ireland through the purchase of preference shares by the NPRF would be funded by €4 billion from the Fund's own resources and €3 billion from the Exchequer through the frontloading of the 2009 and 2010 Exchequer contributions to the Fund.

The legislation establishing the National Asset Management Agency (NAMA) recently passed through all stages in the Oireachtas. This body is being established on a statutory basis to deal with the negative impact on the economy resulting from deficiencies in the asset quality in the banking system. NAMA will work by facilitating the speedy removal of higher risk property-related assets which are hampering the banks' ability to lend to credit-worthy individuals and households and thereby support economic activity. NAMA will purchase debt from the banks by issuing bonds. The funding arrangement for NAMA, as set out in legislation, does not involve the NPRF.

I am aware that some institutions will require additional capital in order to absorb the losses arising from the transfer of their impaired loans to NAMA and in order to maintain appropriate levels of capital. I have repeatedly made it clear that the Government's strong preference is that private market solutions are found and implemented by the institutions. To the extent that sufficient capital cannot be raised independently or generated internally, the Government remains committed to providing such institutions with an appropriate level of capital to continue to meet their requirements. This will be done in a manner consistent with EU State Aid rules and the credit needs of the Irish economy. The source of such funding will be dealt with as the need arises. Furthermore, any recapitalisation of a credit institution in such circumstances must be followed by restructuring in a manner which complies with EU State Aid requirements.

[Deputy Brian Lenihan.]

The NPRF Commission publishes annual reports as a statutory obligation and quarterly reports providing an update on the Fund's performance. Both the annual reports and the quarterly reports are available on the Commission's website www.nprf.ie

Financial Institutions Support Scheme.

20. **Deputy George Lee** asked the Minister for Finance if he has assessed the proposal by the various banking institutions receiving State support for restructuring to be presented to the European Commission under State aid rules; and if he will make a statement on the matter. [44824/09]

Minister for Finance (Deputy Brian Lenihan): In accordance with EU State aid requirements the financial institutions which were recapitalised by the State, namely Allied Irish Banks, Anglo Irish Bank and Bank of Ireland are obliged under State aid rules to submit a restructuring plan to the European Commission within six-months of receiving that recapitalisation.

The restructuring plans have been prepared by all three banks and submitted to the EU Commission for consideration. The approval process will involve considerable discussion and dialogue between the Commission, the Member State (i.e. Ireland) and the bank. It would not be appropriate to comment on the contents of the plans at this time pending the outcome of what will be an extensive and detailed process. I am committed to working with the Commission and the banks to achieve an agreed solution which meets the financial stability requirements and ensures that the Irish banking sector can continue to support the needs of the economy.

Exchequer Returns.

21. **Deputy Charles Flanagan** asked the Minister for Finance the impact of the November Exchequer returns on the budgetary arithmetic for 2010; and if he will make a statement on the matter. [44809/09]

58. **Deputy Liz McManus** asked the Minister for Finance his views on the November 2009 Exchequer returns published on 2 December 2009; and if he will make a statement on the matter. [44868/09]

Minister for Finance (Deputy Brian Lenihan): I propose to take Questions Nos. 21 and 58 together.

The Exchequer Returns for the period to end-November, which were published yesterday, showed an Exchequer deficit of €22.1 billion. This compared to a deficit of €7.9 billion for the same period last year. The deterioration reflects an €8.1 billion decline in tax receipts along with a €4 billion capital injection for Anglo Irish Bank and the bringing forward of next year's contribution to the NPRF to facilitate the recapitalisation of AIB and Bank of Ireland. Total voted expenditure was 1.6 per cent below profile at end-November, but it is expected that this shortfall on target will be reduced by year-end.

As the Deputy is aware, November is a key month for tax revenue and while still below my Department's forecasts, receipts were not as weak as had been feared in some quarters. By the end of November, approximately €30.8 billion in tax revenue had been collected, which was €1.4 billion or 4.2 per cent lower than profiled. This represented a 21 per cent decline on what was collected in the same period last year.

In particular, November is a significant month for Income Tax, as returns from the self-employed are received and these were broadly on target, leaving Income Tax €50 million above profile for the month of November. However, it should be noted that revenues were still substantially below the level collected last year, with receipts from the self-employed being down by approximately €379 million or 32 per cent and overall Income Tax is showing a €1.3 billion or 10 per cent decline in the year to date. The bulk of the remaining shortfall is accounted for by VAT which was €749 million below profile at end-November, reflecting the continued weakness in consumer spending. Overall, tax receipts are now €1.4 billion behind target.

While the slightly better than anticipated tax performance in November is welcome, it does not in any way lessen the need for action on the Government's part. Taxes are still weaker than was forecast at that time and will likely finish the year around €1.8 billion below target.

This small improvement on the tax shortfall from that anticipated in the Pre-Budget Outlook must be kept in context. Taxes are still down by almost €14 billion on the same point in 2007 and are going to finish the year at a level that has not been lower since 2003. As the Deputy knows, in that time current expenditure has risen by 70 per cent. This is simply not sustainable.

We are borrowing to fill the gap between revenue and expenditure and failing to take action now means that our debt levels will increase further and consequently the cost of servicing that debt will rise. The objective of the forthcoming Budget must be to stabilise the deficit in 2010. Taking the necessary action now will ensure that confidence is maintained in the Irish economy and that Ireland is favourably placed to benefit from a global recovery as it takes hold.

As is customary, I do not propose to comment in advance of the Budget on any matters that might be the subject of Budget decisions. However, the White Paper on Receipts and Expenditure, which sets out the likely end-year position for 2009 and the no-policy change opening position for 2010, will be published on 5 December. Full economic and fiscal forecasts on a post-budget basis will be published on Budget day, 9 December.

Bond Options.

22. **Deputy Michael Noonan** asked the Minister for Finance the details of the various bond options conducted by the National Treasury Management Agency since the beginning of 2008; and the interest rate, duration, and values of issues in each case. [44838/09]

Minister for Finance (Deputy Brian Lenihan): The details of the various bond issues conducted by the National Treasury Management Agency since the beginning of 2008 are set out in the tables below. Table 1 gives details of the bonds issued by syndication and Table 2 the bonds issued by auction over the relevant period.

Table 1: Syndicated Bond Issues 2008 & 2009

Launch Date	Treasury Bond	Amount
		€m
8 April 2008	4.4% June 2019	7,000
4 November 2008	4.0% November 2011	4,000
8 January 2009	4.0% January 2014	6,000
23 February 2009	3.9% March 2012	4,000
23 June 2009	5.9% October 2019	6,000
6 October 2009	5.4% March 2025	7,000
Total Issued 2008 & 2009		34,000

[Deputy Brian Lenihan.]

Table 2: Auctioned Bond Issues 2009*

Auction Date	Treasury Bond	Amount
		€m
24 March 2009	4.0% November 2011	390
	4.5% April 2020	910
21 April 2009	4.0% January 2014	300
	4.5% October 2018	758
19 May 2009	4.0% January 2014	310
	4.4% June 2019	700
16 June 2009	3.9% March 2012	650
	4.6% April 2016	650
21 July 2009	3.9% March 2012	390
	4.0% January 2014	910
18 August 2009	4.0% January 2014	500
	4.5% October 2018	748
15 September 2009	4.0% January 2014	374
	4.5% April 2020	887
20 October 2009	3.9% March 2012	505
	4.6% April 2016	780
17 November 2009	4.0% January 2014	200
	5.9% October 2019	802
Total Issued 2009		10,764

*No bond auctions took place in 2008.

National Debt.

23. **Deputy Mary Upton** asked the Minister for Finance the impact on the bund spread for sovereign debt here, and any consequent impact on the Exchequer position going forward, as a result of recent rating agency downgrades; and if he will make a statement on the matter. [44887/09]

Minister for Finance (Deputy Brian Lenihan): The National Treasury Management Agency (NTMA) have advised that in the last eighteen months, investors in Irish bonds have sought an increased premium relative to German bonds. The Agency advises that this “spread” rose sharply in the early part of 2009 as a result of a number of factors, including the deterioration in the public finances and uncertainty about the cost to the Exchequer of restructuring the Irish banking sector. Over the course of this year, the NTMA undertook a number of initiatives to diversify the investor base and improve liquidity. In addition, I travelled to a number of major European financial centres so as to set out to key investors the Government’s policy in relation to budgetary consolidation, the problems in the banking sector and the restoration of competitiveness in the economy.

The NTMA have advised that demand for Irish debt from international investors has increased and market conditions have generally improved. The spread on 10-year borrowing peaked at about 2.8% in March and, while still high, it has narrowed considerably. On a technical assumption of an EBR of €20 billion next year, the NTMA advises that a 1% increase in interest rates would have a full-year impact of €200 million on debt service costs.

As regards the recent downgrade of Ireland's debt, there was no measurable increase in the cost of funding as a direct result of the announcement. The NTMA advise that it is likely that investors had already "priced in" this effect.

Departmental Expenditure.

24. **Deputy Brian Hayes** asked the Minister for Finance his estimate of the trend in the price index of undertaking work within the capital programme since 2006; his estimate for 2009; his forecast for 2010; and if he has had discussions with the board and or the management of Anglo Irish Bank regarding the assessment of options for the future of the bank. [44813/09]

Minister for Finance (Deputy Brian Lenihan): Data received from the Department of Environment, Heritage and Local Government shows that by end 2009, construction tender prices are expected to be about 20 percent lower than in 2006. According to this information, total construction inflation was 6.2 percent for 2006; 2 percent for 2007; minus 8.2 percent for 2008 and minus 9.6 percent for the current year.

Again, based on consultation with the Department of Environment, Heritage and Local Government, the scope for further reductions in tender prices in 2010 appears limited.

Government Departments are also reporting their success in achieving greater value for money. For example, the Department of Education and Science has noted that tender prices for investment under the schools building programme are up to 30 percent lower than at the peak of the market.

It is clear then that there is a much enhanced environment for value for money and that a high level of important public capital infrastructure can be procured from a lower level of resources than was previously the case.

With regard to the Deputy's question on Anglo Irish Bank, on 30 November last the bank submitted its Restructuring Plan to the European Commission. This was a condition for State aid approval of the bank's recapitalisation earlier this year. The submission of the plan marks the beginning of a detailed and comprehensive evaluation of the plan in advance of any final decision by the Commission on the plan. This will require extensive consultation and dialogue between the Commission, the Irish authorities and the bank. I am committed to working closely with the Commission and the bank on the assessment of the plan to achieve the best possible outcome for the State from this process.

Mortgage Arrears.

25. **Deputy Terence Flanagan** asked the Minister for Finance if he will support home owners in significant negative equity and in financial trouble to have assistance from the National Asset Management Agency in the form of an equity stake in a private home; and if he will make a statement on the matter. [43028/09]

Minister for Finance (Deputy Brian Lenihan): The National Asset Management Agency is being set up to remove land and development loans and associated loans from the balance sheets of participating financial institutions. There are no plans, at present, to extend the scope of NAMA beyond land and development loans and associated loans.

The Government is conscious of the high value Irish people place on home ownership and has committed under the Renewed Program for Government to introduce new measures to protect families having difficulties with their home mortgage payments. Further work is ongoing on these issues with a view to early results. It should be noted, however, that the Financial

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Regulator has estimated that only a small proportion of borrowers with the covered institutions who are in negative equity are in arrears on their payments.

This work will build on existing Government supported solutions for dealing with home owners with mortgage arrears including: application of the new Code of Conduct on Mortgage Arrears which applies to all mortgage lenders; support from the Mortgage Interest Scheme under the Supplementary Welfare Allowance system which is providing vital support for over 14,000 families with mortgage difficulties; and the provision of advice on debt management through the Money Advice Budgeting Service (MABS).

In relation to the position of mortgage holders generally, the Irish Bankers Federation published a Statement of Intent on 10 November which provides further reassurance to homeowners who find themselves genuinely unable to maintain mortgage repayments on their principal private residence. The Statement of Intent has been agreed and supported by all IBF members and is a welcome development. It is also welcome that the IBF Oversight Committee on the implementation of the Statement of Intent will include representation from the Money Advice Budgeting Service (MABS).

The Renewed Program for Government contains a provision to reform debt enforcement in light of the deliberations of the Law Reform Commission, which recently published a consultation paper on the matter. A new system of personal insolvency regulations will be created which will allow for a statutory non-court-based debt settlement system. In addition, it is also the Government's intention to establish a new Debt Enforcement Office which will remove as many debt enforcement proceeds from the courts as possible.

The Government recently decided that all relevant material on the matter of indebtedness and mortgage arrears in Departments should be brought together in consideration of this matter; and external input should be by way of consultation where relevant Ministers could meet with appropriate external organisations. In response, an interdepartmental group has been set up for the purpose of collecting information and examining options in this area.

Departmental Expenditure.

26. **Deputy Kieran O'Donnell** asked the Minister for Finance the estimated saving to the Exchequer of the approximate 1,000 public servants who have opted for early retirement; his expectation of the take up of early retirement in 2010; and if he will make a statement on the matter. [44840/09]

Minister for Finance (Deputy Brian Lenihan): The returns from Departments, received by my Department, regarding the implementation of the *Incentivised Scheme of Early Retirement* indicate that some 1,902 Public Servants have applied for the Scheme and 1,231 applications have been approved.

Detailed information has been received by my Department in relation to 914 of the approved cases. Based on these returns, gross salary savings will be €8.3 million in 2009, €55 million in 2010 and €63 million in 2011, inclusive of savings on Employer's PRSI contributions. These gross salary savings do not take account of short-term offsetting costs of lump-sum payments, or the costs of pension payments to retirees.

The returns from the Departments also indicate that 81% of approved applicants are expected to have retired through the ISER by the end of 2009 with the remaining 19% expected to have retired through the ISER by the end of 2010. The ISER was open to applications made until 23 October 2009, and accordingly there will be no additional take-up of the Scheme in 2010.

Mortgage Arrears.

27. **Deputy Eamon Gilmore** asked the Minister for Finance if he will introduce a two year moratorium on family home repossessions; and if he will make a statement on the matter.
[44870/09]

Minister for Finance (Deputy Brian Lenihan): It is a particular priority of the Government to ensure as far as possible that difficulties in relation to mortgage arrears do not result in legal proceedings for home repossession. Home repossession should be and generally is the last resort for the lender. The preferred method of dealing with cases of arrears should be early intervention and engagement.

In the revised Programme for Government we have stated that we will be:

- Introducing new measures to protect families having difficulties with their home mortgage payments;
- Examining ways of expanding the existing options available for dealing with debt situations;
- Examining ways of expanding existing state sponsored mortgage-support measures.

The commitments contained in the revised Programme for Government span the broad area of personal debt management and its legislative framework and, as several relate to the responsibilities of several Government Departments, they will require close collaboration in the period ahead. In this regard, on foot of a Government decision, an interdepartmental working group has been established to specifically look into possible options to assist mortgage-holders in arrears.

The Law Reform Commission's recently published Consultation Paper on Personal Debt Management and Debt Enforcement has made an important contribution to this whole area. The Government are carefully examining their recommendations and relevant officials will be closely liaising with the LRC in regard to its remaining body of work.

In relation to the position of mortgage holders generally, the Irish Bankers Federation published a Statement of Intent on 10 November which provides further reassurance to homeowners who find themselves genuinely unable to maintain mortgage repayments on their principal private residence. The Statement of Intent has been agreed and supported by all IBF members and is a welcome development. It is also welcome that the IBF Oversight Committee on the implementation of the Statement of Intent will include representation from the Money Advice and Budgeting Service (MABS).

This follows on from the IBF and the Money Advice and Budgeting Service (MABS) Operational Protocol on consumer debt, which was recently put into effect. The Operational Protocol will enable MABS and the IBF to continue to work together effectively when dealing with debt problems of personal debtors who approach the MABS Service for assistance.

It should be noted that there are already other important arrangements in place to assist consumers who have fallen into arrears or are in danger of falling into arrears.

The Government provides support for payment of mortgages under the Mortgage Interest Supplement Scheme. This scheme is administered by the Community Welfare Service on behalf of the Department of Social and Family Affairs. It provides assistance where the mortgage relates to a person's principal private residence. Furthermore, people in debt or in danger of getting into debt can avail of the services of the Money Advice and Budgeting Service (MABS). This is a national, free, confidential and independent service.

[Deputy Brian Lenihan.]

The Financial Regulator's Consumer Protection Code sets out requirements that a regulated entity must contact the consumer as soon as it becomes aware that a mortgage account is in arrears and that it must have in place a procedure for handling accounts in arrears.

The Financial Regulator also has in place a Code of Conduct on Mortgage Arrears. This Code applies to mortgage lending activities to consumers in respect of their principal private residence in the State and is mandatory for all mortgage lenders registered with the Financial Regulator. Under the code where a borrower is in difficulty the lender has to make every reasonable effort to agree an alternative repayment schedule and the lender has to give consideration on a case-by-case basis to alternatives such as deferral of payments, extending the term of the mortgage, changing the type of mortgage, or capitalising arrears and interest. Obviously cases will arise where the arrears persist despite newly agreed changes in repayment schedules. The Code provides that where such situations persist, the lender may reserve the right to enforce the mortgage agreement. However, it must wait at least six months from the time arrears first arise before applying to the courts to commence enforcement of any legal action on repossession of a borrower's primary residence.

Furthermore, as part of their recapitalisation scheme, A.I.B. and Bank of Ireland will not commence court proceedings for repossession of a principal private residence until after 12 months of arrears appearing where the customer continues to co-operate with the banks.

I therefore have no plans to extend the moratorium on home repossessions. I am satisfied that the arrangements currently in place are sufficient to safeguard the interests of borrowers who experience difficulty in meeting their mortgage repayments. I will of course be keeping the situation under close review.

Unemployment Levels.

28. **Deputy John Perry** asked the Minister for Finance in view of the household survey, the projected level of the live register measure of unemployment; the measure of unemployment; and the total number at work by the end of 2010 which underlies the pre-budget forecasts; and if he will make a statement on the matter. [44845/09]

Minister for Finance (Deputy Brian Lenihan): The Pre-Budget Outlook recently outlined the likely economic and fiscal position for next year and for the following three years based on information available at end October. The labour market projections contained in the analysis are consistent with the quarterly national household survey measure of labour market developments. As is the norm, annual averages are projected, as opposed to year-end positions.

On that basis, my Department forecast that total employment would fall by around 175,000 (7.8 per cent) this year and perhaps by a further 75,000 (3.8 per cent) next year. The unemployment rate consistent with such a view is for an increase from an average of 11" per cent this year to an average of 13" per cent next year. An update of these projections will be presented alongside the Budget.

Live Register figures were not published in the Pre-Budget Outlook. However, it is expected that the number on the Live Register this year will average around 400,000. In terms of next year, a revised forecast will be available once the Budget is presented to the Dáil. I would point out, however, that the rate of increase has slowed considerably since the beginning of the summer and this slowdown has consistently been maintained in recent weeks.

I want to assure the Deputy that I regard the deterioration in the labour market as the most worrying aspect of the recession. In this regard, the Government is continuing to pursue policies that will foster the best climate for long-term employment and which help to position the

economy to take advantage of the upturn in world growth when this gathers momentum. The Government has also announced labour market activation measures, and has taken action to provide support to indigenous companies and the protection of vulnerable jobs in the productive sector of the economy.

Anglo Irish Bank.

29. **Deputy Thomas P. Broughan** asked the Minister for Finance his views on whether claims that Anglo Irish Bank requires in the region of €5.7 billion in order to restore its capital levels to international and regulatory norms are valid; his further views on winding down the institution over further recapitalisation; if he will comment on the announcement by the European Union Competition Commissioner's head of cabinet (details supplied) that a very radical solution could be necessary for Anglo Irish Bank; the estimated Exchequer cost of each of these scenarios; and if he will make a statement on the matter. [44860/09]

Minister for Finance (Deputy Brian Lenihan): As the Deputy will be aware I stated in my Second Stage speech on the NAMA Bill on 16 September last that it is likely that some institutions will require additional capital in order to absorb the losses arising from the transfer of their impaired assets to NAMA and in order to maintain appropriate levels of capital. I also made clear in the speech to the extent that sufficient capital cannot be raised independently or generated internally that the Government remains committed to providing such banks and building societies with an appropriate level of capital to continue to meet their requirements in a manner consistent with EU State aid rules and the credit needs of the Irish economy.

As the Deputy will be aware based on the information provided by me in mid-September to this House, the scale of Anglo's NAMA-eligible loans are such that they will give rise to a further capital requirement for the State. However, the specific requirement for capital for the bank will only become evident following further progress in the implementation of the NAMA.

On 30 November last the bank submitted its Restructuring Plan to the European Commission. This was a condition for State aid approval of the bank's recapitalisation earlier this year. The submission of the plan marks the beginning of a detailed and comprehensive evaluation of the plan in advance of any final decision by the Commission on the plan. This will require extensive consultation and dialogue between the Commission, the Irish authorities and the bank. I am committed to working closely with the Commission and the bank on the assessment of the plan to achieve the best possible outcome for the State from this process.

The Deputy will understand that in view of the commercial sensitivities involved it would not be appropriate for me to make any comment on any detailed elements of the plan including the projected costs of any particular scenarios in the plan.

Finally the comment referred to by the Deputy is in fact aligned with the Commission's requirements for all restructuring plans as set out in the relevant Commission guidelines which states that restructuring plans must examine and assess all options for the future of an institution.

Banking Sector Regulation.

30. **Deputy Ciarán Lynch** asked the Minister for Finance his views on a recent statement by an economist (details supplied), that banks are not foreclosing on hotel loans which have gone bad; his further views on whether the failure to do so could be compromising the hotel industry and storing up future problems for the National Asset Management Agency; and if he will make a statement on the matter. [44866/09]

Minister for Finance (Deputy Brian Lenihan): A considerable effort has been made by a number of different agencies aimed at ensuring that banks do not foreclose as a first alternative. I would point out that where a customer gets into difficulty, the banks are required under the respective Codes of Conduct in relation to SMEs and mortgages arrears to give the customer reasonable time and seek to agree an approach to resolve problems and to provide appropriate advice. Subject to these codes where appropriate any decision on whether to foreclose on a hotel loan is a matter for the relevant financial institution.

The price paid by the National Asset Management Agency for a loan will be based on the valuation of that loan. NAMA will only take over hotel loans insofar as these loans are associated with land and development loans. Where a hotel forms part of the security for a loan, the financial health and viability of that hotel would be taken into account. In the course of its operation it is expected that NAMA will take possession of various properties. It will manage and deal with these properties on a commercial basis and on a case by case basis with the intention of generating the best achievable financial return for the State.

Fiscal Policy.

31. **Deputy Enda Kenny** asked the Minister for Finance if he will report on his recent meeting in Dublin with the secretary of the OECD; and if he will make a statement on the matter.
[42564/09]

Minister for Finance (Deputy Brian Lenihan): Secretary General Angel Gurría visited Ireland on 4th November, and launched the OECD Economic Survey of Ireland and presented the conclusions and recommendations of the Environmental Performance review of Ireland, to be published early in 2010. He also met myself, the Minister for Foreign Affairs, the Taoiseach, the Tánaiste, the Minister for the Environment Heritage and Local Government and the Minister of State for Overseas Development.

Commenting on the Irish economy he remarked that having enjoyed unprecedented levels of growth as an open, export-oriented economy, Ireland has now experienced — in the context of a global financial crisis — a dramatic and rapid turn-around of its fortunes, which nobody had foreseen. Mr. Gurría noted that adjustments taken to date are of the order of 5% of GDP. However, he highlighted the need for further fiscal consolidation and also timely action to create confidence in the markets and with investors. A drawing-out of the period of the necessary adjustments would he said only prolong the pain and make the economy less competitive as the price of borrowing would rise.

Mr. Gurría discussed NAMA and his own experience (as Mexico's Finance Minister) in dealing with bad assets and re-capitalisation. He warned of the risks associated with the narrowing gap between effective wage rates and unemployment benefit levels, which could lead to a disincentive to take up employment.

People needed to be persuaded of the need to make adjustments and particularly to regain our competitiveness in readiness for a global upturn. Confidence in the economy needed to be restored. The priority of the Government is to stabilise the fiscal and economic position with a view to returning to sustainable growth in 2011 and beyond. Structural issues in the economy had to be tackled.

I welcomed the OECD's fair and balanced assessment of the Irish economy, which recognises the Government's commitment to stabilise and restore sustainability to the public finances. I feel that the establishment of NAMA, together with the initiatives we are pursuing to restore competitiveness and to put the public finances in order, will help position Ireland to take the

earliest possible advantage of the economic recovery that is taking hold in the EU and in the rest of the world.

Cigarette Smuggling.

32. **Deputy Joan Burton** asked the Minister for Finance the expected loss to the Exchequer in 2010 due to cigarette smuggling; his views on the increases in the financial penalties for smugglers; and if he will make a statement on the matter. [44895/09]

Minister for Finance (Deputy Brian Lenihan): As I have previously stated in response to a number of Parliamentary Questions, it is not possible to provide a reliable estimate of the loss to the Exchequer as a result of cigarette smuggling. This arises from the fact that there is no proven internationally recognised method for determining such an estimate.

The Revenue Commissioners have given a tentative estimate that up to 20% of cigarettes consumed in the State in 2008 were untaxed in this State. However, this estimate included both smuggled cigarettes and cigarettes legally purchased outside of the State for personal consumption here. While most cross-border purchases involve travellers arriving from Spain, Portugal and certain Eastern European countries where tobacco prices are low, Northern Ireland is also a destination for cigarette purchasers.

I am informed by the Revenue Commissioners that the penalties for smuggling cigarettes and tobacco products into Ireland are as follows:

- On summary conviction, the penalty is a fine of €5,000 and/or a term of imprisonment not exceeding 12 months. The trial judge may mitigate the monetary fine by up to 50%.
- On conviction on indictment, the penalty is a fine of three (3) times the value of the cigarettes inclusive of all taxes and duties, or €12,695, whichever is the greater; and/or a term of imprisonment not exceeding 5 years. The trial judge may mitigate the monetary fine by up to 50%.

In the case of offering for sale/keeping for sale or delivering packs of cigarettes which do not have the requisite tobacco tax stamp affixed thereto, the penalties are as follows:

- On summary conviction, the penalty is a fine of €5,000 and/or a term of imprisonment not exceeding 12 months. The trial judge may mitigate the monetary fine by up to 50%.
- On conviction on indictment, the penalty is a fine not exceeding €12,695 and/or a term of imprisonment not exceeding 5 years. The trial judge may mitigate the monetary fine by up to 50%.

In addition to the above, the cigarettes or tobacco products, along with the carrying conveyance concerned, are liable to forfeiture.

Of course, as the Deputy is aware, the precise penalty imposed on conviction in each individual case is a matter for the Court.

Central Bank Commission.

33. **Deputy Joanna Tuffy** asked the Minister for Finance when he envisages the establishment of the Central Bank Commission, announced in February 2009; if he will engage in consultation in this regard with all stakeholders, both inside and outside the banking sector; and if he will make a statement on the matter. [44885/09]

Minister for Finance (Deputy Brian Lenihan): I expect that a bill providing for the establishment of the Central Bank Commission will be published early in the new-year and its enactment and implementation will follow as speedily as the legislative process allows. Once published, it will be open to anyone to comment on the proposals. However, consultation with the key stakeholders on the main issues associated with changes in regulatory structures is already underway and includes representatives of the financial services industry and consumer interests.

Economic Competitiveness.

34. **Deputy Jim O’Keeffe** asked the Minister for Finance if a survey has been undertaken to identify the numbers travelling to Northern Ireland to shop; the amounts being spent and the types of goods being bought there; and his plans to reduce the impact of revenue loss to the Exchequer arising from this activity. [44432/09]

40. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Finance the estimated amount being lost to the Exchequer in excise duty as a result of cross-Border shopping; and if he will make a statement on the matter. [44900/09]

53. **Deputy Jim O’Keeffe** asked the Minister for Finance the value of cross-Border shopping; the VAT and excise duty revenue loss to the Exchequer for the years 2007, 2008 and to date in 2009; and if he will make a statement on the matter. [44431/09]

Minister for Finance (Deputy Brian Lenihan): I propose to take Questions Nos. 34, 40 and 53 together.

The Revenue Commissioners and the Central Statistics Office (CSO) prepared a report, at my request, on the Implications of Cross Border Shopping for the Irish Exchequer. The report was published on my Department’s website on 20 March 2009.

The report estimates the value of cross border shopping in 2008 to be in the range of €350m to €550m; representing an increase in the order of around two-thirds compared to 2007, with the resulting VAT and excise duty revenue loss to the Irish exchequer estimated to be between €58m and €90m (the higher estimate represents under 0.5% of the total VAT and excise revenue in 2008). In addition to the VAT and excise loss, there is a possible corporation tax revenue loss that is tentatively estimated to be in the range of €15m to €24m. However, it should be noted that all estimates for corporation tax revenue are provisional and should only be considered as indicative of the potential loss.

In regard to 2009, the estimated value of cross-border shopping was put in the range of €450m to €700m, with a potential VAT and excise revenue loss of between €72m and €112m, and a possible corporation tax revenue loss in the range of €20m to €31m.

The report noted that the main causes of price differentials between goods in Northern Ireland and the Republic, are operating costs, profit margin (mark-up), taxes and the rapid depreciation of Sterling against the Euro. While changes in the standard VAT rates widened some price differentials, their impact however remains small compared to the size of the change in the exchange rate.

The report also noted that there was rather limited availability of quantifiable data on cross border shopping, and with a view to improving the data available, Revenue and the CSO have worked on questions for inclusion in the Quarterly National Household Survey (QNHS) that should facilitate a more detailed assessment of cross-border shopping in the future.

I understand that the results of the CSO survey on cross border shopping, based on results from the Quarterly National Household Survey, Quarter 2 2009, are to be published tomorrow.

Anglo Irish Bank.

35. **Deputy Willie Penrose** asked the Minister for Finance when he will make public the submission to the European Commission regarding the strategic future of State owned Anglo Irish Bank. [44864/09]

62. **Deputy Willie Penrose** asked the Minister for Finance when he will make public the report prepared by a company (details supplied) regarding strategic options for the future of State owned Anglo Irish Bank. [44863/09]

Minister for Finance (Deputy Brian Lenihan): I propose to take Questions Nos. 35 and 62 together.

As a condition of State Aid approval, in relation to the injection of capital of €4 billion into Anglo Irish Bank, the EU Commission required that Anglo Irish Bank submit a restructuring plan to the Commission by the 30 November 2009. The restructuring plan must comply with EU guidelines in this regard and have regard to EU competition rules. The plan is required to look at and assess all options for the future of the bank including liquidation, wind-up over time, stabilisation of the current operations and a radical restructuring of the bank etc.

The restructuring plan has been prepared by the bank and submitted to the EU Commission for consideration. The Deputy will understand that in view of the commercial sensitivities involved it would not be appropriate for me to make public or comment on any detailed elements of the plan including the projected costs of any particular scenarios in the plan.

The submission of the plan marks the beginning of a detailed and comprehensive evaluation of the plan in advance of any final decision by the Commission on the plan. This will require extensive consultation and dialogue between the Commission, the Irish authorities and the bank. I am committed to working closely with the Commission and the bank on the assessment of the plan to achieve the best possible outcome for the State from this process.

Hotel Sector.

36. **Deputy Ciarán Lynch** asked the Minister for Finance his views on the recent report prepared by an economist (details supplied) on the hotel industry here; his further views on whether tax breaks have resulted in the building of non-viable hotels and has made this sector insolvent; his plans to stimulate or support the hotel sector in view of the important contribution tourism makes to the economy; and if he will make a statement on the matter. [44865/09]

48. **Deputy Leo Varadkar** asked the Minister for Finance if he has studied the findings of a study on the impact of the tax break on the hotel sector. [44858/09]

Minister for Finance (Deputy Brian Lenihan): I propose to take Questions Nos. 36 and 48 together.

I have received a copy of the report titled “Over-Capacity in the Irish Hotel Industry and Required Elements of a Recovery Programme” by Dr. Peter Bacon & Associates. The Deputy will be aware that this report was commissioned by the Irish Hotels Federation. Officials in the Department of Arts, Sport and Tourism and in my own Department of Finance are currently examining the report and its conclusions.

The Hotel Sector in common with other sectors currently facing economically challenging times are under review by me and by my Department.

Tax Yield.

37. **Deputy Noel J. Coonan** asked the Minister for Finance the evaluation he has undertaken in respect of the recently introduced windfall tax on rezonings after 30 October 2009; his assessment on its economic impact and the revenue it will earn; and if he is satisfied that there will be no unintended impacts of a tax measure. [44788/09]

Minister for Finance (Deputy Brian Lenihan): The windfall tax rate of 80% was introduced under the National Asset Management Agency Act. The 80% rate will apply to the portion of any profit or gain made on the disposal of land which is attributable to a rezoning, where both the rezoning and the disposal of land giving rise to the windfall occur after 30 October 2009. The 80% rate only applies to the portion of the profit or gain on the disposal of the land which is attributable to a rezoning. The balance of any profit or gain will be taxable at the Capital Gains Tax rate of 25%, where the disposal gives rise to a capital gain, or at the appropriate Income Tax or Corporation Tax rate, where the disposal is part of a trade of dealing in or developing land.

The rationale for taxing this part of the profit or gain at a higher rate is because it is attributable to an administrative decision — that is, to rezone the land — rather than to anything done by the landowner.

In the current economic and property climate, it is difficult to estimate how much the windfall tax will yield. Obviously this will depend on various factors, including the number of relevant transactions and the value of the land being disposed of.

As with any measure being implemented, it is impossible to foresee all its possible effects, but the Government took a wide range of factors into account before deciding to implement the measure. However, as the Deputy is aware, all taxes and potential taxation measures are constantly reviewed in the context of the Budget and Finance Bill.

Financial Institutions Support Scheme.

38. **Deputy Joan Burton** asked the Minister for Finance when he intends to put the credit institutions (eligibility liabilities guarantee) scheme 2009 before the Houses of the Oireachtas for approval; if the extended bank guarantee has received EU State aid approval; if he will reconsider plans to extend this guarantee for subordinated debt issued before 30 September 2008; and if he will make a statement on the matter. [44896/09]

Minister for Finance (Deputy Brian Lenihan): As the Deputy is aware, the Credit Institutions (Eligible Liabilities Guarantee) Scheme or ELG Scheme was brought before the Houses of the Oireachtas earlier today. The ELG scheme was approved in accordance with EU State aid rules on 20 November 2009.

The ELG Scheme is intended to facilitate the ability of credit institutions in Ireland to issue debt securities and take term deposits with a maturity post-September 2010 of up to five years, on either a guaranteed or unguaranteed basis.

As I have previously remarked, the new scheme will be somewhat more targeted, and in this regard dated subordinated debt or asset covered securities issued after the introduction of the ELG Scheme will not be guaranteed either under the ELG Scheme or under the Credit Institutions (Financial Support) Scheme (the 'CIFS Scheme').

However, all liabilities guaranteed under the CIFS Scheme, including dated subordinated debt, as at the commencement date of the ELG Scheme will remain unconditionally and irrevocably guaranteed under and in accordance with the terms of the CIFS Scheme, in other words, existing liabilities will remain guaranteed under the CIFS scheme until the maturity of the debt

or the 29 September 2010, whichever is the earliest. This continued guarantee of existing liabilities is in accordance with the general nature of guarantees.

Tax Code.

39. **Deputy Deirdre Clune** asked the Minister for Finance the details of the proposal that he has included in the Revised Programme for Government to introduce a site value tax; the way the site value will be delineated in the case of a single house and of a multi-unit dwelling; the basis of the valuation; the target yield; and the exemption or waivers which he intends to apply for persons who might not be in a position to pay. [44784/09]

Minister for Finance (Deputy Brian Lenihan): The proposal in the Revised Programme for Government to introduce a site value tax is being considered at present. The issues raised by the Deputy will be examined as part of the deliberation process.

Question No. 40 answered with Question No. 34.

Pension Provisions.

41. **Deputy Mary Upton** asked the Minister for Finance his views on the recently published ESRI report on Pension Policy, Pension Policy New Evidence on Key Issues; and if he will make a statement on the matter. [44888/09]

Minister for Finance (Deputy Brian Lenihan): The Report referred to by the Deputy was published by the ESRI on 25 November last. The Report deals mainly with the question of whether existing tax incentives for private pension provision would be better targeted to encourage improved coverage by allowing relief on contributions at the standard income tax rate or at a hybrid rate of 30% rate. While apparently seeing merit in both approaches, the Report favours tax relief on pension contributions at the standard income tax rate in conjunction with sustaining the State Pension and schemes to increase pension coverage among lower to middle income earners.

The recently published Renewed Programme for Government includes a commitment to introduce a single 33% rate for tax relief on private pension provision in the context of the National Pensions Framework. This would result in a reduction in the tax relief on pension contributions available to higher rate taxpayers and an additional incentive to pension savings for standard rate taxpayers. However, the full detail and timing of the introduction of this measure have yet to be decided. I will bear the ESRI Report in mind in the context of delivering on the Government's commitment in this area.

Economic Competitiveness.

42. **Deputy Bernard J. Durkan** asked the Minister for Finance the extent to which he has identified by reference to the consumer price index or other mechanisms the precise cause or causes of inflation in the economy in each of the past ten years to date; the degree of inflation in each of the contributory causes; the degree to which he proposes to address such issues directly with a view to the restoration of competitiveness throughout the economy in the near future; and if he will make a statement on the matter. [44906/09]

117. **Deputy Bernard J. Durkan** asked the Minister for Finance when it was last perceived that the economy here was competitive in international markets; the causes of erosion of this status; the measures he has taken or intends to take to bring about the restoration of competitiveness; and if he will make a statement on the matter. [45232/09]

118. **Deputy Bernard J. Durkan** asked the Minister for Finance the steps he will take over the next two years to improve the competitiveness of the manufacturing and service sectors; and if he will make a statement on the matter. [45233/09]

Minister for Finance (Deputy Brian Lenihan): I propose to take Questions Nos. 42, 117 and 118 together.

Ireland's loss of competitiveness and the need to improve it is something that has been signalled already. Prices grew faster than those in the euro area for most of the last decade. In general, inflation over the last ten years was driven more by developments in the non-traded (services) sector of the economy, while the price of goods (which are mainly imported) did not increase by as much. In many cases wages grew at a rate faster than productivity growth would justify.

The National Competitiveness Council has outlined a range of wider cost factors that have damaged our competitiveness as well. Although the global economy is showing some signs of recovery, the appreciation of the euro against the dollar and sterling is not helping Irish firms.

As such, we need to improve our competitiveness as quickly as possible and there are already a number of positive developments in this regard. Consumer prices in Ireland are now declining at the fastest rate in the euro area. In addition, we are also seeing the benefits of our labour market flexibility: much available evidence points to recent downward pressure on wages in the economy. Falls in commercial rents are set to ease business costs too. Unit labour costs — wages adjusted for productivity — are forecast by the European Commission to fall in Ireland this year, uniquely in the euro area. In 2010 and 2011 they are predicted to fall by a cumulative 5 per cent, the largest fall in the euro area over the two years.

As a small member of a currency union we have no control over the exchange rates we face so we must focus on improving competitiveness at home. A highly educated workforce as well as the policies outlined in the Government's 'Smart Economy' document will help. While the falls in domestic prices, easing wage pressures and improvements in productivity are helpful we must not be complacent as further improvements in our competitiveness are essential to take advantage of the global recovery.

Tax Code.

43. **Deputy Arthur Morgan** asked the Minister for Finance his views on introducing a wealth tax; the possibility of such a wealth tax being modelled on the French ISF solidarity tax which taxes global assets; and if he will make a statement on the matter. [44898/09]

Minister for Finance (Deputy Brian Lenihan): Capital Gains Tax (CGT) and Capital Acquisitions Tax (CAT) are, in effect, taxes on wealth, in that they are levied on an individual or company when they dispose of an asset (CGT) or acquire an asset through gift or inheritance (CAT). The rate of both taxes was increased to 25% in the last Budget and Finance Act.

Asset values increase and decrease over time and in the context of recent economic circumstances, they may have declined considerably in many cases. Thus, if the value of an asset or of an individual's wealth is measured at a particular time there is no guarantee that the asset value or the individual's wealth will remain at that level or increase from that point.

I am aware of the French ISF solidarity tax which is an annual tax paid by individuals, the net value of whose wealth exceeds €790,000 in 2009. The tax starts at 0.55% on assets valued between the threshold amount and €1.28 million, rising to 1.8% on assets valued over €16.48 million. The tax base includes all property, rights and values that constitute the wealth of a taxpayer, including his/her principal private residence.

I have not considered introducing a Wealth Tax modelled on this particular example. However, all taxes and potential taxation measures are constantly reviewed in the context of the Budget and Finance Bill.

Banking Sector Regulation.

44. **Deputy Liz McManus** asked the Minister for Finance his views on the statement from an association (details supplied) expressing concerns regarding the internal appointment of directors at a bank; the reason he allowed these appointments to proceed when his preference was for an external candidate to become chief executive of the bank; his further views on the statement by the association that these internal appointments send out the wrong signals to the international investment community; and if he will make a statement on the matter. [44867/09]

Minister for Finance (Deputy Brian Lenihan): As far as I am aware the Corporate Governance Association of Ireland expressed concerns about the appointment of an executive chairman in that Bank despite the fact that the Combined Code requires that the two top roles in a company, the chairman and the chief executive should be filled by different people. I share these concerns but would like to make clear that this arrangement has been agreed to purely as an interim measure and it is not foreseen that this situation will persist beyond the short term.

Regarding the appointment of internal candidates, I would remind the Deputy that this is a matter for the bank in the first instance. I am aware that a search to fill the position of Chief Executive Officer of the specified bank was carried out using professional recruitment consultancy services, and that this search was extensive and international in nature.

The Deputy also raised the question of signals being sent to the international investment community. In response, I would point to the signals being sent by this Government that it is far from business as usual in the Irish banking sector. Reform of the regulatory structure is being advanced and as the Deputy will be aware I have intervened in the matter of the level of salary for the incoming managing director of the particular bank.

Banking Sector.

45. **Deputy Shane McEntee** asked the Minister for Finance his views on the concept of a living will for financial institutions as a way of limiting the exposure of the taxpayer to bank difficulties in the future. [44827/09]

Minister for Finance (Deputy Brian Lenihan): In the light of events which have arisen in the context of the international financial markets crisis, the concept of 'living wills' or recovery and resolution plans for financial institutions is being examined in a number of international fora. At EU level a recent Commission Communication on a EU framework for cross-border crisis management in the banking sector suggests powers for supervisors to require the preparation by systemically important institutions of firm-specific contingency and resolution plans. These plans would detail how an institution and its business might be wound up rapidly and in an orderly fashion. Ireland is, of course, participating fully in the work at EU level to examine this and other possible elements of bank resolution toolkits in a cross-border context. At their April 2009 meeting, G20 leaders endorsed a set of principles from the Financial Stability Board which include strong encouragement for financial institutions to maintain contingency plans and procedures for use in a situation of distress.

In my speech on the Second Stage of the NAMA Bill I indicated that I was examining options for the introduction of a legislative regime to deal with distressed financial institutions. The objective will be to ensure that the State has in place a range of tools to protect deposit holders and ensure financial stability and maintain international market confidence. My delib-

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erations in this regard will be informed by the work underway at the international level on resolution regimes for the banking sector including in relation to recovery and resolution plans.

Pension Provisions.

46. **Deputy Michael D. Higgins** asked the Minister for Finance if he intends to introduce legislation which would allow credit institutions to go after self-administered pension funds in order to fulfil borrowing requirements or personal guarantees; and if he will make a statement on the matter. [44891/09]

Minister for Finance (Deputy Brian Lenihan): Legislation regarding pension funds is principally a matter for the Minister for Social and Family Affairs.

Banking Sector.

47. **Deputy Jan O'Sullivan** asked the Minister for Finance his views on comments from the ECB regarding the withdrawal of extraordinary liquidity measures supporting European banks; the way he expects this to impact on the functioning of the National Asset Management Agency and the liquidity position of banks here; and if he will make a statement on the matter. [44873/09]

Minister for Finance (Deputy Brian Lenihan): It is important to say that NAMA has never been predicated on extraordinary liquidity measures. These measures were introduced at the discretion of the ECB to deal with the liquidity crisis affecting the European wide banking system. A distinction needs to be drawn between extraordinary liquidity and normal liquidity operations of the ECB. The securities provided to financial institutions by NAMA as consideration for acquired loans was always envisaged to be used in normal monetary policy operations of the ECB.

Irish banks and indeed many European banks have obtained liquidity support provided by the European Central Bank. Dependence on ECB lending has been significantly reduced, however, indicating that the liquidity positions of the Irish banks is improving.

The withdrawal of exceptional measures will, as ECB President Trichet has stated, be on a “phased basis in a timely and gradual fashion” and “as the situation normalises”. When these exceptional measures are withdrawn, financial institutions can still avail of normal ECB refinancing operations.

Conditions in international financial markets have improved substantially in recent months and Irish banks have benefited from improved funding conditions which has already been reflected in reduced recourse by Irish banks to Eurosystem funding.

Question No. 48 answered with Question No. 36.

Debt Management.

49. **Deputy Jack Wall** asked the Minister for Finance if, in view of the relevant commitment given in the Revised Programme for Government, he intends to bring forward proposals for an extra-judicial debt-settlement mechanism; and if he will make a statement on the matter. [44877/09]

Minister for Finance (Deputy Brian Lenihan): It is a particular priority of the Government to ensure as far as possible that difficulties in relation to mortgage arrears do not result in legal proceedings for home repossessions. Home repossession should be and generally is the last

resort for the lender. The preferred method of dealing with cases of arrears should be early intervention and engagement.

The commitments contained in the revised Programme for Government span the broad area of personal debt management and its legislative framework. A number of the commitments relate to the responsibilities of a number of different Government Departments. This will require close collaboration in the period ahead.

In the revised Programme for Government we have stated that we will be:

- Introducing new measures to protect families having difficulties with their home mortgage payments;
- Examining ways of expanding the existing options available for dealing with debt situations;
- Examining ways of expanding existing state sponsored mortgage-support measures.

We have also committed to reforming the debt enforcement system in light of the deliberations of the Law Reform Commission on this issue in their recently published Consultation Paper on Personal Debt Management and Debt Enforcement.

I would like to point out that, as Minister for Finance, I have no function in relation to personal bankruptcy law. This is a function of the Minister for Justice, Equality and Law Reform.

The Government is committed to progress all of these issues with a view to early results.

Public Service Reform.

50. **Deputy James Reilly** asked the Minister for Finance the steps he will take to implement a framework for the development of shared services and outsourcing across the public service; and if he will make a statement on the matter. [44847/09]

101. **Deputy Richard Bruton** asked the Minister for Finance the details of the pilot programme in shared services and in outsourcing that are under way; and the estimated saving anticipated in total as a proportion of the original cost. [45147/09]

Minister for Finance (Deputy Brian Lenihan): I propose to take Questions Nos. 50 and 101 together.

The report of the Task Force on the Public Service, *Transforming Public Services*, defined shared services as the bringing together of activities that have been previously performed in many Departments or agencies into a single or small number of centres in order to perform routine processes more efficiently and effectively. It identified the most common areas of shared services as payroll, financial management, human resources management, means assessment, procurement and common ICT services.

The Task Force noted that experience in both the public and private sectors demonstrates that benefits can be realised by the adoption of shared services models under certain conditions. It recalled the view of the OECD that an incremental approach should be taken to the development of shared services which should be a strategy that is only pursued where a clear ex-ante case can be made for achieving either financial benefits or service improvement.

Experience elsewhere shows that shared procurement activities and shared technical infrastructures have high success rates and deliver very high rates of return if managed well. On the other hand complex issues have to be tackled for many of the remaining shared service oppor-

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tunities and there is plenty of evidence both of failures and successes, with positive rates of return being delivered only in the medium term.

The Cabinet Committee established a series of working groups with membership drawn from across the Public Service to develop proposals for shared services in four areas — Human Resources and Pensions; Finance and Payroll; Single Point of Telephone Contact; and Simplification of Means Assessments. The Cabinet Committee has now considered initial reports in this area and a series of priority projects have been identified to be progressed, with the lessons learned from these projects being applied to subsequent developments in other areas.

Initial findings indicate that there are benefits to be realised from the adoption of shared services models through administrative and operational improvements, reducing costs associated with duplication, enabling business change and building organisational capability. However, it is not possible at this early stage to quantify such savings.

A number of major initiatives to provide shared ICT approaches have been implemented over the past few years. These include voice, data and mobile telephony, digital radio services, framework procurements for IT commodity items such as PCs, laptops and printers, and digital radio services. The Department of Finance is now working with a number of other public bodies to progress other potential opportunities for additional shared ICT approaches.

In the area of procurement, the National Public Procurement Operations Unit has been established in the Office of Public Works. A Project Board has been set up under the chairmanship of the Minister of State at the Office of Public Works, Martin Mansergh, to oversee the development of the Unit. The Board comprises representatives of the Department of Finance, the Department of Education & Science, the Department of the Environment, Heritage & Local Government, the HSE and Department of Finance & Personnel, Northern Ireland. The Government has decided that the NPPOU is to be responsible for managing the purchase of goods and services common to all areas of the Public Service, e.g. office equipment, furniture and fittings, fuel, electricity, printing, stationery and office supplies, uniforms and transport fleets. The existing Government Supplies Agency (GSA) in the OPW has been disbanded and its duties in relevant areas have been assumed by the NPPOU. Sector-specific items such as drugs, medicines and military equipment will continue to be managed within the relevant sectors (e.g. the HSE and the Department of Defence).

No consideration of shared services would be complete without an assessment of the potential for services to be delivered by external providers. An external provider may be able to provide a service or an element of a service more effectively or efficiently at an acceptable service quality level and consistent with public service standards of equity and probity. The overriding consideration must be the service to the citizen.

Social Insurance.

51. **Deputy Arthur Morgan** asked the Minister for Finance the effect that abolishing the PRSI ceiling would have on Exchequer returns; and if he will make a statement on the matter. [44897/09]

Minister for Finance (Deputy Brian Lenihan): The abolition of the PRSI ceiling for employees would yield some €119.5 million additional contribution income in a full year. There is no ceiling on employer contributions.

Benchmarking Awards.

52. **Deputy Andrew Doyle** asked the Minister for Finance if he intends to publish the working

papers that underpin the benchmarking exercise for top paid public servants; if he intends to extend the benchmarking exercise beyond the top 1% of public service earners encompassed in the present study; and if he will make a statement on the matter. [44802/09]

Minister for Finance (Deputy Brian Lenihan): Earlier this year I requested the Review Body on Higher Remuneration in the Public Sector to conduct an examination of the pay of the top public service groups covered by its terms of reference including a comparison of how their remuneration compared with that of comparable posts in other countries. The report of the Review Body has recently been received and is under consideration at present. A decision on the publication of the report will be made by the Government. The Review Body is an independent body and I have no access to the working papers on which the report is based.

I have no plans to carry out a similar exercise for other public service groups.

Question No. 53 answered with Question No. 34.

Departmental Expenditure.

54. **Deputy Jack Wall** asked the Minister for Finance the cost of all new spending measures set out in the Revised Programme for Government; and if he will make a statement on the matter. [44878/09]

Minister for Finance (Deputy Brian Lenihan): The revised Programme for Government is based on the broad macroeconomic framework set out in the April budget, taking account of the latest fiscal trends. The guiding principles of the Programme are

1. Correction of the public finances;
2. Repair of the banking system;
3. Regaining competitiveness;
4. Protecting jobs and investing in retraining those who have lost their jobs.

The Programme for Government sets out a range of issues that will be addressed over the lifetime of the Government. In this context, Budget 2010 will be a key next step. As with all Budget measures in the past, our proposals will be fully costed and set out on Budget day.

Further instalments will be made in the subsequent Budgets over the lifetime of this Government, taking account of the overall macroeconomic and fiscal environment, and will be fully costed in that context.

Planning Issues.

55. **Deputy Seán Sherlock** asked the Minister for Finance if his attention has been drawn to instances in which landowners or property developers were seeking planning permission or land rezoning with the intention, not of building, but of inflating the value of the land before the associated loan is transferred to the National Asset Management Agency; his views on this development; if he foresees significant financial implications for NAMA from this phenomenon; if he will take steps to put an end to this practice; and if he will make a statement on the matter. [44879/09]

Minister for Finance (Deputy Brian Lenihan): NAMA is being established to purchase certain portfolios of risky loan assets from the balance sheets of participating institutions. Loans

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will be valued in accordance with the valuation methodology set out in Part 5 of the National Asset Management Agency Act 2009.

The security for eligible loan assets will include property and as part of the valuation process the security of each eligible loan asset will be valued in accordance with the terms of the Act and the valuation regulations.

I am not aware of instances of application for planning permission as suggested by the Deputy. Any such application would be a matter for the relevant authority to assess on its independent merit.

The valuation process will take into account a number of factors including whether planning permission has been granted in relation to the property. However, NAMA's valuation of properties will be based on its assessment of their long-term prospects. Just because a poorly located site has planning permission it does not necessarily follow it will be acquired a higher current value.

Banking Sector Regulation.

56. **Deputy Terence Flanagan** asked the Minister for Finance the protection available to homeowners that have taken out sub-prime mortgages; his plans to make statutory the code on mortgage arrears; and if he will make a statement on the matter. [42785/09]

Minister for Finance (Deputy Brian Lenihan): The Government took steps in October 2007, via an amendment to the Central Bank Act 1997, to provide for an appropriate system of authorisation and supervision of retail credit firms engaged in specialist or so-called sub-prime lending by the Financial Regulator. Such lenders were not previously subject to financial regulation in respect of lending activities. The primary purpose of this amendment was to extend to customers of these firms the benefit of the consumer protections provided for in the Financial Regulator's Consumer Protection Code. This regulatory regime has been in place since 1 February 2008 and is being implemented by the Financial Regulator. Consumer credit, including sub-prime lending, is also regulated in Ireland under the Consumer Credit Act 1995. The Act makes detailed provision for the form and content of loan agreements and for advertising of consumer credit.

Some non deposit-taking mortgage lenders are required to notify charges under Section 149 of the Consumer Credit Act, 1995 (as amended) to the Financial Regulator for approval. However interest rates are excluded from this requirement. Also, legal fees tend to be imposed by 3rd parties and then passed on directly by the institution to the consumer. In general these do not require approval.

When approving fees, the Financial Regulator takes the following criteria into consideration:

- promotion of fair competition;
- commercial justification;
- passing on any costs to customers; and
- the effect on customers or a group of customers.

The Financial Regulator has a Code of Conduct for Mortgage Arrears, which came into effect in February 2009 and which applies to mortgage lending activities with consumers in respect of their principal private residence in the State. The Code is mandatory for all mortgage lenders registered with the Financial Regulator. Under the Code, where a borrower is in difficulty the

lender will make every reasonable effort to agree an alternative repayment schedule and will not commence legal action for repossession until after six months from the time arrears first arise.

I should also point out that people in serious debt or in danger of getting into serious debt can avail of the services of the Money Advice and Budgeting Service (MABS). This is a national, free, confidential and independent service.

National Asset Management Agency.

57. **Deputy Aengus Ó Snodaigh** asked the Minister for Finance the position regarding the special purposes vehicle proposed in the establishment of the National Asset Management Agency; if he has identified directors for the SPV; when he envisages that the SPV will commence; and if he will make a statement on the matter. [44901/09]

Minister for Finance (Deputy Brian Lenihan): It is envisaged that the NAMA Master SPV will be set up shortly after NAMA is established. It will be jointly owned by private investors, who will own 51% of its ordinary equity, and by NAMA, which will hold the remaining 49% ordinary equity.

The Master SPV will have its own Board, with members appointed by NAMA and possibly members appointed by the private sector equity investors. The directors of the SPV are likely to include NAMA Board members and NAMA Officers.

Question No. 58 answered with Question No. 21.

Flood Relief.

59. **Deputy Denis Naughten** asked the Minister for Finance the steps which he is taking to provide funding for flood defences in the Shannon and Suck catchment; and if he will make a statement on the matter. [44910/09]

Minister of State at the Department of Finance (Deputy Martin Mansergh): In accordance with national flood policy, and in compliance with the EU Floods Directive, the Office of Public Works is undertaking a Flood Risk Assessment and Management Study for each catchment in the country, including the Shannon and Suck catchment.

This Study will identify the areas in the catchment where there is significant flood risk, and will produce a plan of prioritised measures to manage that risk. It will consider both structural and non-structural measures, such as sustainable development and flood warning systems, which may be the appropriate way to address flood risk in some locations. The Study, which will commence in 2010, will enable the relevant Local Authorities, property owners and other interested parties to have a say in relation to the flood mitigation measures that will be taken forward. The report of the study will therefore provide the basis for managing flood risk in the catchment, including flood defences where these are considered appropriate. It will also provide an indication of the funding required to implement the measures it recommends. If a need for a major flood defence project is identified, it can be included in OPW's programme of capital flood relief schemes.

Pending the completion of the Study, OPW through the minor works schemes will work with the Local Authorities to identify areas that might benefit from interim localised mitigating measures. Under an initiative introduced this Summer, Local Authorities may apply to OPW for funding for minor flood mitigation works that meet specific economic and environmental criteria.

[Deputy Martin Mansergh.]

The OPW is currently completing works to relieve flooding at Clonlara in the Lower Shannon and has been in discussion with the IFA and the NPWS regarding the possibility of carrying out works in the Shannon Callows area.

National Asset Management Agency.

60. **Deputy Michael D. Higgins** asked the Minister for Finance if he has been approached by any interested parties with respect to taking shareholdings in the National Assets Management Agency's special purchase vehicle; and if he will make a statement on the matter. [44892/09]

Minister for Finance (Deputy Brian Lenihan): I understand that a number of interested parties have indicated an interest in becoming shareholders in the NAMA Master SPV. However, the final decision on the private sector investors will be a matter for the Board of NAMA when appointed.

Tax Code.

61. **Deputy Joe Carey** asked the Minister for Finance his plans, to review the penalties associated with the smuggling of cigarettes and goods associated with excise duty with a view to creating more of a deterrent to those profiting from this exercise. [40408/09]

Minister for Finance (Deputy Brian Lenihan): I am informed by the Revenue Commissioners that the penalties for smuggling cigarettes and tobacco products into Ireland are as follows: On summary conviction, the penalty is a fine of €5,000 and/or a term of imprisonment not exceeding 12 months. The trial judge may mitigate the monetary fine by up to 50%. On conviction on indictment, the penalty is a fine of three (3) times the value of the cigarettes inclusive of all taxes and duties, or €12,695, whichever is the greater; and/or a term of imprisonment not exceeding 5 years. The trial judge may mitigate the monetary fine by up to 50%.

In the case of offering for sale/keeping for sale or delivering packs of cigarettes which do not have the requisite tobacco tax stamp affixed thereto, the penalties are as follows: On summary conviction, the penalty is a fine of €5,000 and/or a term of imprisonment not exceeding 12 months. The trial judge may mitigate the monetary fine by up to 50%. On conviction on indictment, the penalty is a fine not exceeding €12,695 and/or a term of imprisonment not exceeding 5 years. The trial judge may mitigate the monetary fine by up to 50%.

In addition to the above, the cigarettes or tobacco products, along with the carrying conveyance concerned, are liable to forfeiture.

Of course, as the Deputy is aware, the precise penalty imposed on conviction in each individual case is a matter for the Court.

Question No. 62 answered with Question No. 35.

Tax Collection.

63. **Deputy Lucinda Creighton** asked the Minister for Finance if he will introduce measures in view of the decrease in receipts for income tax from the self-employed; and if he will make a statement on the matter. [44908/09]

Minister for Finance (Deputy Brian Lenihan): It is a longstanding practice of the Minister for Finance not to comment in advance of the Budget on any tax or expenditure matters that might be the subject of Budget decisions.

Fiscal Policy.

64. **Deputy Martin Ferris** asked the Minister for Finance if he is conducting an equality and distribution assessment of his budget proposals for 2010; and if he will make a statement on the matter. [44903/09]

Minister for Finance (Deputy Brian Lenihan): An assessment of the impact of the 2010 Budget will be published on Budget day.

Departmental Properties.

65. **Deputy Jimmy Deenihan** asked the Minister for Finance the date by which he was scheduled to have the new building for the Department of Defence fully equipped and operational; the date by which he expects this to occur; the cost as of 1 November 2009 for the building and equipping of the new departmental headquarters; the predicted cost on completion; and if he will make a statement on the matter. [42221/09]

Minister of State at the Department of Finance (Deputy Martin Mansergh): The Office of Public Works placed a contract for the Design and Build of the Department of Defence new headquarters at Station Road, Newbridge, Co. Kildare. Work on site is well advanced and was scheduled to be completed by the end of 2009. However, due to certain delays experienced by the Contractor, the building is not expected to be ready for handover to the Department until the end of January 2010. It is a matter for the Department as to when it will be fully operative.

Expenditure of approximately €26,000,000 has been incurred up to end of October 2009. This figure includes the cost of site acquisition.

The fitting out of the canteen, and the supply and installation of furniture, will follow under separate contracts. The costs of these items will be known when contracts have been placed. Tenders for this element will be invited in due course.

The provision of equipment such as IT, telephones, staff training and moving expenses, eg, transfers of files, will be a matter for the Department of Defence.

Fiscal Policy.

66. **Deputy Kathleen Lynch** asked the Minister for Finance his views on the record levels of deflation recorded by the Central Statistics Office in October 2009; his further views on the long-term effects of continued deflation on the economy; if he has conducted an impact study on the effects that cutting €4 billion from the economy will have on continued deflation; and if he will make a statement on the matter. [44862/09]

Minister for Finance (Deputy Brian Lenihan): As measured by the Consumer Price Index (CPI), prices in Ireland fell by 6.6 per cent in the year to October. This is the largest comparable fall since the 1930s. On a harmonised basis the falls in prices are set to be the largest in the euro area this year, and are set to fall next year as well. This will bring about a welcome improvement to our relative price levels and assist with a much needed improvement in our competitiveness. As well as this, lower consumer prices are increasing purchasing power at a time of falling nominal incomes.

There are risks to the economy if an episode of falling prices is sustained. However, the phenomenon of falling prices which is now under way is a temporary one, mainly driven by lower interest rates, the pass-through of the depreciation of sterling and the fall-out of the spike in energy prices of 2008. Consumer prices are forecast to fall again next year, albeit not to the same extent as this year. The euro area recorded a return to positive year-on-year

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inflation in November. Over time, the inflation differential between Ireland and the rest of the euro area will not diverge substantially. Most recent survey and market-based expectations suggest that there is very little risk of a sustained period of deflation in the euro area.

As is the normal practise, my Department has assessed the economic impacts of illustrative fiscal adjustments using the ESRI's macroeconomic model. These likely economic impacts will be taken into consideration in the design of the overall Budgetary package.

Banking Sector Remuneration.

67. **Deputy Pat Rabbitte** asked the Minister for Finance if he will clarify the position regarding the €500,000 earnings cap for chief executives at credit institutions covered by the blanket bank guarantee; if this relates to salary only or to the total remuneration package; if his attention has been drawn to the fact that this limit is being circumvented through deferred payments, payment in kind or other such mechanisms; if he is in agreement with this; and if he will make a statement on the matter. [44890/09]

Minister for Finance (Deputy Brian Lenihan): As the Deputy is aware, the report of the Covered Institutions Remuneration Committee (CIROC) was placed before the House on 13 March 2009.

I have informed this House before that the Government considers the CIROC recommendations regarding remuneration of chief executives including bonuses, pensions, long term incentive plans, which includes stock options, are appropriate but that basic salary level should be capped at €500,000 or the salary amount recommended by CIROC which ever is the lower.

Any deviation from this should be in exceptional circumstances and with my agreement.

National Asset Management Agency.

68. **Deputy Lucinda Creighton** asked the Minister for Finance if the passing of the National Asset Management Agency legislation has produced a quantifiable increase in the availability of credit to small businesses; and if he will make a statement on the matter. [44907/09]

Minister for Finance (Deputy Brian Lenihan): The latest available statistics on credit availability, published by the Central Bank on 30 November, cover the period October 2009. As the NAMA legislation was only passed on 12 November and signed into law on 22 November, it is not yet possible to say whether this has had any effect on the availability of credit to small businesses.

Tax Code.

69. **Deputy Aengus Ó Snodaigh** asked the Minister for Finance the cost to the Exchequer if the standard rate of VAT was reduced by 1%; the impact on the cost of living as a result of a decrease in VAT. [44902/09]

Minister for Finance (Deputy Brian Lenihan): The estimated full year cost to the Exchequer of reducing the 21.5% standard rate of VAT by 1 percentage point is €334 million. This would impact on inflation by reducing the Consumer Price Index by 0.36%.

Banking Sector.

70. **Deputy Ruairí Quinn** asked the Minister for Finance the steps he will take to improve the ability of Irish businesses, particularly small to medium enterprises, to access credit; and if he will make a statement on the matter. [44875/09]

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.

An independent review of credit availability was agreed in the context of the recapitalisation of AIB and Bank of Ireland. The purpose of the review was to ascertain the position on credit availability to SMEs in Ireland. The Steering Group for the review consisted of representatives of the Departments of Finance and Enterprise, Trade and Employment, Forfás, Enterprise Ireland, the Irish Banking Federation and the six main banks involved in lending to SMEs, business representatives from ISME, Chambers Ireland and Small Firms Association. The final report of the Review of Lending to SMEs is available on my Department's website at www.finance.gov.ie.

The report made a series of recommendations including the further development of a framework for monitoring credit availability and measures to improve communications between the banks and SMEs. The report also suggests consideration of specific supports to ease the working capital requirements of SMEs, and measures to help investment levels in SMEs.

A follow-up independent review of credit availability is currently underway and it is expected that it will be published shortly.

I would also point out that 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 set up a Clearing Group including representatives from the main banks, business interests and state agencies, which is chaired by her Department. 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.

Banking Sector Remuneration.

71. **Deputy Pat Rabbitte** asked the Minister for Finance his views on the payment of bonuses to staff at credit institutions covered by the blanket bank guarantee and expected to participate

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in the National Assets Management Agency; if his attention has been drawn to the bonuses being paid to staff in the lending departments at any of these credit institutions; and if he will make a statement on the matter. [44889/09]

Minister for Finance (Deputy Brian Lenihan): Paragraph 47 of the Credit Institutions (Financial Support) Scheme 2008 provides that bonuses for directors or senior executives must be measurably linked to reductions in guarantee charges, reduction in excessive risk-taking and encouraging the long-term sustainability of the covered institutions.

The Deputy will appreciate that in answering his question about bonuses to staff, the terms of the Scheme relate in this regard only to directors and senior executives. Pursuant to the Scheme, the Credit Institutions Remuneration Oversight Committee (CIROC) was established and its published report has provided additional specific details in relation to remuneration levels in the banks.

The Deputy will be aware that the Committee recommended that performance-related bonus schemes for chief executives and executive directors should not lead to payments in respect of performance in 2008 or in 2009 and for the period of the Government guarantee.

With regard to staff in the lending departments of the covered institutions I can confirm that in the case of two of the covered institutions bonuses have been paid out in 2009 to staff. In one instance the bonus payments at 25% of normal levels were awarded to 9 junior staff prior to the publication of the CIROC report. In the other bonuses were confined to staff working in overseas offices where there were pre-existing contractual commitments in relation to performance in the financial year 2008.

Departmental Expenditure.

72. **Deputy Brian O'Shea** asked the Minister for Finance the amount of capital spending for 2010 that has already been contracted; the average reduction in tender prices in school building, road building and public transport; the scope that exists for re-negotiating pre-existing contracts to avail of lower prevailing tender prices; and if he will make a statement on the matter. [44872/09]

Minister for Finance (Deputy Brian Lenihan): The latest information available to me is that contractual commitments for 2010 amount to approximately €4 billion.

Data received from the Department of Environment, Heritage and Local Government shows that by end 2009, construction tender prices are expected to be about 20 percent lower than in 2006. According to this information, total construction inflation was 6.2 percent for 2006; 2 percent for 2007; minus 8.2 percent for 2008 and minus 9.6 percent for the current year. The Department of Education has noted reductions of up to 30 percent under the schools building programme. I understand from the Department of Transport that the transport implementing agencies have indicated that there is a general downward trend in the cost of land purchases and tender prices. These changes benefit new projects going to tender. In 2009, there has not been a sufficient number of tenders or land purchases in the transport sector to be precise as to the scale of the reductions.

Because approximately 60% of the annual capital spend is for projects of €500,000 or less, the State has benefited considerably from this downward trend as contracts of this size are capable of being constructed easily within a matter of months. A good example of this is the Department of Education and Science's summer work programme for school buildings carried out earlier this year. Furthermore, there are also a significant number of projects between €500,000 and €5 million that are capable of being constructed within nine to twelve months.

EU procurement rules under restricted or open procedures prohibit negotiation on price. To do so would be in breach of the law.

Economic Competitiveness.

73. **Deputy Emmet Stagg** asked the Minister for Finance if his attention has been drawn to the price differentials between goods on sale in the United Kingdom and this country, despite the strengthening euro; if he has taken steps to address this ongoing problem; and if he will make a statement on the matter. [44883/09]

Minister for Finance (Deputy Brian Lenihan): As the Deputy may be aware, the Revenue Commissioners and the Central Statistics Office (CSO) prepared a report, at my request, on the Implications of Cross Border Shopping for the Irish Exchequer. The report was published on my Department's website on 20 March 2009. The report estimated the likely value of cross-border shopping in 2009 to be in the range of €450m to €700m, with a potential loss in Exchequer revenues arising from reduced VAT and excise yields of between €72m and €112m. In addition, a possible corporation tax loss in the range of €20m to €31m is tentatively estimated. It should, however, be noted that any estimate for corporation tax is provisional and should only be considered as indicative of the potential loss.

The report noted that the main causes of price differentials between goods in Northern Ireland and the Republic, are operating costs, profit margin (mark-up), taxes and the rapid depreciation of Sterling against the Euro. While changes in the standard VAT rates widened some price differentials, their impact however remains small compared to the size of the change in the exchange rate.

The report also noted that there was rather limited availability of quantifiable data on cross border shopping, and with a view to improving the data available, Revenue and the CSO have worked on questions for inclusion in the Quarterly National Household Survey (QNHS) that should facilitate a more detailed assessment of cross-border shopping in the future. I understand that the results of the CSO's QNHS Cross Border shopping module are due to be published tomorrow.

Tax Code.

74. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Finance if he has met with Revenue officials to discuss the possibility of introducing a third rate of tax; the impact such a tax would have on persons who fall into the bracket; and the impact it would have on Exchequer returns. [44899/09]

Minister for Finance (Deputy Brian Lenihan): The position is that my Department meets regularly with the Revenue Commissioners as part of the Budget and Finance Bill process.

I should point out that it is a longstanding practice of the Minister for Finance not to comment in advance of the Budget on any tax or expenditure matters that might be the subject of Budget decisions.

Banking Sector Regulation.

75. **Deputy Bernard J. Durkan** asked the Minister for Finance the extent of change in banking structures and personnel in each of the banks or other financial institutions sought by him or brought about by circumstances arising from injudicious borrowing or lending which culminated in the National Asset Management Agency rescue plan; the job description, terms and conditions of employment in each case; if he is satisfied that the extent of administrative

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and personnel changes at top level is adequate to ensure a complete break in the culture that has existed which led to the ongoing banking crisis; if he has sought, taken or received advice from outside or internal sources in this regard; the steps he has taken or procedures put in place to ensure that properties disposed of now or in the future on the open market are not likely to be acquired directly or indirectly by persons, groups, bodies or agencies which may ultimately be the subject of the NAMA scheme or in any way qualifying for a double rescue package; and if he will make a statement on the matter. [44905/09]

Minister for Finance (Deputy Brian Lenihan): All but two of the covered institutions have replaced their CEOs since 2008. Similarly all but two of the covered institutions have had a change of Chairman since 2008.

In addition to the introduction of the public interest Directors, each of the covered institutions have also had changes to the membership of their Boards of Directors.

The job descriptions and terms and conditions of employment in each of the above cases would be matters for the individuals and the relevant institutions.

The Deputy also raised the question of a break in the banking culture which existed in our banking industry. In response, I would point to the above information on personnel changes at the highest levels in the covered institutions and the signals which this Government is sending to international markets that it is far from business as usual in the Irish banking sector. Reform of the regulatory structure is being advanced and as the Deputy will be aware the report of the Covered Institutions Remuneration Committee was placed before the House on 13 March 2009 and all of the covered institutions must follow its recommendations.

Of course, throughout all of this process I am consulting widely.

I would like to clarify that we have placed no statutory restrictions on disposals or acquisitions of property where this is done on the open market. However, section 172 of the NAMA Act places restrictions on the acquisition of land or other assets which are acquired by NAMA where there has been a default in a loan. The debtor or a person who would be an associated debtor in respect of that loan will not be entitled to acquire the asset from NAMA. There is also provision to extend the scope of this restriction by regulation.

Freedom of Information.

76. **Deputy Róisín Shortall** asked the Minister for Finance if he will take the necessary steps to make the Central Bank, the Financial Regulator, the State-owned Anglo Irish Bank, the National Treasury Management Agency and associated agencies, including the National Asset Management Agency, subject to the Freedom of Information Acts; his views on whether that would improve the transparency of sections of the public service and financial sector which have suffered reputational damage in recent years as the banking crisis evolved; and if he will make a statement on the matter. [44881/09]

Minister for Finance (Deputy Brian Lenihan): The Government has decided to implement significant changes in financial regulatory structures and in this regard I shall be bringing forward legislative proposals early next year relating to the Central Bank and Financial Services Authority of Ireland (CBFSAI). Accordingly, it is not an appropriate time to consider the possible extension of the FOI Act to that organisation. Significant issues relating to the confidential and commercial sensitivity of much of the information within the possession of that organisation, the international framework of its operations and its role in maintaining and protecting the financial stability of the State would have to be taken on board in any consideration of this matter.

With regard to the National Treasury Management Agency and associated agencies I do not propose to extend FOI to these bodies for reasons of commercial sensitivity. In relation to the Agency's role as the State Claims Agency, most of its work is covered by legal privilege and no apparent merit is perceived in a partial application.

In the case of the National Asset Management Agency (NAMA) it is necessary to bear in mind that NAMA will have a commercial mandate to obtain maximum value for the taxpayer and, to achieve this objective it will be required to enter into complex commercial negotiations with financial institutions and developers, the nature of which will require in many instances a high degree of commercial confidentiality. In view of this I believe it is not appropriate to extend FOI coverage to NAMA.

As a matter of policy the Freedom of Information Act has not been extended to commercial State bodies for reasons associated with the need of such bodies to compete commercially. Commercial State bodies operate in a different environment to non-commercial State bodies. To bring a commercial State body under the Freedom of information while other companies in the same sector remain excluded could place such a body at a significant commercial and competitive disadvantage. Therefore as Anglo Irish bank is a commercial State body there are currently no proposals to extend FOI to the bank.

In summary, extension of Freedom of Information to any of these bodies must always be balanced against the need for them to operate in difficult competitive environments where such disclosure would significantly disadvantage them in their various activities.

Consumer Protection.

77. **Deputy Joanna Tuffy** asked the Minister for Finance if consumer protection will remain part of the remit and core activity of the new Central Bank Commission; if supporting structures such as the consultative consumer panel will continue to be part of the institutional framework of the new Central Bank Commission; and if he will make a statement on the matter. [44886/09]

83. **Deputy Eamon Gilmore** asked the Minister for Finance the consumer functions which will be transferred from the Financial Regulator; the timeframe for this transfer of functions; and if he will make a statement on the matter. [44590/09]

Minister for Finance (Deputy Brian Lenihan): I propose to take Questions Nos. 77 and 83 together.

A bill providing for the establishment of the Central Bank Commission will be published early next year.

The restructured Central Bank of Ireland will continue to have significant responsibility for consumer protection issues. This will include monitoring compliance, for example with statutory codes of practice for the financial services industry, with the Consumer Credit Act by credit firms and with the regulation of bank charges.

The consumer information and education functions currently carried out within the Consumer Directorate in the Financial Regulator are to be transferred to the National Consumer Agency (NCA).

I am currently considering the structures to be put in place.

Job Losses.

78. **Deputy Kathleen Lynch** asked the Minister for Finance his views on the projection, set

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out in the pre-budget outlook, that 75,000 jobs will be lost in 2010; the expected cost to the Exchequer, in terms of increased welfare payments and reduced tax revenue, of these 75,000 job losses; his further views on whether the live register will peak above 500,000 in 2010; and if he will make a statement on the matter. [44861/09]

Minister for Finance (Deputy Brian Lenihan): In the Pre-Budget Outlook, based on information to hand at end-October, my Department projected that employment will fall by about 3” per cent next year, the equivalent of around 75,000 job losses. The latest Central Bank forecast is for a decline of 86,000 in the level of employment next year while the corresponding forecast from the ESRI is for a decline of 80,000 jobs. An update of the Department of Finances projections will be presented alongside the Budget.

The cost to the Exchequer of unemployment per thousand individuals can be determined by reference either to the cost of the Live Register or by the cost of those in receipt of jobseekers payments. A Live Register costing which includes those not in receipt of payments would be €11.4 million per thousand, including secondary benefits. The cost of those in receipt of jobseekers payments and secondary benefits would be €13.1m per thousand. The cost of unemployment is continually evolving given the changing nature of current employment patterns.

Based on certain assumptions, each 1,000 jobs lost would result in a loss to the Exchequer in income tax, PRSI, health and income levies of approximately €9.1 million in a full year.

It now seems likely that the annual average number on the Live Register for this year will be around 400,000. In terms of next year, a revised forecast will be available once the Budget is presented to the Dáil. I would point out, however, that the rate of increase has slowed considerably since the summer and that an average Live Register above 500,000 is now considered less likely.

Banking Sector.

79. **Deputy Charles Flanagan** asked the Minister for Finance his views on the nationalised Anglo Irish Bank offering guarantees to a company (details supplied) during its recent examinations before the courts. [40279/09]

Minister for Finance (Deputy Brian Lenihan): As the Deputy will be aware, Anglo Irish Bank is run on an arms length commercial basis. Consequently, decisions which relate to the normal commercial business of the bank are a matter for the Board of Anglo.

Also, as with all financial institutions, Anglo’s dealings with its customers are subject to the normal provisions on client confidentiality, and it would therefore not be appropriate for me to comment on the client relationship referred to by the Deputy.

Flood Relief.

80. **Deputy Michael Noonan** asked the Minister for Finance his views on the problems associated with the lack of flood insurance or incidences of under insurance in view of recent flooding events and his plans regarding same. [44433/09]

81. **Deputy Kieran O’Donnell** asked the Minister for Finance the discussions he has planned with the Irish Insurance Federation regarding the problems associated with the lack of flood insurance or incidences of under insurance; and if he will report on any such discussions and any proposals emerging therefrom for dealing with these problems. [44434/09]

Minister for Finance (Deputy Brian Lenihan): I propose to take Questions Nos. 80 and 81 together as the questions cover the same general area.

A number of Government Departments and agencies have responsibility for emergency planning functions. In the current flooding situation, the Department of the Environment, Heritage and Local Government is chairing an Emergency Response Coordination Committee which meets on a daily basis to handle the current emergency situation. I am informed that his Department will shortly ask the local authorities for reports on the impact of the flooding and an assessment of the remedial works required.

While actual funding requirements will not be known until the assessments are completed, the Minister for the Environment, Heritage and Local Government has provided supplementary funding of 10m euro to assist local authorities in meeting the exceptional costs associated with the current flooding crisis. In addition the Government has announced the provision of an initial sum of 10 million euro for emergency flood relief to be administered by the Community Welfare Division of the Health Service Executive on behalf of the Department of Social and Family Affairs. A further 2 million euro has been provided for the agricultural sector.

When more complete information on the scale and cost of the damage arising becomes available, full consideration will be given to ways of meeting these costs, including if appropriate, making application to the EU for financial support. My Department has been in contact with the Commission to establish eligibility criteria and the scale of funding that might be available. I am also informed that the Joint Committee on European Affairs is travelling to Brussels on Friday, 4 December to meet with the Commissioner for Regional Policy, Mr. Pawe Samecki to discuss the flooding situation and opportunities for assistance from the EU under the EU Solidarity Fund.

Last Monday, Mr. John Gormley, T.D., Minister for the Environment, Heritage and Local Government, and Dr. Martin Mansergh, T.D., Minister of State at the Department of Finance with responsibility for the OPW, jointly published statutory planning guidelines on *The Planning System and Flood Risk Management*, which are aimed at ensuring a more consistent, rigorous and systematic approach to the avoidance and minimisation of potential future flood risk and to fully incorporate flood risk assessment and management into the planning system.

In relation to insurance, my Department has ongoing contacts with the insurance industry including the Irish Insurance Federation, and the problems associated with the lack of flood insurance or incidences of under insurance will be raised in future discussions. However, as the Deputy will be aware decisions by individual insurance companies on the provision of insurance cover and the price at which it is offered is a commercial matter based on the assessment an insurer makes of the risks involved and other commercial considerations.

The Government will consider this issue, which has been particularly highlighted by recent events and will discuss them with the insurance industry to see what options or possible solutions may be available. The outcome of these discussions will be further considered by the Government as part of its overall review of recent events. In the meantime, the Government will keep the matter under review.

Insurance Industry.

82. **Deputy Joe Costello** asked the Minister for Finance the way he plans to implement the commitment in the revised programme for Government to review insurance costs to ensure that the consumer is benefiting to the maximum extent possible from competition in the sector; the timeframe for implementation of this commitment; and if he will make a statement on the matter. [44591/09]

Minister for Finance (Deputy Brian Lenihan): My Department is currently considering how this review should be conducted, who the appropriate participants should be as well as the consultative requirements. Account will have to be taken in this review of the difficult market conditions that insurers are currently operating in. For instance a report published earlier this year by Standard & Poor's titled '*A Testing 2009 for the Irish Non-Life Insurance Market, Despite Fundamental Strengths*' provides an insight into the problems facing the industry at the moment. The report envisages a difficult year for the non-life industry as a result of rising claims and continuing intense competition which they say is limiting price increases.

Any such review as well as looking at price increases and the reasons for such increases will also look at the extent of competition in the market and how this can be increased to maximise the benefits to the consumer.

Question No. 83 answered with Question No. 77.

Graduate Support Schemes.

84. **Deputy Denis Naughten** asked the Tánaiste and Minister for Enterprise, Trade and Employment the details of plans for the establishment of a graduate internship programme; and if she will make a statement on the matter. [45073/09]

Minister of State at the Department of Enterprise, Trade and Employment (Deputy Dara Calleary): It is widely accepted that keeping people close to the labour market is important to improve their future employability. That is why the Government introduced the Work Placement Programme.

This Programme is providing 2,000, 9 month, work experience places to unemployed individuals. Participants on the programme will retain their existing social welfare entitlements. There are two streams under the programme each consisting of 1,000 places. The first stream is specifically for graduates who possess a full award at level 7 on the National Qualifications Framework and is the Government's graduate internship programme. The second stream is for individuals who do not possess a full award at level 7 on the National Qualifications Framework.

There are currently 129 participants on the programme with 92 graduates in placements at present. The work experience that participants receive will provide portable and transferable skills in a range of areas that will increase their employability. It should be acknowledged that there are other graduate internship programmes in existence such as IBEC's Gradlink. My Department are currently exploring whether it would be possible to more closely align this programme with the Work Placement Programme.

Insurance Industry.

85. **Deputy Bernard J. Durkan** asked the Tánaiste and Minister for Enterprise, Trade and Employment the extent to which she has monitored or observed fluctuations in all forms of insurance premiums in 2009; the full extent of increase or decrease in each sector; the reason for such changes; the extent to which the valuation of the items or property insured has increased or decreased in 2009; if he expects further changes in this area; and if she will make a statement on the matter. [45080/09]

Tánaiste and Minister for Enterprise, Trade and Employment (Deputy Mary Coughlan): Financial services including the insurance sector is a policy matter for my colleague, the Minister for Finance and I would refer the Deputy in particular to the Minister's response to a PQ on the 16th September 2009.

Economic Competitiveness.

86. **Deputy John Deasy** asked the Tánaiste and Minister for Enterprise, Trade and Employment her policies to specifically support the retail sector; if her development agencies are providing specialised assistance to retail firms to help them deal with competitive pressures due to currency differentials; and if she will make a statement on the matter. [45128/09]

Tánaiste and Minister for Enterprise, Trade and Employment (Deputy Mary Coughlan): Enterprise Ireland's engagement with the retail sector is limited, as retailing is not an eligible sector that Enterprise Ireland can provide support to under the Industrial Development (Services Industries) Order 2003. Companies in the retail sector that engage in one of the eligible activities set out in the Order, and currently generate or intend to generate exports from the eligible activity in the near future are eligible to apply for Enterprise Ireland supports. Enterprise Ireland is precluded from providing financial assistance to the retail sector to establish a commercial presence/outlet in either the domestic or international markets.

The County and City Enterprise Boards (CEBs) provide support for small businesses with 10 employees or fewer in the start-up and extension phases, promote and develop indigenous micro-enterprise potential and stimulate economic activity and entrepreneurship at local level. Subject to certain eligibility criteria new and developing enterprises may qualify for financial support from the CEBs, however, priority is given to projects in the manufacturing and internationally traded services sectors. It is considered inappropriate to grant-support other areas of business activity which may result in unacceptable deadweight and/or displacement concerns. The former refers to where projects would have proceeded anyway and the latter to where the projects simply displace business from other players in the market.

Work Permits.

87. **Deputy Michael Moynihan** asked the Tánaiste and Minister for Enterprise, Trade and Employment the number of work permits issued in 2008 to meat producing factories here. [45156/09]

Minister of State at the Department of Enterprise, Trade and Employment (Deputy Dara Calleary): A total of 540 Employment Permits which included 214 renewed permits issued to the meat industry in 2008.

Economic Competitiveness.

88. **Deputy Fergus O'Dowd** asked the Tánaiste and Minister for Enterprise, Trade and Employment if she has received complaints from southern contractors that they are finding it difficult to compete with northern contractors on a cost basis for public contracts here; the action she has taken on same; and if she will make a statement on the matter. [45283/09]

Tánaiste and Minister for Enterprise, Trade and Employment (Deputy Mary Coughlan): Public procurement policy is primarily a matter for my colleagues Brian Lenihan TD., Minister for Finance, who has responsibility for the National Public Procurement Policy Unit and also Martin Mansergh TD., Minister of State who has responsibility for the National Public Procurement Operations Unit in the OPW. I have received correspondence from Irish businesses regarding their concerns about strong competition with northern Irish companies for public sector contracts. I should however point out that under EU rules, public sector procurement must follow transparent open procedures ensuring fair conditions of competition for all suppliers, including across borders in all EU countries. I would also emphasise that Irish companies are equally able to compete for public sector contracts across the EU.

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It is inevitable, given the slowdown in demand from the private sector that there will be greater competition for public contracts. I fully recognise the importance of the public sector market as a source of employment creation and growth for business in Ireland and I am committed to promote Irish company's participation in public sector contracts to the greatest extent possible. To this end the Government recently agreed to a new set of policy guidelines to stimulate innovative business activity in Ireland, ensure a level playing field for all companies wishing to participate in public tendering and promote greater access for SMEs to public sector contracts.

Employment Support Services.

89. **Deputy Frank Feighan** asked the Minister for Finance the opportunities for employment that are available for persons with disabilities within the public sector. [45066/09]

Minister for Finance (Deputy Brian Lenihan): The position in relation to opportunities for employment to the Public Service generally is limited by the recruitment and promotion moratorium which was announced on the 27th March this year. The moratorium applies, with limited exceptions, to the civil service, local authorities, non-commercial state bodies, the Garda Síochána, the Permanent Defence Forces and to certain bodies established by enactment and wholly or partly funded out of the Central Fund. The arrangements have been modulated in relation to the education and health sectors to reflect the particular needs in those sectors.

In addition, a number of Departments and Offices in the Civil Service are participants in a Work Experience Graduate Programme for Persons with Disabilities which gives practical effect to Government and Civil Service policy on improving the employment prospects for persons with disabilities. The programme is not subject to the moratorium. The Deputy may wish to note that there is a 3 per cent target for the employment of people with disabilities in the Public Service which remains in place, notwithstanding the moratorium. The Civil and Public Service is an equal opportunities employer and all recruitment campaigns must be conducted in strict compliance with the Codes of Practice set out by the Commission for Public Service Appointments.

The Public Appointments Service (PAS) facilitates all applications with special needs from the outset of every recruitment campaign. Where potential applicants have difficulty accessing the application and/or information, staff are available to help them apply — all application material is made available in various formats e.g. JAWS, Large Print, Braille, Audio. Provision is made for candidates at all stages throughout a recruitment process. PAS staff liaise constantly with applicants that require special accommodation facilities throughout each recruitment campaign to ensure their needs are met. PAS also liaise with Disability Liaison Officers in Government Departments to ensure that the needs of successful candidates are facilitated prior to appointment. PAS also have a follow up system in place where they keep in touch with employing Departments/Offices with regard to newly recruited staff with special needs.

National Asset Management Agency.

90. **Deputy Joanna Tuffy** asked the Minister for Finance the position regarding the National Asset Management Agency plan for unfinished apartments and housing developments that will be on its books; if there is a plan in place for either the completion or the demolition of these properties; and if he will make a statement on the matter. [45122/09]

Minister for Finance (Deputy Brian Lenihan): NAMA is being established to purchase certain portfolios of risky loan assets from the balance sheets of participating institutions. In the

course of its operation it is expected that NAMA will take possession of various properties. Under the NAMA Act, NAMA will have access to working capital in order for it to complete developments or projects where it is commercially advantageous to do so. It will be a matter for the NAMA Board to manage and deal with acquired properties in a commercial fashion and on a case by case basis with the intention of generating the best achievable financial return for the State.

Debt Management.

91. **Deputy Richard Bruton** asked the Minister for Finance if he has established a team within his Department to evaluate policy initiatives to address the debt problems of ordinary householders; if they have set out a work programme with target dates for reporting to him; and if he will make a statement on the matter. [45169/09]

Minister for Finance (Deputy Brian Lenihan): The Government recently decided that all relevant material on the matter of indebtedness and mortgage arrears in Departments should be brought together in consideration of the debt problems faced by some householders. External input will be by way of consultation where relevant Ministers could meet with appropriate external organisations. In response, an interdepartmental group, chaired by one of my officials, has been set up for the purpose of urgently collecting information and examining options in this area. The Group has already met on a number of occasions and the Chair will report to me shortly on the deliberations of the Group.

The Renewed Program for Government contains a provision to reform debt enforcement in light of the deliberations of the Law Reform Commission, which recently published a consultation paper on the matter. A new system of personal insolvency regulation which may allow for a statutory non-court-based debt settlement system will be one of the critical points to be considered. Consideration will also be given to whether to establish a new Debt Enforcement Office which will remove as many debt enforcement proceeds from the courts as possible. In addition an inter-Departmental Working Group on Personal Debt Management and Enforcement is being established to consider appropriate measures that can be implemented in a cost-effective manner, for early and effective results.

I have informed this House previously that the revised Programme for Government includes a commitment to introduce measures to protect families having difficulties with their home mortgage payments. The Deputy will be aware that the Irish Bankers Federation published a Statement of Intent in November which provides further reassurance to homeowners who find themselves genuinely unable to maintain mortgage repayments on their principal private residence. The Statement of Intent has been agreed and supported by all IBF members and is a welcome development. It is also welcome that the IBF Oversight Committee on the implementation of the Statement of Intent will include representation from the Money Advice Budgeting Service (MABS).

Departmental Expenditure.

92. **Deputy Mary Wallace** asked the Minister for Finance the savings, in view of public service reforms, that have been achieved by the public service recruitment moratorium; if the 3% expected savings has been achieved; if the continuing moratorium is expected to provide the same level of savings over the next 12 months; his views on the suggestion from some civil servants that a 40 hour week, confining lunch hour from 1- 2 and providing all staff with the same 20 day holiday entitlement might be preferable to job losses and greater than necessary pay cuts; and if he will make a statement on the matter. [45067/09]

Minister for Finance (Deputy Brian Lenihan): At the end of March 2009, the Government introduced a moratorium on public service recruitment and promotion, while allowing for certain exemptions in the Education and Health Sectors for the filling of certain key posts. Furthermore, in the April 2009 Supplementary Budget, I announced a range of initiatives which are intended to lead to savings in the public service pay bill — an *Incentivised Scheme of Early Retirement* in the public service, the *Special Civil Service Incentive Career Break Scheme* and the *Shorter Working Year Scheme* which replaces the existing *Term Time Scheme*.

Based on the information returned to my Department, the number of persons in the public service has already decreased by 1,497 between end-March and end-June of this year. Officials from my Department are currently engaged in the process of collating the end-September numbers. As regards savings, I included a tentative estimate, in the April Budget, of savings of up to €300 million in a full year (i.e. including both 2010 and 2011) arising from all of these initiatives. Measures to reduce the public service pay bill and to increase productivity and efficiency are currently the subject of discussion with the Social Partners in the context of preparations for Budget 2010. It would not be appropriate for me to comment at this time. I will say, however, that the introduction of rigidities such as the application of a strict lunch hour regime would be a retrograde step that runs counter to the thrust of the reforms and flexibilities introduced to date. Flexible working hours are tailored to meet the specific business needs of Departments and Offices and to facilitate service to the public by having particular offices open across lunch time.

Tax Code.

93. **Deputy Jack Wall** asked the Minister for Finance the date of the first payment of income tax by a person (details supplied) in County Kildare; when the amount of payments made by the person in 2008 will be determined; and if he will make a statement on the matter. [45069/09]

Minister for Finance (Deputy Brian Lenihan): I have been advised by the Revenue Commissioners that they have no record of tax paid by the person concerned in 2008.

Graduate Support Schemes.

94. **Deputy Denis Naughten** asked the Minister for Finance the details of plans for the introduction of a graduate internship programme in the public service; and if he will make a statement on the matter. [45072/09]

Minister for Finance (Deputy Brian Lenihan): The Renewed Programme for Government provides for the taking on of 1,000 Third and Fourth level graduates to provide additional capacity and skills across the Public Service and in Government Departments and to provide valuable work experience. These are work placements as distinct from additional posts in the Public Service. My Department is currently examining the options in relation to this proposal and how it can best be implemented. In the context of the current moratorium on recruitment and promotion in the public service, a mechanism to facilitate a targeted intake of graduates to meet particular skills or capacity shortages is under investigation. Any such scheme would, of course, be advertised through the Public Appointments Service, FÁS or the relevant professional or graduate organisation, as appropriate. Assignments would be made in accordance with best practice. The Deputy will be aware that the Work Placement Programme, under the auspices of FÁS, is an active labour market programme which was announced as part of the Government's package of measures to tackle rising unemployment in my Supplementary Budget last April. The programme provides valuable work experience for nine months to 2,000

unemployed individuals of which 1,000 of the places are for graduates. The programme is already available to employers in the public and private sectors.

EU Directives.

95. **Deputy Joan Burton** asked the Minister for Finance his views on the draft alternative investment fund managers and amending directives; if and when he intends to facilitate a Dáil Éireann discussion of this legislation; the contacts he has had from lobbyists in respect of this draft directive; and if he will make a statement on the matter. [45115/09]

Minister for Finance (Deputy Brian Lenihan): On April 30th last, the European Commission adopted a proposal for a Directive on Alternative Investment Fund Managers (AIFM). The proposal has been discussed at a number of meetings at Council Working group level since May and discussions are still taking place. It has not yet been discussed by the Ecofin Council. The proposal aims to put in place a regulatory regime for managers of all EU Alternative Investment Funds (AIF). The proposal is generally regarded as an attempt to regulate Hedge Funds, but it has a much wider scope than Hedge Funds and covers all collective investment funds. While certain types of funds, such as pension funds, are exempted, others, like private equity or venture capital funds, do fall within the scope of the proposal.

As part of the proposal, AIF managers could avail of an EU passport to market funds on a cross-border basis within the EU. Such a passport could also be provided to non-EU funds in situations where those funds are domiciled in jurisdictions that are regarded as having equivalent supervisory regimes. While the proposed passport regime within the EU is restricted to professional investors (although Member States would be permitted to allow access for retail investors) the proposal does provide a number of investor protection measures. The proposal also envisages a range of powers for national competent authorities and provides for the effective exchange of information between regulators.

In view of the potential impact on the funds industry in Ireland, my Department has been in regular contact with a range of interested parties, including the Irish Funds Industry Association, the Irish Association of Investment Managers, the National Treasury Management Agency, the Irish Stock Exchange, the IDA and the Financial Regulator. These contacts have highlighted a number of areas where the Commission's proposal could be improved. The area of most concern for stakeholders is in relation to the scope of the proposal. A number of issues arise in relation to the definition of who exactly is the AIFM. The Irish delegation is working closely with the Swedish Presidency, the Commission and other Member States in an effort to achieve greater clarity on this crucial issue.

An Information Note was sent to the Joint Committee on European Scrutiny on 29th May last. The Committee held a public meeting on 14th July which was attended by my officials, accompanied by representatives from the Financial Regulator and the Irish Funds Industry Association. The Committee's Report of that meeting was published on 25th September. The Committee's Report highlighted seven issues which required further clarification or amendment and I was asked to bear these considerations in mind before adopting a final position on the proposal. My officials and the Financial Regulator have strongly pursued these particular issues, as well as others that arose, and, while a lot of clarification has been received, there are still some issues to be dealt with.

The Swedish Presidency is working very hard with Member States and the Commission in an effort to agree a general approach by Council prior to entering into formal negotiations with the European Parliament under the co-decision process. In light of the foregoing and, as

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this issue has already been subject to the Oireachtas scrutiny process, I do not believe that a further Dáil Eireann discussion on this matter is necessary at this time.

Tax Collection.

96. **Deputy Joan Burton** asked the Minister for Finance further to Parliamentary Question Nos 156 and 157 of 24 November 2009, the number of tax refunds issued to date in 2009 below €1 million, more than €1 million, more than €5 million and more than €10 million to the banking and financial intermediation sector and the value of refunds to the banking and financial intermediation sector amounting to less than €1 million, more than €1 million, more than €5 million and more than €10 million. [45116/09]

Minister for Finance (Deputy Brian Lenihan): Figures providing a breakdown of refunds of Income Tax (non-PAYE) and Corporation Tax in 2009 to mid-November for the banking and related financial intermediation sector, are set out in the following table.

Refunds By Size In 2009 for the Banking and related Financial Intermediation

Size of Refund	Income Tax		Corporation Tax	
	Number	Value	Number	Value
		€m		€m
Less than €1m	1,176	3.2	672	33.6
> = €1m and < €5m	0	0.0	37	79.4
> = €5m and <€10m	0	0.0	5	39.4
> = €10m	0	0.0	5	101.4
Total	1,176	3.2	719	253.8

It should be noted that the classification of taxpayers into the ‘banking’ and ‘financial’ sectors is done by reference to the primary area of economic activity reported by individual and corporate taxpayers on their own behalf and the taxes collected are allocated to these categories without reference to the precise economic activity which generated them. While this information is sufficient to underpin broad sector-based analyses there will undoubtedly be some inaccuracies at individual level. This should be borne in mind when considering the information provided.

Proposed Legislation.

97. **Deputy Olwyn Enright** asked the Minister for Finance further to Parliamentary Question No. 55 of 24 September 2009, the actions he will take to address the hardship caused by the flooding of the Shannon area; and if he will make a statement on the matter. [45138/09]

98. **Deputy Olwyn Enright** asked the Minister for Finance the action the Office of Public Works will take to address the hardship caused by the flooding of the Shannon area; and if he will make a statement on the matter. [45139/09]

Minister of State at the Department of Finance (Deputy Martin Mansergh): I propose to take Questions Nos. 97 and 98 together.

As indicated in the reply to the Deputy’s Question on 24 September, the OPW will, in 2010, commence a Catchment Flood Risk Assessment and Management Study that will identify areas in the Shannon catchment that are at significant risk from flooding, and will produce a prior-

itised list of measures for addressing the risk in those areas. Pending the completion of the Study, OPW, through the minor works schemes, will work with the Local Authorities to identify areas that might benefit from interim localised mitigating measures. The OPW is currently completing works to relieve flooding at Clonlara in the Lower Shannon, and has been in discussion with the IFA and the NPWS regarding the possibility of carrying out further works in the Shannon Callows area.

As regards the immediate impact on those affected by the flooding, the Government has allocated an initial sum of €10 million to fund a Humanitarian Assistance Scheme. This scheme is being administered by the Community Welfare Service of the Health Service Executive on behalf of the Department of Social and Family Affairs. The aim of the Scheme is to provide financial support to people who have suffered flood damage to their homes and, in doing so, will provide hardship alleviation as opposed to full compensation. As on previous occasions, commercial or business losses will not be covered by the scheme, nor will losses, which are covered by household insurance.

Flood Relief.

99. **Deputy Olwyn Enright** asked the Minister for Finance if a management programme will be put in place to minimise future flood risk in the Shannon region on foot of its flooding; and if he will make a statement on the matter. [45140/09]

Minister of State at the Department of Finance (Deputy Martin Mansergh): To facilitate planning for the management of future flood risk, OPW has embarked on a programme of Catchment Flood Risk Assessments, since being assigned lead agency responsibilities in 2004, following the Review of Flood Policy. These studies, which are required by the National Flood Policy and the EU Floods Directive, are designed to identify the areas at risk from flood events for a range of severities and to produce a prioritised plan of measures for dealing with areas where the risk is significant. The Shannon study is expected to commence in mid-2010.

Pending completion of the Study for the Shannon Catchment, OPW, through the minor works scheme, will work with the relevant Local Authorities to identify areas that may benefit from interim localised mitigation measures. The planning and development process is critical to avoid the creation of further flood risk. OPW, with the Departments of the Environment, Heritage and Local Government and Agriculture, developed the 'Guidelines on the Management of Flood Risk in Planning and Development'. This document was launched jointly by my colleague, Minister John Gormley and myself earlier this week.

Departmental Agencies.

100. **Deputy Richard Bruton** asked the Minister for Finance the progress made to date in 2009 in the rationalisation of agencies announced in budget 2009; the savings generated to date in 2009 in each case and the source of the savings; the number of persons who have retired or relocated; and the value of savings and staff reduction as a proportion of the original provision. [45146/09]

Minister for Finance (Deputy Brian Lenihan): The Government's decision to proceed with 30 rationalisation proposals was included in the 2009 Budget measures. The decision was informed by a set of central guiding principles, which were also set out in the 2009 Budget. These principles succinctly set out the Government's policy on the role that agencies should play in delivering public services. Accordingly, the rationalisation decisions were not driven solely by the need to find savings, although savings are a welcome and necessary element. The

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key objective was, and is, to move towards an effective and efficient agency structure that will ensure the delivery of quality public services.

Implementation of these proposals is a matter for each relevant Minister. The information available to my Department is that, to date in 2009, some 16 of the 30 agency rationalisation decisions have been implemented. Of the remainder, a further four are targeted for completion before the end of this year, four will be completed in 2010 with the remainder following in 2011 or later. The 16 rationalisations will deliver estimated gross savings of €3.4m in 2009, €6.8m in 2010 and a reduction of over 54 (whole time equivalents) in staff numbers. These figures are estimates because the identification of savings specifically due to rationalisation is difficult in an environment when savings due to other initiatives arise simultaneously. Such initiatives include the July 2008 announcements regarding efficiencies, professional fees, etc. along with more recent initiatives such as the moratorium on the filling of vacancies by recruitment or promotion.

Furthermore, agencies that are about to be rationalised tend to receive smaller allocations in their final year and their closing staff complements may also be depleted by an accelerated rate of retirements, departures and the non filling of temporary posts in the run up to the rationalisation. Accordingly, higher projected longer term savings will accrue in the future when the rationalisations have bedded down and efficiencies and synergies have been delivered in their new location compared to the relevant budgets enjoyed by these agencies prior to the relevant decisions on rationalisation. On this basis, annual savings of €9.7m should accrue in due course. In addition, it will be some time before some of the related savings will be delivered due to issues such as lengthy leases for premises and staff contracts. No estimate has been included for the disposal of assets such as surplus property. More specific and detailed information along the lines sought by the Deputy is a matter for the relevant Minister in each case.

Question No. 101 answered with Question No. 50.

Tax Yield.

102. **Deputy Richard Bruton** asked the Minister for Finance the estimated yield from the carbon tax; the estimated absolute and percentage increase in the price of each product affected; his estimate of the expenditure by persons of pension age and of the lowest income cohort on these products in total and as a percentage of their income. [45148/09]

Minister for Finance (Deputy Brian Lenihan): I am committed to the introduction of a carbon tax on a phased basis in the context of the 2010 Budget. Indeed work is already underway on the design of a carbon tax. In relation to the issue of fuel poverty, it is acknowledged that appropriate measures may need to be put in place depending on the level of carbon tax introduced. I would draw to the Deputy's attention that it is the usual practice for the Minister for Finance not to speculate or comment in advance of the Budget on what it will contain and I do not propose to deviate from that practice.

103. **Deputy Richard Bruton** asked the Minister for Finance the estimated yield from the health levy and the income levy in 2009; and his estimate of the carry-over increase into extra yield in 2010 from the changes made in the course of 2009 to these levies. [45149/09]

Minister for Finance (Deputy Brian Lenihan): The estimated yield from the health levy in 2009 was €1,892m. This included an estimated receipt of €719m this year from a doubling of the levy in the 2009 Supplementary Budget, with a full year yield of €1,501m. Recent projections indicate a shortfall in this estimate and provision for this shortfall has been included in

the 2009 Supplementary Estimate for the HSE currently before the Dáil. The 2010 estimate will be included in the forthcoming Budget in the light of the latest available information.

The Income Levy was introduced in October of last year in Budget 2009 and the rates subsequently increased in the Supplementary Budget in April of this year. Based on these forecasts, it was estimated that the Income Levy would yield approximately €1.1 billion in 2009 and approximately €2 billion in a full year. Revised forecasts will be published in the White Paper on Receipts and Expenditure on 5 December, which will set out tax forecasts for 2010 revenues on a pre-Budget basis. As is customary, post-Budget tax forecasts for 2010 and later years will be published on Budget day, 9 December.

Departmental Staff.

104. **Deputy Leo Varadkar** asked the Minister for Finance if his attention has been drawn to the practice of granting a few hours paid leave in some sectors of the public service to facilitate staff shopping in the run up to Christmas; and if he will make a statement on the matter. [45217/09]

Minister for Finance (Deputy Brian Lenihan): The Deputy does not give details or specify the sectors of the public service to which he refers, but he will be aware that the term “public service” encompasses a wide range of organisations, including but not limited to Civil Service Departments and Offices, the Garda Síochána, Permanent Defence Forces, Local Authorities, HSE, VECs and various bodies established by enactment and wholly or partly funded out of the Central Fund. The Minister for Finance is not the contractual employer for the vast majority of public servants, so I am not involved in the day to day management of more than 300,000 staff. Therefore the Deputy will appreciate that I cannot comment on particular practices in unspecified areas of the public service.

There is no formal scheme in the Civil Service. However, I understand that, dating from a time when shop opening hours were limited, it was local custom and practice in some organisations to allow some restricted grades of staff, with the greatest numbers at clerical level, a half-day's leave, for shopping in the month of December. This was and is a matter for the management of the relevant organisations. Indeed, a central element of public service reform is to promote Departmental, Ministerial and managerial responsibility. Obviously, management of public service organisations must take into account the needs of their organisations and that longer shop opening hours are available now and that flexible working hours not only meet the specific business needs of the organisations, and facilitate lunch time opening for the public, but also provide some flexibility for staff. As I have previously stated “all of us will have to accept that the old ways of doing things need to be looked at afresh, so that we can deliver excellent public services with the dramatically lower level of resources now available.”

Insurance Industry.

105. **Deputy Bernard J. Durkan** asked the Minister for Finance if he has ascertained the precise level of increase in insurance premiums, including motor insurance, over the past 12 months; the reason for such increases; and if he will make a statement on the matter. [45220/09]

106. **Deputy Bernard J. Durkan** asked the Minister for Finance the steps he has taken or proposes to take to bring insurance costs down in line with economic trends; and if he will make a statement on the matter. [45221/09]

107. **Deputy Bernard J. Durkan** asked the Minister for Finance the extent to which he has monitored insurance premium increases; if the basis for such increases has been clarified, particularly against a background of alleged deflation in the economy; and if he will make a statement on the matter. [45222/09]

Minister for Finance (Deputy Brian Lenihan): I propose to take Questions Nos. 105 to 107, inclusive, together.

The response deals with recent increases to insurance premiums, the background to such increases, and the Government response. While I am aware that there has been an increase in insurance premiums including motor insurance premiums this year, the Financial Regulator does not maintain statistics on insurance premium costs, so I am not in a position to comment upon the level of such increases.

However, the Financial Regulator has provided some background as to why insurance prices have increased in these deflationary times. It has advised me that while the non-life insurance market performed well up to the end of 2006, market sources indicate that much non-life business was written at a loss in 2007. This trend continued in 2008, but the companies were still willing to write business at a loss in order to maintain their market share. They were able to do this as a result of the reserves they had built up during profitable years. However, the situation could not go on indefinitely and indications are that firms are now taking action on pricing to underpin their financial positions, including in the motor insurance area.

This position is supported by a report published earlier this year by Standard & Poor's titled '*A Testing 2009 for the Irish Non-Life Insurance Market, Despite Fundamental Strengths*'. It provides an insight into the problems facing the industry at the moment. The report envisages a difficult year for the non-life industry as a result of rising claims and continuing intense competition which they say is limiting price increases. They add that this combined with anticipated lower investment returns is expected to hinder profitability.

In the current difficult trading climate, there is a delicate balance to be struck between ensuring the long-term sustainability of the non-life insurance industry and at the same time making sure that the consumer obtains good value for money. I am particularly conscious of the impact of a significant increase in premiums for both the consumer and business and I have informed the industry that it must be a priority for them to ensure that insurance cover is provided as competitively as possible consistent with long term commercial sustainability and viability. Finally as the Deputy will be aware, there is a commitment in the Revised Programme for Government to review insurance costs. My Department is currently considering appropriate steps to commence the study.

Banking Sector Regulation.

108. **Deputy Bernard J. Durkan** asked the Minister for Finance if he has issued instructions to the banking sector with a view to ensuring the availability of adequate working capital and overdraft facilities for business; and if he will make a statement on the matter. [45223/09]

109. **Deputy Bernard J. Durkan** asked the Minister for Finance if he has had discussions, independently or in the context of the National Asset Management Agency, with the banking sectors with a view to achieving progress in the matter of provision of adequate lending facilities to meet the requirements of small and medium-sized businesses; and if he will make a statement on the matter. [45224/09]

110. **Deputy Bernard J. Durkan** asked the Minister for Finance if he is satisfied that the banking sector is committed to providing working capital for business; and if he will make a statement on the matter. [45225/09]

Minister for Finance (Deputy Brian Lenihan): I propose to take Questions Nos. 108 to 110, inclusive, together.

It is fair to assume that the banks should be in a better position to lend once the riskiest loans have been removed from their balance sheets and taken over by NAMA and that viable businesses should expect a fair hearing when seeking funding. I intend to issue guidelines to participating institutions to ensure that this is the case. 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.

An independent review of credit availability was agreed in the context of the recapitalisation of AIB and Bank of Ireland. The purpose of the review was to ascertain the position on credit availability to SMEs in Ireland. The Steering Group for the review consisted of representatives of the Departments of Finance and Enterprise, Trade and Employment, Forfás, Enterprise Ireland, the Irish Banking Federation and the six main banks involved in lending to SMEs, business representatives from ISME, Chambers Ireland and Small Firms Association. The final report of the Review of Lending to SMEs is available on my Department's website. The report made a series of recommendations including the further development of a framework for monitoring credit availability and measures to improve communications between the banks and SMEs. The report also suggests consideration of specific supports to ease the working capital requirements of SMEs, and measures to help investment levels in SMEs. A follow-up independent review of credit availability is currently underway and it is expected that it will be published shortly.

I would also point out that 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 facilitates access to credit, promotes fairness and transparency and ensures 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.

My colleague the Tánaiste and Minister for Enterprise, Trade and Employment set up a Clearing Group including representatives from the main banks, business interests and state agencies, which is chaired by her Department. 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.

Flood Relief.

111. **Deputy Bernard J. Durkan** asked the Minister for Finance the extent to which the Office of Public Works has studied recent flooding; the extent to which this has been caused by the interruption of existing drainage in the course of road building or other works; and if he will make a statement on the matter. [45226/09]

113. **Deputy Bernard J. Durkan** asked the Minister for Finance the extent to which drainage or flood alleviation works over the past five years have been adequate in the context of recent flooding; and if he will make a statement on the matter. [45228/09]

114. **Deputy Bernard J. Durkan** asked the Minister for Finance the extent to which he has studied flooding reports in various locations here; his plans to initiate or upgrade a regional drainage programme with a view to in the first instance targeting those most susceptible to flooding and areas most severely affected during recent heavy rainfalls; and if he will make a statement on the matter. [45229/09]

Minister of State at the Department of Finance (Deputy Martin Mansergh): I propose to take Questions Nos. 111, 113 and 114 together.

Since 2003, the Office of Public Works (OPW) has completed major flood relief schemes in Carrick-on-Suir, Co. Tipperary, Kilkenny City, River Tolka in Counties Dublin and Meath, Leixlip, Co. Kildare and the first phase of the River Dodder works in Dublin City. There have been no reports of any flooding taking place in these areas following the severe events of the last two weeks. In addition to these completed schemes, the first phase of three major schemes in Mallow, Co. Cork, Clonmel, Co. Tipperary and Ennis, Co. Clare are nearing completion. The scheme in Mallow, involving the erection of demountable defences upon receipt of a flood warning, and although not entirely completed, was thoroughly tested by the recent flood event, and proved an unqualified success. Similar sized flood events have caused major flooding to homes and businesses in Mallow in the past. The parts of the schemes substantially completed in Clonmel and Ennis has also reduced the impact of flooding in some areas previously prone to such flooding from events of this nature.

The first phase of the overall scheme for Fermoy, Co Cork has recently commenced construction, and is expected to be completed by the middle of 2010, which will provide protection to the northern side of the town. Other areas where construction is ongoing include Mornington, Co Meath, Newcastlewest, Co Limerick, Mullingar, Co Westmeath, and a further phase of the River Dodder, Dublin.

OPW also has a number of projects at tender stage for a civil works contractor, which includes further phases in Mallow, Clonmel and Ennis. It is anticipated that construction works on these schemes will commence early in 2010. Detailed design of the second phase of the Fermoy scheme is currently underway with construction expected to commence by the end of 2010, subject to the necessary funding being in place. In addition to these, OPW has a number of other schemes at various stages of planning. These include Templemore, Co Tipperary, Enniscorthy, Co Wexford, Bray, Co Wicklow, Arklow, Co Wicklow and several others, smaller in nature.

OPW also introduced two initiatives in 2009 relating to minor river works and coastal protection works. Under these initiatives, OPW may provide financial and technical assistance to Local Authorities on their application to carry out studies or works to address small-scale flood problems in their respective areas. Funding has already been agreed under both these initiatives for 2009, and OPW will shortly be writing to the Local Authorities again inviting applications for 2010.

Since the severe flood events of the last two weeks, OPW has been collecting data on all flooded areas, including hydrometric information and aerial surveys. Available information to OPW indicates that the widespread flooding that occurred in recent weeks was caused mainly by unusually prolonged heavy rainfall, which exceeded the conveyance capacity of rivers and drainage infrastructure. The OPW implements a maintenance programme in respect of the channels for which the Office has a statutory maintenance responsibility. It is the opinion of the OPW that, in respect of these channels, while this programme of maintenance contributes to the moderation of flooding, the contribution would not have had a significant impact on the recent unprecedented level of flooding.

Since the publication of the report of the Flood Policy Review Group in 2004, which identified the OPW as the lead agency in relation to river based flood management in Ireland, subsequently added to from 1 January 2009 by its taking over responsibility for Coastal Erosion and Flood Risk, a number of Flood Risk Assessment and Management Studies have been commenced by OPW throughout the country. The objective of the studies is to develop, for River Basins throughout the country, Flood Risk Management Plans, where a significant flood risk exists or could arise, that define existing and foreseeable flood hazards and risks within a catchment and the methods, mechanisms, policies and proposals for managing the hazards and risks in a sustainable, integrated, pro-active and holistic manner. The objective is to have all Flood Risk Management Studies completed over the next six years, to coincide with dates set out in the EU Floods Directive, with the Lee CFRAM about to be placed on public display before the end of 2009.

OPW has also undertaken a number of other Programmes, including a Flood Hazard Mapping Programme, Flood Studies Update Programme, Public Awareness Programme, Flood Forecasting and Warning Programme, Strategic Hydro-Meteorological Review Programme, and Research and Development Programme. All of these Programmes will assist in addressing existing and future flood risk by helping to focus on a series of measures regarding sustainable flood prevention, protection and mitigation. The OPW is not aware of any flooding caused due to interruption to existing drainage, because of road building networks and other similar works around the country. Such matters would normally be addressed by the Department of the Environment, Heritage and Local Government or the Department of Transport, as the case may be.

Flood Relief.

112. **Deputy Bernard J. Durkan** asked the Minister for Finance the degree to which various flood remedial works undertaken throughout County Kildare have adequately withstood recent heavy rainfall; the extent to which he is prepared to initiate further works in terms of drainage and flood management; and if he will make a statement on the matter. [45227/09]

119. **Deputy Bernard J. Durkan** asked the Minister for Finance the various locations throughout County Kildare which have been brought to his attention in the context of flooding arising from heavy rainfall in the past five years and to date in 2009; his plans or proposals to address this issue by way of strategic drainage; and if he will make a statement on the matter. [45234/09]

Minister of State at the Department of Finance (Deputy Martin Mansergh): I propose to take Questions Nos. 112 and 119 together.

The OPW completed a flood relief scheme for the Shinkeen Stream, Hazelhatch, Co Kildare in 2002. The Commissioners of Public Works also obtained sanction from the Department of Finance to provide funding to Kildare County Council for a programme of minor flood allevi-

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ation works on the Lyreen and Meadowbrook Rivers in Maynooth and on the Morrell River in the Straffan area in June 2002. These works were carried out by the OPW, acting as agents to the Local Authority and were completed in 2003.

The Slate River in Allenwood, County Kildare forms part of the Rathangan Drainage District, and maintenance of this river is therefore a matter for the Local Authority. However, the OPW carried out some drainage works on the Slate River in 2003 as agents for Kildare County Council, and there are no proposals to carry out further works in this area. My Officials are advised that Kildare Co. Council have recently completed a 3-year cleaning programme on the Slate River.

The Office of Public Works funded a programme of flood defence works on the Rye River and the Silleachain Stream in Leixlip, Co. Kildare which were completed this year by the OPW on behalf of Kildare Co. Council, who were the contracting authority and have overall responsibility for the scheme. The OPW have also agreed to fund a programme of flood relief works for the Toni River in Celbridge, Co. Kildare under the Minor Flood Mitigation Works Scheme, and these works are currently underway, with completion due before Christmas 2009.

The aforementioned flood relief works have proved very successful, and as a consequence of these measures Leixlip, Maynooth, Celbridge and Hazelhatch experienced no fluvial flooding as a result of the recent rainfall. My Officials have also been advised by Kildare Co. Council that the flood relief works carried out on the Slate and Morrell Rivers helped to mitigate against the flooding in these areas.

Furthermore, the Commissioners of Public Works have agreed to allocate funding to complete a programme of flood alleviation works in the Johnstown area, provided Kildare Co. Council is successful in obtaining planning approval in accordance with Part 8 of the planning and development regulations for the scheme. I understand that this application will shortly be presented to the Local Authority for approval. It is also a prerequisite that the Local Authority resolve outstanding matters in relation to land acquisition and site investigation.

My Officials meet regularly with Kildare Co Council, and have discussed how best to prioritise the many areas in the region which have a history of flooding. As a result of these meetings, Kildare Co. County has submitted flood relief proposals for the Butterstream in Clane, and Confey in the Leixlip area, which will be considered by the OPW for inclusion in the programme of works for 2010. Areas such as Ardclough and the outstanding areas of the Morrell catchment have also been discussed, and it has been agreed that these will be considered as part of the overall strategy for dealing with the Liffey River Catchment. It is noted that preparatory work has commenced on the Liffey Catchment Flood Risk Assessment and Management (CFRAM) study that forms part of the National CFRAM programme, and this is being rolled out in 2010.

Questions Nos. 113 and 114 answered with Question No. 111.

Disabled Drivers.

115. Deputy Bernard J. Durkan asked the Minister for Finance when it is expected to act on the recommendations of the interdepartmental group dealing with the Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations 1994; the status of the report; if immediate action is intended on foot of the recommendations; and if he will make a statement on the matter. [45230/09]

Minister for Finance (Deputy Brian Lenihan): A special Interdepartmental Review Group reviewed the operation of the Disabled Drivers Scheme. It examined the current benefits, the

qualifying medical criteria, the Exchequer costs, relationship with other schemes and similar schemes in other countries. The report also made a number of recommendations, both immediate and long-term, referring respectively to the operation of the appeals process and options for the future development of the scheme. The Group's report is published on my Department's website. 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.

Fiscal Policy.

116. **Deputy Bernard J. Durkan** asked the Minister for Finance if the measures taken in the 2009 budget were effective in terms of achieving their targets; and if he will make a statement on the matter. [45231/09]

Minister for Finance (Deputy Brian Lenihan): Over the last eighteen months the Government has taken action on a number of occasions, including the measures introduced in Budget 2009, to address the large gap which has opened up between revenue and expenditure as a result of the deterioration in the economic environment. The overall 2009 deficit position has been improved by the various measures the Government have taken by the order of 5% of GDP. That said a significant deficit still remains in the public finances which is currently being met by borrowing. It is not sustainable to continue to borrow at such a high-level in the medium to longer term and action must be taken to stabilise the deficit and then over the coming years reduce it. Budget 2010 is being framed in this context.

Questions Nos. 117 and 118 answered with Question No. 42.

Question No. 119 answered with Question No. 112.

Tax Collection.

120. **Deputy Bernard J. Durkan** asked the Minister for Finance if all arrears of tax paid by a person (details supplied) in County Kildare have been refunded; and if he will make a statement on the matter. [45235/09]

Minister for Finance (Deputy Brian Lenihan): I have been advised by the Revenue Commissioners that, based on the information available, the tax liability of the person concerned has been reviewed for the years 2005-2008 inclusive and tax overpaid has been refunded. In addition tax paid for 2009 has been refunded to the person concerned.

Tax Yield.

121. **Deputy Seán Sherlock** asked the Minister for Finance the amount of revenue generated for the State in 2007, 2008 and to date in 2009 through the taxation of motor vehicles in County Cork; and if he will make a statement on the matter. [45281/09]

Minister for Finance (Deputy Brian Lenihan): I am informed by the Revenue Commissioners that figures to indicate the amount of revenue generated in the State through the taxation of motor vehicles are not available on a county basis. It is not possible therefore to produce the information requested by the Deputy.

National Asset Management Agency.

122. **Deputy Kieran O'Donnell** asked the Minister for Finance his views on the confirmation that certain financial institutions covered under the National Asset Management Agency may not be using the NAMA bonds to obtain low interest credit from the European Central Bank

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for use in lending to small business; if he intends to issue guidance to the institutions regarding this matter; the alternative plans in place for providing credit to small business; and if he will make a statement on the matter. [45284/09]

Minister for Finance (Deputy Brian Lenihan): My understanding is that the financial institutions in question expressed the view that there is not a shortage of credit available to business but that the risks taken by financial institutions must be compatible with the amount of capital they hold. Banks can currently access funds but the cost is higher than was previously the case. The banks' balance sheets will be stronger once NAMA has taken over the riskiest loans and replaced them with Government guaranteed bonds; this will give the banks greater access to liquidity and make long-term funding cheaper.

I would point out that the value of the NAMA bonds will far exceed the incremental borrowing requirements of business and it would not be realistic to expect all of this money to be loaned on. However, it is fair to assume that the banks should be in a better position to lend once the riskiest loans have been removed from their balance sheets and that viable businesses should expect a fair hearing when seeking funding. I intend to issue guidelines to participating institutions to ensure that this is the case. 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.

An independent review of credit availability was agreed in the context of the recapitalisation of AIB and Bank of Ireland. The purpose of the review was to ascertain the position on credit availability to SMEs in Ireland. The Steering Group for the review consisted of representatives of the Departments of Finance and Enterprise, Trade and Employment, Forfás, Enterprise Ireland, the Irish Banking Federation and the six main banks involved in lending to SMEs, business representatives from ISME, Chambers Ireland and Small Firms Association. The final report of the Review of Lending to SMEs is available on my Department's website. The report made a series of recommendations including the further development of a framework for monitoring credit availability and measures to improve communications between the banks and SMEs. The report also suggests consideration of specific supports to ease the working capital requirements of SMEs, and measures to help investment levels in SMEs. A follow-up independent review of credit availability is currently underway and it is expected that it will be published shortly.

I would also point out that 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 facilitates access to credit, promotes fairness and transparency and ensures 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.

My colleague the Tánaiste and Minister for Enterprise, Trade and Employment set up a Clearing Group including representatives from the main banks, business interests and state agencies, which is chaired by her Department. 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.

Flood Relief.

123. **Deputy Kieran O'Donnell** asked the Minister for Finance the outcome of his approaches to the EU for funding for flood relief; the amount of funding that he anticipates will be forthcoming; the uses to which this funding will be put; which funds are being examined; when such funding will be in place; and if he will make a statement on the matter. [45285/09]

Minister for Finance (Deputy Brian Lenihan): Different Government departments and agencies have responsibilities for specific emergency planning functions. In the event of a major emergency, the most appropriate Department or agency is designated as the lead agency to co-ordinate the response to it. In relation to flooding, the Minister for the Environment, Heritage and Local Government is chairing the Emergency Response Coordination Committee which meets on a daily basis to handle the current emergency situation.

When more complete information on the scale and cost of the damage arising becomes available, full consideration will be given to ways of meeting these costs, including if appropriate, making application to the EU for financial support. My Department has been in contact with the Commission to establish eligibility criteria and the scale of funding that might be available. I am also informed that the Joint Committee on European Affairs is travelling to Brussels on Friday, 4 December to meet with the Commissioner for Regional Policy, Mr. Samecki to discuss the flooding situation and opportunities for assistance from the EU under the EU Solidarity Fund.

124. **Deputy Kieran O'Donnell** asked the Minister for Finance the interim plans for flood relief that will be put in place in the coming months until the proposed consultants' report is made available to the Office of Public Works; the particular initiatives that will form the consultants' brief; the reasons for the March deadline for the appointment of the consultants; the period they will be required to report in; if these time lines can be speeded up; and if he will make a statement on the matter. [45286/09]

Minister of State at the Department of Finance (Deputy Martin Mansergh): The Office of Public Works has created a Flood Hazard Maps website, www.floodmaps.ie, which carries valuable historical data on flood events, mainly from local archives, and this should be used as an interim measure by Planners and the General Public, in seeking to avoid unsustainable development. In relation to the current flood events, the Commissioners of Public Works have commissioned aerial photography of the flood extents, and will process this information for inclusion on the flood maps website.

As part of its flood awareness programme, the OPW has also developed another website, www.flooding.ie, which gives practical help and advice to homes and businesses that have flooded, or are at risk of flooding. It contains detailed information on how to prepare for flooding, and how to minimise effects and safety advice in the event of flooding.

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The Commissioners of Public Works are preparing to go to tender for consultants to carry out a strategic review to assess cost benefits and operational structures for a National Flood Warning System. The purpose of undertaking a strategic review of options for Flood Forecasting and Warning (FF&W) is to:

- (A) Examine the potential benefits that FF&W could achieve.
- (B) Identify and assess the options for the delivery of such a service in Ireland, and
- (C) To develop an appropriate and sustainable strategy for FF&W in Ireland.

The work will be undertaken by suitably qualified and experienced Consultants, procured following compliance with National or European rules, with the Office of Public Works funding the project and managing the review. A Steering Group involving the relevant stakeholders will participate in the review process, and time lines will be determined therefrom.

Financial Services Regulation.

125. **Deputy Kieran O'Donnell** asked the Minister for Finance if his attention has been drawn to the remuneration plan for a bank (details supplied) as prepared for him by the covered institutions remuneration oversight committee; if this plan has been amended; the value of the remuneration packages for the incoming executive chairman and managing director; the duration of the contracts; if bonus payments are contractual or discretionary; if incentive payments are payable under the remuneration plan; and if he will make a statement on the matter. [45287/09]

Minister for Finance (Deputy Brian Lenihan): As the Deputy is aware, the specified bank submitted its Remuneration plan to the Covered Institutions Remuneration Committee (CIROC) whose report was placed before the House on 13 March 2009. The Government considers the CIROC recommendations regarding remuneration of chief executives including bonuses, pensions, long term incentive plans, which includes stock options, are appropriate but that basic salary level should be capped at €500,000 or the salary amount recommended by CIROC which ever is the lower. Any deviation from this should be in exceptional circumstances and with my agreement and this position has not changed.

The Deputy will be aware that in the case at hand I have intervened in the matter of the level of salary for the incoming managing director to ensure that it is in line with the CIROC recommendations and the Government's cap on basic salary of €500,000. Furthermore the subscription agreement stipulates that no bonus payments are payable to senior executives for performance in 2009 and 2010. I have not yet been approached regarding the Executive Chairman's salary arising from his interim appointment to facilitate the completion of the key tasks of capital raising, the implementation of NAMA and the specified Bank's restructuring plan which is currently being agreed with the EU Commission. It is planned at this stage that senior management structures will be reviewed in mid-2010.

National Treatment Purchase Fund.

126. **Deputy Jack Wall** asked the Minister for Health and Children if the National Treatment Purchase Fund has investigated an application in respect of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [45063/09]

Minister for Health and Children (Deputy Mary Harney): The primary remit of the National Treatment Purchase Fund (NTPF) is to facilitate treatment for those public patients waiting

longest for surgery. At the end of November there were ninety-three patients waiting for longer than 12 months for surgery at Tallaght Hospital. The NTPF is working with the hospital to facilitate treatment for these patients quickly and thereafter to focus on patients waiting for less than twelve months. The NTPF will endeavour to facilitate the person whose case the Deputy has raised with treatment as soon as possible, while at the same time fulfilling its mandate in relation to persons waiting longest for treatment. It is open to the patient's general practitioner to contact the hospital about his case, if he is of the opinion that his condition merits more immediate attention.

Medical Cards.

127. **Deputy Joe Costello** asked the Minister for Health and Children if her attention has been drawn to the case of a person (details supplied) in Dublin 1 who applied for a medical card in February 2009 and has not received an outcome; if an interim card will be provided in view of the length of time since the application was made; and if she will make a statement on the matter. [45065/09]

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.

Nursing Homes Support Scheme.

128. **Deputy Billy Timmins** asked the Minister for Health and Children the position regarding the fair deal scheme (details supplied); and if she will make a statement on the matter. [45081/09]

Minister of State at the Department of the Health and Children (Deputy Áine Brady): Under the legislation, any income or assets transferred within the five years prior to applying for the scheme are taken into account in the financial assessment. This is not a new concept; the same measure was in place under the subvention scheme.

However, the legislation also includes a provision, which only applies to items transferred prior to the 9th October 2008 (i.e. the date of publication of the Bill), that enables people to appeal the inclusion of transferred income/assets in the financial assessment. The applicant may apply to have transferred income/assets excluded from the financial assessment on the basis that their inclusion would cause undue financial hardship to themselves, their spouse/partner or their child under the age of 21.

Hospital Staff.

129. **Deputy John O'Mahony** asked the Minister for Health and Children the reason a consultant urologist at the University College Hospital, Galway was moved to County Dublin. [45095/09]

Minister for Health and Children (Deputy Mary Harney): As this is a service matter, it has been referred to the HSE for direct reply.

Hospital Waiting Lists.

130. **Deputy John O'Mahony** asked the Minister for Health and Children the waiting time to have an appointment to have an EEG scan carried out in University College Hospital, Galway. [45096/09]

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.

Nursing Homes Support Scheme.

131. **Deputy Billy Timmins** asked the Minister for Health and Children the position regarding a matter (details supplied); and if she will make a statement on the matter. [45099/09]

Minister of State at the Department of the Health and Children (Deputy Áine Brady): As of the 27th October 2009, new entrants to long-term nursing home care can only avail of financial support under the Nursing Homes Support Scheme. Individuals who were in long-term nursing home care prior to that date can retain their existing arrangements or they can apply for the new scheme.

132. **Deputy Denis Naughten** asked the Minister for Health and Children the number of persons approved in each primary, community and continuing care area under the fair deal scheme in November 2009; the number of persons already resident in a nursing home in each case; the number of applications pending in each PCCC; and if she will make a statement on the matter. [45100/09]

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 Waiting Lists.

133. **Deputy Ciarán Lynch** asked the Minister for Health and Children the options available to a person (details supplied) in County Cork, told by Health Service Executive south to expect a decision on treatment within three weeks of 2 October 2009 but who is still untreated; and if she will make a statement on the matter. [45104/09]

Minister for Health and Children (Deputy Mary Harney): As this is a service matter it has been referred to the HSE for direct reply.

Community Care.

134. **Deputy Denis Naughten** asked the Minister for Health and Children further to Parliamentary Question No. 83 of 18 June 2009, the status of the development project for a community hospital, day care unit and primary care centre; the breakdown of these costings to include the funding estimated for each of the facilities; the timetable for construction; and if she will make a statement on the matter. [45110/09]

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 Staff.

135. **Deputy Joanna Tuffy** asked the Minister for Health and Children the number of operations which have been cancelled in Our Lady's Hospital, Navan, County Meath, due to lack of available staff; the number of staff vacancies in the hospital; the location in the hospital at which these vacancies exist; and if she will make a statement on the matter. [45120/09]

Minister for Health and Children (Deputy Mary Harney): As this is a service matter it has been referred to the HSE for direct reply.

Hospital Charges.

136. **Deputy Richard Bruton** asked the Minister for Health and Children the changes made on drug refund and on casualty attendance on a bed night in a public, private or semi private ward; and the provisions she has made for changes to these charges in the pre-budget estimates. [45153/09]

Minister for Health and Children (Deputy Mary Harney): Decisions in relation to the matters referred to by the Deputy are a matter for Government to be considered as part of the Estimates and budgetary process. I am not in a position to comment on such matters at this stage.

Hospital Staff.

137. **Deputy Michael Moynihan** asked the Minister for Health and Children the number of career breaks granted to nursing staff in Tralee General Hospital, County Kerry, since February 2009. [45155/09]

Minister for Health and Children (Deputy Mary Harney): As this is a service matter it has been referred to the HSE for direct reply.

Medical Cards.

138. **Deputy Edward O’Keeffe** asked the Minister for Health and Children the position regarding an application for an over 70 years medical card in respect of a person (details supplied) in County Cork. [45162/09]

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.

139. **Deputy Edward O’Keeffe** asked the Minister for Health and Children the position regarding an application for an over 70 years medical card in respect of a person (details supplied) in County Cork. [45164/09]

Minister for Health and Children (Deputy Mary Harney): As this is a service matter it has been referred to the Health Service Executive for direct reply to the Deputy.

Hospital Waiting Lists.

140. **Deputy Michael D. Higgins** asked the Minister for Health and Children the position regarding the case of a person (details supplied) in County Galway; if she will support this case; and if she will make a statement on the matter. [45174/09]

Minister for Health and Children (Deputy Mary Harney): The management of waiting lists generally 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.

Health Services.

141. **Deputy Michael McGrath** asked the Minister for Health and Children when a child (details supplied) in County Cork will begin receiving speech and language therapy. [45206/09]

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.

Services for People with Disabilities.

142. **Deputy Michael McGrath** asked the Minister for Health and Children the number of children with autism who have been referred to the Brothers of Charity Southern Services for speech and language therapy for 2006, 2007, 2008 and to date in 2009; the length of time it has taken from diagnosis to the commencement of speech and language services; and if she will make a statement on the matter. [45207/09]

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.

National Treatment Purchase Fund.

143. **Deputy Jack Wall** asked the Minister for Health and Children when a person (details supplied) in County Kildare will receive an appointment under the National Treatment Purchase Fund; and if she will make a statement on the matter. [45219/09]

Minister for Health and Children (Deputy Mary Harney): As this is a service matter it has been referred to the HSE for direct reply. As the Deputy may be aware, the National Treatment Purchase Fund arranges treatment for patients who have been on a surgical waiting list for more than three months. It is open to the person in question or anyone acting on their behalf to contact the Fund directly in relation to their case.

Medical Cards.

144. **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. [45237/09]

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.

145. **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. [45238/09]

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 Accommodation.

146. **Deputy Paul Kehoe** asked the Minister for Health and Children the number of alcohol and drug addiction detox beds here; the location of each; the waiting list in each case; and if she will make a statement on the matter. [45266/09]

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 Services.

147. **Deputy Seán Sherlock** asked the Minister for Health and Children the number of children awaiting hearing tests per Health Service Executive region; and if she will make a statement on the matter. [45267/09]

Minister for Health and Children (Deputy Mary Harney): As this is a service matter it has been referred to the HSE for direct reply.

Hospital Services.

148. **Deputy Seán Sherlock** asked the Minister for Health and Children the reason universal newborn hearing screening is not available at hospitals here; and if she will make a statement on the matter. [45268/09]

Minister for Health and Children (Deputy Mary Harney): As this is a service matter it has been referred to the HSE for direct reply

149. **Deputy Seán Sherlock** asked the Minister for Health and Children when universal newborn hearing screening will be available in County Cork; and if she will make a statement on the matter. [45269/09]

Minister for Health and Children (Deputy Mary Harney): As this is a service matter it has been referred to the HSE for direct reply.

Departmental Properties.

150. **Deputy Michael Ring** asked the Minister for Transport the legal position with a facility (details supplied) in County Mayo; the reason for the delay; the person who is dealing with the problem; and when it will be resolved. [45135/09]

151. **Deputy Michael Ring** asked the Minister for Transport his views on whether it is fair that a group providing a service cannot use a facility (details supplied) in County Mayo. [45136/09]

152. **Deputy Michael Ring** asked the Minister for Transport the reason a facility (details supplied) in County Mayo cannot be used on a temporary basis while legal and contractual matters are being resolved. [45137/09]

Minister for Transport (Deputy Noel Dempsey): I propose to take Questions Nos. 150 to 152, inclusive, together.

Legal and contractual matters are in the course of being resolved in order to allow the group in question to move into the facility referred to. A Caretakers Agreement which would allow of use the building pending the resolution of the legal difficulties was forwarded by the Chief State Solicitor's Office to Mayo County Council.

I have asked, and been assured that, the outstanding issues will be dealt with in the appropriate manner, as quickly as possible.

Road Network.

153. **Deputy Jack Wall** asked the Minister for Transport if he has provided funding to a road project (details supplied) since the concept of the road was determined; the funding allocated; the amount in each year; if funding was drawn from a EU source for this project; if agreement was sought from him or his Department by the local authority regarding security or permission to secure or draw down loans or funding in relation to the project; if permission had to be granted by him or his Department for the development of the road; the cost of the project; and if he will make a statement on the matter. [45178/09]

Minister for Transport (Deputy Noel Dempsey): The Department paid Kildare County Council €17,840,661 in respect of the Naas Southern Ring Road in the years 2001 to 2008 and

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allocated €3,680,183 for this project in 2009. A breakdown of that funding is set out in the following table. Table

Year	€
2001	9,142
2002	460,319
2003	541,700
2004	463,624
2005	2,664,655
2006	1,585,884
2007	2,115,337
2008	10,000,000
2009 Allocation*	3,680,183

The project had expenditure of €882,613 eligible for 50% EU co-financing under the Non-National Roads Measure of the Southern and Eastern Regional Operational Programme 2000–2006. The EU grant aid accrued directly to the Exchequer, the local authority having received this aid through State road grants.

Earlier this year my Department approved a loan application from Naas Town Council. The approval allows the Council to seek a loan of €8 million to progress the regional and local road element of the Naas Ring Roads, of which the Naas Southern Ring Road is a part.

154. **Deputy Jack Wall** asked the Minister for Transport if his Department or the National Roads Authority has provided funding to a road project (details supplied) since the concept of the road was determined; the funding allocated; the amount in each year; if funding was drawn from an EU source regarding the project; if agreement was sought from him or his Department by the local authority regarding security or permission to secure or draw down loans or funding in relation to the project; if permission had to be granted by him or his Department for the development of the road; if so, the cost of the project; and if he will make a statement on the matter. [45181/09]

Minister for Transport (Deputy Noel Dempsey): Kildare County Council has applied to my Department for funding for the Athy Southern Relief Road under the Department's regional and local road strategic grants scheme. All applications received for funding under the scheme will be considered, having regard to compliance with eligibility criteria, the need to prioritise projects, competing demands from other local authorities and the funds available for the scheme in 2010. The 2010 regional and local road grant allocations will be announced early next year.

Work Permits.

155. **Deputy Michael Ring** asked the Minister for Justice, Equality and Law Reform the expected completion time for an application to extend a work permit for a person (details supplied) in County Mayo. [45071/09]

Minister of State at the Department of Justice, Equality and Law Reform (Deputy Dermot Ahern): I have been informed by the Irish Naturalisation and Immigration Service (INIS) that they received an application from the person referred to by the Deputy on 7 August 2009 and that a letter approving further permission to remain in the State was issued to that person

on 30 November 2009. This permission should enable the person referred to, to apply for a work permit.

Domestic Violence.

156. **Deputy Joe Costello** asked the Minister for Justice, Equality and Law Reform the estimated number of women who experience physical abuse here today; the State funding that is targeted at this problem; the range of services that are available nationwide; and if he will make a statement on the matter. [45157/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): Empirical data on which one can rely in relation to this serious issue is difficult to obtain. According to the National Study of Domestic Abuse published by the National Crime Council in 2005, 13% of women, who participated in the study, reported suffering physical abuse or minor physical incidents at some stage or on some occasion over the course of their lifetime.

The bulk of direct funding in relation to domestic violence service provision is provided by the Health Service Executive which funds the core work of non-governmental organisations' support services in this sector. In addition the Department of the Environment, Heritage and Local Government provides funding through the local authorities for the capital and maintenance costs of women's refuges and other crisis accommodation. The Department of Community, Rural and Gaeltacht Affairs also has domestic violence-related expenditure under its Community Development Programme.

In 2008 the HSE spent approximately €20m. on domestic violence-related services. The same year the Department of the Environment, Heritage and Local Government spent €2,188,294 on such services and the Department of Community, Rural and Gaeltacht Affairs spent €204,894.

The direct funding of €2,261,000 by my Department in 2008 relates to activities such as awareness raising by support services at local level and perpetrator intervention programmes. The Deputy should note that, although such funding includes funding in relation to sexual violence services, in 2008 most of the funding related to domestic violence, which may of course include sexual violence occurring in the domestic context. In addition, the Commission for the Support of Victims of Crime, which is under the aegis of my Department, provides funding to domestic violence groups for court accompaniment, and granted €416,625 for this purpose in 2008. The Deputy will be aware that there is also other significant expenditure, supporting activity in the wider Justice sector which contributes to preventing or dealing with the consequences of domestic violence, but which cannot be quantified.

A wide range of services are available to women victims of domestic violence. In addition to the services provided by State agencies such as the Garda Síochána and the HSE, there are 19 support services providing crisis/emergency accommodation at refuge facilities. Other supports provided at these facilities include counselling; court accompaniment; advocacy; telephone helpline; outreach; and referrals to other appropriate services. A further 28 support services provide non-refuge support, information and advocacy for women victims of domestic violence.

The Deputy may also be aware that Cosc, the National Office for the Prevention of Domestic, Sexual and Gender-based Violence, was established within my Department in June, 2007. Cosc's remit is to provide a whole-of-Government response to domestic, sexual and gender-based violence in relation to women and men, including older people living in the community. Cosc's main priority is the drafting of a National Strategy on Domestic, Sexual and Gender-based Violence, which is expected to be submitted to Government early in 2010. The Strategy will set out a cohesive plan to further develop actions to prevent and respond to this violence.

Work Permits.

157. **Deputy Jack Wall** asked the Minister for Justice, Equality and Law Reform the reason a person (details supplied) in County Kildare is not allowed to work in view of the fact that the person has supplied new medical evidence to the Garda. [45205/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I have requested a report from the Garda authorities on the matter referred to by the Deputy and I will be in contact with the Deputy when the report is to hand.

Departmental Query.

158. **Deputy Martin Ferris** asked the Minister for Justice, Equality and Law Reform the reason a person (details supplied) was recently refused entry here. [45213/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I have been informed by the Irish Naturalisation and Immigration Service (INIS) of my Department that they have requested the information sought by the Deputy from the Garda Authorities. The Immigration Division will be in contact with the Deputy when this information is to hand.

Rent Reviews.

159. **Deputy Ciarán Lynch** asked the Minister for Justice, Equality and Law Reform if section 132 of the Land and Conveyancing Law Reform Act 2009 dealing with the removal of the upward only restriction on rent reviews has been implemented; and if he will make a statement on the matter. [45214/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I can inform the Deputy that Section 132 will come into force on 28 February 2010 (Statutory Instrument No. 471 of 2009 refers).

Visa Applications.

160. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform if a visitor's visa will be renewed in the case of a person (details supplied) in County Kildare; and if he will make a statement on the matter. [45239/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): Based on the information provided by the Deputy the Visa Office has no record of a current visa application connected to the person referred to.

It is, however, open to all persons resident outside the State and who are visa required to complete an on-line visa application form for the appropriate visa. Comprehensive information when making a visa application, inclusive of details with regard to the required supporting documents, is available on the website of the Irish Naturalisation and Immigration Service (www.inis.gov.ie). Each visa application is considered on its individual merits the onus resting with the applicant to satisfy the Visa Officer as to why a visa should be granted.

Residency Permits.

161. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position regarding the matter of residency in the case of a person (details supplied) in County Kildare; and if he will make a statement on the matter. [45240/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I have been informed by the Irish Naturalisation and Immigration Service (INIS) that an application for a “Without Condition As To Time” endorsement, otherwise known as a Stamp 5, was received from the person in question on the 12 November 2009. The application was processed and an approval letter was issued and forwarded by registered post to the person in question on the 26 November 2009. Records from An Post show that the letter was delivered and received on the 27 November 2009.

Asylum Applications.

162. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform if he will give consideration on humanitarian grounds for extended residency in the case of a person (details supplied) in Dublin 8; and if he will make a statement on the matter. [45241/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The first named person concerned applied for asylum on 18 May 2005. She gave birth to a child in the State in 2005 and this child was included in her mother’s asylum application. In accordance with Section 9 of the Refugee Act 1996 (as amended), she was entitled to remain in the State until her application for asylum was decided. Her asylum application was refused following consideration of her case by the Office of the Refugee Applications Commissioner and, on appeal, the Refugee Appeals Tribunal.

Arising from the refusal of her asylum application, and in accordance with the provisions of Section 3 of the Immigration Act, 1999 (as amended), the first named person concerned was informed, by letter dated 25 August 2006, that the Minister proposed to make Deportation Orders in respect of her and her child. She was given the options, to be exercised within 15 working days, of leaving the State voluntarily, of consenting to the making of Deportation Orders or of making representations to the Minister setting out the reasons why she and her child should not have Deportation Orders made against them. Representations were submitted on behalf of the first named person concerned at that time. She was subsequently informed 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).

An application for Subsidiary Protection in the State has been submitted on behalf of the first named person concerned and this application is currently under consideration. When this consideration has been completed, the first named person concerned will be notified in writing of the outcome.

In the event that the application for Subsidiary Protection is refused, the position in the State of the first named person concerned will then be decided by reference to the provisions of 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. All representations submitted will be considered before the file is passed to me for decision. Once a decision has been made, this decision and the consequences of the decision will be conveyed in writing to the first named person concerned.

The second person referred to, a minor, arrived in the State on 24 April 2006. He was reunited with his mother soon after. He applied for asylum on 29 May 2006. In accordance with Section 9 of the Refugee Act 1996 (as amended), he was entitled to remain in the State until his application for asylum was decided. His asylum application was refused following consideration of his case by the Office of the Refugee Applications Commissioner and, on appeal, the Refugee Appeals Tribunal.

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Arising from the refusal of his asylum application, and in accordance with the provisions of Section 3 of the Immigration Act 1999 (as amended), the second person referred to was notified, by letter dated 29 January 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 a Deportation Order should not be made against him. 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 second person referred to 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, he will be notified in writing of the outcome.

In the event that the application for Subsidiary Protection is refused, the position in the State of the second person referred to will then be decided by reference to the provisions of 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. All representations submitted, including those of the nature referred to by the Deputy, will be considered before the file is passed to me for decision. Once a decision has been made, this decision and the consequences of the decision will be conveyed in writing to the second person referred to.

163. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform if he will consider granting extended residency on humanitarian grounds in the case of a person (details supplied) in County Cork; and if he will make a statement on the matter. [45242/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The person concerned applied for asylum on 14 January 2005. In accordance with Section 9 of the Refugee Act 1996 (as amended), the person concerned was entitled to remain in the State until his application for asylum was decided. His asylum application was refused following consideration of his case by the Office of the Refugee Applications Commissioner and, on appeal, the Refugee Appeals Tribunal.

Arising from the refusal of his asylum application, and in accordance with the provisions of Section 3 of the Immigration Act 1999 (as amended), the person concerned was notified, by letter dated 22 April 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 a Deportation Order should not be made against him. 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 initiated Judicial Review Proceedings in the High Court challenging the decision of the Refugee Appeals Tribunal in his case. On 31 July 2009, the High Court refused the Judicial Review Leave Application with the consequence that the earlier decisions of the Refugee Appeals Tribunal and the Minister stood.

The position in the State of the person concerned now falls to be decided by reference to the provisions of 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. All representations submit-

ted will be considered before the file is passed to me for decision. Once a decision has been made, this decision and the consequences of the decision will be conveyed in writing to the person concerned.

Citizenship Applications.

164. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position regarding an application for citizenship in the case of a person (details supplied) in County Dublin; and if he will make a statement on the matter. [45243/09]

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 July 2007.

Processing of the file has been completed and I have reached a decision. The person in question will be informed of that decision in the near future.

Asylum Applications.

165. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform if consideration will be given to extend residency or entertain an application for citizenship in the case of persons (details supplied) in County Westmeath; and if he will make a statement on the matter. [45244/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The first and second named persons concerned applied for asylum on 1 March 2004 and 18 March 2008 respectively. In accordance with Section 9 of the Refugee Act 1996 (as amended), the first and second persons concerned were entitled to remain in the State until their applications for asylum were decided. Their asylum applications were refused following consideration of their individual cases by the Office of the Refugee Applications Commissioner and, on appeal, the Refugee Appeals Tribunal.

Arising from the refusal of the first named person's asylum application, and in accordance with the provisions of Section 3 of the Immigration Act, 1999 (as amended), he was informed, by letter dated 13 September 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 not have a Deportation Order made against him. Representations were submitted on behalf of the first named person concerned at that time.

The first named person concerned was subsequently informed 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).

An application for Subsidiary Protection in the State has been submitted on behalf of the first named person concerned and this application is currently under consideration in my Department. When this consideration has been completed, the first named person concerned will be notified in writing of the outcome.

In the event that the application for Subsidiary Protection is refused, the position in the State of the first named person concerned will then be decided by reference to the provisions of 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. All representations submitted will be considered before the file is passed to me for decision. Once a decision has been made, this

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decision and the consequences of the decision will be conveyed in writing to the first named person concerned.

Arising from the refusal of the second named person's asylum application, and in accordance with the provisions of Section 3 of the Immigration Act 1999 (as amended), she was notified, by letter dated 27 August 2009, 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 a Deportation Order should not be made against her. 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 position in the State of the second named person concerned now falls to be decided by reference to the provisions of 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. All representations submitted will be considered before the file is passed to me for decision. Once a decision has been made, this decision and the consequences of the decision will be conveyed in writing to the second named person concerned.

The Deputy might wish to note that as neither of the persons concerned are legally resident in the State, the issue of citizenship does not arise at this time.

Deportation Orders.

166. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform if he will review the deportation proposal in the case of a person (details supplied) in County Meath; and if he will make a statement on the matter. [45245/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The person concerned applied for asylum on 4 December 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 person concerned was informed, by letter dated 29 May 2009, 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.

On 30 June 2009 the person concerned submitted an application for Subsidiary Protection in the State in accordance with the European Communities (Eligibility for Protection) Regulations 2006 (S.I. No. 518 of 2006). Following consideration of the information submitted, the application was refused. The person concerned and her legal representative were notified of this decision by letter dated 10 November 2009.

Her case was then examined 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. Consideration was given to representations submitted on her behalf by her legal representative for permission to remain in the State. On 18 November 2009, I refused permission to remain temporarily in the State and instead signed a Deportation Order in respect of her. Notice of this order was served by registered post requiring the person concerned to leave the State by 12 December 2009.

I am satisfied that the applications made by the person concerned for asylum, for temporary leave to remain in the State and for Subsidiary Protection, together with all refoulement issues, were fairly and comprehensively examined and, as such, the decision to deport her is justified.

The effect of the Deportation Order is that the person concerned must leave the State and remain thereafter out of the State.

The enforcement of the Deportation Order is an operational matter for the GNIB.

Residency Permits.

167. **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 County Carlow; and if he will make a statement on the matter. [45246/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I wish to inform the Deputy that the person in question was granted permission to remain in the State, as a family dependant, in line with permission granted to her sister. She registered with the Garda National Immigration Bureau on 15 February, 2008 and her permission to remain is currently valid until 15 February, 2010.

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 by the Deputy.

Asylum Applications.

168. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position regarding an application for residency in the case of a person (details supplied) in County Meath; and if he will make a statement on the matter. [45247/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The person concerned arrived in the State on 23 April 2004 and applied for asylum on 25 November 2004. She subsequently gave birth to a child in the State, and this child was included in his mother's asylum application. In accordance with Section 9 of the Refugee Act 1996 (as amended), the person concerned was entitled to remain in the State until her application for asylum was decided. Her asylum application was refused following consideration of her case by the Office of the Refugee Applications Commissioner and, on appeal, the Refugee Appeals Tribunal.

Arising from the refusal of her asylum application, and in accordance with the provisions of Section 3 of the Immigration Act 1999 (as amended), the person concerned was notified, by letter dated 6 March 2008, that the Minister proposed to make Deportation Orders in respect of her and her child. She was given the options, to be exercised within 15 working days, of leaving the State voluntarily, of consenting to the making of Deportation Orders or of making representations to the Minister setting out the reasons why Deportation Orders should not be made against her and her child. In addition, she was notified of her entitlement to apply for Subsidiary Protection in the State in accordance with the European Communities (Eligibility for Protection) Regulations 2006 (S.I. No. 518 of 2006).

The person concerned submitted an application for Subsidiary Protection in the State in accordance with these Regulations and this application is under consideration at present. When consideration of this application has been completed, the person concerned will be notified in writing of the outcome.

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In the event that the application for Subsidiary Protection is refused, the position in the State of the person concerned will then be decided by reference to the provisions of 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. All representations submitted will be considered before the file is passed to me for decision. Once a decision has been made, this decision and the consequences of the decision will be conveyed in writing to the person concerned.

169. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform when residency or stamp four will issue in the case of a person (details supplied) in Dublin 7; and if he will make a statement on the matter. [45248/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The person concerned applied for asylum in the State on 21 April 1997. His application was refused following consideration of his case by the then Asylum Division of the Department of Justice, Equality and Law Reform and, on appeal, the then Asylum Appeals Unit of the Department. The person concerned was informed in writing of this latter decision by letter dated 1 November 2000.

On 3 September 1999, the person concerned made an application for permission to remain in the State on the basis of his parentage of an Irish born child. However, this application was deemed to be abandoned as the person concerned failed to respond to letters from my Department requesting documentation to support his application.

In light of the fact that the person concerned appeared to have left the State, his case was not subsequently finalised. However, in an effort to bring his case to completion, my Department wrote to the person concerned on 18 September 2009 requesting detailed information from him relating to his personal and family circumstances as well as documentary evidence to attest to the periods he had been in the State and, by extension, was outside the State. The person concerned has responded to this communication and this response will be considered as part of the overall consideration of the case of the person concerned 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 consideration has been completed, the file is passed to me for decision. Once a decision has been made, this decision and the consequences of the decision will be conveyed in writing to the person concerned.

Asylum Support Services.

170. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform if a person (details supplied) in County Cork will transfer to self-catering accommodation; and if he will make a statement on the matter. [45249/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The Reception and Integration Agency (RIA) has no record of a request from this family to transfer from their current accommodation. If the family wish to apply for a transfer, they may do so by writing directly to the RIA at RIA Operations, P.O. Box 11487, Dublin 2. If an application for a transfer is made, it will be duly considered by the RIA.

Residency Permits.

171. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the residency status and the right to work without a work permit in the case of persons (details supplied); and if he will make a statement on the matter. [45250/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): In relation to the first named person concerned, according to my Department's records, he was never the recipient of a Work Permit. He was, however, following the rejection of his asylum application, granted permission to remain temporarily in the State under Section 3 of the Immigration Act 1999 (as amended). The first named person concerned has recently applied for the renewal of his permission to remain in the State which expires on 13 December 2009. This application is currently under consideration and the first named person concerned will be informed in writing when a decision has been made.

In relation to the second named person concerned, an application for Long Term Residency was submitted on her behalf on 7 July 2009. I am informed that Long Term Residency applications received in July 2008 are being processed at present. This being the case, it is likely that further processing of the application of the second named person concerned will commence around mid-2010.

Asylum Applications.

172. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform the position regarding the residency status in the case of persons (details supplied) in County Cork; and if he will make a statement on the matter. [45251/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The first named person concerned applied for asylum on 2 February 2005. In accordance with Section 9 of the Refugee Act 1996 (as amended), the person concerned was entitled to remain in the State until his application for asylum was decided. His asylum application was refused following consideration of his case by the Office of the Refugee Applications Commissioner and, on appeal, the Refugee Appeals Tribunal.

Arising from the refusal of his asylum application, and in accordance with the provisions of Section 3 of the Immigration Act 1999 (as amended), the first named person concerned was notified, by letter dated 30 September 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 a Deportation Order should not be made against him.

Representations have been received on behalf of the first named person concerned and these representations will be fully 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, before the file is passed to me for decision. Once a decision has been made, this decision and the consequences of the decision will be conveyed in writing to the first named person concerned.

In relation to the second named person concerned, the Deputy will appreciate that it is not the practice to comment on individual asylum applications where a final decision has not been made. However, the Deputy may wish to note that where an asylum application is made, the outcome of that application is determined at first instance by the Office of the Refugee Applications Commissioner and, on appeal, by the Refugee Appeals Tribunal.

173. **Deputy Bernard J. Durkan** asked the Minister for Justice, Equality and Law Reform if he will consider extended residency in the case of a person (details supplied) in Dublin 8; if he will defer deportation at this time; and if he will make a statement on the matter. [45252/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): The person concerned applied for asylum on 6 May 2004. Her daughter was born in the State on 12 May 2004 and is an Irish citizen. This person notified my Department that she wished to withdraw her asylum application as she was returning to Nigeria. It appears that she left the State in June 2004. Her asylum application was refused thereafter.

This person returned to the State with her daughter in or around February 2005. Her son was born in the State on 20 June 2005. Her application for permission to remain under the IBC 2005 scheme was refused on 8 December 2005. Following consideration of all representations for leave to remain submitted on their behalf, I signed Deportation Orders in respect of the persons concerned on 4 February 2009.

In relation to the second person concerned, It is not the practice to comment on individual asylum applications.

As the Deputy will be aware, applications for refugee status in the State are determined by an independent process comprising the Office of the Refugee Applications Commissioner and the Refugee Appeals Tribunal, which make recommendations to the Minister for Justice, Equality and Law Reform on whether such status should be granted.

The recommendation of the Office of the Refugee Applications Commissioner is currently the subject of ongoing judicial review proceedings. There are also separate judicial review proceedings challenging the decision to make the Deportation Orders.

As both matters are sub judice, I cannot comment further.

Garda Investigations.

174. **Deputy George Lee** asked the Minister for Justice, Equality and Law Reform the number of incidents recorded on the Garda PULSE system in November 2009 in the vicinity of a licensed premises (details supplied) in Dublin 14 during and shortly after its opening hours; the breakdown of these incidents by category; and if he will make a statement on the matter. [45270/09]

Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern): I am informed by the Garda authorities that matters relating to the premises referred to by the Deputy are currently before the District Court. It would, therefore, be inappropriate for me to comment on the matter at this time.

Human Rights Issues.

175. **Deputy Michael D. Higgins** asked the Minister for Foreign Affairs his views on the recent arrest by Israeli authorities of a person (details supplied) at the border terminal between Jordan and the occupied West Bank; his further views on reports that this person has not been charged with a crime, which has led their lawyers to believe that the person is being held due to advocacy work; if this matter has been raised with the Israeli Government and its representatives here; and the steps being taken to seek the immediate and unconditional release of this person. [45175/09]

Minister for Foreign Affairs (Deputy Micheál Martin): The person referred to by the Deputy is a Palestinian activist on political and human rights issues, who was arrested on 22 September on returning to the West Bank from Jordan, following a visit to Norway and other countries. He has been held since then in administrative detention. The Irish Missions in Israel and Palestine, and the EU Presidency and other partners, have been following the case against him,

but full information on the circumstances is not yet available. The allegations against him have not been made public, but appear to have been based on security issues rather than any clearly criminal acts. It is suggested that he may be alleged to have been in contact with banned militant groups while abroad, but the absence of information has, not surprisingly, given rise to a widespread suspicion that his advocacy work may have been a factor in the action taken against him.

I understand that the process against him concluded with a final hearing before a judge on 25 November, at which he was sentenced to three months of administrative detention. While detention orders are often renewed, the judge in this case set a release date of 22 December. It is open to the individual concerned to appeal this verdict in a military court.

This case is only one of over 300 cases of Palestinians held in administrative detention, many held under short term orders which are regularly renewed. Over 100 of these detainees have been held for more than a year. While there may be a need in the context of the security situation in the Middle East for strong police powers, it is clear that the system of administrative detention, as operated on such a wide scale and in virtual secrecy, is wide open to abuse and to the suspicion of abuse. Our views on this system, and on other human rights issues pertaining to the Occupied Palestinian Territories, have been frequently conveyed to the Israeli authorities.

Sports Funding.

176. **Deputy Joanna Tuffy** asked the Minister for Arts, Sport and Tourism the plans in place to ensure the continuation and sustainability of the sports inclusion disability officer programme in County Meath for 2010; if his attention has been drawn to the achievements of the sports inclusion disability officer programme; and if he will make a statement on the matter. [45119/09]

Minister for Arts, Sport and Tourism (Deputy Martin Cullen): Special funding of €2.5 million was allocated from the dormant accounts fund for the appointment of 20 Sports Inclusion Development Officers (SIDOs) in Local Sports Partnerships (LSPs) in 2008. The SIDOs were appointed on two-year contracts to provide opportunities for persons with a disability to participate in sport and physical activity.

A network of 33 LSPs have been set up throughout the country by the Irish Sports Council (ISC) to coordinate and promote sport at local level especially amongst specific target groups such as older people, girls and women, people with disabilities, unemployed people, and those who live in identified disadvantaged communities. The special dormant accounts funding was in addition to the annual funding provided to the LSPs by the ISC for programmes and initiatives aimed at increasing participation in recreational sport. The ISC has allocated €6 million to the LSPs in 2009.

The continuation of the SIDO scheme from 2010 will be dependent on the outcome of the 2010 Estimates deliberations.

Inland Waterways.

177. **Deputy Frank Feighan** asked the Minister for Community, Rural and Gaeltacht Affairs the procedures in place for the removal of sewage from cruisers on the Shannon navigation; and the locations of same. [45185/09]

Minister for Community, Rural and Gaeltacht Affairs (Deputy Éamon Ó Cuív): I am informed by Waterways Ireland that there are 22 pump-outs at 15 locations on the Shannon which boat users can use to dispose of sewerage. Six (6) of these are operated by Waterways Ireland and nine (9) are operated by Local Authorities. Details of the locations are set out in the following table.

A programme of upgrading Local Authority pump-outs has been initiated with assistance of Fáilte Éireann to provide a consistent standard throughout the navigation. Once this programme has been completed, responsibility for their operation will transfer to Waterways Ireland.

	County	Mode	Managed By
Drumshanbo	Leitrim	Smart card	Waterways Ireland
Boyle	Roscommon	Smart card	Waterways Ireland
Carrick-on-Shannon (2)	Leitrim	Smart card	Leitrim Co. Co.
Dromod	Leitrim	Smart card	Leitrim Co. Co.
Lanesboro	Roscommon	Operative on site	Roscommon Co. Co.
Ballyleague	Roscommon	Smart Card	Waterways Ireland
Athlone (2)	Westmeath	Operative on site	Westmeath Co. Co.
Shannonbridge (2)	Offaly	Operative on site	Offaly Co. Co.
Portrunny	Roscommon	Smart card	Waterways Ireland
Portumna (2)	Galway	Smart card	Galway Co. Co.
Mountshannon (3-2 connected)	Clare	Smart card	Clare Co. Co.
Dromineer (2)	Tipperary NR	Smart card	Tipperary (NR) Co. Co.
Garrykennedy	Tipperary NR	Smart card	Waterways Ireland
Scarriff	Clare	Smart card	Waterways Ireland
Ballina (Killaloe) (2)	Tipperary NR	Smart card	Tipperary (NR) Co. Co.

Grant Payments.

178. **Deputy Michael Ring** asked the Minister for Community, Rural and Gaeltacht Affairs if funding will continue for wages of staff and the overheads involved in projects (details supplied); and if he will make a statement on the matter. [45159/09]

Minister for Community, Rural and Gaeltacht Affairs (Deputy Éamon Ó Cuív): I wish to refer the Deputy to my reply to question number 105 of 24th September 2009.

As I indicated then, contracts will be renewed subject to the availability of sufficient funding and the satisfactory performance of projects. Funding for the Community Services Programme will be finalised in the Estimates and budgetary strategy for 2010.

Projects have been informed that the position with regard to the level of future funding will be clarified following the Budget on the 9th December 2009.

Question No. 179 withdrawn.

Social Insurance.

180. **Deputy Richard Bruton** asked the Minister for Social and Family Affairs the estimated yield from employers PRSI and total PRSI in 2009. [45149/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The estimated yield for the employers PRSI of €5,216 million and total PRSI of €7,500 million is expected to be on target and similar to the published Revised Estimate Volume for 2009.

Social Welfare Appeals.

181. **Deputy Michael Ring** asked the Minister for Social and Family Affairs if an appeal has been opened on behalf of a person (details supplied) in County Mayo. [45068/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The Social Welfare Appeals Office has advised me that an appeal has been received in this case and, in accordance with statutory requirements, the person concerned has been requested to forward his grounds of appeal.

The Social Welfare Appeals Office is an office of the Department that is independently responsible for determining appeals against decisions on social welfare entitlements.

182. **Deputy Michael Ring** asked the Minister for Social and Family Affairs when a person (details supplied) in County Mayo will be approved and awarded jobseeker's allowance. [45074/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The person concerned applied for jobseeker's benefit on 24th July, 2009. Before a decision could be given on his claim, his entitlement to credited social insurance contributions had to be investigated. That investigation has now been concluded. His claim is currently with a Deciding Officer for decision. A decision will be made as soon as possible and he will be notified of the outcome.

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.

Humanitarian Assistance Scheme.

183. **Deputy Denis Naughten** asked the Minister for Social and Family Affairs the means assessment for the flooding hardship fund; the criteria to be considered for eligibility; if it will be extended to businesses; and if she will make a statement on the matter. [45083/09]

189. **Deputy Olwyn Enright** asked the Minister for Social and Family Affairs the action she will take to alleviate the hardship caused by the flooding of the Shannon area; and if she will make a statement on the matter. [45141/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): I propose to take Questions Nos. 183 and 189 together.

The Government recognises the devastation suffered by people in many areas of the country as a result of the recent floods.

Community Welfare Service staff throughout the country have been providing substantial support to families every day since this flooding occurred. They have already provided emergency financial and other assistance to households affected by the flooding to cover items such as clothing, food, bedding, heating, hire of dehumidifiers and emergency accommodation needs. Community Welfare Officers have made over 470 initial emergency payments to people in areas impacted by flooding; the average payment made was €300. They will continue to make these payments as long as there is a need.

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In addition to this, a Humanitarian Assistance Scheme is being set up to provide means-tested financial support to people who have suffered damages to their homes. An initial sum of €10million has been set aside by the Government for this purpose.

As the flood waters abate and people assess the full extent of the damage to their homes, qualified households can claim for essential household items such as carpets, flooring, furniture and white goods. Assistance will also be available for structural repairs to homes not covered by household insurance.

Humanitarian assistance is not an alternative to insurance in cases where household insurance was available on a reasonable basis. All of the main insurance companies have 24 hour, 7 day a week dedicated phone help lines in place to assist people to make claims under their household insurance policies. Depending on nature of the insurance policy held, some companies may make advance payments to help people replace their most important belongings immediately. Insurance companies have undertaken to process claims as quickly as possible. Where insurance cover is not available because of previous flooding claims, a person may receive humanitarian assistance.

Costs of medical treatment and supplies may also be considered in determining assistance where medical cover is not already in place i.e. private health insurance or medical card.

The level of payment available under the aid scheme to any qualified individual will depend on the severity of the damage to that person's home and the extent of the loss experienced as well as household income and general family circumstances.

The scheme will provide hardship alleviation as opposed to full compensation. As on previous occasions, commercial or business losses will not be covered by the scheme nor will losses which are covered by household insurance. Applications under the scheme will be means tested to ensure that available assistance will be prioritised for those who are most vulnerable. Aid will not cover damage to private rented accommodation or local authority accommodation, though humanitarian assistance may be considered in the case of a tenant's personal belongings.

The basic principle of the means test will be to determine the household's capacity to meet the costs of restoring their home to a habitable condition. All household income will be considered when determining entitlement to payment. However, account will be taken of outgoings such as rent or mortgage payments, other loans and travel to work costs. In addition to the means test, other factors will also be considered by the Community Welfare Service in assessing individual applications, including: Whether the applicant is or was homeless as a result of the flooding. Age profile of family members i.e. babies, young children or elderly persons. Availability of support from the wider family; and The special needs that people may have as a result of illness or disability.

People seeking assistance should contact their local Community Welfare Office. Further information and applications forms in relation to the Humanitarian Assistance Scheme are available from the Community Welfare Service in the affected areas and from the Department's website (www.welfare.ie) and the HSE's website (www.hse.ie).

While this scheme is not intended to provide full compensation for all losses and damage it will go towards alleviating the hardship which many hundreds of families have had to endure.

Pension Provisions.

184. **Deputy Michael McGrath** asked the Minister for Social and Family Affairs the reason,

in order to qualify for the contributory State pension, a person must have started to pay social insurance before the age of 56 years even if they are in a position to meet the contributions requirements between the age of 56 years and retirement age. [45097/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): In order to qualify for a state pension (contributory), there are a number of minimum qualifying conditions that must be met. A person must have a minimum of 260 paid social insurance contributions, a yearly average of at least 10 contributions paid or credited since entry into social insurance, and must have entered social insurance at least 10 years before state pension age. From 6 April 2012, a minimum of 520 paid contributions will be required.

These conditions have been designed to ensure that those qualifying for payment have an adequate and sustained history of contributions to the social insurance fund over their working lives.

Social Welfare Benefits.

185. **Deputy Joan Burton** asked the Minister for Social and Family Affairs the number of persons in receipt of jobseeker's allowance or benefit at any point during 2009 who stopped receiving their allowance due to the fact that they took up a new employment or a change in their means or they left the labour force or for other reasons; if she will provide comparative numbers for 2006, 2007 and 2008; and if she will make a statement on the matter. [45111/09]

186. **Deputy Joan Burton** asked the Minister for Social and Family Affairs the number of applications for either jobseeker's benefit or allowance which were refused to date in 2009; if she will provide comparative numbers for 2006, 2007 and 2008; and if she will make a statement on the matter. [45112/09]

187. **Deputy Joan Burton** asked the Minister for Social and Family Affairs the number of persons who moved from jobseeker's benefit to jobseeker's allowance to date in 2009; if she will provide the comparative numbers for 2006, 2007 and 2008; and if she will make a statement on the matter. [45113/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): I propose to take Questions Nos. 185 to 187, inclusive, together.

I set out below two tabular statements containing the information requested by the deputy. Table 1 shows the outflows from the Live Register for each of the years from 2006 to date. The second table contains data relating to the number of jobseeker claim applications that were disallowed in each of those years.

Statistics for those who moved from jobseekers benefit to jobseekers allowance are not maintained. There are two scenarios where claimants can move from jobseekers benefit to jobseekers allowance. All claimants whose benefit claim is about to expire are offered the opportunity to be means tested and to claim jobseekers allowance. Those found to have no entitlement are advised to sign for jobseekers credits. The second scenario is where it is more beneficial for claimants to opt to be paid jobseekers allowance instead of jobseekers benefit. This occurs where the claimant may only have an entitlement to a graduated rate of JB which is based on their average earnings in the governing year.

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Table 1: Outflows from the Live Register

Year	Number	
2006	274,420	
2007	281,230	
2008	328,908	
2009	461,326	27/11/2009

Table 2: Applications for Jobseeker's Allowance & Jobseeker's Benefit received and refused in 2006, 2007, 2008 and 2009 to October 31st.

2006	JA	JB	Total
Claims Registered	114,437	166,068	280,505
Total Disallowances	10,024	4,401	14,425

2007	JA	JB	Total
Claims Registered	119,886	184,096	303,982
Total Disallowances	10,711	4,803	15,514

2008	JA	JB	Total
Claims Registered	169,879	294,880	464,759
Total Disallowances	12,996	5,789	18,785

2009 to 31st October	JA	JB	Total
Claims Registered	229,882	317,763	547,645
Total Disallowances	17,288	5,217	22,505

Social Welfare Appeals.

188. **Deputy Joe Behan** asked the Minister for Social and Family Affairs if she will support the case of a person (details supplied) in County Wicklow; and if she will make a statement on the matter. [45123/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The Social Welfare Appeals Office has advised me that an appeal from the person concerned was received on 16 October 2009 and in accordance with the statutory requirements, the relevant Departmental papers and comments of the Social Welfare Services on the matters raised in the appeal were sought. When received, the appeal in question will be referred to an Appeals Officer for consideration.

The Social Welfare Appeals Office is an office of the Department that is independently responsible for determining appeals against decisions on social welfare entitlements.

Question No. 189 answered with Question No. 183.

Social Insurance.

190. **Deputy Richard Bruton** asked the Minister for Social and Family Affairs the provisions she has made in the 2010 pre budget estimates for a change in the thresholds or ceilings for social insurance payments. [45151/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The question of adjusting thresholds and ceilings for social insurance payments will be considered in the context of the forthcoming budget.

Social Welfare Benefits.

191. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs when one parent family allowance will be payable in the case of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [45253/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The person concerned claimed one parent family payment from 08 September 2009. One of the qualifying conditions for receipt of one parent family payment is that a person must be habitually resident in the state. A deciding officer decided that she is not habitually resident in the state.

The person concerned was notified of the decision on 02 December 2009 and of her right to appeal against the decision within 21 days of the notification.

192. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs when child benefit will be payable in the case of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [45254/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): A claim in respect of Child Benefit was received from the person concerned, who is Slovakian, on 11th September 2009. She has lived in Ireland since September 2007 and, in that period, had been employed for one year up until October 2008. The claim was disallowed on October 14th 2009 on the grounds that she does not satisfy the Habitual Residence Condition. She was notified in writing of this decision on October 15th 2009 and advised of her right to appeal, which to date she has not exercised.

She has also had a claim for Jobseeker's Allowance disallowed on the grounds of Habitual Residence.

It is open to the claimant to appeal the decisions to the Social Welfare Appeals Office, D'Olier Street, Dublin 2.

193. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs the correct level of social welfare payment in the case of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [45259/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The person concerned claimed jobseeker's benefit from 28 September 2009. His claim has been awarded at the weekly rate of E204.30, the maximum personal rate.

Based on the information supplied by the person concerned the deciding officer decided that he was not eligible to be paid an increase for a qualified adult or qualified children. If there

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has been any change in his domestic circumstances and he wishes to claim for qualified dependants he should notify the local office and his case will be reviewed.

194. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs when rent allowance will be awarded to a person (details supplied) in County Kildare; and if she will make a statement on the matter. [45260/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The supplementary welfare allowance scheme, which includes rent supplement, is administered on behalf of the Department by the Community Welfare division of the Health Service Executive.

The Executive has advised that it received an application for rent supplement from the person concerned on 24 June 2009. A Community Welfare Officer issued a letter to the person concerned on 25 June 2009, seeking additional documentary evidence in relation to a number of matters, including bank/credit union statements, proof of ownership of the rented property from the landlord and a copy of the lease agreement.

The Executive has advised that it has not received the additional supporting documentation from the person concerned since the date of issue of the request.

195. **Deputy Bernard J. Durkan** asked the Minister for Social and Family Affairs when mortgage support will be awarded to a person (details supplied) in County Kildare; and if she will make a statement on the matter. [45262/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The supplementary welfare allowance scheme, which includes mortgage interest supplement, is administered by the community welfare service of the Health Service Executive on behalf of the Department.

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 Executive has advised that according to its records, an application for mortgage interest supplement has not been received from the person concerned.

It is open to the person concerned to contact his local community welfare officer with a view to making an application for mortgage interest supplement.

Social Welfare Appeals.

196. **Deputy Michael Ring** asked the Minister for Social and Family Affairs the reason an appeal for domiciliary care allowance in respect of a person (details supplied) in County Mayo has not been finalised; when the appeal was received by the appeals office; when same will be dealt with; and if she will make a statement on the matter. [45374/09]

Minister for Social and Family Affairs (Deputy Mary Hanafin): The Social Welfare Appeals Office has advised me that an appeal from the person concerned was received on 14 July 2009 and in accordance with the statutory requirements, the relevant Departmental papers and comments of the Social Welfare Services on the matters raised in the appeal were sought. Following receipt of the relevant Departmental papers including comments on the grounds of appeal, the appeal from the person concerned has been referred to an Appeals Officer for consideration. There has been a 44% increase in the number of appeals received by the Social

Welfare Appeals Office to the end of November 2009 when compared to the same period in 2008, which in itself was 27% greater than the numbers received in 2007. This has caused delays in the processing of appeals. The Social Welfare Appeals Office is an office of the Department that is independently responsible for determining appeals against decisions on social welfare entitlements.

Defence Forces Operations.

197. **Deputy Jimmy Deenihan** asked the Minister for Defence the reason the Reserve Defence Force was not used in the recent flooding emergency; and if he will make a statement on the matter. [45103/09]

Minister for Defence (Deputy Willie O'Dea): The Government's White Paper on Defence sets out the role the Defence Forces might play in the provision of support and services to other public agencies and the community in general. The Defence Forces can provide assistance in the maintenance of essential services during natural disasters and in major accidents and emergencies. The level of support that can be provided by the Defence Forces is demand led and provided on an "as available basis", having regard to both current and contingent Defence Forces operational commitments.

The Framework for Major Emergency Management sets out a structure enabling the Principal Response Agencies (An Garda Síochána, the Health Service Executive and Local Authorities) to prepare for, and make a coordinated response to, major emergencies resulting from events such as severe weather. The Defence Forces have met all requests for assistance from within the existing capacity and resources of the Permanent Defence Forces without the need to call on the Reserve.

Natural Heritage Areas.

198. **Deputy Frank Feighan** asked the Minister for the Environment, Heritage and Local Government his views on whether the Owengar habitat is virtually destroyed in the natural heritage area (details supplied), County Leitrim, due to a wind farm project. [45191/09]

207. **Deputy Frank Feighan** asked the Minister for the Environment, Heritage and Local Government his views on whether the Corry Mountain Bog natural heritage area, County Leitrim, is a site of considerable conservation significance comprising a relatively intact area of upland blanket bog; and if he proposes to cease all development until a baseline study is put in place by his Department. [45183/09]

209. **Deputy Frank Feighan** asked the Minister for the Environment, Heritage and Local Government his views on the fact that a substantial amount of peat has been disturbed during excavation of a co-development (details supplied) in County Leitrim. [45187/09]

210. **Deputy Frank Feighan** asked the Minister for the Environment, Heritage and Local Government his views on whether the grouse habitat is virtually destroyed in the natural heritage area (details supplied) due to a wind farm project. [45188/09]

211. **Deputy Frank Feighan** asked the Minister for the Environment, Heritage and Local Government the person responsible for the enforcement of national heritage area S.I. No. 473/2005. [45189/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): I propose to take Questions Nos. 198, 207, 209 to 211, inclusive, together.

Corry Mountain Bog Natural Heritage Area is of considerable conservation importance for its upland blanket bog habitat and also as a habitat of various notable flora and fauna, including Grouse. Natural Heritage Areas (NHAs) are protected under the Wildlife Acts, enforced by authorised officers of my Department's National Parks and Wildlife Service, as well as An Garda Síochána. NHAs also enjoy protection under a number of other consent systems including under the Planning and Development Acts, enforced by planning authorities. The development of the wind farm in question is regulated under the Planning and Development Acts. As indicated in the reply to related questions on 26 November, the development of the wind farm received planning permission before the site was designated as a Natural Heritage Area (NHA). Since designation of the site, the developers have been in touch with my Department's National Parks and Wildlife Service to discuss how best to progress the project. My Department continues to consult with them with a view to minimising and mitigating any impacts on the Natural Heritage Area, including its blanket bog habitat and other flora and fauna. The matter is being kept under review.

Flood Relief.

199. **Deputy Denis Naughten** asked the Minister for the Environment, Heritage and Local Government the emergency funds to be made available to each local authority to deal with the cost to date in 2009 of flood assistance and emergency works required to prevent further damage from flooding in the coming weeks; and if he will make a statement on the matter. [45085/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): My Department will shortly ask the local authorities for reports on the consequences of the flooding and an assessment of the remedial works required. I will circulate these reports to other Government Departments and Agencies for consideration and appropriate action. I have recently announced the provision of supplementary funding amounting to €10m to assist local authorities in meeting the exceptional costs associated with the current flooding crisis. My Department will be in touch with the local authorities concerned in the coming days to make appropriate arrangements.

I am conscious that in addition to the trauma caused by the flooding, people also suffer financial loss arising from the damage caused to their property. The supplementary welfare allowance scheme, which is administered by the Community Welfare Division of the Health Service Executive on behalf of the Department of Social and Family Affairs, is designed to provide immediate and flexible assistance for those in need who do not qualify for payment under other State schemes. The Government has announced the provision of an initial sum of €10 million for emergency flood relief to be administered by the Department of Social and Family Affairs and €2 million for the agricultural sector.

Election Management System.

200. **Deputy Dinny McGinley** asked the Minister for the Environment, Heritage and Local Government when the next review of Dáil constituency boundaries is due; and if he will make a statement on the matter. [45086/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): Section 5 of the Electoral Act 1997 (as amended by section 9 of the Electoral (Amendment) Act 2009), provides for the establishment of a Constituency Commission upon the publication by the Central Statistics Office (CSO) of a census report setting out the preliminary result of the Census in respect of the total population of the State. Section 9 of the Electoral Act 1997 (as amended by section 9 of the Electoral (Amendment) Act 2009) provides that the work of a Commission be finalised as soon as may be and not later than 3 months after publication by the CSO of the final result of the Census in respect of the total population of the State.

Architectural Heritage.

201. **Deputy Eamon Gilmore** asked the Minister for the Environment, Heritage and Local Government if it was intended in the architectural heritage protection guidelines for local authorities that a structure must be of regional interest to warrant consideration for entry in the record of protected structures; if local authorities are intended to be discouraged or precluded from considering for entry in the record of protected structures, any structure of local interest or exceptional local interest, but falling short of regional interest; and if he will make a statement on the matter. [45090/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): Under the provisions of the Planning and Development Act 2000, each planning authority is required, for the purpose of protecting structures or parts of structures which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, to include in its development plan a Record of Protected Structures and shall include in that record every structure which is, in the opinion of the planning authority, of such interest within its functional area.

The Act also enables the Minister for the Environment, Heritage and Local Government to make recommendations to a planning authority concerning the inclusion of specific structures in its Record of Protected Structures, and a planning authority must have regard to any such recommendations. These recommendations are based on the National Inventory of Architectural Heritage (NIAH) surveys conducted by my Department. The aim of NIAH surveys is generally to include structures which are of international, national and regional importance. The Architectural Heritage Protection Guidelines for Planning Authorities issued by my Department provide that care should be taken when compiling the Record of Protected Structures that all reasonable research has taken place and all structures included merit protection.

Water Quality.

202. **Deputy Finian McGrath** asked the Minister for the Environment, Heritage and Local Government if he will reply to a matter (details supplied). [45092/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): The European Communities (Water Policy) Regulations 2003 require that the Environmental Protection Agency (EPA) prepare a programme of monitoring in order to provide an assessment of water quality status within each river basin district. An interim assessment of status will be included in the first River Basin Management Plans, and a final assessment will be published by the EPA by 22 June 2011 in accordance with the European Communities Environmental Objectives (Surface Waters) Regulations 2009.

[Deputy John Gormley.]

The first monitoring cycle commenced in 2007 for a three-year period to the end of 2009. While monitoring of inland waters, including rivers and lakes, has been completed, gaps remain in relation to coastal monitoring, particularly along the west coast, and in relation to some parameters for estuarine waters. My Department is liaising with the EPA and the Marine Institute to ensure that gaps in marine monitoring are addressed in time for the final status assessment.

Departmental Reports.

203. **Deputy Joe Costello** asked the Minister for the Environment, Heritage and Local Government when he intends to publish the report on adult entertainment; and if he will make a statement on the matter. [45125/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): In 2007, my Department established a task force to examine the planning land use implications of the siting and location of adult entertainment venues. The task force was chaired by my Department and comprised representatives from the Department of Justice, Equality and Law Reform, the Office of the Revenue Commissioners, An Garda Síochána and Dublin City Council. The task force met on a number of occasions, and its work was informed by detailed consideration of a range of issues based on agreed terms of reference. Given the relevance of a number of different statutory codes to this matter, it was not clear whether planning regulation alone could adequately support an appropriate and effective local control regime, and the interaction of these various codes needed to be carefully examined to ensure that the best possible approach is taken.

The task force has finalised its work and I will make the necessary arrangements to publish the report early next year. In advance of any new proposals, it is open to local authorities to use the powers currently available to them under the planning code, such as the development plan process, to ensure that new late night entertainment venues are not inappropriately located, for example in quiet residential areas.

Noise Pollution.

204. **Deputy Joe Costello** asked the Minister for the Environment, Heritage and Local Government when he will publish the findings of his consultation on proposed noise regulations held in 2008; and if he will make a statement on the matter. [45126/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): There is a commitment to introduce comprehensive legislation on noise pollution within the lifetime of this Government. As part of the preparatory process extensive public consultation was undertaken in 2008 during which 235 submissions were received from the public and key stakeholders. The main issues of concern were noise from continuously sounding intruder alarms, barking dogs and other forms of noise from neighbouring residential properties. After due consideration of these submissions the General Scheme of a Noise Nuisance Bill was prepared in my Department and approved by the Government. The Noise Nuisance Bill is included in the Government Legislation Programme published on 16 September, 2009. Information on the findings of the public consultation process will be made available in association with the publication of the Bill.

Departmental Correspondence.

205. **Deputy Michael McGrath** asked the Minister for the Environment, Heritage and Local Government if he will respond to correspondence (details supplied) from a public representative in County Cork. [45132/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): I have received the correspondence in question and have referred it to my colleague the Minister for Transport for consideration.

Planning Issues.

206. **Deputy Richard Bruton** asked the Minister for the Environment, Heritage and Local Government the relationship between the special protection order process and the strategic infrastructure legislation providing for fast tracking developments in a case (details supplied). [45134/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): In considering an application under the Planning and Development (Strategic Infrastructure) Act, An Bord Pleanála is required to consider whether any of the area of the development is within a European site or whether the proposed development would have an effect on a European site. In either of these situations, the Board must have regard to the provisions of the EU Birds and Habitats Directives in relation to the protection of European Sites such as Special Protection Areas and Special Areas of Conservation. The South Dublin Bay and River Tolka Estuary Special Protection Area, in which this development is proposed is such a European Site.

Question No. 207 answered with Question No. 198.

Turf Cutting.

208. **Deputy Frank Feighan** asked the Minister for the Environment, Heritage and Local Government his views on the cutting of turf as fuel for domestic consumption as an agricultural activity. [45186/09]

214. **Deputy Frank Feighan** asked the Minister for the Environment, Heritage and Local Government his views on whether the cutting and saving of turf is an agricultural activity which land owners enjoy as a right under the Constitution; and if he will make a statement on the matter. [45279/09]

215. **Deputy Frank Feighan** asked the Minister for the Environment, Heritage and Local Government if the cutting of turf for private use is considered an agricultural activity. [45280/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): I propose to take Questions Nos. 208, 214 and 215 together.

Section 4 of the Planning and Development Act 2000 provides that development consisting of the use of land for agriculture is exempted development within the meaning of the Act. However, the Act provides, notwithstanding this, that the Minister for the Environment, Heritage and Local Government, in connection with the implementation of the EU Directives on Environmental Impact Assessment, may prescribe that such development is not exempted development.

[Deputy John Gormley.]

Regulations provide that peat extraction above 10ha in new or extended areas is not exempted development. Such peat extraction below 10ha is also not exempted development within Special Areas of Conservation or Natural Heritage Areas. Where there is a doubt, a person may request the relevant planning authority to make a declaration in a particular case as to whether or not a development is exempted.

In relation to Special Areas of Conservation, the European Communities (Habitats) Regulations require the Minister to ensure the conservation of protected habitats within Special Areas of Conservation. In compliance with this requirement, it is proposed that domestic turf cutting cease in designated raised bog Special Areas of Conservation. These restrictions are necessary to avoid the loss of what remains of this rare and endangered habitat and to enable the State to fulfil its legal obligations to protect these sites under the EU Habitats Directive. There is no intention to restrict turf-cutting for domestic use on the vast majority of bogs within the State, where cutting may continue as before. The restrictions on domestic turf cutting on designated raised bogs affect only about 4% of the total area of bogland available for cutting.

The Deputy will be aware that I am not in a position to provide an interpretation of rights under the Constitution.

Questions Nos. 209 to 211, inclusive, answered with Question No. 198.

Waste Management.

212. **Deputy Lucinda Creighton** asked the Minister for the Environment, Heritage and Local Government if he has received legal advice on the implications of the issuing of the commencement notice in respect of the Dublin waste to energy project; and if he will make a statement on the matter. [45277/09]

213. **Deputy Lucinda Creighton** asked the Minister for the Environment, Heritage and Local Government if he has engaged in correspondence with Dublin City Council regarding the Poolbeg incinerator in the period since the issuing of the commencement notice in respect of the Dublin waste to energy project; and if he will make a statement on the matter. [45278/09]

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): I propose to take Questions Nos. 212 and 213 together.

I have not received legal advice on the implications of the issuing of the commencement notice nor engaged in correspondence with Dublin City Council on the matter.

As I have previously indicated, in terms of the capacity of the proposed facility, it is my understanding that the quantities of residual waste currently being collected by the Dublin local authorities may not be sufficient to meet the volumetric contractual commitment which forms part of the public private partnership agreement between Dublin City Council and its private partner. We have recently seen further increases in recycling rates in Dublin, with a corresponding drop in residual waste volumes. In addition, the recommendations of the report which I commissioned to underpin the review of waste management policy provided for in the Programme for Government would have the effect of further reducing the volumes of residual waste generated, and driving more waste towards recycling.

I have been in contact with the Attorney General in relation to these issues.

Questions Nos. 214 and 215 answered with Question No. 208.

Aquaculture Licences.

216. **Deputy Frank Feighan** asked the Minister for Communications, Energy and Natural Resources if he will provide a list of eel dealer licences issued by his Department to date in 2009; the names of successful and unsuccessful applicants. [45193/09]

217. **Deputy Frank Feighan** asked the Minister for Communications, Energy and Natural Resources if he will provide a list of trap and truck licences issued by his Department to date in 2009; the names of successful and unsuccessful applicants. [45194/09]

218. **Deputy Frank Feighan** asked the Minister for Communications, Energy and Natural Resources the cost of the trap and truck operation to date in 2009; the reason eels need to be transported when they can swim themselves; and if the eel fishery is closed, the reason there is a need for licences. [45195/09]

219. **Deputy Frank Feighan** asked the Minister for Communications, Energy and Natural Resources if it is possible for a person to obtain a trap and truck licence and eel dealers licence under current conditions; his views on whether this system is unnecessary and possibly open to abuse. [45196/09]

220. **Deputy Frank Feighan** asked the Minister for Communications, Energy and Natural Resources the scientific evidence that requires trap and truck approach to the natural movement of eels. [45197/09]

221. **Deputy Frank Feighan** asked the Minister for Communications, Energy and Natural Resources if, under section 14 of the 1959 Fisheries Act, a permit issued by his Department to ESB in August 2009 to authorise the undertaking of trap and transport operations; and whether the constitutional role the ESB exercise regarding conservation in view of the actions relied upon in the Irish eel management plan includes the closure of commercial and recreational fishery ensuring upstream migration of juvenile eel at barriers and the mitigation of the impact of hydropower. [45198/09]

222. **Deputy Frank Feighan** asked the Minister for Communications, Energy and Natural Resources if the ESB fishery division holds a trap and truck licence. [45199/09]

223. **Deputy Frank Feighan** asked the Minister for Communications, Energy and Natural Resources the protocols and sanctions under the trap and transport operations authorised by the ESB in accordance with the contract conditions, statutory permissions and agreed protocols. [45200/09]

224. **Deputy Frank Feighan** asked the Minister for Communications, Energy and Natural Resources if the ESB fishery division or any employee or agent holds an eel dealers licence. [45201/09]

225. **Deputy Frank Feighan** asked the Minister for Communications, Energy and Natural Resources the measures that are in place to distinguish eels from different countries in view of the fact that licences are required to permit dealers to sell imported eels from other member states including Northern Ireland, which comply with the EC Regulation including its traceability requirements. [45202/09]

Minister of State at the Department of Communications, Energy and Natural Resources (Deputy Conor Lenihan): I propose to take Questions Nos. 216 to 225 inclusive, together.

As outlined in my response to Question Nos. 283 284, 285 and 286 on 26 November 2009, given the implications of the scientific and management advice, the absolute necessity to conserve remaining European eel stocks and the obligation to contribute to the recovery of stocks in the shortest time possible, the National Eel Management Plan (EMP) (details of which are published on the Department's web site) recommended a number of management actions. These actions comprise the closure of the commercial and recreational fishery; ensuring upstream migration of juvenile eel at barriers and the mitigation of the impact of hydropower, including the introduction by the ESB of a comprehensive silver eel trap and transport operation on the Shannon, Lee and Erne rivers. The ESB is responsible for the fisheries above the hydroelectric dams in accordance with the Electricity (Supply) Acts and as such is a contributor to the implementation of the EMP.

The trap and transport operation, which is recommended by both the scientists and fishery managers and relies on the results of studies by the International Council for Exploration of the Sea, as quoted in the EMP, reduces the mortality of eels passing through the hydroelectric turbines.

The Deputy will be aware from the reply to his previous question that eel dealer licences, which are required if handling imported eels, are issued in accordance with Part X of the Fisheries (Consolidation) Act 1959 (as amended) by the relevant Regional Fisheries Board. Under the EC Regulation 1100/2007 measures must be taken by Member States to ensure the traceability of all live eels exported from their territory and such evidence may be required of eel dealers handling imported eels.

As I have no function in relation to the issue of these licences, I have asked the boards, which have issued eel dealer licences in 2009, to provide the information sought directly to the Deputy. I have been advised by the ESB that neither the ESB nor any employee of the ESB or ESB Fisheries Conservation hold an eel dealers licence. It should be noted that the fisheries boards monitor the trap and transport operations (including the release of fish to sea) and are therefore aware of the identity of the ESB contractors in their region.

As previously advised ESB have entered into contracts with eight parties to carry out trap and transport on the Rivers Shannon, Lee and Erne on their behalf. The selection and identity of contractors and the cost of the trap and transport operations, as well as the detail of contracts are operational matters for the ESB.

The Deputy should be aware that under Section 14 of the Fisheries (Consolidation) Act 1959, the Minister may authorise the capture of fish for the purpose of, inter alia, the improvement of any fishery. Such a permit was issued by the Department to the ESB in August 2009, to authorise the undertaking of trap and transport operations. This is the only such permit issued.

The EMP provided for the establishment of a Scientific Eel Group (SEG) to oversee implementation of the scientific elements of the EMP. This Group approved the protocols for the trap and transport operations. I have arranged to forward a copy of these detailed protocols directly to the Deputy.

Regional Fisheries Boards.

226. **Deputy Frank Feighan** asked the Minister for Communications, Energy and Natural Resources if he has been advised by Shannon Regional Fisheries Board that court proceedings

have been initiated against the developers of a wind farm (details supplied) in Corry Mountain, County Leitrim; and the sections breached. [45203/09]

Minister of State at the Department of Communications, Energy and Natural Resources (Deputy Conor Lenihan): As I outlined in my reply to Question No. 287 of 26 November 2009, I have been advised by the Shannon Regional Fisheries Board that court proceedings have been initiated in this case against the developers referred to for breaches under section 171 of the Fisheries (Consolidation) Act 1959 and section 3 of the Local Government (Water Pollution) Act 1977.

Grant Payments.

227. **Deputy Bernard J. Durkan** asked the Minister for Communications, Energy and Natural Resources if and when a home installation 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. [45236/09]

Minister for Communications, Energy and Natural Resources (Deputy Eamon Ryan): I understand that the applicant applied for the Warmer Homes Scheme in response to a mailshot issued by the Department of Social and Family Affairs on behalf of Sustainable Energy Ireland. The mailshot was issued to recipients of the fuel allowance and indicated that applications would be processed on a first come, first served basis. The application was received by SEI on 25 September. Due to the volume of applications received prior to receipt of the application referred, all funds available in 2009 were already committed. Sustainable Energy Ireland has placed the applicant on a waiting list for the scheme and, subject to available funding, will address her requirements next year.

Fodder Aid Scheme.

228. **Deputy Denis Naughten** asked the Minister for Agriculture, Fisheries and Food the details of the flooding hardship fund; the mechanism to apply for funding; if it will cover the provision of alternative housing for animals; the criteria to be considered for eligibility; and if he will make a statement on the matter. [45084/09]

Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith): The Fodder Aid Scheme which I announced will require individual farmers to demonstrate that their fodder was damaged and the extent of that damage. Although this scheme is targeted primarily at farmers in the West, Midlands and South West who suffered damage to fodder (silage, hay, straw or concentrates) caused by flooding in November 2009, those farmers in other areas also affected by the recent flooding may also be eligible. However, given the importance of having the funding made available as quickly as possible to those most severely affected by the crisis, I would encourage only those farmers who are directly affected to complete and submit the application without delay. I will set out the basis on which the scheme will operate. Funding of €2 million is allocated to the scheme. Financial aid will be paid in instances where genuine damage to silage or hay or concentrates was caused by the flooding in November 2009. Applications must be submitted by Friday, 11 December 2009. All applications will be subject to an on-farm inspection and the damaged fodder must be evident. Aid will not be payable where flood damage to fodder is covered by the farmer's insurance policy. I have had the necessary arrangements made to ensure that applications submitted under the scheme are processed as soon as they are received, with a view to payments issuing to the affected farmers as quickly as possible.

229. **Deputy Olwyn Enright** asked the Minister for Agriculture, Fisheries and Food the action he will take to alleviate hardship caused to farmers who are affected by a shortage of fodder due to recent flooding in the Shannon area; and if he will make a statement on the matter. [45142/09]

Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith): The Fodder Aid Scheme which I announced will require individual farmers to demonstrate that their fodder was damaged and the extent of that damage. Although this scheme is targeted primarily at farmers in the West, Midlands and South West who suffered damage to fodder (silage or hay or concentrates) caused by flooding in November 2009, those farmers in other areas also affected by the recent flooding may also be eligible. However, given the importance of having the funding made available as quickly as possible to those most severely affected by the crisis, I would encourage only those farmers who are directly affected to complete and submit the application without delay. I will set out the basis on which the scheme will operate. Funding of €2 million is allocated to the scheme. Financial aid will be paid in instances where genuine damage to silage or hay or concentrates was caused by the flooding in November 2009. Applications must be submitted by Friday, 11 December 2009. All applications will be subject to an on-farm inspection and the damaged fodder must be evident. Aid will not be payable where flood damage to fodder is covered by the farmer's insurance policy. I have had the necessary arrangements made to ensure that applications submitted under the scheme are processed immediately they are received, with a view to payments issuing to the affected farmers as quickly as possible.

Rural Environment Protection Scheme.

230. **Deputy James Bannon** asked the Minister for Agriculture, Fisheries and Food the reason a person (details supplied) in County Westmeath has been penalised under measure 5, option 5A and measure 3 of the REP scheme. [45171/09]

Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith): Following an on-the-spot REPS inspection carried out by my officials on 8 October 2008, the person named was found to be non-compliant with his undertakings under Measure 3 (fencing of wells and boreholes), Measure 5 (maintaining farm and field boundaries) and Biodiversity Option 5A (hedgerow rejuvenation). Penalties totalling 45% were imposed. The person named appealed the decision to the Agriculture Appeals Office, which overturned the 15% penalty for non-compliance with Measure 3 but upheld the other penalties.

Grant Payments.

231. **Deputy Michael Ring** asked the Minister for Agriculture, Fisheries and Food when a person (details supplied) in County Mayo will be receive their second year REP scheme four payment. [45215/09]

Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith): REPS 4 is a measure under the current Rural Development Programme 2007–2013 and is subject to EU Regulations which require detailed administrative checks on all applications, including plan checks, to be completed before the first 2009 payments issue. The processing of applications is at an advanced stage. I hope to be in a position to release the 75% payment due on valid applications in mid-December, and the remaining 25% once the last of the on-the-spot inspections for 2009 has taken place.

232. **Deputy Michael Ring** asked the Minister for Agriculture, Fisheries and Food when a person (details supplied) in County Mayo will receive their first year payment of REP scheme four. [45216/09]

Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith): REPS 4 is a measure under the current Rural Development Programme 2007–2013 and is subject to EU Regulations which require detailed administrative checks on all applications, including plan checks, to be completed before the first 2009 payments issue. Processing of applications is at an advanced stage. I hope to be in a position to release the 75% payment due on valid applications in mid December, and the remaining 25% once the last of the on-the-spot inspections for 2009 has taken place.

Schools Refurbishment.

233. **Deputy Pat Breen** asked the Minister for Education and Science the position regarding an application (details supplied) in County Clare; and if he will make a statement on the matter. [45070/09]

Minister for Education and Science (Deputy Batt O’Keeffe): The closing date for the receipt of applications under the Summer Works Scheme 2010 was 27 November 2009.

Following an assessment process, projects will be selected for funding from all valid and approved applications on a top down basis in accordance with the prioritisation criteria published with the Scheme.

In keeping with the timetable published with the governing Circular letter, I expect to be in a position to publish the list of successful applicants in March 2010.

Special Educational Needs.

234. **Deputy Tom Hayes** asked the Minister for Education and Science when the special needs assistant hours for a student (details supplied) at a school in County Limerick will be reinstated; and if he will make a statement on the matter. [45077/09]

Minister for Education and Science (Deputy Batt O’Keeffe): As the Deputy will be aware, the National Council for Special Education (NCSE) is responsible, through its network of local Special Educational Needs Organisers, for allocating resource teachers and special needs assistants to schools to support children with special needs. The NCSE operates within my Department’s criteria in allocating such support.

I have arranged for the details supplied to be forwarded to the NCSE for their attention and direct reply.

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.

Site Acquisitions.

235. **Deputy Dinny McGinley** asked the Minister for Education and Science the position regarding the provision of a new school (details supplied) in County Donegal; and if he will make a statement on the matter. [45087/09]

Minister for Education and Science (Deputy Batt O’Keeffe): My Department recently advertised for sites in the area in relation to the school in question and a number of applications

[Deputy Batt O’Keeffe.]

were received. These are currently under consideration in my Department and due to the commercial sensitivity attached to site acquisitions, I cannot comment further at this stage.

Upon acquisition of a suitable site, the proposed building project for the school will be considered in the context of the capital budget available to my Department for school buildings generally.

236. **Deputy Dinny McGinley** asked the Minister for Education and Science if a site has been identified for a new school (details supplied) in County Donegal; if the site has been purchased; when work will commence on the new school; and if he will make a statement on the matter. [45088/09]

Minister for Education and Science (Deputy Batt O’Keeffe): As the Deputy will be aware the Office of Public Works (OPW) had been requested to acquire a site for the school in question subject to planning permission. A site has been identified and my Department has recently assumed responsibility for the completion of the acquisition from the OPW. The acquisition is at contract stage and due to the commercial sensitivity attaching to site acquisitions, I cannot comment further at this point.

The proposed building project for the school will be considered in the context of the capital budget available to my Department for school buildings generally.

Schools Building Projects.

237. **Deputy Dinny McGinley** asked the Minister for Education and Science the position regarding the proposed refurbishment and extension to a school (details supplied) in County Donegal; and if he will make a statement on the matter. [45089/09]

Minister for Education and Science (Deputy Batt O’Keeffe): The school to which the Deputy refers has applied to my Department for capital funding for a large scale extension project.

The application has been assessed in accordance with published prioritisation criteria for large scale projects and assigned a band 2 rating.

Information in respect of the current school building programme along with all assessed applications for major capital works, including the project referred to by the Deputy, are now available on the Department’s website at *www.education.ie*.

The priority attaching to individual projects is determined by published prioritisation criteria, which were formulated following consultation with the Education Partners. There are four band ratings under these criteria, each of which describes the extent of accommodation required and the urgency attaching to it. Band 1 is the highest priority rating and Band 4 is the lowest. Documents explaining the band rating system are also available on the Department’s website.

The progression of all large scale building projects, including this project, from initial design stage through to construction will be considered in the context of the school building and modernisation programme. However, in view of the level of demand on the Department’s capital budget, it is not possible to give an indicative timeframe for the progression the project at this time.

School Enrolments.

238. **Deputy Olwyn Enright** asked the Minister for Education and Science if his attention has been drawn to the fact that there are not sufficient places at a school (details supplied) in

County Offaly; the way he intends to address this issue; and if he will make a statement on the matter. [45143/09]

239. **Deputy Olwyn Enright** asked the Minister for Education and Science if his attention has been drawn to the fact that there are not sufficient places at a school (details supplied) in County Offaly; the way he intends to address this issue; and if he will make a statement on the matter. [45144/09]

240. **Deputy Olwyn Enright** asked the Minister for Education and Science the way he intends to address the overall issue of lack of school places in a school catchment area (details supplied) in County Offaly; and if he will make a statement on the matter. [45145/09]

Minister for Education and Science (Deputy Batt O’Keeffe): I propose to take Questions Nos. 238 to 240, inclusive, together.

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 that are not in a position to admit all pupils seeking entry to implement an enrolment policy in accordance with the Education Act. 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. In formulating an admissions policy a school must, however, ensure it is lawful. In particular, it must act in accordance with Section 7 of the Equal Status Act 2000 which, subject to very limited exceptions, prohibits schools from discriminating against people in relation to a number of matters including the admission of a pupil to the school.

Currently, under Section 29 of the Education Act 1998, parents of a student who has been refused enrolment in a school may appeal that decision to the Secretary General of this Department. Such appeals are dealt with within 30 days of their receipt and where an appeal is upheld the Secretary General is empowered to direct the school to enrol the student. Otherwise, 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 Forward Planning Section of my Department is in the process of carrying out detailed analysis of over 40 locations of highest population growth in order to identify the school accommodation requirements up to and including the school year 2014/2015.

When the required reports have been completed for these initial areas selected the Forward Planning Section will continue to work on preparing reports on a priority basis for the remainder of the country.

Overall primary and post-primary accommodation requirements in the area referred to in Co. Offaly will be considered in this regard.

Higher Education Grants.

241. **Deputy Richard Bruton** asked the Minister for Education and Science the current income limit for higher education grant and the value of grants payable; and if he has made any provisions in the 2010 no policy change estimates for changes in the income thresholds of payment. [45150/09]

Minister for Education and Science (Deputy Batt O’Keeffe): The income limit to qualify for the full standard rate maintenance grant and payment of the student services charge where there are fewer than four dependent children was increased from €39,760 to €41,110 for the academic year 2009/2010. The income threshold for the Special Rate of maintenance grant was also increased in line with the relevant social welfare comparators from €20,147 to €22,308. Full details of the current income limits and rates of grant are attached. In addition, undergraduate students who qualify under the maintenance grant schemes have the student services charge paid on their behalf. In 2009/10, this adds a further €1,500 to the value of the grants as outlined.

It has been my Department’s practice in recent years to increase the reckonable income limits under the maintenance grant schemes in line with movements in the average industrial wage. Such increases are regarded as being essentially cost neutral.

Higher Education Grants Scheme, 2009:

Maintenance Grants Rates

	Non-Adjacent Rate	Adjacent Rate
	€	€
Full Maintenance	3,420	1,370
Part Maintenance (75%)	2,565	1,030
Part Maintenance (50%)	1,710	685
Part Maintenance (25%)	855	345

Special Rate of Maintenance Grant for 2009/10

Grant	Standard Grant	Special Rate Amount	Total Grant
	€	€	€
Non Adjacent Rate	3,420	3,270	6,690
Adjacent Rate	1,370	1,310	2,680

Higher Education Grants Scheme, 2009

Reckonable Income Limits for the ordinary rates of grant* for the period 1 January, 2008 to 31 December 2008 (the tax year 2008)

No. of Dependent Children	Full Maintenance (100%) and Full Fees	Part Maintenance (75%) and Full Fees	Part Maintenance (50%) and Full Fees	Part Maintenance (25%) and Full Fees	Part Tuition Fees (50%) only**
	€	€	€	€	€
Less than 4	41,110	42,235	44,720	47,205	51,380
4-7	45,165	46,415	49,145	51,880	56,460
8 or more	49,045	50,400	53,360	56,320	61,295

*In the 2009/10 academic year, where 2 or more children (or the candidate’s parent) are pursuing a course of study listed below, the reckonable income limits for Full Maintenance (100%) and Full Fees and the Part Tuition Fee (50%) only categories may be increased by 4,980 where there are 2 such children, 9,960 where there are 3 such children and so on, by increments of 4,980.

**Full Student Service Charge is paid where income is at or below this level.

For the Part Maintenance and Full Fees at 75%, 50% and 25%, the reckonable income limits may be increased by €4,815 where there are 2 such children, €9,630 where there are 3 such children and so on, by increments of €4,815.

- (i) attending full-time third level education
- (ii) attending a recognised PLC course, student nurse training or student Garda training
- (iii) participating in a Fáilte Ireland (formerly CERT) course of at least one years duration
- (iv) attending a full time Teagasc course in an agricultural college
- (v) attending a recognised full-time further education course, of at least one year's duration, in Northern Ireland

Special Rate of Maintenance Grant

For the award of a special rate of maintenance grant in respect of the 2009/10 academic year, a candidates reckonable income (for the period 1 January, 2008 to 31 December 2008 the tax year 2008) shall not exceed: — €22,308 net of standard exclusions (as set out in Clause 1 of this Scheme) and net of Child Dependant Increase (C.D.I.) paid by the Department of Social and Family Affairs

Third Level Fees.

242. **Deputy Richard Bruton** asked the Minister for Education and Science the value of the college registration fee; and the provisions he has made in the pre budget estimates for changing this charge. [45152/09]

Minister for Education and Science (Deputy Batt O’Keeffe): As the Deputy will be aware the student services charge is levied by third level institutions to defray the costs of examinations, registration and students services. The range of student services in question may include such facilities as on-campus medical and counselling facilities for students, access and disability services, careers office services, student facilities, student clubs and societies. All students who are eligible for means tested grants have the charge paid on their behalf by the Local Authorities or VECs. As already announced, the Government indicated that it was prepared to accept increases in the level of this charge for the academic year 2009/10 to bring it to a limit of €1,500 in individual higher education institutions.

The student services charge is collected by each individual institution and up to date accounts are not available for all institutions. However the estimated revenue generated by the institutions in the 2008/09 academic year from the charge at €900 is some €107 million.

Currently, the student services charge is decided annually by third-level institutions in consultation with the Higher Education Authority and my Department. Any change in the level of this charge would be considered where the increase is intended to bring the amount contributed by students into line with the costs of the range of students services provided.

Inquiry into Child Abuse.

243. **Deputy Joe Costello** asked the Minister for Education and Science when he proposes to erect a memorial to the survivors of institutional child abuse as recommended in the Ryan report; and if he will make a statement on the matter. [45167/09]

Minister for Education and Science (Deputy Batt O’Keeffe): The Government’s Implementation Plan in response to the Report of the Commission to Inquire into Child Abuse, which was published on 28th July 2009, set out the Government’s commitment to erect a memorial to victims of abuse in institutions in line with the recommendations of the Commission’s Report.

I announced the membership of the committee that will oversee the erection of the memorial on 18th October. The committee is being chaired by Séan Benton, former Chairman of the Office of Public Works, with Bernadette Fahy and Paddy Doyle as former residents of institutions. The other members of the committee are Seán Ó Laoire of the Royal Institute of the Architects of Ireland; Monica Corcoran of the Arts Council; and Billy Houlihan, formerly Cork County Architect. A budget of €500,000 is being set aside for the project which will be managed by the Office of Public Works. My Department is providing secretarial services for the committee.

The committee’s terms of reference are to: consider the views of the survivor groups in relation to the location and nature of the memorial to be erected; make recommendations on the location and nature of the memorial in a manner that best takes account of the views of the groups representing the survivors of abuse, and to consider arrangements for a national day of remembrance and solidarity; oversee the commissioning and delivery by the OPW (through competition) of the design and building of the memorial.

The Committee has commenced its work and will be consulting widely in this regard.

Higher Education Grants.

244. **Deputy James Bannon** asked the Minister for Education and Science the reason a person (details supplied) in County Westmeath has been deemed ineligible for a higher education grant in respect of a repeat year. [45170/09]

Minister for Education and Science (Deputy Batt O’Keeffe): The decision on eligibility for student grants is a matter for the relevant assessing authority — i.e. the Local Authority or VEC. These bodies do not refer individual applications to my Department except, in exceptional cases, where, for example, advice or instruction regarding a particular clause in the relevant scheme is required.

If an individual applicant considers that she/he has been unjustly refused a maintenance grant, or that the rate of grant awarded is not the correct one, she/he may appeal, in the first instance, to the relevant local authority or VEC.

Where an individual applicant has had an appeal turned down, in writing, by the assessing authority, and remains of the view that the body has not interpreted the schemes correctly in her/his case, an appeal form outlining the position may be submitted by the applicant to my Department.

No appeal has been received by my Department to date from the candidate referred to by the Deputy.

Schools Building Projects.

245. **Deputy Michael D. Higgins** asked the Minister for Education and Science the position regarding the need for recommencement of the plans to proceed with the development of the new building of a school (details supplied) in County Galway; if he is in receipt of appeals from the local community to advance plans for a new fit for purpose school for Connemara; his views on whether the need for this work is made all the more urgent in view of the fact that there are thirteen feeder national schools linked with this secondary school; and if he will make a statement on the matter. [45173/09]

Minister for Education and Science (Deputy Batt O’Keeffe): The project to which the Deputy refers is currently at an advanced stage of architectural planning.

A number of representations from members of the local community were received by my Department in the last few days. I met with a delegation in May 2009 regarding the school’s building project. The delegation included members of the school’s Board of Management, local political representatives as well as representatives of the local community. At the meeting, I confirmed that, due to changes in the brief for the project, it would be re-banded to Band 2.1. My Department is satisfied that this is the correct priority band rating for this project and that all relevant factors have been taken in to consideration in arriving at this rating.

The progression of all large scale building projects, including this project, from initial design stage through to construction is dependent on the prioritisation of competing demands on the funding available under the Department’s capital budget.

The proposed building project will be considered in the context of the Department’s multi-annual School Building and Modernisation Programme for 2010 and subsequent years. However, in light of current competing demands on the capital budget of the Department, it is not possible to give an indicative timeframe for the delivery of the project at this time.

Special Educational Needs.

246. **Deputy Michael McGrath** asked the Minister for Education and Science the position regarding an application for a pupil (details supplied) in County Cork to be allocated a full-time special needs assistant. [45208/09]

Minister for Education and Science (Deputy Batt O’Keeffe): As the Deputy will be aware, the National Council for Special Education (NCSE) is responsible, through its network of local Special Educational Needs Organisers, for allocating resource teachers and special needs assistants to schools to support children with special needs. The NCSE operates within my Department’s criteria in allocating such support.

I have arranged for the details supplied to be forwarded to the NCSE for their attention and direct reply.

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.

School Enrolments.

247. **Deputy Jack Wall** asked the Minister for Education and Science if a board of management of a primary or secondary school has within their remit the right to change their admission policy within a school year or whether it must be determined before the commencement of the school year; and if he will make a statement on the matter. [45211/09]

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. My 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

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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 rights 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.

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.

School Placement.

248. **Deputy Jack Wall** asked the Minister for Education and Science the priorities that his Department places on catchment areas or feeder schools in determining placements for secondary education facilities; if it is his Department or the board of management of such schools that determine feeder schools and prioritise them; and if he will make a statement on the matter. [45212/09]

Minister for Education and Science (Deputy Batt O’Keeffe): The Forward Planning Section of my Department utilises the latest in GIS technology to assist in planning school requirements in the future. The Geographical Information System contains information on all schools in the country, primary and post primary level, geo-coded to their location. The information is then linked to the relevant demographic information for those areas — typically the demographic information will be from the Central Statistic’s Office Census data, the General Registrar of Births, the Department of Social and Family Affairs, An Post’s Geo-directory and information supplied by Local Authorities through Development Plans.

Growth projection figures are applied to the existing population with a view to assessing future requirements and areas of highest growth at primary and post-primary level. The extent to which pupils transfer from primary feeder schools to the relevant post-primary centres is a significant factor in determining the requirement for post-primary places in an area. The system of the designation of primary feeder schools was largely established through consultation ahead of the introduction of the free post-primary education scheme in the late 1960s.

Proposed Legislation.

249. **Deputy Jimmy Deenihan** asked the Minister for Education and Science if he will introduce legislation to create a permanent endowment for the Mitchell Scholars Programme; if this will require legislation; and if he will make a statement on the matter. [45265/09]

Minister for Education and Science (Deputy Batt O’Keeffe): In 1998, in recognition of the pivotal contribution made by US Senator George J. Mitchell to the Northern Ireland peace process, the George Mitchell Scholarship Programme was established and the Government agreed to contribute an endowment of IR£2 million to the Programme. The purpose of the

Programme is to enable highly qualified American students to attend third level institutions on the island of Ireland for post graduate studies.

The George Mitchell Scholarship Fund Act was enacted in December 1998 and it empowered the Minister for Education and Science to establish the Fund in the United States and to enter into agreement with persons to manage and control the Fund.

The Agreement for the management of the Fund was signed with the US-Ireland Alliance in March 1999. The income from the Fund provides, inter alia, for two scholarships per annum. The US-Ireland Alliance also secures additional funding from other sources which enables the programme offer a further ten scholarships annually.

In 2007, a decision was taken to secure the long term viability of the George Mitchell Scholarship Programme by increasing Ireland's contribution to the Fund for the programme by €20 million to be paid over a number of years, conditional on matching funding being raised by the US-Ireland Alliance.

It is envisaged that the increased future investment income from the additional funding of up to €40 million, inclusive of matching funding, would primarily meet the cost of administration and bursaries for successful students undertaking post-graduate study and research in universities and other approved institutions on the island of Ireland

Implementation of this decision requires, inter alia, amendment of the George Mitchell Scholarship Fund Act, 1998 and a new management and funding agreement between the US-Ireland Alliance and my Department.

Following protracted negotiations with the US-Ireland Alliance, agreement was reached on a draft new funding and management agreement in March 2009.

Drafting of the George Mitchell Scholarship Fund (Amendment) Bill 2009 is currently in progress and the Bill is scheduled to be published in the current session.

Teaching Qualifications.

250. **Deputy Simon Coveney** asked the Minister for Education and Science the number of pass degree persons teaching chemistry at second level education here. [45271/09]

251. **Deputy Simon Coveney** asked the Minister for Education and Science the number of honours degree persons teaching chemistry at second level education here. [45272/09]

252. **Deputy Simon Coveney** asked the Minister for Education and Science the number of pass degree persons teaching physics at second level education here. [45273/09]

253. **Deputy Simon Coveney** asked the Minister for Education and Science the number of honours degree persons teaching physics at second level education here. [45274/09]

254. **Deputy Simon Coveney** asked the Minister for Education and Science the number of pass degree persons teaching biology at second level education here. [45275/09]

255. **Deputy Simon Coveney** asked the Minister for Education and Science the number of honours degree persons teaching biology at second level education here. [45276/09]

Minister for Education and Science (Deputy Batt O'Keeffe): I propose to take Questions Nos. 250 to 255, inclusive, together.

The information requested by the Deputy regarding the number of teachers paid pass or honours degree allowances and teaching the specific subjects referred to is not available from

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my Departments payroll databases. However, there were six thousand nine hundred and eighty two teachers employed in secondary community or comprehensive schools in receipt of pass degree allowances. There were eight thousand eight hundred and seventy four in receipt of honours degree allowances.

My Department is obtaining information from the Teaching Council in relation to the numbers of registered teachers holding honours or pass degrees in the subject areas referred to. I will arrange for that information to be forwarded to the Deputy.