



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

*Dé Céadaoin, 4 Iúil 2012.*

Leaders' Questions	
The Taoiseach ... ..	379
Order of Business ... ..	385
Topical Issue Matters ... ..	390
European Council: Statements ... ..	391
Industrial Relations (Amendment) (No. 3) Bill 2011: Order for Report Stage ... ..	410
Industrial Relations (Amendment) (No. 3) Bill 2011: Report Stage ... ..	410
Ceisteanna — Questions	
Minister for Public Expenditure and Reform	
Priority Questions ... ..	420
Other Questions ... ..	430
Topical Issue Debate	
School Transport ... ..	440
Industrial Relations ... ..	444
Crime Prevention ... ..	446
Mental Health Services ... ..	448
Industrial Relations (Amendment) (No. 3): Report Stage (Resumed) and Final Stage ... ..	453
Criminal Justice (Search Warrants) Bill 2012 [Seanad]: Second Stage (Resumed) ... ..	473
Education (Amendment) (Protection of Schools) Bill 2012: Second Stage (Resumed) [Private Members]	480
Message from Select Committee ... ..	499
Criminal Justice (Search Warrants) Bill 2012 [Seanad]: Second Stage (Resumed) ... ..	500
Criminal Justice (Search Warrants) Bill 2012 [Seanad]: Referral to Select Committee ... ..	506
Questions: Written Answers ... ..	507

# DÁIL ÉIREANN

---

*Dé Céadaoin, 4 Iúil 2012.*  
*Wednesday, 4 July 2012.*

---

Chuaigh an Leas-Cheann Comhairle i gceannas ar 10.30 a.m.

---

*Paidir.*

*Prayer.*

---

## Leaders' Questions

**Deputy Micheál Martin:** At a recent meeting of the Committee of Public Accounts the chief executive officer of the Health Service Executive admitted that it was facing a potential deficit of €500 million if corrective action were not taken. He stated that to break even there would be a significant impact on services for the remainder of the year. He added that the assumptions on which the HSE's 2012 service plan had been based were no longer valid. According to Deputy Deasy who received an off-the-record reaction from the CEO, the HSE would have to close wards, beds and, possibly, hospitals. There are hospital managers who are at the end of their tether and genuinely worried about the budgetary position, given the cuts already made to their allocations and their inability to make ends meet. What is emerging clearly is that the health Estimate for 2012 was not an honest one. The CEO makes the point that in the plan which the Minister for Health, Deputy James Reilly, oversaw and approved the assumption was that there would be a saving of €124 million in drug payments via a new pricing agreement with the industry but "That has not come through." The assumption was there would be additional income of €140 million, of which €75 million would come from charging private patients in public beds, but "That assumption is not yet deliverable." Reducing agency costs by 50% was a further target. Given that agency staff will cost €200 million this year, the CEO is now saying the 50% target was never realistic.

The failure to implement health measures announced in the budget in December is one matter, but it now seems clear that the figures were never achievable and what the Government, the Minister in particular, stands accused of, in essence, is that the books were cooked to give a false and dishonest health Estimate. That is why on 8 June the Minister lashed out at workers in the health service, stating he wanted allowances, premium payments and everything else cut all of sudden and that people needed to get their act together. The reality is he did not get his act together at the time of the budget, in that false figures that were completely unachievable were included in the health Estimate and now we are facing the prospect of ward and bed closures because of the failings of the Minister and the Government in this respect.

**The Taoiseach:** It is unbecoming of the Deputy to accuse the Minister for Health of being dishonest in the presentation of the Estimate for his Department for the budget for 2012. That is not in keeping with the Deputy's normal behaviour. Clearly, the HSE is facing a serious challenge this year. Its performance report for April shows a net deficit of €200 million, of which hospitals account for €106 million, while community services have overspent by €57

[The Taoiseach.]

million, of which some €13 million relates to child care services. The primary care reimbursement service, including medical card services, is showing a deficit of €45 million.

The HSE has outlined possible approaches to dealing with the financial position, including reduced use of agency staff and implementing reforms under the Croke Park agreement to achieve more cost-effective use of human resources. It has submitted a mid-year cost-containment proposal which the Department of Health and the Minister are considering. As the Deputy will be aware, the Department has indicated that 70% of the HSE's €13 billion budget is accounted for by pay. Of this, 18% is classified as non-core, including overtime and premium payments and allowances paid to staff. In a health service that must run an effective 24-7 service, it is imperative that ways be found to address the growing deficit.

I do not accept the Deputy's assertion that the Minister was dishonest in presenting the Estimate for his Department for this year. It is a fact of life that every Minister must work hard to ensure the ceilings and proposals for his or her Department's budget for 2012 are adhered to. The Minister is working hard, both within the Department and with the HSE, to address the deficit.

**Deputy Micheál Martin:** The Taoiseach did not deal with the core issue. Completely unrealistic and unachievable figures were included in the health Estimate. Legislation to give effect to them has not even been brought before the House and it is only two or three weeks to the recess. False figures were included in the Estimate: there was a figure of €143 million under the heading of income from private patients in public hospitals; a figure of €124 million for demand-led schemes and savings in respect of agency staff. Mr. Cathal Magee states it was never realistic to state agency staff would be cut by 50% and the Taoiseach is now trotting out a reference to a cut in agency staff for the rest of the year. The bottom line is that these were false figures and we need answers.

**Deputy Bernard J. Durkan:** There were false figures also when the Deputy left office.

**Deputy Micheál Martin:** We need clarity on how the Estimate was submitted. I accept there can be overruns in expenditure, but what is clear from this — anyone who knows anything on the ground is saying this — is that there was never a hope in hell that any of these figures would be realised. They were false figures and will the Taoiseach correct them? Can we have a realistic Estimate for the remainder of the year and can the Taoiseach give a guarantee that front-line services will not be affected because of the Minister's failings and incompetence and, perhaps, much more, in the Estimate? We received no clarification from anybody in the Department of Health or the Minister.

**The Taoiseach:** When the Deputy had the privilege of serving as Minister for Health and Children, the answer on every occasion there was a difficulty was to throw millions into the maw of the public health service.

**Deputy Micheál Martin:** The Taoiseach should not listen to the prompts from the Minister; he should answer the questions asked.

**Deputy Timmy Dooley:** The Taoiseach's response is to throw in dodgy figures.

**Deputy Micheál Martin:** The Minister for Public Expenditure and Reform, Deputy Brendan Howlin, has written to the Minister to tell him to get his act together.

**The Taoiseach:** The Deputy was not able to deal with the matter because he never had the courage to face up to what needed to be done. That is the long and the short of it.

**Deputy Micheál Martin:** I do not need a lecture from the Taoiseach about my time in the Department of Health of Children. I am quite happy about it.

**Deputy James Reilly:** Perhaps, if the Deputy had listened, he might have done better.

**Deputy Micheál Martin:** What the people at the coalface want is answers.

**The Taoiseach:** In tackling the real problems the Minister has brought about a reduction of 20% in the numbers of patients on trolleys. There were 10,000 fewer in the first five and a half months of the year.

**Deputy Micheál Martin:** I asked about the Estimate.

**The Taoiseach:** We are now in a situation where more people than ever before, 1.8 million, are covered by medical cards.

There has been an increase of 6% in respect of emergency department admissions and inpatient discharges have increased by 7%.

**Deputy Micheál Martin:** I referred to the Estimate.

**The Taoiseach:** We have an effective front-line service. The catastrophic consequences about which the Deputy spoke at the end of February when significant numbers left the public service as part of the voluntary redundancy scheme did not materialise because clinical and medical teams and managers on the front line signed up for their individual programmes and plans. These are being implemented.

**Deputy Micheál Martin:** Does the Taoiseach have any idea what is happening on the ground?

**The Taoiseach:** In so far as front-line services are concerned, the Deputy can take it that the Minister for Health is working with all his people.

**Deputy Micheál Martin:** Last week, Mr. Cathal Magee, the CEO of the Health Service Executive, referred to a €500 million overrun in the health service at a committee meeting.

**The Taoiseach:** Cork University Hospital is now one of the best performing hospitals in the country because of the changes that have been made.

**Deputy Micheál Martin:** Of course it is, because a lot was put into Cork University Hospital in the last five years. Could the Taoiseach answer the question?

**The Taoiseach:** I do not accept the Deputy's assertions regarding falsehoods, dishonesty or hard work on the part of the Minister.

**Deputy Micheál Martin:** They are the Government's figures. The CEO of the HSE spoke about this last week at the committee. The Taoiseach should ask Deputy John Deasy about it.

**An Leas-Cheann Comhairle:** Order, please.

**Deputy James Reilly:** How many reports did Deputy Martin commission when he was Minister? Was it 112 or 117?

**An Leas-Cheann Comhairle:** Order, please.

**Deputy James Reilly:** We searched for them behind radiators when we went into the Department.

**Deputy Pádraig Mac Lochlainn:** As the Taoiseach will be aware, there is much concern in rural areas about cutbacks in the Garda Síochána. Members of rural communities have protested outside the Dáil and the Garda Representative Association has spoken out about these cuts and expressed concerns in recent times. I bring to the Taoiseach's attention an incident which occurred in my constituency in recent days as I am sure it will cause him concern. A few weeks ago, gardaí were taking more than 24 hours to take statements in response to reports of thefts and crimes. It became more serious in recent days when a woman returned to her home to find it had been burgled and was informed by the garda on duty, when she telephoned her local Garda station in some distress, that he did not have a vehicle available to him. When she offered to collect him to bring him to her home the garda — fair play to him — showed flexibility and took up her offer and visited her home to investigate the crime. Warnings issued by the Garda Representative Association are now being realised on the ground. There are insufficient personnel and vehicles to provide backup to communities. Will the Taoiseach ask the Minister for Justice and Equality to urgently review the impact of cuts on the Garda Síochána, to meet the Garda Commissioner as soon as possible to consider cases such as this, and to put in place a plan that will reassure communities in rural areas and along the Border that they are safe and have the Garda cover they need?

**The Taoiseach:** I am taken by the Deputy's new-found concern for the Garda, law and order and the welfare of our citizens and I commend him on his comments. He will be aware that rostering arrangements have changed in the Garda for the benefit of everybody. The evidence from the implementation of the changed rosters is that there is greater connection between officers and members of the force and communities. People see gardaí around more often, which is to be welcomed. Obviously, the position is being monitored by superintendents and the Garda Commissioner, who has responsibility for the day-to-day running of the force. I recall speaking to a long-retired Garda sergeant from County Donegal who, 60 years ago, had to commandeer a vehicle in the interests of public safety to take part in a poitín raid in the north end of the county. Those days are long gone.

The Deputy makes a serious point in respect of the vehicles available to the Garda. This is a matter about which the Minister for Justice and Equality is in contact with the Garda Commissioner. I am aware of the extent of mileage covered by Garda vehicles, some of which are nearing the end of their mechanical tether, as it were. The Commissioner is examining this issue.

I invite Deputy Mac Lochlainn to send me details of the case to which he referred and I will have the matter taken up directly with the Minister for Justice and Equality——

**Deputy Michael Healy-Rae:** He can read all about it in today's newspapers.

**The Taoiseach:** ——and the local chief superintendent to ensure every citizen in his constituency and elsewhere in the country receives the best level of attention and service from the Garda.

**Deputy Pádraig Mac Lochlainn:** I thank the Taoiseach for his offer. I will send him the relevant details.

Referring to the closure of Garda stations, the outgoing president of the Garda Representative Association, Damien McCarthy, made the following prophetic statement at the GRA conference in April:

It's going to become perhaps a safe breeding ground for criminal activity. It's going to contribute significantly to the fear of crime particularly amongst our senior citizens around the country.

The incident I highlighted is highly embarrassing for the local garda in question, of whom I am not in any way critical. In all the complaints that I and other Deputies are receiving on this issue no one blames rank and file gardaí. The current president of the GRA, Mr. John Parker, has noted the following:

Nearly one in every five garda vehicles has been withdrawn and not replaced due to budget cuts for the garda fleet over the past two years. It is set to get worse as more and more vehicles reach the end of their life and can no longer be maintained safely.

There is a problem and there is no point glossing over it. I ask the Taoiseach to speak to the Minister for Justice and Equality, who is in denial and passes the buck to the Commissioner and superintendents. Let us have a conversation about the reality emerging in rural communities in respect of Garda response times. Gardaí on the ground deserve better and should be provided with the resources they require to do their job to the ability they clearly possess.

**The Taoiseach:** The Deputy welcomed the closure of 36 PSNI stations in Northern Ireland, a move with which his party was strongly associated. I reject his assertion that the Minister for Justice and Equality is in denial about his Department. Few Ministers for justice have shown the prodigious output of work and involvement of the current Minister. I am sure the matters raised are being discussed by the Minister and Garda Commissioner as we make preparations for the work that lies ahead.

I am not glossing over anything. Our citizens are entitled to the best level of service that can be provided. I am sure the Deputy is well aware that when, God forbid, an accident, tragedy or whatever else takes place people are always full of praise and admiration for the commitment shown by Garda officers, whatever their locality or call of duty. This commitment has been demonstrated by the Garda Síochána over many long years. What we need now is to have the best and most effective service possible and give gardaí the facilities to do their job. Added to that is the commitment gardaí show as citizens doing a very responsible job. The Deputy will be aware that the Garda is the only line of defence between citizens and criminals. The Minister for Justice and Equality speaks regularly with the Garda Commissioner, who has responsibility for the day-to-day running of the force. The Garda Representative Association has a job to do and is never quiet about articulating what it considers to be the ultimate needs of the Garda. These are issues that are always considered by the Minister.

**Deputy Thomas Pringle:** As the trappings of power are bestowed, Members should remain aware that we are here by the grace of the people. Given that everyone should be treated with equal respect and dignity, why is this not the case for certain citizens? The Government has spouted much talk about the importance of a decent quality of life for people with disabilities. The so-called programme for Government pays lip service to a commitment to facilitate people with disabilities with a greater level of participation in society. This statement is at odds with the state of fear in which people are living. The cut of 11% in funding for the centres for independent living is affecting the provision of personal assistance and cuts to community employment schemes on which the centres rely to provide this service have affected their ability to operate.

The Government committed to paying €64 billion to bail out the banks. This sum would provide 306 million hours of personal assistance for people with disabilities and equates to financing the largest personal assistance provider in the country for more than 150 years. As I



[Deputy Thomas Pringle.]

speak, we await the publication of the long overdue value for money review of disability services. It is plain to all that continuing to provide people with disabilities with a personal assistant is much more cost effective than any alternative. Many people who rely on this service already have had their allocated hours reduced, which already has limited their quality of life. Any further cuts would leave many housebound or, worse, would put them into a position in which their only option would be an institution. One can only imagine the disdain being felt by disabled persons and carers, who fear for their only route to independent living, when they learn today of tenders for silk scarves and neckties to be bought at the expense of the State. I argue that silk ties are not something with which we should be bothering. The key issue is whether the Taoiseach can guarantee there will be no further cuts to such services and that personal assistance hours will be protected as the Government devises its seismic December budget about which Members are hearing so much from Government circles.

**The Taoiseach:** The issue raised by the Deputy is important in the sense that the quality of life for the persons involved is what is central to the entire argument. The purpose of the value for money report to which the Deputy referred is to ascertain the effectiveness of the expenditure of taxpayers' money in looking after persons who suffer from challenges because of disability. When one speaks to people who work in the service, they themselves point out opportunities where money could be spent in a better and more effective way. It is appropriate that there should be a debate in this Chamber when the report on effectiveness and value for money has come to hand and has been published. I meet people who look after persons with disability and I talk to people with a disability who face that challenge every day, some of whom are wheelchair-bound and others not. They themselves point out how things could be better or could be different.

It is not all about money but is about the best and most effective expenditure to enable those people to have the best quality of life. While I share that view with the Deputy, this is an opportunity for all elected Members, who as the Deputy noted are here by the grace of the people, to define a strategy and to decide what are the best and most effective results from taxpayers' money that is being paid to organisations, agencies or people in respect of the facilities people receive and the quality of life they derive from that as a consequence. I look forward to having sight of the value for money report to establish whether changes can be made that will make the quality of people's lives better because of more effective expenditure.

**Deputy Thomas Pringle:** The Taoiseach's response will give cold comfort to the people who are losing those personal assistance hours. One does not need a value for money report to show their value, as one only needed to attend the presentation in the audiovisual room by the centres for independent living to see the value and quality of life improvements such hours provide. People need a commitment that their personal assistance hours will be protected, and it is very disappointing that the Taoiseach cannot give such a commitment today. In light of that, will the Taoiseach provide an assurance that the Government will ratify the United Nations Convention on the Rights of Persons with Disabilities? Will the Government pledge to treat such people with the dignity and respect they deserve as Irish citizens?

**The Taoiseach:** A number of legislative items must be dealt with before the aforementioned United Nations convention can be addressed. However, I must tell the Deputy that the other day, I spoke to someone who is wheelchair-bound and who must write by using a mouth-based instrument. The point that person made to me was the cost of facilities or additions to wheelchairs, for instance, for those who are disabled is astronomical and there are opportunities for more effective and certainly considerably less expensive facilities to do the same job. If one considers the breakdown of costs, they can be complicated and it may be necessary to have

such items specially purpose-built for individuals who may have particular challenges. However, this is an area in which the value for money report will be important. When I speak to people in the centres for independent living, in general they are pleased with the layout and structure of such places and how that allows them to have the freedom to live their lives.

Deputy Pringle's basis is all about money and while the money pot is limited for everything, as far as I am concerned the Government must get the best and most effective spend in this regard in order that those who reside in the centres for independent living and who have a challenge because of disability will get the best quality of life that can be provided for them. It is only right and proper that all of these areas should be examined in the context of what gives the best result for such people. This is where the emphasis should and will be.

### Order of Business

**The Taoiseach:** It is proposed to take No. 13, statements on European Council, Brussels; No. 14, Industrial Relations (Amendment) (No. 3) Bill 2011 — Order for Report, Report and Final Stages; and No. 1, Criminal Justice (Search Warrants) Bill 2012 [*Seanad*] — Second Stage (resumed).

It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 9 p.m. tonight and shall adjourn not later than 10 p.m.; the proceedings in respect of No. 13 shall, if not previously concluded, be brought to a conclusion after 85 minutes and the following arrangements shall apply: (i) the statements shall be made by the Taoiseach and by the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group, who shall be called upon in that order and who may share their time, and shall not exceed 15 minutes in each case, (ii) a Minister or Minister of State shall take questions for a period not exceeding 20 minutes, and (iii) a Minister or Minister of State shall be called upon to make a statement in reply which shall not exceed five minutes; and the Report and Final Stages of No. 14 shall be taken today and the proceedings thereon shall, if not previously concluded be brought to a conclusion at 10 p.m. today by one question which shall be put from the Chair and which shall, in respect of amendments, include only those set down or accepted by the Minister for Jobs, Enterprise and Innovation.

Private Members' business shall be No. 32, Education (Amendment) (Protection of Schools) Bill 2012 — Second Stage (resumed), to conclude at 9 p.m., if not previously concluded.

**An Leas-Cheann Comhairle:** There are three proposals to be put to the House today. Is the proposal that the Dáil shall sit later than 9 p.m. agreed to? Agreed. Is the proposal for dealing with No. 13, statements on European Council, Brussels, agreed to? Agreed. Is the proposal for dealing with No. 14, Report and Final Stages of the Industrial Relations (Amendment) (No. 3) Bill 2011, agreed to? Agreed.

**Deputy Micheál Martin:** Last week saw the spectacle of the Minister for Public Expenditure and Reform, Deputy Howlin, calling on the Minister for Health, Deputy Reilly, to intervene personally to address the deficit, as well as expressing his concerns about governance within the health service. Fianna Fáil has asked consistently in the Chamber about the proposed HSE governance Bill because, as the Taoiseach is aware, well over 12 months ago the Minister, Deputy Reilly, abolished the board of the HSE, put nothing in its place and assumed control himself. Since then, most analysts will accept it has been quite directionless and no one has a sense of where the health service is going in respect of any of the major items in the programme for Government. Moreover, no one has a sense of who is or has been responsible over the past 12 months in respect of the ongoing drift. The Taoiseach should provide a timeline in respect



[Deputy Micheál Martin.]

of the HSE governance Bill, both with regard to its publication and as to when he expects the Bill to be brought before the House, debated and implemented.

In respect of promised legislation, I raised an issue during Leaders' Questions about what I consider to have been a false Estimate provided to this House last December by the Minister for Health. Part of the reasoning behind that concerned the figures, wherein a sum of €124 million was included in respect of drug pricing. The Taoiseach should outline to Members the current status of the health (pricing and supply of medical goods) Bill. When can Members expect publication and completion of this Bill and what is the timeline for its implementation? The Estimate was included in December but the chief executive officer of the HSE has stated that figure is not realisable and simply cannot be achieved. Of course it cannot be achieved if neither the legislation nor the agreements necessary to achieve it have been put in place. It was only last week that the Minister announced he had agreed to enter into talks with the Irish Pharmaceutical Healthcare Association.

There seems to me to have been complete dishonesty about all of this. How can such big figures be put into the Estimate on the revenue side if the basic mechanics to facilitate the collection of that money have not even been put in place? That is disgraceful. We need answers because as an alternative to what was proposed in December, the Minister will now hit front-line services. Deputy Deasy said that this would mean ward closures, bed closures and so on. The Minister lashed out at workers last week. In spite of the fact that Cathal Magee said he was happy with the implementation of the Croke Park agreement and the health service, the Minister started focusing on workers because of his own failings.

**The Taoiseach:** Deputy Martin asked about the HSE governance Bill. I dealt with this yesterday. The Deputy is well aware of the extent of legislation that is required by the timelines of the troika. One of those Bills was the Personal Insolvency Bill 2012, which was published last week and is over 200 pages long. The Parliamentary Counsel and the Attorney General's office have been working flat out in dealing with legislation in recent months. They are now working in relays on the HSE governance Bill. That Bill will be published before the end of this session. The Deputy asked me when it will be finalised, but I cannot answer that because I do not know how long people will want to address——

**Deputy Micheál Martin:** Would it not better if the existing board was left in place and there was a governance system? At the moment there is no governance system. Why abolish the board and have nothing in its place for 16 months?

**The Taoiseach:** The Deputy refers to the CEO of the HSE saying that things cannot be realised. On a bigger scale people were saying that nothing would be realised from the ESM in respect of direct injections into banks. Politics is always about what is achievable, as the Deputy knows.

**Deputy Micheál Martin:** That is no comparison.

**The Taoiseach:** It is not true to say that there is no interim board of the HSE. There are 12 people on such a board and it is chaired by the secretary general of the Department of Health.

The IPHA has made a payment of €10 million to the Department. The Minister is negotiating with the association in respect of the €124 million payment over the next three years. It is to be hoped those discussions will conclude shortly.

I cannot answer the Deputy's question on when the legislation will become law, but it will be published before the House rises for the summer. If the Deputy wants this House to sit later to deal with this Bill, I have no problem with that.

**Deputy Micheál Martin:** On a point of order, the Taoiseach can do what he likes in running this House. He knows that because he has the numbers. He should not be giving me infantile comments on whether I want the House to sit longer. That is his call.

**Deputy Bernard J. Durkan:** Let us do it.

**Deputy Micheál Martin:** The Taoiseach runs this House. The Whips are only nominally involved.

**An Leas-Cheann Comhairle:** Is this on legislation?

**Deputy James Reilly:** There is some hypocrisy in the Deputy's concern, given that he was wringing his hands for 14 years.

**Deputy Micheál Martin:** The real point is that the Taoiseach has admitted to the House that the legislative changes upon which the Minister for Health based his Estimate will not even be passed before the summer recess. That shows how false the Estimate was.

**Deputy Bernard J. Durkan:** That is rich, given the way this country was run——

**Deputy Micheál Martin:** The legislation will now come before the House in the autumn and very large sums of money were based on that legislation being passed before then. That is what we were told last December. That is how false the health Estimate was. Patients are going to suffer on the double between now and Christmas because of that dishonesty in preparing the Estimate. The legislation will not now be ready until the autumn at the earliest.

**Deputy James Reilly:** There are fewer patients on trolleys for the first time in 15 years.

**The Taoiseach:** The Deputy was always the Minister who refused to make decisions because he did not have the courage to do so.

**Deputies:** Hear, hear.

**The Taoiseach:** When he was Minister with responsibility for health, 120 reports lay on the shelves gathering dust.

**Deputy James Reilly:** He spent €5.3 million on consultancy reports that went nowhere.

**The Taoiseach:** This Bill will be published before the end of this session.

**An Leas-Cheann Comhairle:** I have to call on Deputy Mac Lochlainn.

**Deputy Micheál Martin:** I would like the Taoiseach to answer the direct charge. How can he put money into an Estimate when the legislation upon which it is based is not ready until the autumn?

**An Leas-Cheann Comhairle:** We are moving on.

**Deputy James Reilly:** Would the Deputy like to tell us about PPARS?

**Deputy Micheál Martin:** I have asked that question repeatedly this morning, and all the Taoiseach can do is go back four years or five years. He cannot answer but he is responsible——

*(Interruptions).*

**An Leas-Cheann Comhairle:** Deputy Martin, we are moving on.

**Deputy James Reilly:** Is the Deputy afraid that we are going to succeed?

**Deputy Micheál Martin:** Quite the opposite. The Minister for Public Expenditure and Reform is obviously not convinced the Government will succeed.

**An Leas-Cheann Comhairle:** Deputies, we cannot even hear each other. I call on Deputy Mac Lochlainn.

**Deputy Pádraig Mac Lochlainn:** It is an interesting day in here. When does the Government plan to publish the constitutional amendment Bill for the children's referendum? When does the Government intend to publish legislation to allow for a referendum on the abolition of the Seanad? When will the constitutional convention be established and what is the plan for the legislation required to make that happen?

**The Taoiseach:** The legislation on the constitutional convention will come before the Dáil and the Seanad next week. I hope the constitutional convention will have its first meeting in September. Work is proceeding on the children's referendum with the Minister for Children and Youth Affairs and different groups on a wording that can be agreed. I expect that the child protection referendum will be held in the autumn. I do not want to nominate a particular week until all is ready for the Bill to be published. That requires agreement among those groups that have done a great amount of work on the wording. I will keep the House updated on it, but it is my intention to have it in the autumn.

I have not fixed a date for a referendum on the abolition of the Seanad. That is outside the remit of the constitutional convention. The Government will publish the Bill in due course and put it to the people. We must have consideration for things like the fact we have the EU Presidency from 1 January until June 2013, but we will talk about these issues. The child protection referendum will be later in the autumn and a referendum on the Seanad will be at a later date.

**Deputy Jerry Buttimer:** I spoke about the flooding in Cork yesterday during the Topical Issue debate with the Minister for the Environment, Community and Local Government. My question today is about legislation on holding insurance companies to account. Many insurance companies are failing to negotiate, to interact or to engage fairly with residents. Some of these residents have not had a claim for 25 years and have never suffered flooding, but now we see insurance companies running to the four corners saying that we are in a flood plain when they know we are not in a flood plain.

**An Leas-Cheann Comhairle:** Is there legislation promised on this?

**Deputy Jerry Buttimer:** You showed great latitude to Deputy Martin a while ago, so you might do the same for me, please.

**An Leas-Cheann Comhairle:** Please, Deputy.

**Deputy Jerry Buttimer:** He was the former Minister with responsibility for health who sat on his hands for 14 years and did nothing.

**An Leas-Cheann Comhairle:** The Chair tries to be impartial. Can we have your question, please?

**Deputy Jerry Buttimer:** I appreciate that. Can the Parliament hold insurance companies to account on the way they treat ordinary people?

**The Taoiseach:** I am quite sure that representatives of the insurance companies would be happy to attend the appropriate Oireachtas committee to explain the reasons for their decisions. The Minister for the Environment, Community and Local Government has responded to the consequences of the flooding in Douglas, Clonakilty and in Cork generally. This is a terrible mess for people and it caused absolute mayhem for those traders who never expected a river to flow into their shopping centre. I sympathise with those who have had their homes and business premises flooded with mud, silt and water. As the Deputy pointed out, it would have been the last thing on their mind to have insurance against floods, depending on their location.

I do not see why representatives of insurance companies should not attend the appropriate Oireachtas committees, but the Minister for the Environment, Community and Local Government, together with the Minister for Agriculture, Food and the Marine, the Minister for Transport, Tourism and Sport and the Minister for Social Protection, will try to respond as best they can for those who had their homes and business premises destroyed by the floods in Cork.

**Deputy Michael Healy-Rae:** When is the health (amendment) Bill to be published that will provide publicly funded GP care without fees at the point of use to claimants of free drugs under the long-term illness scheme? Last week, I pointed out to the Taoiseach that many people will be left without a proper television service when the digital changeover to Saorview and Saorsat takes place. In one area over 500 people will not have a proper television service. This is not right. The Taoiseach stated last week that something would have to be done for these people. By way of parliamentary questions, I asked whether any type of assistance will be given to people to provide an alternative and the reply was that, no, the State will not provide assistance. These people will be left behind when it comes to a television service, which is not right.

**An Leas-Cheann Comhairle:** Thank you, Deputy. I ask the Taoiseach to reply with regard to legislation.

**The Taoiseach:** The Deputy's first question concerned the health (amendment) Bill. The Minister of State, Deputy Shortall, with the Minister for Health, is working on that. It was considered by Cabinet yesterday and it will be next session.

**Deputy Michael Healy-Rae:** That is what I heard.

**The Taoiseach:** In respect of the consumer Bill, which the Deputy raised in regard to the changeover to Saorview, the Minister for Communications, Energy and Natural Resources is well aware there are a small number of pockets and locations around the country where there are difficulties. The Minister will respond in the best way possible so those people have access to their television channels and can see the Deputy's good self in full flight on the issues that are important to them in those locations. I have no doubt he will avail of that opportunity when the screens click into vision.

**Deputy Bernard J. Durkan:** Without poaching Deputy Healy-Rae's area, that health (amendment) Bill could be very useful to poor old Deputy Martin, who is in hot pursuit of health issues at the moment. It will visit the issues that have been endemic in terms of failure in the past number of years.

With regard to the human rights and equality commission Bill, which is promised and which is to merge two agencies, have the heads been discussed at Cabinet and when is it likely to come before the House? Similarly, what is the position of the criminal justice (proceeds of crime) Bill? This becomes more relevant with the passage of time but that passage of time

[Deputy Bernard J. Durkan.]

would also seem to indicate it is imperative to bring forward this Bill at the earliest possible time. Have the heads been discussed and when is it likely to come before the House?

**The Taoiseach:** The human rights Bill is later this year. I do not have a date for the proceeds of crime Bill because discussions are ongoing with the CAB about how best to structure it.

### Topical Issue Matters

**An Leas-Cheann Comhairle:** I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Peadar Tóibín — the operation of the senior citizens' travel pass scheme; (2) Deputies Simon Harris, Robert Troy, Maureen O'Sullivan and Caoimhghín Ó Caoláin — the status of the €35 million committed in respect of community mental health services, the appointment of a director for mental health and the ring-fencing of staff for community mental health teams; (3) Deputy Joan Collins — the need for a separate cystic fibrosis hospital building on the grounds of St. Vincent's Hospital, Dublin; (4) Deputy Éamon Ó Cuív — the need for CIÉ and Iarnród Éireann to protect their property rights and encroachment onto their property in order to facilitate the development of disused railway lines; (5) Deputy Michael Healy-Rae — the need to alter the time of year when checking of sheep is undertaken by the Department of Agriculture, Food and the Marine; (6) Deputy Olivia Mitchell — the use of GPS jammers in the increasing number of burglaries; (7) Deputy John Lyons — the case of the former employees of the Fáilte Bar at Dublin Airport; (8) Deputy Tony McLoughlin — the need to address unemployment levels in County Leitrim; (9) Deputies Brendan Smith and Michael Lowry — the need to review changes to the catchment boundary system in relation to the post-primary school transport scheme; (10) Deputy Patrick O'Donovan — the need to establish a national strategy for the development of the horticulture industry; (11) Deputy Jim Daly — the depletion in home nursing support hours for children required by the HSE to avail of agency nurses on termination of services provided by the Jack and Jill Foundation; (12) Deputy Noel Harrington — the status of ambulance cover in the greater west Cork area; (13) Deputy Pat Deering — the number of Garda patrol cars in the Carlow district; (14) Deputy Charlie McConalogue — the need to provide additional Garda resources to County Donegal to address the recent spate of thefts and burglaries; (15) Deputy Michelle Mulherin — the need to make provision for two intermediate care teams in north and south Mayo to allow for better use of acute hospital resources; (16) Deputy Pádraig Mac Lochlainn — the need for additional Garda resources to County Donegal; (17) Deputy Aodhán Ó Ríordáin — the need to establish a permanent memorial and tourism attraction around author Bram Stoker; (18) Deputy Martin Ferris — the need to resolve the turf cutting issue through engagement with the EU; (19) Deputy Niall Collins — the rise in charges for Greyhound Waste and associated waste issues in Dublin; (20) Deputy Michael Moynihan — inspections by the Department of Agriculture, Food and the Marine in light of adverse weather conditions over the past month; (21) Deputy Dara Calleary — the efforts to curb violent assaults on city streets; (22) Deputy Dessie Ellis — the problems faced by those on rent supplement given the increase in rents, the rent cap and the inability to negotiate properly with landlords; and (23) Deputy Mattie McGrath — the transfer of Bord Gáis operations to Balfour Beatty CLG and the security of employment following the transfer.

The matters raised by Deputies Brendan Smith and Michael Lowry; Deputy John Lyons; Deputy Olivia Mitchell; and Deputies Simon Harris, Robert Troy, Maureen O'Sullivan and Caoimhghín Ó Caoláin have been selected for discussion.



### European Council: Statements

**The Taoiseach:** I am pleased to have the opportunity to brief the House on what was a very significant meeting for Europe and for Ireland. On 7 June, I wrote to all other Heads of State and Government to set out Ireland's position on the crisis in the eurozone and to outline my two key objectives for the summit in question: first, reaching agreement on a growth pact for Europe and, second, reaching agreement on a European response to the banking crisis that broke the link between banking and sovereign debt. I am pleased to report to the House that significant progress was made on both fronts. The European Council agreed a compact on growth and jobs and the Euro Summit agreed a number of important steps aimed at addressing the immediate crisis in the euro area, including the imperative need to break the vicious circle between banks and sovereigns.

President Van Rompuy presented his report, *Towards a Genuine Economic and Monetary Union*, laying the groundwork for a strong and credible currency into the future. It was a significant meeting, with significant results of particular consequence for our country.

Having had extensive discussions involving all 27 Heads of State and Government on the crisis facing Europe and the steps necessary to return Europe to growth and job creation, those leaders representing the 17 euro area member states continued their discussions on the immediate steps to restore stability to the currency. The backdrop to our meeting was a difficult and complex one, and the issues facing us were sensitive and potentially divisive. Our discussion was long and frank. As I have said, my goal was to ensure that the link between banking and sovereign debt was broken decisively. I also made it very clear, at the meeting and beforehand, that any outcome that did not respect the equality of member states in the solutions being developed would not be acceptable to Ireland. In the end, we made a clear statement that breaking the vicious circle between banks and sovereign was "imperative". This is a significant shift in position, the importance of which should not be underestimated.

I particularly welcome the fact the principle that the ESM should be enabled to recapitalise banks directly has been agreed. This is a major shift in policy, one which I publicly called for at a conference on the eurozone crisis in Dublin Castle on 20 April and on numerous occasions since. The interaction between banking and sovereign debt has been right at the heart of the crisis and has presented a significant obstacle to confidence in the markets. I have long believed it would not be possible for Europe to move beyond this crisis and towards recovery for as long as banking debt and sovereign debt remained intertwined. We have now agreed and decided to separate them. For Ireland, this vital step represents an important breakthrough that can help us to recover and to return to the markets.

In deciding to sever the link, we also identified how and when it should be done. The Commission will shortly present proposals for a single supervisory mechanism and the Council has been asked to consider these urgently by the end of 2012. When a single supervisory mechanism, involving the ECB, is in place, the ESM will be enabled to recapitalise banks directly. In each case, this would involve appropriate conditionality, formalised in a memorandum of understanding.

It has been abundantly clear that the markets will not accept as credible any arrangements for capitalising banks that place further strain on the position of sovereigns already under pressure. The recent agreement for Spain, for example, has simply not succeeded in bringing the relief that was sought. We now have the real prospect of a different approach with the capacity to deliver very different results.

In our discussions, I made it clear to colleagues that I could not accept a situation where Ireland would be penalised by having taken the steps necessary to secure its banks, both in the interests of our economy but also in the wider European interest. Where new possibilities were



[The Taoiseach.]

being offered to others, Ireland had to stand to benefit also. Equality is and always has been a key principle at European level. This was reflected in the text which was adopted and which contains a specific undertaking to “examine the situation of the Irish financial sector with the view of further improving the sustainability” of our programme. In working this through, it is made clear that “similar cases will be treated equally”.

This outcome reflects the intensive efforts the Government has made since taking office to explain the situation regarding Ireland’s legacy bank debt to partners and to seek their support in engineering an outcome that can reduce the excessive burden on Irish taxpayers, families and people. That support has now been made explicitly clear and the work to make it real will now begin, starting at the meeting of the eurogroup next Monday, where Finance Ministers will consider how to implement what was agreed last week.

The Government will obviously be working intensively to ensure the best possible outcome for Ireland is delivered as quickly as possible. We have stated our intention to exit our programme and to return to the markets as quickly as possible. Our European partners now have an opportunity to assist us in achieving that goal in a concrete and meaningful way. Europe needs a success. With their support, we can deliver it.

On Spain, the Euro Summit urged that the memorandum of understanding establishing financial support for its banks should be concluded rapidly. Addressing another market concern in a practical way, it was further agreed that while initial funding will be from the EFSF, when the ESM comes on stream, this will be transferred across without gaining seniority. We also restated our commitment to using the instruments available to the EFSF, European financial stability facility, and the ESM, European Stability Mechanism, in a flexible and efficient way to stabilise markets for member states that were respecting their commitments to reform but remained under pressure in the markets. This was seen as of particular importance for Italy. It was an issue I discussed with the Italian Prime Minister by telephone before and during the course of the meeting. This arrangement will be made through the agreement of a memorandum of understanding with the country in question. The European Central Bank has agreed to act as agent for the EFSF and the ESM in making bond purchases under this arrangement. Of course, there is much detail to be filled in and no time to be lost. The eurogroup of finance Ministers has been asked to implement what was agreed by 9 July. While it will not be implemented by then, this will be an important meeting, including for Ireland, at which the start of this process will be discussed and laid out.

The Government has long argued the need for a growth agenda for the European Union. The compact adopted by the European Council last week contains an ambitious programme of work to be taken forward at European and national level. This became centre stage during the recent French presidential election. Mr. Hollande made it clear that he would like to see a change of direction and emphasis from a European perspective in respect of growth and a growth agenda. The agreed programme will deliver an immediate stimulus with a €120 billion investment package, or 1 % of Europe’s income, mobilised for fast acting growth measures.

It was agreed that we should increase the European Investment Bank’s paid-in capital by €10 billion with the aim of strengthening its capital base, as well as increasing its overall lending capacity by €60 billion which would unlock up to €180 billion of additional investment. It was also agreed that the project bond pilot should be launched immediately, bringing investment of up to €4.5 billion for pilot projects, and following evaluation, the volume of such financial instruments could be developed further in the future. In both instances — the EIB and the project bonds — I insisted that eligibility be extended to cover all member states, particularly those such as Ireland, which bore the brunt of the economic crisis. The text of the Council resolutions was amended to reflect this.

We will now work intensively with the institutions concerned to identify suitable projects in Ireland. I look forward to discussing this issue with the president of the EIB, Werner Hoyer, when he visits Dublin this Friday. It was also agreed that those member states with unspent Structural Funds available could use them to share EIB loan risk and provide loan guarantees for growth-related projects. Ireland has allocated all of its funding for this round.

It was agreed that a deeper Single Market, in which remaining barriers were removed, would be a key factor in promoting growth and job creation, particularly in digital and network industries. The Commission will bring forward its further growth enhancing proposals under the Single Market Act in the autumn. These will not only be an important input but will also help to shape the agenda for the Irish term of the EU Presidency from 1 January 2013 to the end of June 2013. We called for early agreement on important measures on public procurement, e-signature and the recognition of professional qualifications. We also welcomed the Commission's proposals to improve Single Market governance to ensure better implementation and enforcement, a proposal for which I have called before. Our performance in turning high level commitments into action on the ground has to be stepped up. The Commission will now make an annual report on this issue as part of the European semester process.

Particular stress was placed on the potential of the digital Single Market, with priority to be given to measures aimed at promoting cross-border online trade, including a transition to e-invoicing, e-identification and other e-services. It was also agreed that the roll-out of high speed Internet and the modernisation of Europe's copyright regime were crucial. There was a shared view on the importance of external trade as a driver of growth. Free trade agreements with Singapore and Canada are to be finalised by the end of the year, while momentum is to be injected into negotiations with India. We also agreed that work should continue towards deepening our trading relationship with Japan.

The EU-US high level working group on jobs and growth will bring forward its recommendations later this year. It made a commitment to working towards launching negotiations on a comprehensive transatlantic trade and investment agreement in 2013. I will make this an issue during the Irish EU Presidency as the opportunities arising from such an agreement on trade, exports and job creation in the next decade will be phenomenal.

Tackling unemployment and addressing the social consequences of the crisis was a key focus of the meeting. We agreed to step up, in particular, efforts to increase youth employment, with the objective that within a few months of leaving school young people should receive a good quality offer of employment, continued education, an apprenticeship or a traineeship, which can be supported by the European Social Fund. Ensuring member states have more ambitious and precise national job plans such as those adopted by the Government will be an important element of next year's European semester process. Again, Ireland will drive this forward during its EU Presidency term.

The European Council President, Mr. Van Rompuy, presented his report entitled, *Towards a Genuine Economic and Monetary Union*, to the Council. As I outlined to the House last week, the report identifies four building blocks: an integrated financial framework, or banking union as it has been called; an integrated budgetary framework with commensurate steps towards common debt issuance; an integrated economic policy framework; and strengthened democratic legitimacy and accountability. The Council President was invited to develop these ideas in close co-operation with the Presidents of the Commission, the ECB and the eurogroup and come forward with a specific and time-bound roadmap for the achievement of a genuine economic and monetary union. In this, he will examine what can be done within the existing treaties and what proposed measures would require treaty change. He will bring forward an interim report in October and a final submission before the end of the year. It is clear that this

[The Taoiseach.]

work involves consideration of many difficult and sensitive issues. Ireland has a strong national interest in a strong and stable currency, as well as in a strong and coherent European Union. That is what the discussion was about and I look forward to playing a full and active part in it.

The European Council also addressed several other important issues. On the Union's future budget, the multi-annual financial framework, we welcomed the progress made under the Danish EU Presidency which provides a basis for the final stage of the negotiations during the current Cypriot Presidency term. I thank the Danish Presidency for this work and wish the Cypriot Presidency the best in its efforts on these matters. We reiterated our aim to bring the matter to a conclusion by the end of the year. We endorsed the welcome decision to open accession negotiations with Macedonia. We welcomed progress on several important JHA, Justice and Home Affairs Council, files. We called on member states to implement the recommendations of the European Nuclear Safety Regulators Group in a timely way. The brutal violence and massacre of civilians in Syria were strongly condemned.

This was an important meeting for Ireland and the Europe Union at which decisions of particular importance were taken. The task of implementing them in good faith lies ahead. The Government will leave no stone unturned in seeking advantage and the best possible deal for Ireland. Adoption of the compact for growth and jobs was also welcome, but we now need to give it effect. This will be an important priority for the Irish EU Presidency, now 24 weeks away. We have shown many times in the past that Ireland can make a difference and make its mark at European level in a way that reflects well on the country and its people. That will continue to be our goal in the important work ahead.

**Deputy Micheál Martin:** Last week the European Council and the euro group issued conclusions which gave us all some cause for hope. A new and more credible approach to addressing bank recapitalisation has been agreed in principle. A joint regulatory framework for the financial system will emerge at some point, although the scope of this is unknown. These are substantial moves forward. They mark a welcome departure from months of aimless activity which helped to renew the crisis in the sovereign debt market and bring the euro to the edge of collapse. The reductions in bond yields this week show that the summit has had some positive impact. However, let us not be fooled into thinking that it has finally dealt with the crisis or that the actions required to stop an escalation of the recession have been taken. This summit was only decisive if one sets it in comparison to what went before.

In light of the declarations of decisive action having been taken and of Europe having turned a corner, people should stop for a moment and consider the statements issued after last July's emergency summit or, for that matter, after any one of over a dozen crisis meetings held in the past four years. If one examines the record of this House for the past 18 months, one will find the Taoiseach repeatedly informing us about how decisive action has been agreed. After the December and March meetings he talked at length about how leaders had agreed moves which were already restoring confidence and which would deliver jobs and growth. There is not even the merest hint of understanding of the scale and escalation of the crisis. What one will also find is a systematic pattern of exaggeration about the Taoiseach's influence and that of the Government. At one point, he informed the House about having held negotiations with the former French President, Mr. Nicolas Sarkozy, but subsequently had to admit that this was little more than an informal greeting at the side of the Council Chamber. Last June he actually claimed to have put the Greek debt crisis on the summit's agenda. Of course his biggest exaggeration before Thursday's summit was when he claimed to have negotiated last July's reduced interest rate on loans to Ireland. Speaking notes were circulated to all Government backbenchers in which the claim was made that the Taoiseach had heroically delivered enormous savings

for Ireland because of the deep diplomatic negotiations in which he was involved. The truth, acknowledged everywhere with the exception of Merrion Street, is that Ireland benefited from a deal which was negotiated for Greece and which was automatically extended to all countries. That deal was worth four times what the Government admitted it had sought.

This addiction to self-praise and exaggeration has become much worse. In that context, the Government seems to have forgotten what it said as late as last Wednesday. It should consider the record. On the day in question, the Taoiseach repeatedly stated that he would not be raising the issue of Irish banking debt at the summit. He was true to his word. On Thursday evening he and the Tánaiste sided with the majority that wanted to quietly agree the summit conclusions and move on. In fact, the Tánaiste got on a plane and headed home. In contrast, the Italian and Spanish Prime Ministers said there would be no deal on anything until urgent issues were addressed. The situations in their respective countries were giving grave cause for concern last week, particularly that of Mr. Mario Monti in Italy. Everyone in Europe welcomed the latter's arrival on the scene but he was being undermined by the lack of action in respect of the sovereign debt crisis and the intransigence that was displayed prior to the summit. The situation in Italy was becoming extremely perilous. The deal won by Spain and Italy in the early hours of last Friday morning is very important. This is because at every stage during the past four years the Council and the euro group have adopted a consistent approach of extending the principle of agreements to all countries.

The performance of the Government since last Friday has been so brazen it would make John Terry blush. Both the Taoiseach and Tánaiste have been praising themselves for having tirelessly executed a cunning plan. Brief handshakes when entering the meeting room have been elevated to the level of in-depth consultations. Apparently the Taoiseach showed a masterful command of tactics by agreeing to move on to other business and not co-ordinating with the Spanish and Italian delegations. Spain got a definite deal in respect of bank recapitalisation, while Italy obtained a deal on sovereign bonds. Ireland was granted an examination of its banking debt. That examination is welcome but I wish to ask the Taoiseach a number of questions in respect of the advanced discussions relating to our banking debt about which the House has been informed during the past 12 months. We were informed this time last year that a joint working paper on this issue was being drafted. One would have obtained the impression that a great deal of detailed work was to be done in respect of the technical paper, etc., in the interim. Two weeks ago, the Taoiseach indicated that he had not read the technical paper. Will that paper be published in order that we might glean some information in respect of what Ireland is actually seeking?

The difficulty for us is that we do not want merely what has been done for Spain. In the case of the latter, bank recapitalisation has yet to happen. As a result, the ESM money will go directly towards the purchase of new equity in Spanish banks. If the same core principles hold for Ireland, then the ESM may purchase from us our shares in Bank of Ireland and AIB. It appears the key factor is that the ESM must have an asset in return for its investment. It would be highly unlikely — and of little help — if all that happened was that those shares were purchased from us at current values. Until Friday last it was the Taoiseach's position that the Government's sole priority was the cost of the promissory notes. Earlier this year the Government declared victory on the basis of a deal which actually increased the cost of the first tranche of money relating to those notes and converted it into normal sovereign debt. The promissory notes should remain our absolute priority in the context of the bank debt. As the Taoiseach has finally been willing to admit, these notes were agreed because Ireland was being responsible towards a Europe which was scared of contagion and which lacked any alternative. This debt should under no circumstance simply be converted to standard sovereign debt on the ESM terms available to all. The promissory notes are a unique instrument, developed at an excep-

[Deputy Micheál Martin.]

tional time, and have no implications for wider policy. An entirely separate approach is required in respect of them. A much longer-term and nominal interest rate is what should be considered in that context.

The reference to the ECB's support for Ireland in the statement issued in the aftermath of last week's summit is no surprise. The bank's core negotiating objective has been to transfer the promissory notes into standard sovereign debt and walk away. Its hard-line opposition to genuine relief on the promissory notes has not been changed by this deal; rather, it has been confirmed. In light of the policy of systematic exaggeration that has characterised everything the Government has done during the past 18 months, if it wants people to believe that a major breakthrough has been made then it is time to start producing some details. The Taoiseach should do what his Spanish and Portuguese counterparts did, namely, publish his detailed demands and then meet people to discuss them.

With the exception of the bank-debt element of the deal, nothing was agreed at the summit that fundamentally changes the dynamic of the crisis or addresses the core design faults of the euro. The introduction of joint banking supervision is absolutely essential. The linking of such supervision to the disbursement of ESM money to Spain suggests that it will be watered down to meet the demands of Germany's regional banks. It is highly unlikely that agreement will be reached in time for the October deadline.

A central dynamic of the crisis has been the fear among investors with regard to the lack of a lender of last resort. The ESM was supposed to ease this fear by showing how the resources were in place to rescue anyone. With €100 million to go to Spain's banks and the other commitments, the ESM simply is not large enough to give the required confidence to investors. If it becomes involved in buying Italian bonds on the secondary market, the ESM may bring forward the date of the next crisis. When it spent a much larger amount on similar purchases, it provided short-term relief, increased its own risks and failed to save Greece, Ireland or Portugal. Why should the dynamic change now because it is the ESM and not the ECB buying the bonds? The monetary ideologues insist on the purity of their vision for the ECB. They also insist that ESM funding cannot be leveraged to deliver firepower which can outlast a further run on the bond market. The failure to challenge this means that the single biggest driver of the sovereign debt crisis remains in place and will probably come to the fore again. I refer the Taoiseach to a newspaper article by Colm McCarthy in which he makes the intelligent point that the devil is actually in the principle and focuses on this specific issue of concern.

Europe also requires investment if it is to get out of the recession. This summit again failed to deliver anything which could honestly be called a growth agenda, and in today's edition of *The Irish Times*, Martin Wolf describes what is proposed as "a mere bagatelle". Giving money to the European Investment Bank and reallocating structural funds are good ideas but they fall down in two major ways. First, there is no detailed agreement to use the money being allocated exclusively for regions most in need. Second — this is a most important point — the co-financing rules have not been changed. As a result, the money, if it materialises, is actually likely to further strengthen stronger regions at the expense of weaker ones that cannot afford co-financing. If the entire allocation actually happened, it would provide a stimulus of less than 1% of the income of the European Union over more than two years.

We must be honest about this matter. People have engaged in a great deal of spin in order to cover the French situation, talk up the supposed growth pact and so on. However, what is proposed is not a growth pact. Something that amounts to only 1% of the overall European Union budget is not a growth pact. This is particularly evident when one considers that unemployment across the Union now stands at 11.1%, the highest it has been since the introduction of the euro in 1999. Too little attention has been given to the effectiveness and capacity of the



growth pact. It is not in any shape or form a real growth pact. A real growth pact is urgent and needs a direct transfer from regions in surplus to regions in deficit. Nothing agreed last week delivers that. The full summit talks at length about moving to what is termed a genuine economic and monetary union. What has been agreed is to look for areas to agree on rather than starting with a clear view of what is required. The text gives very little reason to believe the leaders understand this.

The agenda is about control, not creating a genuine Union. It is full of measures which originated in the pre-crisis period and involve neither ambition or reflection. I heard the Taoiseach's speech and he said he will play a full and active part, whatever that means.

**The Taoiseach:** Starting on Monday, with the Minister for Finance.

**Deputy Micheál Martin:** No, I am not talking about the debt, I am talking about the economic and monetary union. The Taoiseach says that talks are coming up and that we will full play a full part. What is the Government's position on that?

**The Taoiseach:** We will see the report in October.

**Deputy Micheál Martin:** We should not wait for President Van Rompuy.

**The Taoiseach:** Does Deputy Martin want to pre-empt the report?

**Deputy Micheál Martin:** We should state how Ireland sees Europe evolving and what is in the best interest of Ireland. We must engage citizens. What is clear from the Taoiseach's speech, which he did not say last weekend, is that we will need treaty change in Ireland. There will be further referendums on this point and we should tell people that and explain to them why it is necessary and in the best interests of Ireland and Europe. We should tell people our position and how far we are prepared to go on fiscal union, political union and monetary union. These are fundamental questions and people should not be surprised by them when they arrive on their doorsteps again via a referendum. As they did in the previous referendum, people always complain about a lack of information, a lack of preparation and a lack of understanding of the issues. The reason is that people keep ducking and diving. Before the previous referendum, the Government would not say for 12 months it wanted treaty change. Then, the Attorney General said we needed a referendum and the Government had to get its ducks lined up in a row in a hurry. There was major dissatisfaction among the public in respect of its understanding of the issues. That is a genuine issue for the country. A fundamental re-evaluation of the shape of the European Union is coming down the tracks. This refers to fiscal, economic and political aspects and there is not a genuine articulation of it from the Government side. In a speech in March, I expressed how Fianna Fáil sees a genuine fiscal union emerging. This is not one about balancing books but one that involves a genuine transfer union. We must share these issues with the people. I do not get any sense from the Taoiseach's speech of this being done.

The House should be aware that the summit explicitly noted that progress is supposedly being made on common tax policies but the Government has failed to provide any update whatsoever on what it has been discussing. I did not get any sense of that from the Taoiseach's speech. What is meant by the comments that good progress is being made in common tax policies? We need to know the lie of the land.

**The Taoiseach:** Deputy Martin is aware of our view on the financial transaction tax.

**Deputy Micheál Martin:** I am, but I am wondering if it is tied into the fiscal, monetary and political union issue. The political and economic issues on the agenda for the next six months are profound. For Ireland, the time has long since come when our Government should start



[Deputy Micheál Martin.]

articulating exactly where it stands on these reforms. They are even more important than debt issues in determining when the recovery will take place. They are not secondary to other priorities. If we do not set out what we believe is required to end the crisis and restore long-term growth, we will continue to be bystanders and, in the words of Pat Cox, policy takers.

Sometimes the outcome will be good and the Government can rush out to try to claim credit, but equally there are many areas where we cannot adopt a position of just accepting what emerges from the work under way. We will have issues with some of the proposals and recommendations and it is far better to stake out our position in order that there is public understanding of it.

Given the scale of the crisis and the length of time it has been under way, this summit delivered the bare minimum of what was required to stop a crisis becoming an immediate catastrophe, which is where we were heading prior to last weekend. We need our Government to spend less time on ridiculous self-congratulation and more time actually trying to shape Europe's actions and reform programme.

**Deputy Pádraig Mac Lochlainn:** The headline coming out of last week's summit was that the link between banking and sovereign debt has been broken, but the problem with headlines is that they are short on detail, they can miss the bigger picture and they can distract from more substantive issues. I am afraid last week's headlines did all three.

We cannot even talk about the detail of what was achieved because we have no idea. We know there is some sort of commitment to look at splitting banking and sovereign debt by allowing banks to be recapitalised by the ESM. That, if it comes to pass, will be a good thing, would represent an achievement for the Spanish and Italian Governments and should act as an example to this Government of what is possible when we argue for it. This could most definitely bring big benefits to Ireland, and Sinn Féin warmly welcomes that.

It is also what should have happened in the first place but we were told it was not possible and to stop asking for it. However, the devil will be in the detail and, as ever, we are promised conditionality will be the deciding factor. Conditionality, as we have learned, means doing as we are told. We will learn over time what the President of the Council means when he says "under certain circumstances and under certain conditions, the ESM could recapitalise banks directly". We know that it will come with a memorandum of understanding and the conditions will be, to quote the euro area statement, "institution-specific, sector-specific or economy-wide". That clears that up. There will be no charity and no solidarity flowing from this decision. Of that we can be sure.

If it helps to ease the proportion of debt directly lumped onto our people, then it is welcome. The use of the ESM to which we could have a total liability of €11 billion represents, once again, a huge amount of money being pumped into failed banks instead of the real economy. Sinn Féin has always argued that depositors must be protected but private banks must be allowed to wind up and bondholders must feel losses. Banks should only be recapitalised when toxic losses are removed from their balance sheets and when it is of benefit to the State. We argue the ECB, not taxpayers, should be directly involved in the recapitalisation. That is the bigger picture the headline misses and one that is linked to much more substantive issues that the summit skirted around or simply ignored.

The substantive issue of this summit should have been getting energy back into Europe's economy through stimulating growth and making the investment and the policies necessary to achieve that. The real headline should be the latest failure in a summit, after countless other times, of the EU to change tack and move towards a policy that would create jobs and wealth throughout the EU. I am sure the apologists for the austerity hawks will point to what was

agreed in the so-called compact for growth and jobs and Council conclusions as proof a pro-growth agenda. That argument is very quickly dispelled by even a cursory glance at the content of what was agreed.

First, a stimulus package must be about putting money into the real economy. Here, the deal falls at the first hurdle. The amount of extra moneys is pitifully small. Only one point of the compact deals with figures, and they are noticeable only for their tininess. We are told the EIB's paid-in capital will be increased by €10 billion and that, magically, this will unlock €180 billion of additional investment. How €10 billion becomes €180 billion is not explained. There is mention of project bonds of €4.5 billion for pilot projects, none of which include Ireland. There is the often repeated story of reallocating Structural Funds. We know by now that this has almost zero impact in Ireland. We have spent or committed all our Structural Funds for this period.

The Commission, and now the Council, has clearly stated that member states "also have the possibility to consider reallocations within their national envelopes, under existing rules and in cooperation with the Commission". There will be no impact in Ireland due to any tinkering with Structural Funds and little anywhere else.

To put this in context, SIPTU and others have argued for a €10 billion stimulus package for this part of Ireland with a population of 5 million. What the EU effectively is putting on the table is €10 billion for 500 million people. It is pathetically small and is not a serious stimulus package or even close to one. Everyone knows it. There is, thankfully, more to the compact than figures; there are some worthwhile ideas, it must be admitted. Adapting the ESF to provide a youth guarantee is worth examining, as is the need to focus on the EU's research and development capabilities and strengthening our SMEs.

Unfortunately, however, in total the compact and the ideas in it make for depressing reading for anybody looking for a change in direction or genuinely new socially and economically responsible thinking. We are told the austerity-driven two-pack should be applied fully and effectively and recourse to peer pressure should be enhanced. The language is telling and it is depressing. "Fiscal consolidation" that is "growth-friendly" yet "differentiated" yet "respecting the Stability and Growth Pact" yet "taking into account country-specific circumstances" is to be used to get us of this mess. This language, like austerity, makes no sense.

We have an ideological return to what has failed and what is failing. Great emphasis will be put on the implementation of the services directive, one of the most neoliberal, anti-worker directives ever to come from Brussels — from the leadership of Charlie McCreevy, to be precise. The compact for growth and jobs is not a stimulus. There is barely any money and it is not a new push for jobs and growth. It contains old failed policies given a new lease of life and a new name. It will not work and it is not designed to work; it is designed to give political cover as austerity grinds on.

The growth sideshow is of course also cover for the other real purpose of this summit: to centralise, centralise and centralise at all costs. President Van Rompuy was quite explicit in his post-Council statement: "This summit was about combining short-term action to stimulate growth and to stabilise the markets, together with a longer-term vision on the way forward to strengthen our economic and monetary union." The first part of that statement is the cover, while the second part is the truth of what this summit was really about: the deepening of fiscal ties to the point of fiscal union.

Who is to be charged with carrying out this task that our Government will not talk about? The President of the European Council, in close co-operation with the Presidents of the Commission, the euro group and the European Central Bank — four presidents without a single citizen's vote behind them as a mandate. President Van Rompuy stated that "Member states

[Deputy Pádraig Mac Lochlainn.]

will be closely involved” and “There will also be consultations with the European Parliament”, but the power is with the cabal. Our Government and our MEPs are reduced to waiting with bated breath for the wise words of bureaucrats with a simple and explicit agenda — fiscal and political union above all else. These four unelected middle-aged men are to go off and come back with a plan to realise full economic and monetary union in the interests of the citizens of Ireland and other nations. What has our Government got to say? As usual, absolutely nothing. That is what we are used to — going along with the flow, never raising objections or standing up for Irish sovereignty. It has got us nowhere and it will never work as a strategy, although to call it a strategy might be giving the Government too much credit. It was another summit demonstrating another failure of the EU and particularly of this Government to deliver an agenda of growth and to stand up against the forces of centralisation and permanent austerity.

A number of Syrian citizens appeared before the Oireachtas Joint Committee on Foreign Affairs and Trade recently. Their testimony, which had to be given *in camera* to protect their families, was harrowing. It is important that our Government works in partnership with others to deal with this issue. The concern of the Syrian citizens based in Ireland who testified is that every time well-intentioned international diplomats such as former UN Secretary General Kofi Annan come up with a plan in good faith, the Assad regime, which is a mere cover for the military, uses the opportunity to carry out more horrendous massacres. We must be clear in the international community and Ireland must not hesitate. A time must come when the agreed programmes become mandatory and their abuse must end. We have seen what happened in Rwanda and the Balkans, where standing back resulted in massacres. Hopefully the international community can resolve this and I welcome any Irish involvement in achieving that, particularly having heard the testimony given to the committee.

**Deputy Richard Boyd Barrett:** There was considerable fanfare last week and much talk of a breakthrough following the deal at the European Council meeting. There was a lot of self-congratulation about what had been achieved by the Government and the EU leaders. We heard similar talk from the troika, whom we met this morning, about this great breakthrough. People in this country have heard these expressions on many occasions, usually shortly after almost every summit in the last few years, and no sooner are the politicians slapping each other on the back and declaring they have made great progress than the whole thing unravels and nothing changes for ordinary people being crushed by cuts and the impact of austerity. I would like to think this one was different and that all the talk of the great breakthrough was meaningful this time so ordinary people could look forward to some relief and hope instead of the terrible situation faced by so many. However, this is highly unlikely.

The Government and European leaders, and the troika in our meeting this morning, when asked specifically what the deal would do for ordinary working people and the unemployed and for our economic prospects, gave us no detail at all. The troika in fact said the details were vague and we would have to see what the details actually were. I find it hard to understand how people can talk about a breakthrough when we are told the details have not been worked out. Is it not the reality that any change of policy last week did not arise from the great talent or ability of our Government or any of the politicians?

**Deputy Catherine Murphy:** We have referred to this. We are talking to ourselves here.

**Deputy Richard Boyd Barrett:** Just so those in the Visitors' Gallery are aware, every time a Deputy from the Technical Group gets up to speak, the Minister of State, Deputy Creighton, plays with her phone and talks to the Leas-Cheann Comhairle. It is indicative of the contempt the Government has for the Opposition. The Visitors' Gallery, which is full right now, should

understand that this is generally the approach of the Government. None the less, these problems will be resolved by ordinary people such as those in the gallery and in society. They will not be resolved by politicians in the club of the political establishment who failed us so miserably for the last four years.

I challenge the Government to tell us specifically how this deal will improve the lot of ordinary people. Is it just more PR spin, smoke and mirrors and an elaborate accountancy trick? One would not have much reason for hope when the first meaningful statement from a Government spokesman in the aftermath of all the declarations of the great breakthrough came from the Minister for Finance, who said it would make no difference whatsoever to the cuts and austerity that the Government plans to impose in the budget in December, a fact confirmed by the troika. While the troika members could not tell us what specific improvements in terms of employment, cuts and austerity the Irish people would see as a result of the deal, they were able to state that the cuts in incomes must continue, the privatisation agenda would continue and property taxes must be imposed. One wonders what all the hoo-ha is about.

In so far as there is any substance whatsoever to all the declarations of a breakthrough last week, it seems to revolve around the fact that perhaps the debts of the banks and the bailouts necessary to fill the hole in the banks will not be routed through the sovereign and that the ESM will directly bail out the banks. People should take note that the first and major priority of the European leaders remains unchanged, namely, to bail out the banks but to do so in a slightly different way.

The question is whether this new method of bailing out the banks will bring about an improvement for ordinary people. It may result in a reduction of our debt-to-GDP ratio, although that remains to be seen. However, we are going to pick up the tab at the other end through the ESM because it will now be the mechanism to bail out the banks and we, the citizens of this country and Europe, pay for the ESM. In our case it is now more likely that the Irish people will be on the hook for the full €11 billion or more to finance the ESM by virtue of the ESM treaty and that we will be called upon to bail out the European banks given that it is considered that there is in the region of a €2 trillion hole in Spanish and Italian banks alone and the ESM has only €500 billion of so-called firepower. That makes it almost certain that Irish citizens will just pay the bill in a different way.

The truth is that we will only have reason to celebrate when the Minister of State can tell us where the jobs are and how the 300,000 or 400,000 jobs we need to get our people back to work and to get the economy moving again will be created. When will the Government stop the imposition of brutal and unjust cuts on working people and vulnerable sectors of society? The Minister of State has made it absolutely clear that will continue. The policy is to prop up the banks, privatise everything and crush ordinary people with austerity. That is not a breakthrough and it is certainly nothing to celebrate.

**Deputy Catherine Murphy:** I woke up last Friday morning and for a change there was good news on the radio. There was talk of a seismic shift. Essentially, I have been waiting for the detail of that. I acknowledge that it is welcome that there has been a change but we must have the detail because one person's seismic shift is another person's relatively modest change. We cannot judge that for ourselves unless we have the detail, but we have not been given any sense of what is involved. In fact, the announcement and the European statement has given rise to new questions being posed, for example, on the extent of the ESM and the loan fund. It is a loan fund and it is expected that it will be paid back. What does that mean given that we own some of the banks that have been recapitalised? I am unsure about what the practical application of the change means given that we own the pillar banks.

[Deputy Catherine Murphy.]

I was on a radio programme on Thursday night when I heard that an expected European press conference did not occur because both the Italian and Spanish delegations refused to buy into the stimulus package until banking debt was addressed. It has become obvious to many of us that one's problems are only problems for Europe when one makes them problems for Europe. It is at that point that it decides to deal with them. That has been a concern of many of us in terms of our negotiation strategy. For example, we benefited from the reduction in interest rates because of Greece and we have benefited from the current change because of Italy and Spain. Essentially, we hope that we will be lucky. We must take much more control. I would like to hear a response from the Minister of State on the control we are taking and what is our negotiating strategy, because it is not obvious to many of us.

I would also like a response on the following issue. Finland has a significant problem with what has been proposed. Is it the only country with a problem? Was that raised at the summit and in what context? The ESM must be ratified by the Bundestag. Are there potential issues we should anticipate in terms of how the situation will play out? Is it likely, for example, that a new treaty will be required on foot of changes that will be made? It is clear there is potential for a shift in sovereignty from individual states to the European Union, and in that context, it is not unreasonable to anticipate that there could be a new treaty. It would be useful to get an insight into what we might face. On the same day, on the "News at One", Seán O'Rourke pressed the Minister for Finance on what the decision meant and whether it would make a difference to this year's budget. The response was that it would not make a difference. I accept it will take some months to work out the detail of the change, but to come to a conclusion about what it means, people must know how it will impact on them on an individual or collective basis.

A stimulus package was one of the issues that was part of the deliberations. As Deputy Boyd Barrett indicated, we met the troika this morning. I commissioned a report from TASC, an independent think tank, on job-rich investment. We could have a growth rate that is not necessarily job rich. If we have funding to put into a stimulus package, it is important we get the best return on it. I was a bit upset by the ESRI's response to how we might use funding available to us to reduce our debts rather than investing it in jobs and people. One cannot just throw money at the problem. One must be targeted in one's approach. I will make the TASC report I commissioned available to anyone who wishes to read it because any contribution we can make to the issue will be important. Ultimately, if we can get people back to work, we will reduce the social protection budget and increase the level of taxation, which will increase our ability to pay debts. The sovereign debt is the one which comes to mind. We should never have been on the hook for the banking debt.

Will the Minister of State indicate how she thinks a stimulus package for this country would play out and if we are reading it correctly in terms of what appears to be its limited nature? Could more funding be leveraged and how could it be applied? Two issues arise. Clearly, if there is to be a shift in sovereignty, a new European model will develop and we need to have a vision of what it will be. Ireland will hold the Presidency next year and it will be important to have a broad view of what we are buying into rather than bits and pieces of the details.

Last week's meeting was the 20th to deal with the crisis which must be addressed at some point. The meeting provided welcome relief, albeit not to the extent desired. I hope the figure will amount to €67 billion.

The meeting was also meant to deal with the issue of democratic oversight. Was this issue addressed, as it has not been discussed much? Technocrats will work up a plan, but there must be democratic oversight if the institution is to take on responsibilities. For too long we have been sidelining the European Union's democratic institutions, for example, the European Par-



liament. When the Merkozy agreement was hatched, it sidelined other states. Democratic oversight must be centre stage.

I would welcome a response to the points I have made.

**Acting Chairman (Deputy Catherine Byrne):** We will now have the question and answer session.

**Deputy Micheál Martin:** I raised the question of the European Stability Mechanism becoming involved in buying Italian bonds on the secondary market. A central dynamic of the crisis has been investor fear about the lack of a lender of last resort. In essence, the ESM will replace the European Central Bank in terms of buying bonds on the secondary market. The ECB did this for some time, but it did not work. I refer the Minister of State to Professor Colm McCarthy's article "The Devil is in the Principles", in which he makes the important point that there is no longer a buyer of last resort for weaker sovereign bonds and that the unwillingness of the ECB to play that role means Spain and Italy might be forced out of the markets. The fundamental driver of the crisis has not been addressed in the summit's conclusions. Professor McCarthy views the transfer from the ECB to the ESM as a retrograde step. What is the Government's position in this regard, given the dangers inherent in the ESM buying bonds on the secondary market? The ESM does not have the necessary firepower and is not a lender of last resort.

**Minister of State at the Department of Foreign Affairs and Trade (Deputy Lucinda Creighton):** It is a step in the right direction, in that we have always envisaged a greater role for the ESM. In this regard, the Irish position extends further than what was agreed at the summit. The Taoiseach, the Minister for Finance and I have advocated a banking licence for the ESM, which would dramatically enhance the fund's capacity to purchase bonds and apply leverage. However, this is slightly more ambitious than what is envisaged by the Heads of State and Government.

**Deputy Micheál Martin:** Does the Minister of State accept that the summit did not deal with the issue?

**Deputy Lucinda Creighton:** Clearly, it did not deal with it, as it was not agreed to in the conclusions. There are different opinions. As a former Minister for Foreign Affairs and having sat at the Cabinet table for 14 years, the Deputy is well aware that the European decision making process is consensual. While our vision for the ESM is more ambitious than that agreed to date, we must bring other member states with us. Some member states, specifically the creditor countries, have considerable reservations about enhancing the ESM's role. However, that is not to say that what was agreed is not significant. The reference to the potential for the ESM to intervene in secondary markets is significant.

**Deputy Micheál Martin:** Not necessarily.

**Deputy Lucinda Creighton:** It is a new step in the right direction.

**Deputy Micheál Martin:** The ECB is——

**Deputy Lucinda Creighton:** There are various interpretations of the ECB's potential. For example, the President of the Commission, Mr. Barroso, has made statements in the past 24 hours on the potential for the ECB to act, notwithstanding the reservations of certain member states. We must see how this plays out. There is a precedent for ECB intervention and I do not agree with the Deputy that it has been unsuccessful. Its intervention in the past 12 months



[Deputy Lucinda Creighton.]

was crucial in preventing what could have been a more dramatic and negative impact on the markets. It has helped to stabilise the positions of countries experiencing difficulties in accessing funds in the international markets or being priced out of them. I do not agree with the Deputy's analysis that this has been a failed policy. The ECB has had an important impact in terms of stabilisation, albeit not as dramatic as we might have liked.

**Deputy Micheál Martin:** It has not. The crisis almost became a catastrophe last weekend because of successive failures to intervene decisively as the lender of last resort. There is opposition to the ECB becoming that lender——

**Deputy Lucinda Creighton:** Significant opposition.

**Deputy Micheál Martin:** ——but we are replacing it with the ESM which does not have the firepower to fight a run on the bond market. Spain and Italy combined have a bond stock valued at €3 trillion. They must be kept in the market——

**Deputy Lucinda Creighton:** I agree.

**Deputy Micheál Martin:** ——or else everything will collapse. I accept the Minister of State's acknowledgement that the summit did not deal with the central driver of the crisis.

I will ask a brief question before handing over to other Deputies. Does the Minister of State agree that allocating 1% of the overall European budget to the growth agenda is inadequate and that the tortuous mechanisms being devised via the European Investment Bank will not have the necessary impact in terms of growth to deal with a European unemployment rate of 11.1% or ensure relief for people on the ground? What is meant by the reference in the summit's conclusions to progress being made on common tax policies?

**Acting Chairman (Deputy Catherine Byrne):** I remind the House that four Deputies will contribute, but there are only 12 minutes available. I will squeeze the Deputies in as quickly as I can. Does the Minister of State wish to reply now?

**Deputy Lucinda Creighton:** Yes. Since some of these questions are likely to arise again, I will try to answer them.

I disagree with Deputy Micheál Martin's suggestion that the 1% commitment to the growth pact is inadequate. Bearing in mind that there was no growth pact one week ago, it is a significant development. I am unsure as to whether the Deputy, like his party's previous leader, has experienced a redirection of his political philosophy or whether he would now call himself a socialist, but I would be surprised if he views growth as meaning simply pumping State money into a job creation plan.

**Deputy Micheál Martin:** Did I say that?

**Deputy Lucinda Creighton:** Particularly as a former Minister for Enterprise, Trade and Employment, I would have expected him to understand the value of the Single Market and the potential for growth that could be unleashed by implementing the Single Market Act and driving the energy efficiency agenda, the digital Single Market and so on. To suggest the only way to create jobs is to pump billions of euro that no member state has into a fantastical stimulus package is bizarre.

**Deputy Micheál Martin:** No. That is what the Government has been suggesting for the past 12 months.

**Deputy Lucinda Creighton:** We have not.

**Deputy Micheál Martin:** The Minister of State should avoid her partisan nonsense and answer the questions asked.

**Deputy Lucinda Creighton:** We have only ever referred to——

**Deputy Micheál Martin:** A growth pact.

**Deputy Lucinda Creighton:** ——the limited potential of a growth pact.

**Deputy Micheál Martin:** The Minister of State should read the Taoiseach's comments in *The Irish Times* last Wednesday. He stated he wanted to get project bonds up and running.

**Deputy Lucinda Creighton:** It is ludicrous to suggest pumping billions of euro that we do not have into the European economy is a panacea in terms of growth.

**Deputy Micheál Martin:** I did not say that.

**Deputy Lucinda Creighton:** The Deputy knows as well as I that it is not the case.

**Deputy Micheál Martin:** The Minister of State does not believe in the growth pact. What is she talking about?

**Deputy Lucinda Creighton:** I believe in the limited potential of any growth pact. I do not believe that the Deputy believes that the only way to achieve growth is by magically growing money on trees.

**Deputy Micheál Martin:** There needs to be a transfer of surpluses.

**Deputy Lucinda Creighton:** The Deputy is advocating that.

**Acting Chairman (Deputy Catherine Byrne):** I ask the Minister of State——

**Deputy Lucinda Creighton:** A 1% growth pact would be enormous and it lends potential——

**Deputy Micheál Martin:** The Minister of State is about the only one with that view.

**Deputy Lucinda Creighton:** ——to assisting in our challenge in reducing unemployment and creating growth in Europe. It is not a solution in its own right.

**Acting Chairman (Deputy Catherine Byrne):** I thank the Minister of State.

**Deputy Lucinda Creighton:** I have not yet answered the other questions.

**Acting Chairman (Deputy Catherine Byrne):** I am very conscious that there are four other speakers and I would like to give them an opportunity to present questions.

**Deputy Micheál Martin:** What about the tax policies?

**Acting Chairman (Deputy Catherine Byrne):** I ask that the questions be direct.

**Deputy Mick Wallace:** I agree that the decision to allow the European Stability Mechanism, ESM, to fund banks directly rather than go through the sovereign could be beneficial for Ireland; it will definitely benefit Spain in the short term. I am sure the Minister of State will

[Deputy Mick Wallace.]

agree that it is a step in the right direction. The ESM fund will have to increase and we will still probably end up with eurozone bonds. There is a serious issue in rebalancing the weak and strong countries in Europe and as the last speaker noted, the buyer of last resort of sovereign bonds remains a crucial factor, as there is none currently.

Spain will have its banking money loaned directly to institutions rather than through the sovereign, and Ireland seems to be benefitting from this in some way. In total the Government has parted with approximately €30 billion on the pillar banks so what are the chances of other European countries absorbing losses in the Irish banks? The €30 billion sum is valued at approximately €9.4 billion in bank value. With regard to the promissory notes and the €31 billion related to the former Anglo Irish Bank, what are the chances of the issue being taken on board and dealt with through the new system?

**Deputy Lucinda Creighton:** I agree with the need to rebalance the relationship between stronger and weaker member states and we are beginning to see movement in that direction. I have previously noted in the Chamber that wage agreements in countries like Germany in particular are important in terms of driving demand for goods and services from the weaker countries, especially Ireland as an exporting nation.

The Taoiseach has already made it clear that we will not speculate on the outcome of our negotiations. The significance of the summit is that we have agreement at the highest political level in Europe to deal specifically with and address the Irish debt sustainability issue. That is in the context of the agreement to allow the ESM to recapitalise banks directly in the eurozone. There is enormous potential but I will not begin to second-guess what is likely to emerge from the euro group negotiations that will begin on Monday, with the attendance of the Minister for Finance. Suffice it to say that the Government will use every avenue and opportunity to maximise the potential of that very significant political agreement to reduce the debt burden on the State. Whether the issue will take in promissory notes or the other components of our banking debt assumed as sovereign debt, I will not speculate on the elements. It is a very significant political agreement and we must implement it through the best possible means available to us. We will work through that in the weeks ahead.

**Deputy Richard Boyd Barrett:** The Minister of State fairly accurately characterised socialism in the context of the current crisis as being about putting state or public money directly into job creation. Will the Minister of State indicate what is wrong with that?

**Deputy Lucinda Creighton:** The money is non-existent.

**Deputy Richard Boyd Barrett:** To be clear, socialism is about putting public money into job creation and if I understand the Government's policy correctly, it is about putting public money into banks. We have billions of euro for the banks, and that is seen as being sensible and rational, but the idea — God help us — to put the same money into job creation is the most extreme nonsensical idea in the world. It is bizarre logic.

**Deputy Lucinda Creighton:** I find the Deputy's ideas bizarre. Could he come up with alternatives?

**Deputy Richard Boyd Barrett:** I just did so. Is it not the case that the Government's policy amounts to borrowing billions of euro, which we cannot afford, to put the money into private banks? Why does the Government continue to do this when the strategy has demonstrably failed? Banks will not lend, no matter how much recapitalisation they get, and at a European level, they are not investing. Will the Minister of State explain the logic to me?

The Minister of State has given no detail about what will result from this seismic shift that took place last week. She has said it is a high level political agreement to recapitalise the banks directly through the ESM. How is that in any sense going to relieve the burden on ordinary people? Even if the debt to GDP ratio is reduced, will the public not pick up the Bill on the other side through our contributions to the ESM, which we must fund? Given that the hole in the Spanish and Italian banks is estimated to be in the region of €2 trillion, with the ESM only having firepower of €500 billion, is it not guaranteed that the full €11 billion call on the Irish people is likely to come to pass?

**Deputy Lucinda Creighton:** We are not talking about putting further public money into the banks as that has been done already.

**Deputy Richard Boyd Barrett:** We had the money for that.

**Deputy Lucinda Creighton:** We are living in the here and now, not in the past and not in a fantasy land.

**Deputy Richard Boyd Barrett:** I thought we were disentangling these issues.

**Deputy Lucinda Creighton:** We should get that straight. Our approach to job creation and growth is creating the conditions to allow private enterprise and small and medium enterprise to flourish. That is the only way jobs can be created.

**Deputy Richard Boyd Barrett:** They are not getting money from the banks.

**Deputy Lucinda Creighton:** The Deputy's solution is to grow the public debt and deficit and ignore obligations to reduce deficit levels, and it is a guaranteed recipe for greater unemployment and further stagnation. I fundamentally disagree with the Deputy's analysis and would love to know where he intends to get the money he speaks about to create jobs. There is none available.

**Deputy Richard Boyd Barrett:** It is all in the banks.

**Deputy Lucinda Creighton:** It all sounds nice in theory but in practice it is not workable. It is essentially the difference between the Deputy's outlook and mine.

**Deputy Richard Boyd Barrett:** Absolutely.

**Deputy Lucinda Creighton:** There is no evidence to suggest that the Deputy's philosophy would work.

**Deputy Richard Boyd Barrett:** The Government's efforts are not working either.

**Deputy Lucinda Creighton:** The banking sector would collapse, which would ensure that no company could borrow money at any time in the foreseeable future. That would strangle private enterprise in this country and we would never again grow the economy. I do not agree with the Deputy's analysis or purported solutions.

**Deputy Richard Boyd Barrett:** I had a question on the ESM.

**Acting Chairman (Deputy Ciarán Lynch):** Deputies Mac Lochlainn and Ó Fearghaíl wish to ask a question and the Minister of State must conclude by 12.39 p.m.

**Deputy Richard Boyd Barrett:** They have dodged another one.

**Deputy Lucinda Creighton:** I will not dodge any question. I will answer what I can in the time I have.

**Deputy Pádraig Mac Lochlainn:** I will be brief. I enjoyed the Minister of State's exchange with the leader of Fianna Fáil, Deputy Martin. He was tempted to look forward to the next election and a centre-right coalition of Fianna Fáil, Fine Gael and austerity.

**Deputy Lucinda Creighton:** He was modelling more for a coalition with the Deputy's party.

**Deputy Pádraig Mac Lochlainn:** He was certainly tempted to look to the future. When will we get a sense of the growth strategy for Ireland? We know that the readjustment of Structural Funds will not work for us and that the other elements suggested will not apply to Ireland. What level of investment can Ireland expect and what areas is the Government considering in terms of growth and job creation?

**Deputy Seán Ó Feargháil:** I avail of the opportunity to commend the Government for what was a successful outcome to last week's summit in the aftermath of so many unsuccessful summits. Does the Minister of State agree that the arrival at the negotiating table of François Hollande and Mario Monti has changed the dynamic positively?

The *communiqué* commits the Commission to examining the Irish financial sector with a view to further improving sustainability. When can we expect that examination to commence and what will be its nature? A single supervisory examiner is to be established and a report produced by the end of the year. What is the envisaged timescale for that regulatory system to be up and running? Given the case made for that regulatory system and the move towards fiscal and monetary union, what are the implications in terms of further treaty change?

**Deputy Lucinda Creighton:** I have no wish to forget any question lest I am accused of trying to avoid providing an answer. The question on the growth strategy for Ireland is perfectly legitimate and the scoping process has begun. The initial pilot phase of project bonds is under way. Through the Cabinet sub-committee on European Affairs the Government has begun to examine potential areas for growth and how it can leverage the project bonds initiative. Project bonds are only a small part of the growth pact. The problem is that they only deal with transnational or major infrastructural projects involving numerous member states. These are of a large scale and for a small country such as Ireland not connected to mainland Europe, this has proved to be something of a difficulty and a challenge for us. On the other hand, the European Investment Bank has the significant bulk of the growth pact. It is the most practical and the body most likely to have teeth. It offers great potential for Ireland. Last week in advance of the European summit I was in Luxembourg for the General Affairs Council — we have discussed this matter at the Joint Committee on European Union Affairs — and I met Werner Hoyer, President of the EIB. I had the opportunity to discuss the objectives and wishes of the Government in terms of the types of projects here that could benefit from EIB investment. This fits in well with Mr. Hoyer's joint paper with the President of the European Commission, José Manuel Barroso, published last week. They produced a joint paper in advance of the summit which identified investment in youth training and tackling youth unemployment. This is something in which we are interested. It also focused on the green energy sector, with particular emphasis on the potential for wind energy projects. This is something in which we are also interested. It referred to strategic infrastructure, water services, broadband roll-out and so on. These are areas in which the Government has plans already and in which it believes we are a good fit with the EIB's objectives. Certainly, there is a meeting of minds.

Mr. Hoyer will travel to Dublin tomorrow and meet the Minister for Finance, Deputy Michael Noonan, and the Minister for Public Expenditure and Reform, Deputy Brendan



Howlin, both of whom have been exploring the potential and examining the opportunities available. Mr. Hoyer will meet the Taoiseach on Friday morning. Meanwhile the Minister for Communications, Energy and Natural Resources, Deputy Pat Rabbitte, and the Minister for Transport, Tourism and Sport, Deputy Leo Varadkar, have been examining various opportunities and projects that might fit their respective portfolios. We have some work to do to hone and identify obvious schemes in conjunction and in dialogue with the EIB, but there appears to be considerable potential. It is estimated that the capital injection into the EIB will leverage up to €180 billion worth of investment throughout the European Union. From discussing the matter with Werner Hoyer, I understand that is a conservative estimate and that potentially the figure could be closer to €220 or €230 billion. The bank is erring on the side of caution, but there is considerable potential. By and large, these are public private partnerships and it is a question of finding the right fit.

As I stated at the Joint Committee on European Union Affairs, there are several State entities and semi-State bodies which, independent of the Government, have been engaged in drawing down funding successfully through the EIB. One of the best examples is Bord Gáis Éireann, but there are many others. We are already benefitting from EIB funding, but the scope and potential are clear under the growth pact. We will exhaust every possible avenue in this regard.

Deputy Seán Ó Feargháil asked about the arrival of President Hollande and Mr. Monti. Mr. Monti has been in place for some time, but his presence at the table is welcome. He has a superb reputation as a former Commissioner. He authored the Single Market report and the agenda now being implemented. It is the reference point for the European Council, the Commission and most member states. His credibility has been demonstrated and built over many years and he is an important figure.

It is important to have large member states which can take positions. We were all somewhat concerned about the pre-summit meetings between France and Germany in recent years and everyone in the Chamber has acknowledged as much. It is understandable the larger countries meet in advance of summits, but now that there is a broader spectrum of countries, which is welcome, the fact that Mariano Rajoy and Mario Monti are involved, as well as the old axis of France and Germany, is important. We share a similar position to these countries, in particular. The Taoiseach has had a good working relationship with Mariano Rajoy for many years through the presidency of the European People's Party. He has also developed a good relationship with Mario Monti, among others. It is important that we have good dialogue and that we liaise——

**Acting Chairman (Deputy Ciarán Lynch):** The Minister of State has less than one minute in which to finish because we are moving on to deal with Report Stage of other legislation.

**Deputy Lucinda Creighton:** Does that include the time for my wrap-up?

**Acting Chairman (Deputy Ciarán Lynch):** I assumed the Minister of State was finishing up.

**Deputy Lucinda Creighton:** I will forget about my wrap-up and simply answer the question because I am unlikely to have time to wrap up. It is important that we have a constant line of communication to all of these countries. It is also important that Ireland, as a small country, build alliances with small member states. We are working hard in this regard. I will travel to Croatia tomorrow for the Croatia summit. Deputy Timmy Dooley will attend on behalf of the Joint Committee on European Union Affairs. Croatia will join the European Union next year and it is a natural and obvious ally for us. That is one example, but we are developing and building on our relations with other member states at all times.

[Deputy Lucinda Creighton.]

The examination of the issue of debt sustainability has begun. One could say it began one year ago because of the stress testing and the analysis that has been ongoing with the troika. The Department of Finance is liaising with the troika in the preparation of the technical report to deal with the promissory note.

**Deputy Seán Ó Fearghaíl:** Is this a new examination?

**Deputy Lucinda Creighton:** It is not new on our part, but it has now been officially recognised at the highest political level. That work will begin at the eurogroup meeting on Monday which the Minister for Finance, Deputy Michael Noonan, will attend. His officials are liaising and preparing for that meeting. That work is under way, but it is not new from the Government's point of view because we have been undertaking that analysis all along.

The target date for the banking regulatory mechanism is the end of the year. The Commission has been mandated to come back with a report detailing how the mechanism should function. The role of the Commission is to produce these proposals which will be assessed by member states at the next summit. We will see very swift implementation.

It is possible that the element of banking union in question would not require such change. I am not the Attorney General and am not proposing to give definitive legal advice here in the Chamber, but I believe that if we were to proceed further with some of the measures the Government has been seeking, such as changing the mandate of the ESM and, more specifically, the introduction of eurobonds, which is the target for Ireland and many other member states in regard to debt mutualisation, it would be highly likely that treaty change would be required. I embrace that opportunity. If we are moving in the right direction, we should not fear treaty change. I have said this all along and said it in respect of the recent referendum that if treaty change is required and a referendum is necessitated, we will go down that road. I hope we will have the support of many of the Opposition parties on the next occasion.

### **Industrial Relations (Amendment) (No. 3) Bill 2011: Order for Report Stage**

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** I move: "That Report Stage be taken now."

Question put and agreed to.

### **Industrial Relations (Amendment) (No. 3) Bill 2011: Report Stage**

Amendment No. 1 not moved.

**Acting Chairman (Deputy Ciarán Lynch):** Amendments Nos. 2 and 18 are related and are to be discussed together.

**Deputy Peadar Kirby:** I move amendment No. 2:

In page 6, line 4, to delete "the desirability of agreeing and maintaining" and substitute "the agreeing and maintaining of".

Every time we begin a debate on this issue, it is important to put it in the context of what we are trying to achieve. Today we heard the shocking figure that the unemployment rate has increased to 14.9%. It has reached crisis level. The number of long-term unemployed has increased to almost 200,000. In other words, 200,000 families' futures are very precarious. Their present circumstances are also very precarious in that they are struggling to deal with the day-

to-day costs of life. They have very little hope. The rate of emigration is at an epidemic level. As was stated here, nine people are emigrating from the State per hour.

Wages are being reduced in the joint labour committees, JLC, sector. I brought forward legislation a year ago on this subject in the hope of putting in place a floor or a system whereby affected individuals would have their wages and livelihoods protected. Unfortunately, within the past year, legislation in this area has not been implemented. We are now at a stage in which the individuals affected are having their wages cut.

We must remind ourselves that more than 200,000 people in the State function in what was known as the JLC sector. They work and survive on an average of €18,000 per annum, which is half the average wage. It is a small fraction of the wages of Teachtaí Dála and Ministers. This is part of a downward spiral leading to a cut in demand because people do not have money to spend. This leads to unemployment. Therefore, what we put in place in this Chamber ought to be robust and defend the livelihoods of individuals. It must also take into consideration the cost of small business and allow small businesses to function.

My amendment should be considered seriously by the Minister. It concerns the “desirability” of agreeing and maintaining a fair and substantial rate of remuneration. The word “desirability” dilutes the necessity for the system to maintain fair and sustainable rates of remuneration. On Committee Stage, the Minister gave the impression that this was a moot point. In other words, he felt it would make no real difference to how the legislation would be interpreted. If so, the word “desirability” should not be a sticking point for him. According to his thinking, the word does not have an effect. We believe the phrasing does not constitute a moot point and that it dilutes the legal basis on which a decision may be made. Therefore, we ask the Minister to agree to the amendment.

**Deputy Willie O’Dea:** I echo the statement of my colleague. We are all pretty shattered by the latest figures from the CSO, issued this morning, which show the unemployment rate has risen to 14.9%, while emigration continues unabated. A really staggering statistic is that more than half, or approximately half, of those unemployed have been unemployed for 12 months or more. My information suggests that almost one in three has been unemployed for two years or more, which is truly startling. Any jobs legislation or subject discussed in the House in the context of enterprise and employment must be discussed with this in mind.

The section to which the amendment pertains stipulates that, in formulating proposals for a registered employment agreement, the Labour Court must take into account a number of points, including the desirability of agreeing and maintaining fair and sustainable rates of remuneration in the sector in question. We all know that, apart from the social justice element, the people we are legislating for are those who are at the very bottom of the pile in terms of pay. For many, it is hardly worth their while going to work, as recent ESRI studies have shown. Apart from acknowledging the social justice aspect, it is vital for the economy to ensure the people in question earn a decent wage. They are compelled to spend every penny they earn. I know many of them and see they are struggling from week to week. If they had a few more euro to spend, they would be glad to get them. They are spending everything and, therefore, every cent is going back into the economy. Any move to reduce their standard of living or disposable income hurts them and the economy directly. It reduces the circulation of money in the economy, which everybody now agrees has been economically disastrous over the past 12 to 18 months.

If the legislation stipulated the Labour Court must take into consideration what the amendment proposes, the State would be committed to maintaining sustainable rates of remuneration. We know this is desirable but it is essential to ensure social justice and to lessen the negative impact on the economy. It is not an optional extra. The phrase, “the desirability of”, seems

[Deputy Willie O'Dea.]

weak and ambiguous and is susceptible to incorrect interpretation. If the Minister accepted the amendment, thereby enacting legislation that would commit the country to maintaining sustainable rates of remuneration for the low paid, it would send out a very good signal. If, as the Minister stated on Committee Stage, the wording does not in any way change the interpretation materially, he should accept the amendment. The proposed wording sounds a lot stronger and better.

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** Deputy Tóibín proposes to delete, in page 6, line 4, “the desirability of agreeing and maintaining” fair and sustainable rates of remuneration in the sector and substitute “the agreeing and maintaining of” fair and sustainable rates of remuneration in the sector. This issue relates to the principles and policies to which the Labour Court must have regard before registering an employment agreement. The same approach is proposed in amendment No. 18, from Deputy Tóibín, on the principles and policies that a JLC must have regard to when formulating proposals to submit to the Labour Court for employment regulation orders.

These amendments were considered at Committee Stage. Deputy O'Dea, in particular, questioned whether including the desirability of this, that or the other is bad drafting. I undertook to seek the view of the Office of the Parliamentary Counsel on the issue. The Office of the Parliamentary Counsel is firmly of the view that reference to the desirability should remain as it gives an indication that these are appropriate principles to which the court and the JLC should have regard and are desirable principles in themselves.

As I understand this, and I am no lawyer, we are seeking to embody the concept of weighing up different principles which, though desirable in themselves, can conflict. If one leaves out the word “desirability”, one moves from one of a range of principles that must be considered to an absolute and one removes the discretion of the court in evaluating principles which at times are in conflict with other principles which we are seeking to pursue.

The other aspect of it is that it becomes open to challenge and fetters the freedom of the court. If one puts it in absolute terms, one can challenge that one did not maintain competitiveness in the sector — whatever that means. Therefore, the desirability of maintaining competitiveness shows that it is an issue that they weigh up while they are also weighing up, as the Deputy's amendment has set out, the desirability of maintaining adequate pay rates, etc.

This is not some conspiracy to dilute this principle but it recognises that these are principles that must be weighed, one against another. They are not set in absolute terms. They are set as issues that are desirable that the court needs to bear in mind, but it is a balancing act that they are undertaking. As a result of both listening to the debate and my consultation with the Office of the Parliamentary Counsel, I am not in a position to accept the amendments.

**Deputy Peadar Tóibín:** I am disappointed with the Minister's view on this. The section states that the court shall have regard to the benefits of the consultation, the experience of registration, the potential impact on employment, the levels of employment and unemployment in the sectors in question. In referring to those sectors, it is more definite in their reference and in the ingredients of the decision making. I still stand by the view that the word “desirability” makes that effect of sustainable rates and remuneration, surely the purpose of this legislation, less definite. It is disappointing that my amendment is not being accepted.

**Deputy Richard Bruton:** The contrary is the case. By saying “the desirability”, it is clearly saying this is something we are trying to achieve whereas if one leaves out “the desirability”, it is merely a neutral issue. This is not diluting the importance. It is making clear that, in the

hierarchy of issues, these are matters that are desirable that the court must seek to pursue. It also recognises that there is a balance to be struck between a range of issues that are desirable.

The purpose that the drafters are trying to achieve is not different from the one that Deputy Tóibín is pursuing and the argument is more about what is the proper way to draft. By putting in “the desirability”, it is clearly saying to the Labour Court that this is something we seek to achieve, we seek to strive to achieve a number of matters, we recognise that at times they will be in conflict, and there is a balancing act to be conducted between the two of them and they are not absolutes.

We are not arguing about an issue of substance. The purpose of putting this legislation in place is to seek to maintain fair and reasonable living standards while seeking to ensure that the sectors are able to evolve to changing circumstances and be appropriate in dealing with the different challenges of employment and unemployment, competitiveness etc. that arise in each sector, which the Deputy Tóibín himself recognised when he pointed out the interests of small businesses and workers are all tied up in this.

While I am not accepting the amendment, it is not that we are poles apart. It is merely the phraseology, which I am advised by the Office of the Parliamentary Counsel is the appropriate way to enshrine this. We recognise these are purposes that they are seeking to pursue.

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

Amendment declared lost.

**Acting Chairman (Deputy Ciarán Lynch):** Amendment No. 3 in the name of Deputy Tóibín arises out of Committee Stage. Amendments Nos. 3 to 8, inclusive, 14, 15, 21 and 22 are related. Amendment No. 23 is also related and is an alternative to amendment No. 22. Amendments Nos. 3 to 8, inclusive, 14, 15, 21 and 22 and 23 will be discussed together.

**Deputy Peadar Tóibín:** I move amendment No. 3:

In page 6, lines 31 and 32, to delete all words from and including “and” in line 31 down to and including “so,” in line 32.

Legislation is made not only for today and tomorrow but, potentially, for generations to come. We must develop and create that legislation to deal with eventualities that may not necessarily be in the objectives or the mind of the current Government.

There is a mechanism within the Bill which allows the Minister to set aside the decisions of the process. This is a weakening of the process. No doubt there is logic to the Minister having the power to set aside provisions if the legislation has not been followed and that is right and proper, but there are difficulties. There probably will come a day where a Minister will have either a political ideology or political imperative to set aside a properly negotiated framework for decent wages. We believe that undermines the legislation and undermines the work of the court on that issue.

**Deputy Willie O’Dea:** I tabled a similar amendment on ERAs, amendment No. 22.

To add to what has been said, one of the reasons the JLC system was struck down by the High Court in *John Grace Fried Chicken Ltd and Ors v. Catering JLC and Ors* was that the committee was acting on its own without proper supervision and there was no set of principles to govern the decisions the committee had to make. We have set out the principles — that part is okay. I suggested, in a Bill I produced last year, that there should be general oversight by the Minister and by both Houses of the Oireachtas in that at least the ERA should be laid



[Deputy Willie O'Dea.]

before both Houses of the Oireachtas and if nobody objected with 21 days, it should proceed to take effect.

What I had in mind here is general oversight by the Minister, not giving *carte blanche* to the Minister. There are many criteria about which the Labour Court must be satisfied before it recommends the adoption of either an REA or an ERA. That is set out. The Labour Court is the expert in this area. It is dealing with this on a constant basis. They know their business.

Nevertheless, the first part of the section provides that the Minister must be satisfied that the Labour Court has done all of these things and considered all of these matters properly, and that is fine. That gives a strict supervisory power to the Minister.

If someone objects to a proposed employment regulation order or registered employment agreement on the basis that the Labour Court acted wrongfully or failed to carry out a certain procedure or take proper account of certain matters, it can be brought to the attention of the

Minister or Department that the Minister is entitled to send the proposal to the Labour Court. The Minister need only state that he or she concurs with the objection and will not accept the decision until the court acts properly in the matter. This provision is fine and adequately meets the requirements of the court case. However, the Bill also provides two further grounds on which the Minister may reject a proposal from the Labour Court for an ERO or REA. First, the Minister must be satisfied that subsections (1) to (5), inclusive, have been complied with. This means he or she is obliged to reject a proposal if he or she is not satisfied the court has done its business properly, both in terms of procedure and in respect of the matters it must take into account. The second ground on which the Minister may reject the application is where he or she considers that it is not appropriate to confirm the application. This provision gives *carte blanche* or total power to the Minister to decide at any stage that, notwithstanding that the Labour Court has acted properly and the workers in question need protection, it is not appropriate to accept the proposal.

The employment regulation orders must be regularly reviewed. The same criteria allowing the Minister to reject a proposal apply in respect of submissions to renew an ERO. This means the Minister may refuse to renew an order if he or she considers that proper procedures have not been followed or the Labour Court did not act in the manner prescribed. However, he or she may also decide to terminate the ERO forthwith on the basis that he or she considers it appropriate to do so. A fig leaf has been provided to the extent that the Minister must, when refusing a proposal on the basis that he or she considers it appropriate to do so, provide the Labour Court with his or her reasons for doing so. The text does not elaborate on the level of detail that must be provided in giving such reasons. This calls to mind the constant refrain one hears from the Director of Public Prosecutions when giving reasons for the failure to initiate prosecutions, namely, that the evidence available was not sufficient to secure a conviction. One of the provisions of the famous Stalinist constitution of 1934, which afforded citizens all sorts of rights on paper, was to require that military tribunals had to state reasons for executing people. The tribunals subsequently gave the same reason for every execution, namely, that the executed person was guilty. A secret trial lasting for all of half an hour would be held, after which the person would be taken outside and shot in the back of the head, and the reason given would be that he or she was guilty.

This legislation gives this and any future Minister *carte blanche* to terminate at will a registered employment agreement or, more seriously, an employment regulation order simply because he or she considers it appropriate to do so. This is not what was envisaged when the Duffy Walsh review group suggested changes to the position obtaining at that time because it was conscious of legal difficulties with it. As any fair reading of the High Court decision would show, this provision is not necessary. It is appropriate and probably necessary to grant a general

supervisory power to the Minister to cure the constitutional defect in the legislation. However, for the Minister to include in the legislation an excuse to exercise absolute power to refuse to accept an ERO on a whim is not one but several steps too far. This provision is unacceptable and removes from workers at the lower end of the pay scale who are not unionised or properly represented the entire protection which has been in place since 1946. It will hang like the sword of Damocles over all future EROs and, for that matter, the entire employment regulation system, which can be terminated at will by a Minister taking a decision not to proceed with an order because he does not believe it is appropriate.

**Deputy Richard Bruton:** It is important to bear in mind that we are seeking to reconstruct legislation which has been struck down by the courts. As Deputy O'Dea acknowledged, the existing legislation was found to be unconstitutional on a number of grounds. One cannot find a fairer reading of the impact of the High Court judgment than the Attorney General's views on what is now needed to make the structure robust and seaworthy. The Attorney General has made clear that the role of the Minister may not be limited to rubber-stamping decisions or engaging in box-ticking exercises. To give a body other than the Oireachtas the power to make decisions which have legal effect — under existing legislation such decisions have criminal implications — one must introduce the type of supervision proposed in the Bill. This requires the Minister to engage in more than a box-ticking exercise and gives him or her a genuine role in overseeing the agreements. The legislation was drawn up after the most careful consideration of the implications of the court ruling that struck down the Act.

Deputy O'Dea, in his usual colourful way, likened the approach taken in the Bill to the reason cited for failures to initiate prosecutions, namely, a lack of sufficient evidence, or the habit of tyrannical regimes of citing the victim's guilt every time they executed someone. This is not the case in this Bill. I am establishing fair procedures to evaluate the circumstances in each workplace governed by an employment regulation order or a registered employment agreement. I am not establishing a regime for careful evaluation in order that I can pull the rug from under it once the work has been done. I am making provision for a ministerial and an Oireachtas element precisely because of the reasons cited by the court in striking down the previous legislation. The ruling drew particular attention to the absence of ministerial or Oireachtas supervision and it is this that the legislation seeks to remedy. This is not a case of the Minister being able to act on a whim in an unaccountable manner. I must notify to the Labour Court in writing the reasons for any decision. In addition, ministerial decisions may be subject to judicial review if people feel aggrieved by the procedure. They are also subject to Oireachtas oversight. I am not providing for a whimsical ministerial power but including a thought-out response to the collapse of the previous legislation when it was challenged in the courts.

I undertook to reflect on the provisions before Report Stage and my officials have consulted the Office of the Attorney General on the matter. They have confirmed that the ministerial order-making powers were included in the Bill to provide an additional constitutional safeguard in the legislation. The view of the Attorney General's office is that these additional safeguards would be lessened if the Minister did not have discretion over whether to make the order. While the Minister does not have the power to amend the terms of an order, he or she has the power, for specified reasons, to refuse to make the order and in such cases would have to notify the court of his or her decision and the reasons for such decision. In practice, however, this scenario is unlikely to arise often.

On Committee Stage, I drew the attention of Deputies to how the High Court, on constitutional grounds in the John Grace Fried Chicken Limited case, highlighted the absence of parliamentary and ministerial control over the fixing of statutory minimum wages by joint

[Deputy Richard Bruton.]

labour committees and the Labour Court. In the High Court, Mr. Justice Feeney recalled an earlier Supreme Court case in which the issue of delegated legislation had been addressed, the case of *Burke v. the Minister for Labour*. He cited the observations made in the Supreme Court in 1979 by Mr. Justice Henchy, who had identified the absoluteness of the delegation within the Act of 1946. In his High Court ruling last year, Mr. Justice Feeney contrasted the failure to amend the provisions of the Act of 1946, notwithstanding the concerns raised in the Supreme Court by Mr. Justice Henchy more than 30 years ago about the untrammelled powers given to JLCs, with the provisions that had been incorporated in the National Minimum Wage Act 2000. Under the Act of 2000, the Labour Court's role is subject to guidance as to the principles or policies that must apply to the determination of a national minimum hourly rate of pay. The Act of 2000 also specifically empowered the Minister to accept, vary or reject the recommendation made by the Labour Court. In varying or rejecting any such recommendation by the Labour Court on the fixing of an hourly minimum wage, the Minister must make a statement to the Oireachtas setting out the reasons for the variation or rejection.

Consequently, what is going on here is not legislative adventurism but is in accord with the interpretation the courts have put on the proper powers and place of Ministers, as well as the approach that was adopted in the provisions of the National Minimum Wage Act 2000.

**Deputy Peadar Tóibín:** Legislative adventurism sounds like a new minority sport and hopefully it is not an extreme sport. One reason 200,000 people are long-term unemployed — that is, they have been unemployed for approximately the same length of time as the present Government's period in office — is upward-only rent reviews. I have prepared legislation in respect of upward-only rents that is waiting to go through the system. However, when I have asked for the Attorney General's opinion on the precise reason upward-only rent reviews cannot be acted on, I have been told it is traditional and has been the practice of the Government not to disclose full details of the advice of the Attorney General. As a result, I welcome wholeheartedly the detail to which the Minister gave expression today regarding the Attorney General in respect of this issue and I hope all the other Ministers take a leaf from his book.

Sinn Féin has a valid concern in this regard, which is that the good work being done by this House or indeed the entire system could be nullified in the future. The judicial review will have regard to this legislation, probably among others. Moreover, the Oireachtas overview about which the Minister speaks will be the overview of the political party of the Minister in question. Sinn Féin does not consider this to be a brake on the decision of a future Minister and this is the reason it has concerns in this regard.

**Deputy Willie O'Dea:** First, I wish to make clear that I do not question in any way the bona fides of the particular Minister opposite. Nevertheless, if this is the advice of the Attorney General, I would seriously question that advice on foot of my own reading of the case. If one reverts to the High Court case, that court was presented with a scenario whereby these committees, which were set up to provide pay and conditions for particular workers, had a lot of powers. They could recommend rates of pay, that certain conditions which applied in Cork might not apply in Limerick or that different conditions might apply, etc. Consequently, the principal case put by counsel on behalf of the plaintiff in this case was that these powers were so extensive that they should at least be governed by a certain set of principles. The Constitution provides that if certain extra-parliamentary bodies are doing something that is tantamount to creating legislation and is almost equal to what Members are doing here as legislators, they must be governed by a certain set of principles. As a result, the High Court was obliged to decide whether this particular case fell into that category and it decided it did. It concluded that these committees were exercising quasi-legislative powers without supervision. First, the

High Court noted the absence of a set of principles within which the committees had to operate. Second, the court considered whether what they were doing was supervised. It decided it was not, because there was no provision whereby their decisions could be referred to the Oireachtas. Moreover, there was no provision for the Minister to have any involvement, even in terms of signing off. Consequently, on foot of the judgment, it became the position that it would be necessary to introduce legislation to cure these defects.

This legislation certainly cures the first defect in that it provides a set of principles. It also cures the second defect in that it provides for a reference to the Oireachtas, if the Oireachtas wishes, to object to a particular proposal within a 21-day period. However, I argue that it more than corrects the third defect, which was a lack of ministerial involvement. I refer to the first provision in these sections in respect of both registered employment agreements, REAs, and employment regulation orders, EROs, and will cite the provision in respect of the latter as an example. It introduces firmly and clearly the principle of ministerial intervention and ministerial discretion. The section now provides that when the Labour Court engages in recommending and putting together an ERO, it must do certain things in respect of procedural matters and must take certain matters into account. Moreover, it does not simply pertain to one or two minor matters, as the details extend over four pages with definitions to follow. Moreover, some of the matters the Labour Court must take into account are subdivided into further matters. Consequently, the Labour Court, which has the expertise in this area, must do all that. For the first time, the Minister is being given the right to oversee this process and to ascertain whether the Labour Court has followed the proper procedure to the letter and has given proper consideration to everything it must consider, of which there is a multiplicity. Moreover, if anyone considers that the Labour Court has not done this, either procedurally or conceptually, then he or she can approach the Department and claim its actions were wrong. The Minister then has the right to refuse to grant the ERO, perhaps forever, or alternatively to send it back to the Labour Court with the instruction to deal with it properly before the Minister will consider it. This constitutes strong ministerial supervision, which is being introduced for the first time. There is no need for the section to go on to provide that apart from all that, the Minister also has a residual power, at his or her complete whim, to reject an ERO.

As my colleague Deputy Tóibín has noted, the people affected by this measure are those who are at the bottom of the wage scale and who need this system to protect them because for one reason or another, they are not properly represented. There has been legislation on the Statute Book since 1946 to provide them with some measure of protection. Unfortunately, as a result of a High Court decision, their protection is lessened in any event. No matter what the Minister attempts to do in this regard and with the best will in the world, the case itself and the constraints it places on the Minister lessen their protection. However, such people are entitled to a better provision than one under which not only is their protection lessened but, under a certain clause, it may be abandoned. I do not suggest the Minister, Deputy Bruton, would act in an adventurous manner. He will not get up some morning and decide to refuse to accept EROs henceforth. However, this is a power too far for the Minister. As I read its judgment, the High Court simply pointed out that as an example of the untrammelled power possessed by the recommending committees, there was no ministerial involvement. However, this legislation provides that not only will there be ministerial involvement but there will be total ministerial discretion to refuse the entire recommendation, no matter how justified it may be in reality. Regardless of whether the procedure was followed to the letter or whether the Labour Court did everything perfectly, the Minister has the residual power to simply say “No”, and that is wrong.

**Deputy Richard Bruton:** In economics, one gets lots of opinions and with each economist, one gets another opinion. Perhaps it is not dissimilar in Deputy O’Dea’s own profession, although I

[Deputy Richard Bruton.]

cannot speak of it with first-hand familiarity. The truth is that the court demolished the legislation in place for a number of reasons, including the lack of exercise of discretion by the Minister. It was not solely the issue of whether there were principles and the observation of procedures. The court clearly recognised that when monetary impositions were being made on people who were exposed to a penalty, there needed to be ministerial discretion to justify that this was in accordance with proper delegated functions, and there had to be the Oireachtas piece. Deputy Tóibín envisages the possibility that a Minister might strike down this in future. We could equally say an Oireachtas of the future might strike down orders. The court has said that without this level of parliamentary oversight, the system cannot be sustained. We are seeking to making sure we are not back here again with another set of legislative proposals designed by the Oireachtas and found by the courts to be failing in respect of proper procedure, proper fairness and proper parliamentary accountability.

Of course the courts do not prescribe the new architecture. We have to get legal advice on how to put in place architecture that will be robust from challenge. That is what has been done here. Deputy O'Dea states this exposes people who we should be protecting the whimsical power of the Minister. We are not trying to do that. We are trying to make a building that is robust and will not be blown down by the first legal challenge. This is one of the issues the courts have raised.

The Deputy was a member of the Government that put together the National Minimum Wage Act 2000, and I presume the best legal advice was obtained for that. That Government adopted the same procedure to make sure it had a robust Act and that there would not be successful challenges to the national minimum wage. That Act has proved to be robust and it has not been subject to challenge, whereas this other procedure has been subject to challenge and it has failed. We are applying the same principles as that Government to buttress the JLCs and the REAs in order to make them robust from attack. I am not trying to undermine people's rights in this Bill. I want to make sure we are not back here again because the courts have struck down the defences we have put in place for people who work in vulnerable areas of the economy.

While I recognise the importance of this debate, precedence shows this has been used before in legislation that has proved to be robust. I am applying proper protections as it will have to be notified to the court in writing as to why a Minister turned down this. It is not the exercise of whim without accountability. It will be subject to judicial review, like all those cases. The Oireachtas element of oversight is built into the procedure. This is a robust way to approach the problem. I ask the Deputies to accept that what I am trying to do is deliver legislation that will stand the test of time, and that I am not in any way trying to dilute its intention.

**Deputy Willie O'Dea:** The minimum wage example is not a precedent and is not a proper argument in this context. We are dealing with something entirely different and we are, therefore, comparing apples and oranges here. I accept that having everybody at the Minister's whim is not what he wants to do. However, my argument is that this is effectively what the Bill does. The Minister states there will be accountability and that people can apply for judicial review and so on. That is true, but for what would people seek a review? Judicial review means that when a body like An Bord Pleanála makes a decision, it cannot be appealed to the courts but a judicial review can be sought. The court then has to decide whether any properly constituted board acting in a fairly reasonable manner could possibly have come to this conclusion. It is not a re-hearing. It simply decides whether the board was acting in a reasonable manner.

In this case, the Labour Court might be right and have done everything by the book, but as the Minister said "No", we cannot overrule the Minister because the legislation simply states



that he can say “No” if he considers it appropriate. The Minister rightly stated there are often two different viewpoints. He has his view and I have mine, and nothing I have heard from the Minister causes me to change my view.

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

Amendment declared lost.

**Deputy Peadar Tóibín:** I move amendment No. 4:

In page 6, lines 37 to 39, to delete all words from and including “or” in line 37 down to and including “agreement,” in line 39.

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

Amendment declared lost.

**Deputy Peadar Tóibín:** I move amendment No. 5:

In page 9, lines 10 and 11, to delete all words from and including “and” in line 10 down to and including “so,” in line 11.

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

Amendment declared lost.

**Deputy Peadar Tóibín:** I move amendment No. 6:

In page 9, lines 16 to 18, to delete all words from and including “or” where it firstly occurs in line 16 down to and including “order,” in line 18.

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

Amendment declared lost.

**Deputy Peadar Tóibín:** I move amendment No. 7:

In page 10, lines 27 to 29, to delete all words from and including “and” in line 27 down to and including “so,” in line 29.

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

Amendment declared lost.

**Deputy Peadar Tóibín:** I move amendment No. 8:

In page 10, lines 35 to 37, to delete all words from and including “or” where it firstly occurs in line 35 down to and including “cancellation,” in line 37.

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

Amendment declared lost.

**Acting Chairman (Deputy Ciarán Lynch):** Amendments Nos. 9, 24, 25 and 26 are related and may be discussed together.

**Deputy Willie O'Dea:** I move amendment No. 9:

In page 11, lines 14 to 16, to delete all words from and including “if” in line 14 down to and including “circumstances,” in line 16.

This is about representation and how an aggrieved person brings his or her case. As things stood under the Industrial Relations Act 1946, if a worker subject to an REA was aggrieved, he or she could simply complain to NERA. The worker had the automatic right to complain and NERA had the automatic right to take a criminal prosecution against the employer. Naturally it was not perfect, because there would never be enough inspectors to cover every case. Nevertheless, the threat was a fantastic deterrent and ensured that many people who would have been blackguarded were not.

This aspect of the 1946 legislation was discussed in the High Court in the fried chicken case. The High Court looked at the powers of this unelected and unaccountable body.

Debate adjourned.

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

## **Ceisteanna — Questions**

### **Priority Questions**

---

#### **Public Sector Pay**

1. **Deputy Sean Fleming** asked the Minister for Public Expenditure and Reform the approximate number of public sector workers across all Departments and State agencies that are due to receive pay increments in 2012; the cost involved; if he is committed to their payment; and if he will make a statement on the matter. [32625/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** My Department has access to detailed data on increments only in the Civil Service sector, for which I have direct responsibility. On increments generally, based on the information submitted to my Department on the total cost of increments in a full year in the various sectors, the full year cost of increments, excluding the local authority sector, is now estimated at no more than €180 million per annum and less than half that sum this year. Significantly reduced recruitment, the ongoing substantial fall in numbers of public servants and higher numbers reaching the maxima of salary scales has, obviously, reduced the cost of increments. This cost will continue to fall in coming years.

The Government has reaffirmed its key commitments under the public service agreement in regard to pay and job security for serving public servants. These commitments are contingent on delivery of the necessary flexibilities and reforms to public service delivery that are required under that agreement. The budget process has outlined the Exchequer expenditure programme for 2012 and the necessary allocations have been made to Departments. Any further budgetary measures, should they arise, are a matter for consideration by Government. The vast majority of persons who are on incremental salary scales are the lower paid and people who have been recruited to the public service most recently. I reiterate my view that there are fairer ways to control the cost of public pay, given that only a proportion of public servants, in particular lower paid and front-line staff, would be affected by the suspension of increments.

**Deputy Sean Fleming:** I understand from the Minister's reply that we are having a general discussion on the issue. His response is a little light on specifics. He referred to a figure of €180 million, which excluded local authorities, so, obviously, we are talking about somewhere in the region of €200 million.

**Deputy Brendan Howlin:** Half of that this year.

**Deputy Sean Fleming:** That is close to the figure Deputy Howlin's ministerial colleague, Deputy Varadkar, mentioned recently.

As Fianna Fáil spokesperson in this area, I accept increments are part of the pay scale. It might not be popular to say that in many sectors but, when a person joins any element of the public service, there is a clear salary scale and the person knows he or she is due a salary increase in, say, three or four years time. We are in the Croke Park deal and increments are part of that. While I know some Members on both sides of the House will fundamentally disagree, it is where we are at. Some might feel it politically popular to suit their political party's supporters and to knock that concept but I suspect the Minister, Deputy Howlin, is in the category that would want to defend that concept, at least until that concept is changed through future negotiation. As matters stand, it is part of it.

**An Leas-Cheann Comhairle:** A question, please.

**Deputy Sean Fleming:** Will the Minister consider whether it is possible in the interests of low paid workers, who are the majority of workers on increment scales, to obtain information on the increments paid to staff who are currently on salaries of over €70,000? While I am not suggesting he can touch these at present, it is an issue that needs to be looked at. I put it to the Minister that while the majority of staff on the increment scale are low paid workers, the public think they are getting vast increments. The approach being taken by the Minister, which he might reconsider, is to use those low paid workers as a shield so the issue in regard to high paid workers on increments is not examined. Will the Minister seek to extract that information in order that we can have a considered debate on the issue? I did not say I am for or against increments but we need the facts.

**Deputy Brendan Howlin:** I appreciate what I believe is the Deputy's considered view. As I said, I will discuss anything to do with the area under my purview. Everything should be on the agenda for discussion at least.

The Deputy is right on a number of points. Let me be clear. Various Labour Court determinations have stated that increments are part of basic pay — that is a fact. The Labour Court has determined this and it would be very difficult to unwind it. Increments have been part of the basic pay structure of public servants since the foundation of the State. It is a system we inherited that when people join, they know the pay range they will have. To interrupt that at a given point is a very dramatic change because people who are already maxed out, as it were, would not be touched, only those at the start of the scale. Do we suggest we will restore it in due course, so we build up a liability, or do we change the pay scales altogether? It is a very complex area.

The Deputy asked for a specific figure for those on annual salaries of more than €70,000 who are still on increments. While I cannot give the overall figure, I can give the figure for the Civil Service because I asked for it. We must remember there is an incremental scale, even at high rates, such as for principal officers and so on, because that is the way the structure has always been. There are 2,665 civil servants, or 14% of the total, who are eligible for increments above that pay grade.

[Deputy Brendan Howlin.]

As a final point, it would be extremely difficult to pick out any cohort of people and say we are going to alter fundamentally the basics of their pay. All of this is something I am open to considering, but I will not dislodge the fundamental architecture of Croke Park because it is delivering. As long as it continues to deliver, this Government will protect it.

**Deputy Sean Fleming:** I am pleased the Minister has now put on record the figure of 2,665 civil servants out of approximately 13,000, which is some 14%. It is interesting the Minister says they are eligible for increments this year. In other words, they are in a category where increments can be earned. This means 86% of public servants on increments are below that salary.

**Deputy Brendan Howlin:** Civil servants.

**Deputy Sean Fleming:** It is important that this be said in the House. I want people to know the facts, including Ministers who attack the concept of increments and who are perhaps happy to attack 86% of public servants because they feel they are playing to their own political support base by doing that. However, I do not believe it is fair to pick on 86% of public sector workers in that situation.

I have asked the Minister, Deputy Howlin, to try to refine that figure further. Out of the 2,665 who are on a scale and eligible for increments, the Minister might drill into that figure to see how many of those will actually be entitled to an increment this year or next year. They might be on a scale but not due the increment this year, and we might find it is just 1,000 staff or perhaps 5% of public servants over that pay figure who will actually get an increment this year. I would not support an attack on low paid public servants. It might be helpful to those low paid workers if that figure was drilled into.

**Deputy Brendan Howlin:** I will try to determine that figure and I will also look beyond the Civil Service to get the data, which are lodged in other Departments. I will ask for them.

### **Public Sector Pay**

2. **Deputy Mary Lou McDonald** asked the Minister for Public Expenditure and Reform if he will review senior management pay across the civil and public sector under the provision contained within Section 1.6 of the Croke Park Agreement in advance of the Implementation Body's Third Review of the Agreement. [32716/12]

5. **Deputy Mary Lou McDonald** asked the Minister for Public Expenditure and Reform if he intends to revise pay caps implemented and overseen by his Department. [32717/12]

**Deputy Brendan Howlin:** I propose to take Questions Nos. 2 and 5 together.

I assume the Deputy is referring to section 1.16 of the Croke Park agreement in Question No. 2 which relates to the statutory requirement under the Financial Emergency Measures in the Public Interest Acts of 2009 to review the operation, effectiveness and impact of the Acts on an annual basis before 30 June. The review also takes account of the sustainable savings generated in the implementation of the Croke Park agreement.

The statutory reviews have been completed and the reports on the reviews undertaken this year were recently laid before the Houses of the Oireachtas in the days leading up to 30 June in accordance with the statutory obligation. In the review of the Financial Emergency Measures in the Public Interest (No. 2) Act 2009 which imposed the pay reduction on public servants with effect from 1 January 2010 I concluded there was a need to continue to apply the reductions in

remuneration of public servants, as well as other measures controlling the cost of the public service pay and pensions bill provided for under the Act. Any amendment of pay rates for existing public servants would have to be the subject of separate legislation. I have no plans to review the annual pay caps of €200,000 and €250,000 for the public service and commercial State sector, respectively, which were introduced by the Government in June 2011. Public service pay will, like all other public expenditure matters, be considered in the context of the 2012 budget and the absolute necessity to reduce the fiscal deficit.

The Government has reaffirmed the key commitments in the public service agreement 2010 to 2014 on pay rates and job security for serving public servants. These commitments are contingent on delivery of the necessary flexibility and reforms to public service delivery required under the agreement. The implementation body for the Croke Park agreement is representative of both public service management and staff representatives. Following the recent publication by the implementation body of its second progress report, I will be meeting the body shortly to review the report and emphasising the need for management, staff and their representatives to press ahead with even greater urgency with the delivery of further change under the framework of the agreement.

**Deputy Mary Lou McDonald:** As two of my questions are being taken together, I hope the Leas-Cheann Comhairle will allow me some latitude in my exchanges with the Minister.

**An Leas-Cheann Comhairle:** I will allow for that.

**Deputy Mary Lou McDonald:** I am sorry the Minister did not deal with the questions separately. To deal with Question No. 2 first, I asked the Minister if he would review senior management pay across the Civil Service and the public service. His response was that doing so would require new legislation. Is he prepared to introduce that legislation?

**Deputy Brendan Howlin:** The Deputy has to be clear about what she means. If she is talking about setting new pay scales into the future, it will obviously require legislation. However, it would be a different matter to interfere with existing pay rates because not only would it upset the Croke Park agreement, but it would also involve significant industrial relations issues. If the Deputy is talking about putting a new ceiling on public sector pay, we have introduced a ceiling and substantially reduced pay at the top rate. Two years ago Secretaries General, grade 1, would have been earning €285,000. Their pay is now capped at €200,000, a substantial reduction. No Secretary General is in receipt of a salary above €200,000, even those legally entitled to it. At my request, they subjected themselves to a waiver of the amount in excess of that sum. This should be acknowledged as an important gesture of solidarity by those who were earning a substantial amount in excess of that threshold.

As a socialist or a social democrat, the Deputy would support the notion of a progressive tax regime. The way to deal with high earnings in a progressive way is to have a progressive tax system. Between the universal social charge and levies introduced in recent times, the marginal rate for deductions for anyone in the public service earning over €100,000 is 62.5% which by any international comparator is a significant reduction.

**Deputy Mary Lou McDonald:** To be clear, I am not referring to new or future entrants. I want the Minister to deal with the issue in the here and now. He has stated doing so would require new legislation. I understand why public servants, particularly low and middle income earners, cling to the Croke Park agreement simply because they believe that in its absence there would be a free-for-fall on their earnings. However, it is not defensible for the Croke Park agreement to be used to shield those earning excessive salaries.



**Deputy Brendan Howlin:** What is an excessive salary?

**Deputy Mary Lou McDonald:** We have said time out of number that as the State is insolvent, there will have to be emergency measures and that people need to shoulder the burden. The Minister has asked what is an excessive salary. A sum of €200,000 — the salary cap — is an excessive salary. I have repeatedly told the Minister that, in these times of financial emergency, pay should be capped at the level of €100,000 across the Civil Service and the public sector. I have said this time out of number, but it seems the Minister is not prepared to hear it. Is he prepared to legislate for this and, for once and for all, deal with the issue?

My second question was related to salary caps. The Minister set a number of caps but then went off and broke them. Let me instance the specific case of special advisers.

**Deputy Brendan Howlin:** There is a specific question on this matter.

**Deputy Mary Lou McDonald:** The salary of the special adviser to the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, is above the cap at €127,000.

**Deputy Brendan Howlin:** A Leas-Cheann Comhairle, I am going to deal with these matters specifically and would like time to deal with each of the questions Deputies submitted.

**Deputy Mary Lou McDonald:** The special adviser to the Minister for Social Protection, Deputy Joan Burton, earns €127,796. There are five special advisers to the Taoiseach whose chief of staff earns €168,000.

**Deputy Brendan Howlin:** Does the Deputy have any question, a Leas-Chathaoirligh?

**Deputy Mary Lou McDonald:** I have said this before in the Dáil and I am saying it again.

**An Leas-Cheann Comhairle:** Does the Deputy have a question?

**Deputy Mary Lou McDonald:** The chief adviser to the Tánaiste earns €168,000, while his economic adviser earns €155,000. All of these salaries breach the cap the Minister designed and enunciated. He has to forgive me if my faith in his ability to enforce a cap has been weakened.

**Deputy Brendan Howlin:** A Leas-Chathaoirligh, it is not normal to pre-empt other Members' questions, especially when time is limited. However, I will respond to several of the questions raised by the Deputy. She is of the view that there should be a general salary cap of €100,000 across the public service. That would mean no doctor, researcher, academic or senior administrator would earn over €100,000. The problem is we would not get people of quality into the public sector as the marketplace would pay more than this. On that basis, we would only have a private health system for those who could afford access to it because we would not have people working in the public health service at that pay rate, by and large. That is a simple fact.

The normal way in a progressive society to deal with these matters is not to look at net pay. Most progressive parties do not distinguish between public sector and private sector workers in these matters. A progressive taxation system deals with income, whether one is in the private or the public sector.

**Deputy Mary Lou McDonald:** The Minister should try it himself sometime.

**Deputy Brendan Howlin:** What the Deputy is doing in her constant attacks on the public sector is ensuring there is a thriving private sector; she wants to destroy the basis of public sector provision of key services. I am not going to go down that road. We have a highly progressive taxation system. The marginal rate of taxation, including levies, for those earning

over €100,000 is 62.5%. If we need to go higher, we should look at the matter. I do not believe someone in the public sector earning €100,000 should be treated differently from someone in the private sector earning the same amount. I do not believe a doctor providing health care should be supported in a different way in the private sector or encouraged to enter it in the way the Deputy is suggesting.

The Deputy referred to special advisers to Ministers. I do not want to spend too much time on this issue as there are specific questions on it. I set the pay norms for advisers at principal officer, PO, level.

**Deputy Mary Lou McDonald:** Then the Minister went and broke them.

**Deputy Brendan Howlin:** I made it clear that exceptions could be made in cases where the people recruited specifically could show me that their income in the place from which they had left to join the public service on a temporary contract was greater. The people to whom the Deputy referred have, by and large, taken substantial pay cuts in order to move into the public service. I instanced my own adviser in this regard. I asked the latter to leave a full-time pensionable job and come to work for me for less money, no bonus and no job security. In addition, he lost his pension entitlements.

There is a populism relating to this matter, and we can play along with this. However, the end product will be that serious damage will be done in the context of our ability to encourage people of calibre to move into the public sphere and work in the recovery programme for our country. We must ensure that we have available people of the highest calibre to steer the ship of state at a time when it is in peril. I fully accept that there must be absolute solidarity in respect of these matters. That is why the Government has taken the unique step of introducing pay ceilings and a progressive taxation system. We will continue to refine both of these.

**Deputy Mary Lou McDonald:** I asked two questions.

**An Leas-Cheann Comhairle:** I accept that but we have already spent 12 minutes on these questions. We must have shorter supplementary questions and answers if we are to deal with all the matters Members wish to raise.

**Deputy Mary Lou McDonald:** The Minister referred to consultant doctors and stated that they would flee the system. He should look to the NHS in Britain in order to learn a few lessons in this regard. Consultants in that jurisdiction do not have the luxury of private practice in order to supplement their public incomes.

This business of saying that if we do not pay the big bucks we will not get the right talent is absolute waffle of the highest order.

**An Leas-Cheann Comhairle:** A question, please, Deputy.

**Deputy Mary Lou McDonald:** I will provide the Minister with an instance in which he broke his own pay cap.

**Deputy Brendan Howlin:** These are not questions. The Deputy is making a speech.

**An Leas-Cheann Comhairle:** Will Deputy McDonald please ask a question?

**Deputy Mary Lou McDonald:** Okay. Why was the pay cap breached to secure the services of a special adviser for the Minister for Agriculture, Food and the Marine, particularly in view of the fact that this individual — whose expertise was apparently required — has since vacated the post? We were informed at the time that the big bucks were paid because of the commit-

[Deputy Mary Lou McDonald.]

ment and skill of this individual and in view of the pain and suffering he would be obliged to endure in order to take up the post, but — hey presto — he has since departed.

**Deputy Brendan Howlin:** This goes well beyond the scope of the original question. However, I know the Deputy likes to be current and is always keen to follow up on whatever stories are being focused on in the media.

**Deputy Mary Lou McDonald:** I have been raising this matter with the Minister for over a year.

**Deputy Brendan Howlin:** The adviser to whom Deputy McDonald refers was previously in receipt of an income which was a multiple of what I authorised when he came to work for us. Perhaps that man's departure had something to do with the constant focus on his salary and conditions and the fact that, in the private sphere, he could earn multiples of what we were paying him without having his conditions of employment, his family and everything else focused upon by individuals such as the Deputy opposite.

### Public Sector Staff

3. **Deputy Mattie McGrath** asked the Minister for Public Expenditure and Reform the number of the over 9,000 persons from the public service who have retired over the past six months with high tax-free lump sum payments in many cases and substantial pensions that have been re-hired on contract; if these persons are now being paid on the double by the State, that is, their pension and the salary they are receiving under the new contracts; and if he will make a statement on the matter. [32813/12]

**Deputy Brendan Howlin:** As stated in my reply to Parliamentary Question No. 273 of 19 June last, the general policy with regard to the re-engagement of retired public servants is that staff should not be retained beyond retirement age and that any re-engagement should be kept as limited as possible and should be for a restricted period. Returns from across the public service indicate that approximately 7,900 public servants retired during the first three months of this year. The bulk of these retirements occurred prior to the end of the grace period on 29 February.

In any large organisation situations can arise in which short-term specialist input is required in order to complete a particular task. In many instances the most appropriate and cost-effective way of solving a short-term problem is to bring in someone who has worked in the area, who understands the background and who can do the work immediately.

Returns received by my Department indicate that since the beginning of the year — this is the important point — of the 8,000 who departed the public service, some 474 have been rehired. A total of 319 of these were teachers who were brought back to complete their work with students in examination classes and who are now no longer engaged. This means that just 155 public servants of the 8,000 who retired were re-engaged across all sectors. I understand that more detailed information will be supplied by individual Ministers in respect of their areas of remit.

The Deputy will also be aware that in accordance with the Pensions (Abatement) Act 1965, when an officer who goes on pension is retained in the Civil Service or re-employed within the service in a non-established capacity, his or her pension is, where necessary, abated — that is, reduced. Such pensioners may never earn more than they would have received if they had continued working. Where a person is re-engaged on a fee-paying basis, the abatement is applied to the fee itself. While this Act does not apply to the wider public service, it has been

the norm that similar conditions apply there. Furthermore, I understand that retired civil and public servants are normally only re-engaged by their former, or other, Departments for very short periods, in the main, and for specific functions in respect of which their particular expertise is required. No civil servant who has retired from my Department during the past six months has been taken back onto the payroll.

**Deputy Mattie McGrath:** I do not want to bestow any negative publicity on public servants, regardless of what they earn. However, this is an important and pertinent question. It was tabled by my colleague, Deputy Tom Fleming, who, due to a family bereavement, cannot be present. The Minister indicated that 319 of the public servants who were rehired are teachers. I accept there was a need to rehire these individuals this year but for far too long retired teachers have been brought back to work. This is happening everywhere and young people who have just qualified as teachers cannot obtain employment. This has been the case for far too long. The schools have it down to a fine art and a system has been worked out whereby those who return to work — both teachers and principals — only work a certain number of hours. That is just not good enough.

The Minister stated that the 319 teachers to whom he referred are no longer engaged, and that this means only 155 public servants have been re-engaged across all sectors. I am not questioning his ability — I have great time for the Minister — but I do not know whether the information with which he has been provided is accurate. Is 155 the actual figure? It is easy for staff to return to Departments in which they previously worked. I acknowledge that none have returned to the Minister's Department. Perhaps that is because he is the individual responsible for the pruning.

What did the Minister mean when, in reference to the Pensions (Abatement) Act 1965, he stated that someone who goes on pension and is then retained in or re-employed by the Civil Service cannot be paid any more than the amount of which they were in receipt when they left the service in the first instance? I thank the Minister for his reply but I am of the view that further teasing out is required.

**Deputy Brendan Howlin:** The Deputy is making two different points. I strongly agree with him in respect of one of these. The general principle of rehiring those who have retired on pensions should not be — and is not — supported. Exceptional cases will arise, however. Deputy Mattie McGrath will recall the great concerns that arose in the House prior to the end of the grace period and the fact that Minister for Education and Skills, Deputy Quinn, was obliged to reassure people that the studies of those in examination classes would not be disrupted as a result of teachers availing of the early retirement scheme. An allowance was made in this regard and this explains why the services of the 319 teachers to whom I refer were retained. I do not believe anyone would object to what was done in this instance.

I have asked other Ministers to engage in a vigorous examination with regard to the rehiring of staff. The Minister for Education and Skills and I agree strongly in respect of the Deputy's other point. We may be obliged to take legislative action in respect of people who retire on full pensions and who are then asked to return in order to provide cover when someone goes on maternity leave or whatever. In my judgment, this practice is not acceptable. The Minister for Education and Skills will take steps to deal with this matter. I assure the Deputy that the figures provided are those which are available to me.

**Deputy Mattie McGrath:** What is the position with regard to the pay of those who are on pensions and who are rehired?

**Deputy Brendan Howlin:** If a person retires on a pension — normally this amounts to half-pay — and if he or she is rehired to perform a particular function, his or her pay in respect of that function plus his or her pension cannot exceed the level of his or her pre-retirement pay. People's pensions are reduced in order to ensure that pre-retirement pay levels are not breached.

**Deputy Mattie McGrath:** Is that the case even in respect of those on contract?

**Deputy Brendan Howlin:** As far as I am aware, it applies in all circumstances. Where a person is contracted on a fee-paying basis, it is the fee rather than the pension that is reduced.

### Public Sector Reform

4. **Deputy Sean Fleming** asked the Minister for Public Expenditure and Reform the actions he will take arising from the issues raised across the public service in the recently published report of the Ombudsman; and if he will make a statement on the matter. [32626/12]

**Deputy Brendan Howlin:** As stated by the Ombudsman in her annual report, the ongoing consequences of the economic and financial crisis are reflected in the record number of people who have sought the assistance of her office. The Ombudsman also indicated in her annual report that in the immediate aftermath of the economic downturn, which commenced in 2008, many people were forced to seek State benefits and services for the first time. In that regard, I strongly support the crucial role the Ombudsman plays in ensuring that such changes as the Government decides must be made to the availability of certain services and benefits, in order to restore the long-term stability of our public finances, are implemented in a fair and equitable manner and that any anomalies are highlighted.

The Ombudsman's report stresses the need for public bodies always to explain and clarify the basis for entitlement to particular benefits and services and the functioning of internal complaint mechanisms in public bodies.

While responsibility for these issues in any set of circumstances resides with the individual public body concerned, in terms of my objectives for public service reform, one of the key themes of the public service reform plan published in November 2011 focuses on the needs of the citizen and has the objective of placing the customer or citizen at the core of everything we do.

The measures being undertaken under the reform plan include introducing initiatives to improve the citizen's access to, and interaction with, Government services and promoting better communications with citizens, which should help to ensure the basis or qualification for any entitlement is explained by the relevant public bodies to individual claimants in a straightforward and open manner. I took a petition last week from the National Adult Literacy Association on its campaign for plain English, a point we should take up with regard to forms and imparting information.

In addition, my Department has produced guidelines for customer charters which involve public service organisations consulting customers, setting service standards and measuring and reporting publicly on their performance to ensure the public service provides the best service possible with the resources available.

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

The Deputy may wish to note that I am finalising proposals for the reform of the Ombudsman Act and the extension of the remit of the Ombudsman to all public bodies in line with the commitment in the programme for Government. In this context, I intend to consult the Oireachtas Joint Committee on Investigations, Oversight and Petitions in terms of any legislat-



ive change consistent with the broad thrust of the Ombudsman's existing statutory roles and responsibilities which will help to strengthen the relationship of the Ombudsman with the Oireachtas in ensuring effective oversight of the provision of public services.

**Deputy Sean Fleming:** I compliment the Ombudsman, Ms Emily O'Reilly, on another fine annual report. I will give the Minister the opportunity to comment on the lessons to be learned from the report which is perfect. We support everything in it. Some 3,600 cases were dealt with last year, one third of which originated in the Department of Social Protection, one third in local authorities and one quarter in the HSE. We all agree on the need for the Ombudsman's office. Many of us have helped constituents to make complaints to the Ombudsman and much to our distress we can get satisfaction from a public body if we write a letter to her on behalf of constituents having failed to receive a response as public representatives.

**An Leas-Cheann Comhairle:** Will the Deputy, please, frame a question?

**Deputy Sean Fleming:** Perhaps this question might be more appropriate for the Secretary General or an official in the Department. Perhaps the Secretary General of the Department might bring together the other Secretaries General and the key players identified in the report to deal with the issues highlighted every year. As the chief managers of the public service, they could consider putting a system in place to address these points in order that they will not continue to recur. There is no point in having a list of 20 cases every year and specifically highlighting when the Ombudsman helps people.

Will the Minister consider talking to the Department of Health? A section of the report, on page 15, deals with non-compliance with a recommendation of the Ombudsman. The Department of Health accepted the recommendation that the mobility allowance scheme was not in accordance with the Equal Status Act. The Ombudsman gives details of how it discriminates on the basis of age. The Department stated it would deal with the matter within six months, but it has still not dealt with it. The Ombudsman must include the matter again in the annual report. I ask the Minister to tell public servants who have had findings made against them to either accept the findings made or explain why they do not accept them.

**Deputy Brendan Howlin:** I have no doubt the Deputy will raise this point directly with the Minister for Health who is the proper channel. I agree with much of what the Deputy said. We examined this issue in advance of the drafting of the programme for Government in which we stated it was our intention to establish a new committee — the Oireachtas Joint Committee on Investigations, Oversight and Petitions — to operate as a formal channel for consultation and collaboration between the Oireachtas and the Ombudsman. It has since been established. I discussed the point with the Ombudsman who is enthusiastic about it. The committee can receive the report and cause the relevant departmental officials to be answerable and invite the Ombudsman to provide for that interaction. This should be done, but it is a matter for the committee which I know is seeking additional powers to send for people and papers. I do not want to trespass on the powers of the Oireachtas, but that matter is before the Committee on Procedure and Privileges. The committee has an important role to play which is yet to be fully developed.

**Deputy Mary Lou McDonald:** Because it has not been set up.

**Deputy Brendan Howlin:** It has been set up. Deputy Mary Lou McDonald's colleague, Deputy Peadar Tóibín, is its Chairman.

**Deputy Sean Fleming:** Perhaps the Minister might provide whatever assistance he can. On page 16 of the Ombudsman's report she talks about the Ombudsman (Amendment) Bill 2008.

[Deputy Sean Fleming.]

She says her office is working closely with the Department to progress this important initiative. In the recent annual report, however, there is no mention of the Oireachtas committee. It looks as if it has not yet come across the Ombudsman's radar. If there had been soundings between the committee and the Ombudsman, she would have referred to them. Perhaps the Minister might expedite the process.

**Deputy Brendan Howlin:** It is my intention to introduce legislation to amend the Ombudsman Act. The Deputy is familiar with the Ombudsman (Amendment) Bill 2008 which passed Second Stage in the Seanad. I intend to revise it to include the recommendations made by the Ombudsman. I will refer it to the Joint Committee on Investigations, Oversight and Petitions in order that it can examine it. If the committee needs further powers, I am open to considering the matter. I will communicate with the Chairman of the committee to see how the matter can be advanced.

*Question No. 5 answered with Question No. 2.*

### Other Questions

---

#### Departmental Staff

6. **Deputy Pádraig Mac Lochlainn** asked the Minister for Public Expenditure and Reform if he will provide a list by Government Department of current secretaries general who retain TLAC terms of added years and special severance gratuity payments. [32384/12]

**Deputy Brendan Howlin:** Reform of the TLAC terms was a major priority for me on taking office. As a result, I introduced a significant reform of the Top Level Appointments Committee, TLAC, terms with effect from November 2011. Under the new arrangements, it is part of the contract terms of all future appointees that, when that contract expires, no added years are available on their pension; no pension will be paid before the minimum pension age; an alternative post will be offered where the Secretary General has been recruited from the Civil Service and does not have the requisite 40 years of pensionable service; no severance payment will be made, except where the person is not of minimum pension age or has not been offered an alternative post, and then a severance payment of up to one year's salary applies; and no severance payment will be made if someone is offered an alternative post and refuses. Officials appointed before my reforms and to whom the former TLAC terms continue to apply are Mr. Tom Moran of the Department of Agriculture, Food and the Marine; Mr. Joe Hamill of the Department of Arts, Heritage and the Gaeltacht; Mr. Liam O'Daly of the Office of the Attorney General; Mr. Jim Breslin of the Department of Children and Youth Affairs; Mr. Aidan Dunning of the Department of Communications, Energy and Natural Resources; Mr. Michael Howard of the Department of Defence; Ms Geraldine Tallon of the Department of the Environment, Community and Local Government; Mr. David Cooney of the Department of Foreign Affairs and Trade; Mr. Brian Purcell of the Department of Justice and Equality; Ms Clare McGrath of the Office of Public Works; Ms Josephine Feehily of the Office of the Revenue Commissioners; Mr. Robert Watt of the Department of Public Expenditure and Reform; Mr. Adrian O'Neill of the President's Establishment; Ms Niamh O'Donoghue of the Department of Social Protection; Mr. Martin Fraser of the Department of the Taoiseach; and Mr. Tom O'Mahony of the Department of Transport, Tourism and Sport.

**Deputy Mary Lou McDonald:** This is another issue I have raised consistently with the Minister. One of those entitled to the TLAC terms is the Secretary General of the Department of Public Expenditure and Reform. Perhaps the Minister might clarify when he was appointed and explain the turn of events. I understood he was appointed on the Minister's watch.

I have raised this issue in the past and was not talking about future postholders. The availability of added years and severance payments cannot be justified at any stage but particularly in the current economic climate. I want the Minister to fix this and he would do so if he was serious about public sector reform and ensuring equity. He told me previously that he could not go after these pensions because of their constitutional status and that he could not give retrospective effect to regulations. However, the Bill on public service pensions is being considered and it contains an enabling clause which will allow the Minister to alter pension arrangements and conditions retrospectively. The bottom line is that I want the Minister to fix this issue not for future Secretaries General but for those in place currently, because those pension pots cannot be defended.

**Deputy Brendan Howlin:** I explained this to the Deputy already. I do not know if she was not listening or chooses not to hear. We are not retrospectively changing pension entitlements in the Public Service Pensions (Single Scheme) and Remuneration Bill 2011; we are giving the power to the Minister to change the basis for future pension increases only, not to reduce current entitlements. The Deputy understands that, I know full well, but chooses not to articulate it.

On the question about the Secretary General of my Department, a number of Secretaries General have been appointed in the early years of the Administration since the Government came to power in March 2011. It took us some time to do all that we wanted in the first number of months. It took a number of months to establish my Department because there had to be a huge trawl of legislation. The Deputy will remember that when we introduced the Ministers and Secretaries (Amendment) Act, it took some time to get everything through. By the time we reviewed the situation, took legal advice and drew up the necessary statutory instruments, it was November before the fundamental TLAC terms were changed. That was done with great alacrity. These terms had been in place since 1987. I regarded them as unacceptable and within a matter of months of coming into office and getting the legal authority to do so, I changed them. The new terms apply to all appointments made subsequent to that November date.

**Deputy Mary Lou McDonald:** The Minister is hiding behind advice from the Attorney General on pension rights being vested property rights.

**Deputy Brendan Howlin:** In factual law.

**Deputy Mary Lou McDonald:** I have told the Minister before, even though I know it is not customary, to publish the advice from the Attorney General. It would be useful if he would do so for the purpose of public debate. The enabling clause gives the Minister retrospective powers in respect of people's pension entitlements. I asked a specific question about this and it was disallowed on the basis that the information sought in the question would require the Minister to interpret the law, but he has no problem coming in and giving an interpretation of law in respect of the other questions. If I have jotted down the answer correctly, there are 14 Secretaries General who still qualify for those TLAC terms. I do not believe for a second the Minister has shown any willingness to deal with that issue. He kicked the can down the road in respect of future appointments, but it is hugely important that he deals with this matter. If he is so convinced by the Attorney General's advice and has a pain in his neck from me raising this every week, he should publish the advice and let us see it.

**Deputy Brendan Howlin:** The Deputy would never give me a pain in the neck.

**Deputy Mary Lou McDonald:** I am so relieved.

**Deputy Brendan Howlin:** That is not the part of the anatomy that is affected at all.

The Deputy does her usual thing about my unwillingness to deal with the issues. I have dealt with the issue.

**Deputy Mary Lou McDonald:** The Minister has not dealt with the issue.

**Deputy Brendan Howlin:** I did it within a number of months of being appointed. Whatever it was, it was not quick enough for the Deputy. A number of Secretaries General have been appointed subsequent to the change, for whom the new conditions apply: the new Secretary General at the Department of Education and Skills, Mr. Seán Ó Foghlú, the new Secretary General at the Department of Jobs, Enterprise and Innovation, Mr. Murphy, the new Secretary General at the Department of Finance, Mr. John Moran, the new Secretary General at the Department of Health, Mr. Ambrose McLoughlin, and the new Director of the Central Statistics Office, Mr. Pádraig Dalton. That will augment and the new terms will apply more and more. The term of employment of Secretaries General is only seven years and the new terms will apply for ever more. It was done within a matter of months but it had not been done in the 20 years previously. I do not expect any acknowledgment of that by the Deputy opposite.

#### **Semi-State Sector Remuneration**

7. **Deputy John Browne** asked the Minister for Public Expenditure and Reform his views on the breach of the €200,000 salary cap in respect of the appointment of the new chief executive of the VHI; and if he will make a statement on the matter. [32467/12]

14. **Deputy John Halligan** asked the Minister for Public Expenditure and Reform the reason the pay level set by the Government in respect of the starting salary for the chief executive of a commercial State company was breached for in the incoming chief executive of the VHI; and if he will make a statement on the matter. [32497/12]

17. **Deputy Richard Boyd Barrett** asked the Minister for Public Expenditure and Reform the reason the pay level set in 2011 for the starting salary for the chief executive of a commercial State company was breached for in the incoming chief executive of the VHI; and if he will make a statement on the matter. [32449/12]

**Deputy Brendan Howlin:** I propose to take Questions Nos. 7, 14 and 17 together.

Since taking office, the Government has significantly reduced the salary rates paid to the chief executive officers of commercial State companies. These measures on salaries have included the introduction of a general pay ceiling of €250,000 per annum in the case of all newly appointed CEOs in commercial State companies, along with reductions to similar appointees in each state company with salary maxima below the ceiling of €250,000 per annum. This has had the effect of reducing the salary levels of all newly appointed CEOs in a proportionate manner while maintaining the established weightings of the commercial State companies.

Provision exists for a CEO appointee to be placed above the base salary applying to the particular post concerned subject to the submission of a business case to me by the relevant organisation. Such a business case was made to me in respect of the chief executive officer of the VHI, which, on consideration, I was prepared to accept. The newly appointed CEO was accordingly assigned a salary above the base salary of €191,014 per annum but below the general pay ceiling of €250,000 per annum applying in the commercial State company sector. There has therefore been no breach of the general salary ceiling applying in this sector in respect of the CEO of the VHI.

**Deputy Sean Fleming:** I thank the Minister for that information. The gentleman appointed is receiving a salary of €238,727 per annum. Many people felt the general pay scale ceiling was about €200,000, with a small number of chief executives getting more than that. I can think of more than 200 staff currently employed in various bodies, including the NTMA and the Central Bank, along with academic medical consultants, university heads, academics and the chief executives of Coillte, Bord Gáis, Bord na Móna, EirGrid, the VHI, the HSE, the NRA, the ESB, An Post, RTE and Dublin Airport Authority, who are on more than €200,000.

**Deputy Brendan Howlin:** The salary cap is €250,000.

**Deputy Sean Fleming:** Five or six of them, including the chief executives of An Post, CIE, RTE and Dublin Airport Authority, earn more than the cap of €250,000. The Minister is allowing the cap to be breached, but it was the Minister who made an issue of the caps and decided to introduce them in the first place. When he introduces a cap, he should stick to it. Every Sunday the papers contain reports of the cap being breached, often with the personal approval of the Minister. That undermines the principle. I do not want to attack individuals — I will not even mention anyone by name — but the Minister made a rod for his own back by saying he was introducing a cap and then allowing it to be breached. Had he not done that, we would not be having these questions.

**Deputy Brendan Howlin:** The Deputy has misunderstood. The cap for the commercial semi-state sector is €250,000. I have appointed no one above that except the ESB chief executive, and I explained that to the House. We had to offer a multiple of that to get someone to run ESB.

I am anxious to significantly reduce top-level pay and I must do it in a structured way. We looked at the Hay rates and reduced them proportionately to maintain the differential between the different State companies. Without disrespect to Bord na gCon, the chief executive of Bord na gCon is not being paid the same as the chief executive of Bord Gáis Éireann or the ESB because their responsibilities are different. However, the Hay rate was not a fixed point; there was flexibility. I have always said that if a business case is made to me in an individual case and it is in the public interest for a company facing significant challenges to get the right person, I will adhere to that. We must have a debate on the issue. It amuses me when I read one newspaper in particular that pays fantastic sums to its chief executive commenting on the pay of people who are running extraordinarily complicated companies within the State sector. We saw one departing chief executive of a newspaper recently getting an enormous sum of money and regarding that as acceptable and yet being able to comment on salaries in the State sector.

**An Leas-Cheann Comhairle:** Thank you, Minister.

**Deputy Brendan Howlin:** I wish to make a final point on the matter. I will give some detail if the Deputy wishes by way of a further supplementary question of the reasoning in this particular instance why I thought a compelling case was made.

**Deputy Richard Boyd Barrett:** I agree with the Minister on the last point — the nauseating hypocrisy of Independent Newspapers. I do not mind naming it. The company was previously owned by one tax exile and is now owned by another tax exile and is paying executives obscene amounts of money and then attacking other people who are earning far less. That is sickening in the extreme.

The context for most people for this question is the tens of thousands of people who have lost their jobs, cannot make mortgage repayments and are affected by cuts in social welfare allowances and child benefit. They are literally nailed to the wall and they wonder from week to week whether they can make it through the month. Then they find that the new chief executive of the VHI is not satisfied with earning five times the average industrial wage but that in order to take up the



[Deputy Richard Boyd Barrett.]

job he must earn six times the average industrial wage. That is nauseating also for people because they simply do not understand it.

One must wonder what sort of abilities, talent or business case anyone can make in stating that €191,000 a year is not enough but that they must have €238,000. It is pretty sickening. Are we openly advertising those posts and asking if anyone is out there who could do the job who is willing to work for the limit we have set? I do not think it can be justified for someone to insist on getting approximately €50,000 more than what is already an extremely generous salary by anyone's standards.

**Deputy Brendan Howlin:** The Deputy will be surprised to hear that I do not disagree with much of what he said. Ministers work for considerably less than the original threshold, as opposed to the extended rate. A business case was made for a company that has real challenges. We need the right person to drive it and it is important for the health service to have a functioning VHI that does the business well as we migrate into universal health insurance. I accepted the business case for it but there are high salaries not only in the public sector but most certainly in the private sector. In the banking sector, particularly abroad, we have seen unimaginable salaries being demanded and paid. The former CEO of the VHI was paid €312,000.

**Deputy Richard Boyd Barrett:** It was €411,000.

**Deputy Brendan Howlin:** The basic salary was €312,000. Deputy Boyd Barrett is talking about the final salary with add-ons and bonuses, which I suppose I should add in to be accurate in the total quantum of money. As the Deputy is aware, we are not paying bonuses to anyone in the State sector now. This is a work in progress. We are making decisions. We must have a debate about it. I am under pressure regularly from State companies who identify people, often working abroad for multiples of what we offer, who could add value and drive a State company. We must decide whether we want such persons or if we want to employ those who will work for the pay grade. Unfortunately, that is the international market in which we compete.

**An Leas-Cheann Comhairle:** Thank you, Minister.

**Deputy Brendan Howlin:** It is a worthy issue for debate. Perhaps we will have an opportunity to debate it in the Oireachtas Joint Committee on Finance, Public Expenditure and Reform.

**An Leas-Cheann Comhairle:** I call Deputies Fleming, Boyd Barrett and Wallace in that order.

**Deputy Sean Fleming:** I will pass.

**Deputy Richard Boyd Barrett:** I am pleased that the Minister has acknowledged the injustice people feel at this decision, and how it is inexplicable to most people that someone would demand a €50,000 increase above and beyond €191,000 for doing the job. What does not satisfy me about the Minister's response is why we have allowed it. I do not see what special abilities or talents can justify the decision or that there was no one else who could have done the job that this person will do for the VHI for €191,000.

Given that the person's name is O'Dwyer, they must be Irish — perhaps I should not say that — but they do not seem to be showing a hell of a lot of patriotism given what everyone else is going through, that they cannot operate on a very generous cap of €191,000. What case did they make and could we not have got other people?

**An Leas-Cheann Comhairle:** I call Deputy Wallace.

**Deputy Brendan Howlin:** Deputy Wallace should be careful in talking about salary levels.

**Deputy Mick Wallace:** I can explain that much better than the Minister knows only I have not done so yet.

**Deputy Brendan Howlin:** I have every confidence in Deputy Wallace.

**Deputy Mick Wallace:** I thank the Minister. I am well aware that three quarters of public servants in this country earn less than €60,000. I do not agree with people bashing the pay of public servants on low and middle incomes. That is outrageous. Like the previous speaker I believe that in the current climate, given how difficult it is for those in the most difficult circumstances that there must be more burden sharing by those earning in the region of €200,000. It is difficult to justify those salaries.

The Minister made the point that it is unlikely that anyone would go from the private sector into the public sector and get an increase in pay. For his information, I know some people who worked in banking and real estate and when they moved to NAMA they got an increase in salary. That is not very impressive. There has not been much accountability or transparency in how NAMA has done its business in that regard. I do not know how much control the Minister has over it but it leaves much to be desired. In the current climate and given all the cuts endured by people who are hurt most by the austerity to give this individual more than €200,000 is not good enough.

**Deputy Brendan Howlin:** I do not wish to focus on any individual. I wish to speak about the general principle, namely, that we must have moderation at a time of great difficulty for a huge swathe of the population. That applies to all of us. I do not wish to make any comment about Deputy Wallace but all of us must be mindful of how our actions are perceived. I am conscious of that when I make decisions on pay rates. It is a constant battle in terms of deciding whether it is an appropriate thing to do and whether it will solve the challenges of any organisation of State. I can list the challenges facing the VHI currently. They are probably the most daunting set of challenges the company has ever faced. One must ask whether we will get someone of ability to drive through the challenges. I must take cognisance of whether the person is right and the pay rate is appropriate. That is a judgment.

I have decided not to sanction pay rates in the past that probably ensured that we did not get people who would have applied for the job had the pay rate been higher. We are in an international market and companies in the commercial semi-State sector are supposed to have a commercial mandate. I am a supporter of the commercial semi-State sector. The alternative would be to move away from commercial semi-State companies, let everything be in the private sector and then the market would determine pay rates. That is not good. As I stated in a previous reply to Deputy McDonald, the way to deal with high pay is not to look at salaries exclusively in the public sector or the private sector but to consider having a progressive taxation system so that wherever one gets one's money, whether it is from dividend payments, playing the markets, being a chief executive of a State company or wherever else, one is taxed at an appropriate rate in a time of difficulty.

#### **Oireachtas Members' Salaries**

8. **Deputy Brian Stanley** asked the Minister for Public Expenditure and Reform the annual saving to the public sector pay bill if all TDs salaries were capped at €75,000 and Senators salaries at €60,000. [32374/12]

**Deputy Brendan Howlin:** The gross annual salaries applicable to Deputies and Senators were reduced, as were salary rates for public servants, under the Financial Emergency Measures in the

[Deputy Brendan Howlin.]

Public Interest (No. 2) Act 2009. The gross annual salaries for a Deputy and a Senator amount to €92,672 and €65,621, respectively. When account is taken of the application of the pension related deduction, PRD, the net rates applied are €84,991 for Deputies and €60,781 for Senators. These amounts are subject to the normal taxes and social insurance deductions.

To impose a cap at the limits proposed by Deputy Stanley, a Deputy's salary would be reduced by €17,682 to a gross annual salary of €75,000, or €69,175 net of the PRD, and a Senator's salary would be reduced by €5,621 to €60,000, or €55,750 net of PRD. It could potentially yield an annual gross saving of €3.2 million, although this figure ignores any individual arrangement whereby salary or portion thereof may be waived.

**Deputy Mary Lou McDonald:** I thank the Minister, although he did not need to go through all of that preamble, given the fact that we are aware of the Financial Emergency Measures in the Public Interest, FEMPI, Acts and so on. Is it not a good idea to save €3.2 million? It is a cut and would have implications for people, myself included, but why can we not do it? It would not solve our problems, but doing this would provide leadership and give meaning to the rhetoric of “sharing the pain” and “sharing the burden”. We should do this.

**Deputy Brendan Howlin:** The Deputy mentioned rhetoric. The current salary scales for Deputies and Senators are linked to the principal officer grade in the public service and are fair. There is a provision for a waiver. If the Deputy believes that her salary is too high, I will arrange for a waiver form to be submitted to her. It would save the State a certain amount.

**Deputy Mary Lou McDonald:** The Minister gives that answer to Deputies when we raise this matter, but he is missing the point, which is that Members of the Oireachtas should collectively take a pay cut.

**Deputy Brendan Howlin:** We have.

**Deputy Mary Lou McDonald:** I know what we have done. Please do not rehearse the history. I am speaking about the present and the future. Notwithstanding everything that has occurred to date, there will be another tough budget in December.

**Deputy Brendan Howlin:** Yes.

**Deputy Mary Lou McDonald:** The Minister will recant all of the cuts and savings — he will term them “adjustments” — that will have consequences for people who are eking out an existence. As elected representatives, public officials and leaders in our society, we should take a collective pay cut. The saving might be modest, but the effect of showing leadership would be significant. Bar a smart answer, I have never heard the Minister explain why it cannot be done. It is a good idea and we could have a new FEMPI Bill to give effect to it.

**Deputy Brendan Howlin:** There are legislative difficulties with isolating any group of people. We could probably reach a collective view in the Houses about volunteering for the cut without people running down to the courts to take a constitutional case on having their group isolated for a pay cut. Populism is a factor, as the Deputy understands, and she would have something to say about any salary scale. For whatever reason, in the public's mind Deputies are overpaid. We have taken significant reductions. We should not isolate any group, although doing so would be popular and the Deputy loves to court popularity. My general thesis—

**Deputy Mary Lou McDonald:** The Government isolated a group in terms of judicial pay.

**Deputy Brendan Howlin:** No. The Judiciary was not isolated. It is very important that the Deputy understand. The same pay cut that applied proportionately to every member of the public service could not be applied to the Judiciary until——

**Deputy Mary Lou McDonald:** The Government brought judges into the fold.

**Deputy Brendan Howlin:** ——we held a referendum to allow for it. The only basis for the referendum's constitutionality was that judges would be treated exactly the same as everyone else. This is an important point.

As the Deputy is anxious to give a signal, I will ensure she can give one by waiving her own salary to whatever level she likes. I will arrange for her to have that opportunity.

**An Leas-Cheann Comhairle:** I have received requests from Deputies Clare Daly and O'Donovan. We are nearly out of time.

**Deputy Clare Daly:** The worst excuse I have ever heard is that the measure might be popular, by which the Minister means it would be welcomed by the majority of citizens because Deputies are overpaid. Our wages are in excess of the pay received by the majority of the working population.

**Deputy Brendan Howlin:** Not to mention expenses.

**Deputy Clare Daly:** I will get to that point. It is my main question.

**An Leas-Cheann Comhairle:** A question, please.

**Deputy Clare Daly:** The Government has the ability to reduce our pay. The issue of expenses is in the public domain, which I welcome.

**Deputy Brendan Howlin:** I am sure that the Deputy does.

**Deputy Clare Daly:** In light of the statement by the Houses of the Oireachtas that Deputies' travel expenses can only be incurred in their constituencies, how can an unvouched allowance of €1,000 per Dublin Deputy be supported? Is the Minister reviewing this situation? Is he reviewing the fact that political parties receive €1 million aside from the party leader's allowance that leaders use to travel around the country and develop their parties? I assume that this is another saving he is examining.

**Deputy Patrick O'Donovan:** Following on from the previous question, when will the Minister introduce proposals on amending the party leader's allowance? My understanding is that, since the foundation of the State, the allowance was given to political parties to cover the cost of running those parties. It metamorphosed into a payment for keeping people on side so that they might prop up a Government. An unvouched amount of €43,000, or a gross of nearly €85,000, is being paid to people every year to attend the Dáil as Independents. An Independent Deputy from down the country who is in receipt of the leader's allowance and chairs an Oireachtas committee might be grossing as much as €270,000. This is a serious issue and a proposal is long overdue. Many Deputies did not even realise that Independent Senators also received a leader's allowance. The allowance should revert to its original purpose, that is, a leader's allowance rather than an Independent's allowance.

**An Leas-Cheann Comhairle:** I will allow Deputy Wallace to ask a brief question, as we are nearly out of time.

**Deputy Mick Wallace:** In reply to the last Deputy, Fine Gael receives €4.5 million——

**Deputy Brendan Howlin:** No, I give the replies.

**An Leas-Cheann Comhairle:** We only want a question.

**Deputy Mick Wallace:** I apologise. The Minister stated he was in favour of a progressive tax to deal with high wages. That was a fair point.

**Deputy Brendan Howlin:** People should pay their taxes.

**Deputy Mick Wallace:** The figure of 62% is difficult to believe. I will check it. The Minister might be right, but it seems high to be the real tax rate for someone in the €200,000 bracket. One of the few promises the Government has kept is that it has not touched income tax. Perhaps it should consider breaking that promise and increase the tax rate for higher earners.

**Deputy Brendan Howlin:** A number of questions were asked and I hope the Leas-Cheann Comhairle will allow me to answer them. Deputy Clare Daly never ceases to astound me. She has the brass neck to enter the Chamber in the teeth of a storm and when she is claiming expenses hand over fist——

**Deputy Clare Daly:** They are substantially less than the Minister's.

**Deputy Patrick O'Donovan:** He covers the country.

**Deputy Brendan Howlin:** It is almost like accusing the police for the crime. It beggars belief, but nothing surprises me about the Deputy.

**Deputy Clare Daly:** Just answer the question.

**Deputy Brendan Howlin:** I will answer it directly if the Deputy stops berating.

**Deputy Clare Daly:** Good man.

**Deputy Brendan Howlin:** The Deputy is right to be very sensitive on this matter, as she has a brass neck and has been found out. I am reviewing all allowances, including the leader's allowance, because we need solidarity and fairness in these matters. We will table the proposals in the context of the changes to be implemented through the budget. I hope people will apply carefully. Even where allowances exist, they do not need to be claimed. Be it an allowance for toner or something else, Members do not need to ratchet it up to the maximum.

Regarding the specific question asked by my colleague, Deputy Wallace, the maximum tax rate is 41%, the universal social charge on earnings of more than €100,000 is 10%, PRSI is 4% and the pension levy is 7%, which amounts to 62%.

### **Economic Policy**

9. **Deputy Clare Daly** asked the Minister for Public Expenditure and Reform his views on the conclusions of the Nevin Economic Research Institute's Quarterly Economic Observer Summer 2012 report that cutting public expenditure and other austerity measures result only in a much reduced public service and do nothing to promote economic growth; and if he will act on the Institute's advice and do no further harm. [32439/12]

**Deputy Brendan Howlin:** The Government's budgetary strategy is not one of austerity. On the contrary, we are borrowing significant sums of money to sustain the State and to protect the living standards of its citizens. We have extended the time available to the State to reach its 3% deficit



target from that originally agreed with the troika. That means we are still borrowing 3% of GDP and not paying our way even then.

I remind the Deputy that the State's day-to-day spending is currently financed through borrowing from the troika which is based on firm conditions relating to the public finances. These conditions are rigorously overseen and the troika team is in my Department and the Department of Finance right now. We are committed to achieving a deficit target of 7.5% next year.

The Government is aware of the concerns expressed in the Nevin report and has made clear its commitment to focus our limited resources on measures that offer the greatest potential for expansion and employment creation in the domestic economy. This approach was evident both in the jobs initiative launched last year and the jobs action plan launched earlier this year. I will bring forward promised proposals for a further stimulus in the coming weeks.

**Deputy Clare Daly:** I understand the Minister's sensitivity as the employment creation process over which the Government has stood led to a youth unemployment rate of 27.5% in April and an overall unemployment rate of 15%. The Nevin Economic Research Institute has indicated firmly that the policies being pursued of consistent cutbacks have succeeded in bringing about a cumulative decline of 26% in domestic demand in recent years. Cutting our way out of the crisis is not an option and the institute has produced very firm evidence in that regard. For example, it indicates a cut of €1 billion in capital spending lowers GDP by between 0.1% and 0.3%, although that may be an underestimation. A cut of €1 billion in public sector wages lowers GDP by a further 0.2% to 0.3%. Where are the measures, as recommended by the Nevin Economic Research Institute, for strategic priority investment in infrastructural programmes? There should be no further cuts in the overall level of discretionary capital and current expenditure. The Government is doing the opposite of what was recommended by the institute and the results will be the same, continuing decline in the domestic economy and hardship for citizens.

**Deputy Brendan Howlin:** The Deputy will misfortune on us because she thrives in that milieu. I will be clear: the basic economics are simple; we cannot spend more than we take in. We were doing this hand over fist. This year we are borrowing 8.6% of GDP to meet day-to-day expenses. Approximately one quarter goes towards bank debt repayment, but three quarters goes on paying gardaí, nurses and so on. The only people who will lend us money at affordable rates are the troika which has set out the conditions we must work towards in balancing the budget over time. If we do as the Deputy suggests and stop trying to balance the budget, we will immediately have to fill the gap because nobody will lend us the money. Instead of enduring cuts, there would be savagery, as we would only be able to pay for what we could from current income. That would be catastrophic for the people whom the Deputy pretends to represent. In her heart, she knows this.

**Deputy Clare Daly:** We can get money elsewhere.

**Deputy Brendan Howlin:** Where would we get it?

**Deputy Clare Daly:** The Nevin institute which is made up of economists recommends the Government could start by closing off tax breaks and reliefs, with a graduated and incremental increase in the average target tax take for high income households, with the aim of reducing the budget deficit to below 3% of GDP by 2017.

**Deputy Brendan Howlin:** What are the targets?

**Deputy Clare Daly:** The Government could take a leaf from the book of Social Justice Ireland which has indicated that if we dealt with our taxation rates and had them at the EU average, the

[Deputy Clare Daly.]

Government could raise another €6.5 billion. Instead, it has chosen to go after ordinary households through cutbacks in welfare and other general tax hikes.

**Deputy Brendan Howlin:** I am not sure if there was a question asked, but there was a rant without giving data. The Deputy may talk about a wealth tax——

**Deputy Clare Daly:** I did not mention a wealth tax.

**Deputy Brendan Howlin:** ——a progressive tax system or something else. I will cost any proposal given to me, as I did last year. This means people cannot throw out the line that there are billions of euro available here and there.

**Deputy Mary Lou McDonald:** The Department refused to cost a wealth tax proposal last year.

**Deputy Brendan Howlin:** A notion is peddled by some that there is a soft option and a rich cohort of people and that if we could only get to them, all our woes would be over. That is to peddle a falsehood.

**Deputy Mary Lou McDonald:** That is not what the Deputy said.

**Deputy Brendan Howlin:** It is for party political reasons that such a falsehood is peddled.

**Deputy Clare Daly:** I have quoted a reputable source.

**Deputy Brendan Howlin:** I will certainly look at any suggestion from the Nevin institute or proposal from any quarter that——

**Deputy Mary Lou McDonald:** The Department did not cost our suggestions last year.

**Deputy Brendan Howlin:** I am giving the Deputies an open invitation. I will have any suggestion they present for taxation measures costed to see if it would have an impact in order that we can have as fair and balanced a journey as possible. We will have a difficult time balancing the income of the State to maintain decent levels of social provision.

**Deputy Clare Daly:** My question was related to something else. The Minister did not answer it.

*Written Answers follow Adjournment.*

### Topical Issue Debate

---

#### School Transport

**Deputy Brendan Smith:** I appreciate the opportunity to raise this important issue. The changes to the post-primary school transport scheme due to take effect in September stem from the ending of the catchment boundary system and the new requirement of attendance at a student's nearest school. I understand the changes stem from the value for money review carried out of school transport which was initiated following a substantial increase in the cost of school transport. This new requirement of attendance at a student's nearest school must be reviewed and changed.

Any change to the school transport system can cause serious difficulties in a particular area and have an impact on many families. I have an example in my county. Students at second level from Kingscourt, County Cavan have traditionally attended schools in either Carrickmacross,

Balieborough or Nobber. That pattern of attendance has been established between the three post-primary centres. Last week a large number of parents in Kingscourt received their first communication from Bus Éireann stating their children would not be eligible for transport to a certain school. The correspondence I saw referred to children enrolled in Carrickmacross. In the case of some families, older siblings have attended school in Carrickmacross and a younger sibling is due to attend for the first time in September. The student has been enrolled and the parents have purchased the uniform and books. Such parents have now received a communication from Bus Éireann stating the nearest school is Nobber, County Meath and that transport will only be provided to Carrickmacross on a concessionary basis if a seat is available on the bus. There are substantial costs involved for families, whether they have a medical card.

The Minister of State, the Leas-Cheann Comhairle and I represent rural constituencies and are very cognisant of the difficulties when changes are made to school transport systems. Where a pattern of attendance has been established over a period of years, the nearest school requirement should not be given effect. The Minister of State is aware of the school transport system which operates in his constituency and I ask him to ensure the Department review this issue as a matter of urgency.

**Deputy Michael Lowry:** I also have serious concerns about the impact of the changes to the post-primary school transport scheme. Schools in rural areas or smaller towns in County Tipperary such as Borrisoleigh, Templemore, Killenaule, Ballingarry and others are concerned that the changes will drastically affect their viability, as they will radically limit the number of children who can avail of subsidised transport. This is pertinent, given the severe financial pressure to which many families are subject. The difference between paying for a bus service and securing subsidised transport may be large enough to swing the decision to enrol a child in one school over another. As a result of this revised transport scheme, parents are faced with an impossible situation whereby they may already have children enrolled in a secondary school but have now discovered that younger children who wish to enroll in that school will not be entitled to subsidised transport. In these difficult times, the burden of paying €350 for school transport is often too much to bear and a parent must consider the possibility of sending a child to a different school from the school attended by his siblings. Separating family members is clearly not desirable and will only result in families being placed under additional pressure with different pick-up points and collection times.

I have several specific concerns with the operation of the scheme. Several discrepancies in County Tipperary have been brought to my attention. Specifically I have been contacted regarding bus routes to secondary schools that serve more than one school. Several schools in my constituency are facing a situation whereby numerous pupils have been informed that they are not entitled to subsidised transport to a given school because there is another school closer to the child's home. This is despite the fact that the school bus serves the school and that, geographically, it is further from the child's house when the bus travels on to a second school which is closer to the child's home. Essentially, this means pupils will be subsidised for a longer journey and will not be subsidised to the closest school according to the bus route although there are places on the bus and that bus passes the school of their choice. This is a particular issue in the Killenaule area. This is an illogical decision and it has angered many families. I have been contacted by parents who have been informed that their child only qualifies for subsidised transport to the second school as it is the closest school having regard to a walking route. The walking route referred to in this instance is 10 km long through boreens not fit for vehicles. The decisions to refuse someone on these grounds is devoid of common sense.

I would appreciate if the Minister could provide clarification on what is deemed to be an appropriate school. I have spoken to several parents who, having made an application, were

[Deputy Michael Lowry.]

refused subsidised transport for a chosen school based solely on the grounds of distance. I call on the Minister of State to provide clarification on whether a child is entitled to subsidised transport to travel marginally further to a school that matches the ethos and beliefs of the family. Will the Minister of State provide information on exactly how the closest appropriate school is decided? I call on the Minister to ensure that any application decided solely on the basis of distance grounds should be reviewed along with the issue of buses serving several schools.

**Minister of State at the Department of Education and Skills (Deputy Sean Sherlock):** I thank the Deputies for raising this matter. School transport is a significant operation managed by Bus Éireann on the Department's behalf and more than 82 million km are covered annually. In the region of 113,000 children, including more than 8,000 children with special needs, are transported in approximately 4,000 vehicles on a daily basis to primary and post-primary schools throughout the country.

The current system for determining eligibility for school transport at post-primary level has been in place for more than 40 years. When the Government announced the introduction of free post-primary education in 1966, the country was divided for planning purposes into geographic districts, also referred to as catchment areas. Each area had several primary schools feeding into a post-primary centre with one or more post-primary schools. Post-primary pupils are eligible for transport if they reside 4.8 km or more from their local post-primary education centre, that is, the centre serving the catchment area in which they live. The definition of school transport catchment boundaries has been the cause of many submissions and representations to the Department over the years. It is widely considered by many that the current catchment boundary areas do not reflect changed demographics. Changes in the post-primary school transport scheme were announced in the 2011 budget. This was passed in December 2010 under a different mandate.

One of the changes to take effect from the commencement of the 2012-13 school year means that the use of the catchment area system as a means of determining eligibility will cease for all pupils newly entering a post-primary school. From this date, school transport eligibility for all new pupils entering a post-primary school will be determined by reference to the distance they reside from their nearest post-primary education centre, having regard to ethos and language. This will be applied equitably on a national basis. In general, eligible pupils, who are currently availing of school transport and who meet the distance criterion of 4.8 km, will retain their eligibility for the duration of their post-primary education, provided there is no change in their current circumstances. Pupils who are not eligible for school transport may apply for transport on a concessionary basis subject to a number of conditions which are detailed in the scheme. The general approach of the Department in respect of the planning of school infrastructure is to plan on the basis of attendance of pupils at their nearest primary schools and that those primary schools then feed into attendance at the nearest post-primary schools or the nearest post-primary centre generally. The changes announced in post-primary school transport services are in line with this approach and will result in a more efficient and cost-effective system.

**Deputy Brendan Smith:** I thank the Minister of State for his reply. However, it is not a more cost effective scheme for many parents who must share substantial additional costs. In the reply to a parliamentary question the Department was only able to estimate the proposed savings from the introduction of this measure. Therefore, there must only be minimal savings. The implementation of this new regulation will impose undue hardship on many families. We will see ridiculous situations such as older siblings attending one school in a post-primary centre

and their younger siblings attending a different post-primary centre. Some pupils have been enrolled in certain schools already and parents have bought uniforms and books. These children are ready to start in their new school next September. I believe that the new regulation will be inoperable in some cases where there has been a pattern of attendance at particular post-primary centres established over the years.

I appeal to the Minister of State and the Department to review this issue because it will not bring about substantial savings. In many cases the scheme will be inoperable and there is a need for flexibility to provide an important school transport service especially for rural Ireland. The Department should consider localising the provision of school transport. Over the years the introduction of the devolved building grants scheme has been successful. More has been achieved with less expenditure. The same could be achieved in the provision of school transport. I call on the Minister to ask his officials to take an urgent look at this case.

I call on the Minister of State to discuss another matter with the building unit in the Department. We are awaiting the provision of a new second level school in Kingscourt. The provision of the new school was approved in March 2009. Much preparatory work has been done with regard to design and a site has been purchased.

**An Leas-Cheann Comhairle:** That is a separate Topical Issue.

**Deputy Brendan Smith:** The patronage issue has been resolved. I call on the Minister of State to ensure that building project is advanced. If that were the case I would not have transport problems to bring to his attention involving where children go to post-primary centres.

**An Leas-Cheann Comhairle:** I was wondering where that was going. Deputy Lowry has one minute to speak on the issue of schools transport only.

**Deputy Michael Lowry:** The difficulty with the new scheme as it has been put in place is that the people who make the decisions about the routes have no geographical knowledge whatsoever. These decisions are made by bureaucrats. If one knew the areas concerned one would realise that the decisions are ridiculous. There are considerable anomalies in this scheme. I have no doubt that school principals will be angry and aggrieved because they will lose students as a result of this revised system. Parents will be frustrated and angry because they will have to pay €350. Students will be annoyed in many cases because they will be unable to attend the schools that their siblings attend. The problem with the scheme is that it is too rigid and there is no flexibility with the decision-making structure. I call on the Minister of State to take local knowledge into account and to allow for some of the decision making processes to take place locally and to involve the local transport authorities in the areas.

**Deputy Sean Sherlock:** Deputy Smith takes an innovative view of how the Topical Issues debate should be utilised in respect of lobbying for the new school.

**Deputy Brendan Smith:** I am trying to resolve a transport issue in doing so.

**Deputy Sean Sherlock:** That is a lateral and imaginative view. I respectfully suggest that the Deputy should table a parliamentary question or discuss the issue with the Minister, Deputy Ruairí Quinn. It has been noted on the record of the House. There may be individual vagaries relating to counties Tipperary and Cavan. The Minister of State, Deputy Ciarán Cannon, has specific responsibility for this area. He is not averse to hearing the individual views of the Deputies in respect of the vagaries of the system as they work out in the two constituencies.



However, we must emphasise that, to allow parents ample time to consider the school options, a 20-month gap was allowed between the announcement of this measure and the time when parents needed to apply for school transport. Children who wish to attend the same school as their older siblings but who are not eligible for school transport to the school may apply for transport to the school on a concessionary basis in accordance with the terms of the scheme. These changes were posted on the Department's website in October 2011 and the updated scheme was made available on 1 February 2012. The Department contacted post-primary schools directly on two occasions in addition to the relevant education partners formally advising them of the changes.

With regard to the impact of the changes, the Deputy may be aware that, as part of the value for money review, an examination was conducted of selections of school transport catchment boundaries which tested the application of an arrangement where the transport is available to the nearest post-primary centre. This concluded that 82% of the pupils are attending their nearest post-primary school.

In general, existing eligible children will retain their eligibility for the remainder of their post-primary education provided their circumstances do not change. The revised eligibility criteria are confined to those families who have children newly entering post-primary school. This change in eligibility is being applied equitably on a national basis and, in some cases, pupils in the same area or family may be eligible for transport to different schools during the transitional period of five years. In these cases, transport and the concessionary basis may be an option.

### **Industrial Relations**

**Deputy John Lyons:** I thank the Minister of State, Deputy Sean Sherlock, for attending. I wish to bring to his attention the issue of the takeover of The Fáilte Bar in Dublin Airport earlier this year and the impact on the ten former members of staff. I am very conscious that this is an ongoing issue and is somewhat sensitive. There are already proceedings under way with the Labour Relations Commission. Therefore, I wish to focus on the role of the Dublin Airport Authority in this matter. I am mainly concerned for the workers, many of whom I have met and live in my constituency. There is also a bigger issue, namely, the Dublin Airport Authority's involvement in contracts in the airport.

The Minister of State may be aware that the operation of the bar was taken over earlier this year by a company called SSP and that it subsequently closed. The bar then reopened under a new name, The Angel's Share, with expanded food service. Essentially, the former staff were told to apply for new positions in the new bar. Those who successfully completed an assessment were to be given new job titles, with significantly changed terms and conditions. Not all were offered new jobs and there are currently redundancy proceedings under way. Three workers out of the ten are on a month's trial on their old pay rates. However, it is not yet clear what rates they will be offered when the trial period ends later this month. The pay per hour for the new positions in the bar is €9.60, whereas some of the bar staff in the old bar, The Fáilte Bar, were earning €17 and over per hour. This is a significant change in the pay rate offered for the same job.

I fear that what happened to the workers in the airport, where a large number of service sector staff work, could happen elsewhere if a similar changeover took place. I appreciate that passenger numbers have declined and that businesses are adjusting to this, but I do not believe a change of operator and new job titles should essentially mean these kinds of changes to pay rates.

There is a possibility that what happened to the ten workers will happen to other airport workers if the responsibility for the operation of other bars or services is transferred. This is an issue the Dublin Airport Authority needs to consider seriously. It is not enough for the authority simply to handle tenders and not have an interest in the rights of workers in the airport. I ask the Minister of State to raise this with the Dublin Airport Authority and the Minister for Transport, Tourism and Sport, in particular. Workers in the service sector already have precarious job conditions and many must work unsociable hours, as we know. At the very least, the workers deserve respect, but they also deserve the support of the Dublin Airport Authority when circumstances such as those in question arise.

**Deputy Sean Sherlock:** I thank the Deputy for raising this matter. I understand the issues involved concern the outcome of a tendering process for the running of a bar in Terminal 1 of Dublin Airport. The Dublin Airport Authority has confirmed that the tender process for the outlets in question was conducted through the Official Journal of the European Union's system for public procurement and was fully compliant with all guidelines. The tender documentation for the outlets in question stated that transfer of undertakings legislation may apply and advised potential tenderers to seek advice on such legislation.

The restructuring currently under way at a number of outlets is a matter for the operators in question. I am not privy to the details of transfer or the parties involved. One cannot but have sympathy for those involved in this dispute. Without fudging the issue and in seeking to give an honest answer to the Deputy, I must suggest firmly that industrial relations machinery needs to come into play on this issue. I hope both sides will agree to a process in which such machinery can be utilised to come to a resolution that is satisfactory to both.

I have to hand a very detailed response on the rights of employees in regard to transfers of undertakings but I do not believe it is necessary to read it out. However, I strongly support the idea that labour relations machinery should be utilised in this instance. I would be very surprised if there has not already been a move in that regard.

**Deputy John Lyons:** I appreciate the Minister of State's honesty and his not reading the extended response he was asked to read to me. Both he and I understand the circumstances at hand. No laws have been broken, which we respect. Every i has been dotted and every t crossed but a sense of natural justice has gone completely out the window. This issue needs to be monitored. Dublin Airport is a significant employer in north Dublin; it is one of the largest. There are many in the neighbourhood who rely on income from it. The staff to whom I refer have worked most unsociable hours so we can get aeroplanes when we want to get them. Essentially, they have been told through a legitimate process that they can work for the bar but at half the pay they received previously. This matter needs to be addressed.

I understand we are constrained by the legislation and that there are processes to deal with this matter. However, no law has been broken. I ask the Minister for Transport, Tourism and Sport, who has responsibility for the Dublin Airport Authority, and the Minister of State, Deputy Sherlock, to raise this matter with the Dublin Airport Authority in order that it will, at least, acknowledge that there is a system in the airport, albeit a very transparent one, that has resulted in a very unfavourable outcome for workers who have given years of service, ten in some cases. To be told one's pay is to be reduced from €17 to €9.60 is just not fair, especially when one has a family.

I am very sensitive to the fact there are ongoing discussions. That said, that seven out of the ten workers who were working for the company in question before the transfer did not pass the test to do pretty much the same job is telling. Coincidentally, the staff happened to be at the higher end of the pay scale before the transfer. This says something about the morality of

[Deputy John Lyons.]

the company. It is using the legislation in place as a type of smokescreen. While it has broken no laws, it has used the legislation to create a sense that it has made a fair decision.

As far as I know, these jobs for which staff were told to reapply were also advertised in the public domain, quoting that no experience was necessary. There is something not right.

I reiterate that I respect the Minister of State's response. I appreciate that he did not read out the response given to him.

I urge the Minister for Transport, Tourism and Sport, Deputy Varadkar, who has responsibility for the DAA, to raise this directly with the DAA because this may open the valve for what could become a €9.60 job for everybody who works in the airport in the foreseeable future.

**Deputy Sean Sherlock:** I agree with everything Deputy Lyons has said. Let us be frank and honest about it. The issue at hand here is one of corporate social responsibility, a term we bandy around from time to time and can use quite easily. If there is a transfer of undertakings here, as Deputy Lyons stated, it says something about the morality of the company. There is a strong sense here of an obligation on the part of SPP, where it has taken over a facility in what is, effectively, a State entity, to ensure the rights of the workers are vindicated or at least that there is a recognition of the experience of the existing staff who go into the new undertakings.

In this instance, though we recognise that no law has been broken, there is a certain corporate social responsibility. I hope that common sense will prevail and that the extensive machinery of the State in labour relations could be applied in this instance.

It is important that these issues are raised on the floor of this House also. It sends a signal back to these entities that these matters are being looked at by Government and that there is a consciousness in this House of the issues Deputy Lyons raises.

### Crime Prevention

**Deputy Olivia Mitchell:** I very much appreciate the opportunity to raise this rather technical issue. I regret that the line Minister, Deputy Shatter, cannot be here but I appreciate he is in committee this afternoon. I am grateful to the Minister of State, Deputy Kathleen Lynch, for taking this issue.

The Minister, were he here, would be aware that alarms have in recent years worked on a dual-communication regime of a telephone line in conjunction with GPS. The reason GPS is used is that it is the standard laid down in regulation in SI 307 of 2009 which governs alarm systems which are required by those keeping firearms on the premises, whether for private or commercial use.

These GPS backed systems are now used widely in all State buildings, post offices, banks, armoured security cars and businesses and, indeed, in thousands of private homes. It was a good standard. In fact, GPS is a wonderful technology that we all use on our mobile telephones and elsewhere. It worked well for this purpose as well until it was overtaken by the ingenuity of the criminal mind which eventually caught up with the technology.

There is now a jamming system, a little mobile device available on the Internet, which has been successfully imported into Ireland and is being used by the criminal fraternity. The way it works is that, by using a little hand-held device no bigger than a mobile phone, they can jam the signal outside the premises and break in, secure in the knowledge that for the time that they are present there is no signal going to the local Garda station. They know that they have all the time in the world to get on with whatever they are at.

The Minister will be aware that there was a welcome drop in all crime levels, except burglaries, announced only last week. I am not saying that there is a causal effect between the increase in the number of burglaries and the increased use of these jammers, but I can say that the jammers are being imported and they are being used by criminals.

My request to the Minister is that he would consider not replacing GPS systems as the standard but allowing an alternative so there is an officially sanctioned choice available to those who must secure their firearms by an alarm system and, consequently, intimate to all alarm users, including ATMs, security cars and post offices, that there are other systems which cannot be jammed and are now maybe better than the GPS that has been in use. Long-range radio telemetry offers an alternative to cellular technology and it is almost impossible to jam because the repeater technology makes it almost impossible to track from where the waves are coming.

I ask, if the Minister is agreeable, that he ask the Garda Commissioner not to take my word for it but to seek the views of the Garda communications unit on this issue. There are many in the force who are aware of this, understand the problem and are genuinely concerned. I ask that the Commissioner seek the expert advice of those who are in a position in the force to give it and communicate his advice back to the Minister.

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** I thank Deputy Mitchell for raising the issue. As she has already pointed out, the Minister for Justice and Equality, Deputy Shatter, is in committee. He apologises for not being able to take this topic himself.

The Minister thanks the Deputy for raising this matter. In fact, he answered a parliamentary question on 22 May last put down by the Deputy on this same issue. He mentioned to the Deputy, in the reply, that if she provided him with any specific instances of the theft of firearms which she wished him to look into he would gladly raise the matter with the Garda Commissioner. I understand that he did not receive any such information and his Department has not received any similar queries in this regard from anyone else, but he fully accepts that there is an issue in relation to it.

As the Deputy will be aware, the Firearms (Secure Accommodation) Regulations, which came into force in August 2009, are the regulations governing the secure storage of firearms in the home. These regulations set out the minimum security standards outlined on the provision of secure accommodation for those firearms. In general terms, it stipulates that the greater the number of firearms a person has licensed, the higher the requirements of security that must be complied with. These requirements range from a trigger lock being required for one non-restricted shotgun to a monitored alarm service operated by a person licensed by the Private Security Authority and supported by a GSM mobile phone back-up facility for three or more restricted firearms or six or more firearms of any type, kept in the same place, to which the Deputy referred. The Minister has asked me to point out that the use of an apparatus in order to block or interfere with a mobile phone signal is an offence under Irish law. The Wireless Telegraphy Act 1926 provides that a person may be prosecuted summarily or on indictment for the offence of using any apparatus for the purpose of interfering with any wireless telegraphy.

All wireless telegraphy apparatus used in the State must be licensed under section 5 of the Wireless Telegraphy Act 1926 unless it is specifically subject to an exemption order, for example, GSM and 3G mobile phones. Section 3(2) of the Act provides that it is an offence for a person licensed under the Act to use the apparatus otherwise than in accordance with the terms and conditions subject to which such licence is expressly, or is by virtue of this Act deemed to have been, granted. As provided for in the secure accommodation regulations, the Garda Commissioner is in a position to approve an equivalent standard for alarms, including

[Deputy Kathleen Lynch.]

any alternatives to the current approved standard. Therefore, any changes in this area will be considered following advice from the Garda Commissioner. As the Minister stated recently, the increase in the number of burglaries over the past 12 months is a cause of great concern. He considers that it is too early to see the full impact of the concerted and intelligence-led measures An Garda Síochána have put in place under Operation Fiacla and he knows these are a top priority for the Commissioner and are proactively targeting prolific offenders. Together with good crime prevention and community policing, he feels these measures represent a focused and strategic approach to challenging those involved in this type of criminality and should be reflected in future crime figures. As the Minister stated in reply to the Deputy earlier, he has asked the Garda Commissioner to keep the matter under review. He is acutely aware of the dangers associated with the theft of licensed firearms. As Minister, he is determined to ensure that in the operation of all aspects of the firearms licensing system, the question of public safety is paramount. I will ensure the Deputy's concerns are placed on the Minister's desk.

**Deputy Olivia Mitchell:** The Minister of State may have misunderstood my concern. While the theft of firearms is a worry, my main concern is that the standard for securing firearms laid down by the Minister is the standard accepted throughout the country by all businesses, including banks, armoured car providers and State businesses such as post offices. Everyone is vulnerable because they are all using a system that can be sabotaged. That is my point.

I am pleased to note the Minister will take the advice of the Garda Commissioner. My simple request is that he ask the Commissioner whether this is a cause of concern among members of the force and, if so, request that action is taken. Thousands of businesses are using the alternative radio technology alarm network which has been rolled out. Incidentally, it may be a matter of interest to the Minister that the technology is supplied by an Israeli firm. He need not have any fears regarding whether the technology is accepted or state-of-the-art.

While I understand the reluctance to change regulations that have been laid down, we must also move with advances in technology. On an issue of this nature, where the protection of businesses and persons is crucial, the Minister should keep an open mind rather than erring on the side of caution. I fully understand that the precautionary principle applies when considering changing regulations that have worked in the past, but the current regulations no longer work. For this reason, I ask that the Minister request the Garda Commissioner to seek advice on this issue from the Garda communications unit.

**Deputy Kathleen Lynch:** I apologise if the reply provided placed undue emphasis on firearms. The Deputy's contribution clearly indicates that the issue is a wider one. While the Government cannot make demands of private individuals in respect of how they secure their premises, it is obvious the recommendation on regulation will be considered to be the optimum available and that people will buy into it. My view on technology is that it becomes obsolete when one finds one understands it or must explain it. One must keep ahead of the posse on technology. While Ministers are always reluctant to change regulations which have not been in place for a long time — the relevant regulations were introduced in 2009 — it is essential to keep up to date. I will raise the Deputy's concerns with the Minister.

**Deputy Olivia Mitchell:** I appreciate that.

### **Mental Health Services**

**Deputy Simon Harris:** I thank the Minister of State, Deputy Kathleen Lynch, for coming to the House for this debate. It is great to have in the House the Minister with direct responsibility



for this matter. I raise this issue alongside my colleagues, Deputies Robert Troy and Maureen O'Sullivan, two co-convenors of the cross-party Oireachtas group on mental health. Deputy Ó Caoláin, whose name is also associated with this Topical Issue matter, has asked us to place on record his regret that he cannot be present as he is attending an all-day meeting at Stormont. He wishes to be strongly associated with the matter raised. The other convenor of the cross-party group is Senator Susan O'Keeffe, who is, obviously, a Member of the other House.

That members of all political groupings in both Houses have come together on this issue demonstrates the importance parliamentarians attach to mental health. We are unique in being the only cross-party group with representatives of all political groupings in the Oireachtas which has drawn up and presented to Government a pre-budget submission. The group is pleased with the Government's commitment to provide €35 million in the previous budget for community mental health services.

The cross-party group seeks to achieve three outcomes from this Topical Debate. First, we wish to obtain an update on the status of the €35 million committed in the budget for community mental health services. Second, we wish to obtain from the Minister of State an update on the appointment of a director of mental health. Third, we seek a commitment on the ring-fencing of staff for community mental health teams.

All those involved in politics and society generally are used to mental health being treated as the poor relation of the health service. In the past, money allocated to mental health was siphoned off into different areas of the health service as the year proceeded. While this is clearly not the intention of the Minister, Government or House, we need an assurance that this practice will not occur this year and the commitments provided will be met.

Community-based mental health services are at the core of A Vision of Change. This strategy recommends shifting care from mental health institutions to the community and envisaged specialist services operated by staff with particular expertise in supporting a person's mental health. It seeks to bring together a holistic range of support and staff from a range of specialist disciplines, including clinical psychology, mental health nursing, occupational therapy, psychiatry and social work. There is no doubt that community-based mental health services are the correct approach. There is now a political consensus and compelling economic argument for this model. The Health Service Executive, for example, recently launched a report which showed that the community model of mental health services is the best way to achieve a good quality and cost-effective service. In addition to being the right approach, it is also cost effective.

**Deputy Robert Troy:** I add my voice to the sentiments expressed by Deputy Simon Harris. I acknowledge the work done by the previous Government in this regard. The Minister of State's predecessor launched the document, A Vision for Change, and I am pleased the strategy has been adopted and is being acted on.

In the past decade, the number of people resident in psychiatric units has declined by 33%. The special allocation of €35 million towards community mental health services in the 2012 budget was a welcome development. As Deputy Harris noted, we are seeking clarity on precisely where and how the €35 million has been or will be spent. While I do not doubt the Minister of State's commitment to mental health, action is required, including on the recruitment of the 414 professionals promised for community health services, none of whom had been employed as of several weeks ago. This is disappointing considering we are halfway through 2012.

At a time when many people under financial and emotional strain are presenting at general practitioners, it is necessary to have in place appropriate services to which GPs may refer

[Deputy Robert Troy.]

people who are suffering and allow them to receive a proper diagnosis. Many people are engaging in deliberate self-harm, which is an issue that requires a more holistic approach. We must ensure proper professionals such as social workers and psychologists are available in communities to ensure those who require care receive it. I look forward to the Minister of State's reply.

**Deputy Maureen O'Sullivan:** Reading the programme for Government, I was struck by the following commitment: "We will ring fence €35m annually from within the health budget to develop community mental health teams and services as outlined in A Vision for Change to ensure early access to more appropriate services for adults and children and improved integration with primary care services." Speaking during an excellent debate on a Private Members' motion when many Members spoke from their hearts, the Minister of State noted strong similarities between A Vision for Change and a previous document, Planning for the Future, which was produced in 1984 when Mr. Barry Desmond was the Minister with responsibility for health. It is time to move beyond similarities and implement the programme set out in A Vision for Change.

At the time, the Minister of State herself noted it is not as though we do not know what needs to be done because we do. This is the point behind this Topical Issue. It is from all parties and none because I represent the Technical Group and Independent Members. Its purpose is to ascertain what is happening regarding the €35 million, the director — who will be vital to direct the service — and the ring-fencing of the staff for the community mental health teams. It remains the case that one in four people will have a mental health issue but this is not represented by the budget for mental health, which is still just over 5% of the total. Another interesting statistic is that 50% of adults diagnosed with a mental health disorder may have developed that disorder by the age of 14 and 75% of those so diagnosed will have developed it by the age of 24. The entire point is for early intervention, if for no other reason than from an economic point of view, much more will be saved. Moreover, so doing would prevent those families and individuals from experiencing the distress through which they are going.

**Deputy Kathleen Lynch:** I thank the four Deputies who added their names to this Topical Issue matter and the three who spoke on it. I am reluctant to read the prepared answer because if I do not know about mental health and what is being done with the aforementioned €35 million by now, I should not be here at all.

To take up Deputy Maureen O'Sullivan's final point, the gap between the publication of Barry Desmond's Planning for the Future report in 1984 and the appearance of the A Vision for Change framework in 2006 is unforgivable. It is a gap through which many people have fallen and is unforgivable. I will revert to this point later because I do not intend for such a gap ever again to exist, which is important. To a great extent, the A Vision for Change framework is a chart or table showing what is needed in community care and one must ensure it is fulfilled and carried forward. The Government's job concerns those posts and teams, as well as deciding what the present Administration will do with the money. In addition, the Government must begin to put in place a particular element to take us into the future beyond A Vision for Change. If the teams are in place, what will they be expected to deliver? I acknowledge I am jumping the gun slightly in this regard but Members must keep this point in mind. The Members who spoke have a particular interest in this subject and I reiterate this must be done.

Heretofore, on foot of a vote for a health budget in this Chamber and the putting in place of such a budget, it was divided up depending on the demographics and the population base and sent down to the four health regions. In the main, it was spent wisely. It was not the job

of the Government to do this and those with responsibility to so do took it on and discharged it. However, an entirely different approach was taken in respect of the €35 million. As soon as it was announced, the usual e-mails were received in which people asked for their usual portion of the funds to be sent to them to enable them to decide what to do with it. However, they were informed this was not what was intended. Instead, a gap analysis was sought from them that would indicate where were the needed posts, how many psychologists, social workers and psychiatrists were required, as well as the location of the nursing posts that were required. This process has only been completed in recent weeks and it was only then that I signed off on what was to be delivered.

I listened to Deputy Troy asking where was the €35 million and metaphorically, it is in my back pocket. I still have the money, it still exists and it remains within the Department. However, the aforementioned personnel are now being recruited from existing panels that had been put together over the years and people now are being drawn from them. A difficulty arose in respect of psychologists because as Members will be aware, some panels were not sufficient and ran out of candidates. Consequently, it will be necessary to begin to re-interview in this respect. However, this will not be an issue because there is a sufficient number of qualified people operating in the private sector to do this and they can come over and work for the Government. A particular issue arose in respect of the Dublin mid-Leinster region, where those responsible did exactly what the A Vision for Change framework specified they should do in respect of beds and teams. However, the region then fell below the bar because of the exodus in February and March and it was necessary to convert some of the posts there to nursing staff because nurses are crucial in all this. The HSE has now managed to do that and I am about to sign off on the agreement in that area. Consequently, the four regions will have their teams, of which there will be 90 and the population-base will be 50,000 people per team. The teams will be put in place and this is being done as I speak. I would have loved for it to have been possible to do this last February but as I stated, this would simply have entailed splitting up the budget and sending it out to the regions and this was not considered to be appropriate. The Government is being extremely careful in this regard and this is how it is implementing this process.

There are obvious gaps in respect of things that were not done this year. I have been speaking to those involved and they are happy that these areas will be a matter of priority next year. I refer to old age psychiatry, intellectual disability and forensics. These are the areas that must be prioritised next year but this is not to suggest posts will not be made available next year to increase the size of teams in certain areas. This year, for instance, the Department is establishing 150 new posts in the child and adolescent mental health services, CAMHS, because it was known that a deficit existed in that regard. Those concerned informed the Department of the size of the deficit and of the requirements. As a result, 150 new posts were established and they are very happy with that. Similarly, 250 new posts have been established in respect of adult psychiatry and ten additional posts have been allocated to the national counselling service, which also was a commitment in the programme for Government.

I am very conscious that the budget for mental health services is never what one would wish it to be. However, I am equally convinced that if one spends one's budget well in a directed and particular way, one will get a greater service. I acknowledge I have gone slightly over time and did not mean to so do but I make the point that the gap between Planning for the Future and A Vision for Change must never be allowed to happen again. Consequently, we must start putting in place a group now that will look beyond the A Vision for Change strategy. Now the teams are in place, such a group should consider what they are expected to deliver and what is the service. The A Vision for Change framework was really about the table of requirements. I do not know what will happen next as I simply will be the person who will put in place the

[Deputy Kathleen Lynch.]

team. Hopefully, depending on its expertise and vision regarding what lies beyond A Vision for Change, that team will take it forward. Moreover, the Government is seriously contemplating putting into legislation the obligation to have such ongoing reviews and development.

**Acting Chairman (Deputy Bernard J. Durkan):** The Deputies who raised the matter now have one minute each for supplementary questions.

**Deputy Simon Harris:** I thank the Minister of State. Her ability to speak without a script and at such length about her brief demonstrates the passion she has for the area, which is greatly appreciated. I now am much happier that the money is in the Minister of State's metaphorical back pocket, rather than siphoned off to God knows where within the HSE, which is reassuring. The commitment was to spend it in 2012 and if it is spent in that year, the commitment will have been met. I also am happy the reply circulated to Members refers to the legislative plans for the establishment of the directorate of mental health, which will be an important development.

While the Minister of State is in the Chamber, I wish to make one point in respect of the issue of community and education, because I have raised it in another Topical Issue debate previously and the cross-party group has done a lot on it. Moreover, the group had the Oireachtas Library and Research Service produce a report on how mental health is taught in schools. If mental health services are being brought into the community, which is a welcome step, one must tackle the ignorance within our school and education systems when it comes to teaching mental health and adopting a whole-school approach to mental health. There are much better examples but when I have raised this issue with the Minister for Education and Skills and the Ministers of State in that Department, the standard response is everything is all right because the SPHE programme is in place. However, this is not the case. Children are taught from the age of four in junior infants classes about dental health. They are taught about brushing one's teeth daily and not being embarrassed if one has toothache. However, pupils are not spoken to about mental health until they are 15 and then it is done in a highly wishy-washy fashion. Having made that point, I thank the Minister of State for her reply.

**Deputy Robert Troy:** I thank the Minister of State for her reply. As she quite correctly stated, the time for talking is over. The A Vision for Change document has been available since 2006 and it is appropriate that action should be taken on it as six years have elapsed. Much work has been done and I cited figures earlier on the number of people who have moved out of institutional care into the community. Nevertheless, while I do not doubt the Minister of State's commitment to the mental health brief, six months have passed since the last budget. While the €35 million is welcome, I note it remains within the Minister of State's back pocket. I would much rather see it being spent in the community.

Many people who are suffering from mental health issues are presenting themselves every day to their local GPs and many others do not know where to go to get the appropriate action. The board of the HSE was abolished with great fanfare last year and still we wait on the direct position to be established for mental health. There is too much of a delay, and while that is not always the responsibility of the Minister of State as things can be tied up in bureaucracy, I urge her to push ahead to deliver the 414 professional places to the community mental health services and to get the money out of her back pocket and into the community.

**Deputy Maureen O'Sullivan:** There is absolutely no doubting the Minister of State's long-standing commitment to and support for mental health, but it is time we stopped using the future tense on what we will do and use the past tense on what we have done. Would it not make more sense to appoint the director to manage all of these new initiatives? I would also

like to call for the nursing course on intellectual disability to be retained. There is a need for those very specific skills required to work with people with intellectual disabilities. I understand there are talks about merging these courses which I think would be harmful.

We cannot talk about mental health without mentioning our late good friend, John McCarthy. When he spoke about the normality of madness, I think we have to push for the normality of the services. If I fall down and break my leg, it is quite normal and I can go to an accident and emergency department. If I have suicidal tendencies, if I feel I am having a breakdown or suffering depression, there is nothing normal about where I will go. Apart from not knowing where to go, there is also a stigma about it. That is a major objective that we must realise.

**Deputy Kathleen Lynch:** We are developing a whole-school approach for the emotional well-being of young children and how they feel about themselves. It is a different approach and we have to be very careful about it, because we do not want to emphasise that it is a negative thing. It must always be about something very positive and how one feels about oneself and about others. Mr. Tony Bates is developing that for us for secondary schools, but I would rather we started earlier. Children are quite capable of articulating their emotional feelings from a very young age.

In answer to Deputy Troy, we could have spent the money very early on in the year, but my fear was that it would get lost in the usual abyss. We were very careful about that. We would have loved to spend it earlier. We are now spending it in a much more targeted and better way. We will have to change our thinking about how we do things in the future and this is one area in which we have been very careful. There were no problems with the bureaucrats. In fact, they were very helpful in this case.

Deputy O'Sullivan is quite right. The normalisation of mental health as part of the overall health structure is the ultimate aim. We will be able to say next year what we have done, but we also need to ensure we are constantly progressing. We would never say we are finished dealing with cancer or cardiac care and that there will be no more progress. We cannot afford to say that about mental health either. We must be always progressing our thinking, our delivery and how people access services. That kind of focused attention is what will provide us a service that will be as normal as the service provided when somebody breaks a leg.

### **Industrial Relations (Amendment) (No.3): Report Stage (Resumed) and Final Stage**

Debate resumed on amendment No. 9:

In page 11, lines 14 to 16, to delete all words from and including "if" in line 14 down to and including "circumstances," in line 16.

—(Deputy Willie O'Dea).

**Deputy Willie O'Dea:** I note that amendment No. 9 is being taken in conjunction with amendments Nos. 24 to 26, inclusive, and I wish principally to address my remarks to those amendments. Under the Industrial Relations Act 1946, if employees felt they were not getting a fair wage in accordance with the terms of an employment regulation agreement or if they were working excessive hours or too few hours and so on, and if they wished to make a complaint, there was a simple procedure involving the National Employment Rights Authority and the Department. Somebody on behalf the Department was empowered under that Act to take a criminal prosecution against the employer. The threat of that was very effective and it largely worked. It obviously did not deal with every situation because we would need an army of inspectors to police every situation, but people had automatic access to the Department



[Deputy Willie O'Dea.]

which could then prosecute criminally, and it did so successfully on occasion. That was a very powerful deterrent and, by and large, it kept employers on the straight and narrow.

When the High Court looked at the powers of the joint labour committees, it recognised that breaches of their powers could result in criminal convictions, which shows how extensive their powers are. The Duffy Walsh report suggested that aggrieved employees should have access to NERA and that NERA should have the option of bringing either a civil case or a criminal case. As a result of a High Court decision, the section of the Industrial Relations Act 1946 that empowered NERA to bring a criminal conviction has been struck down, in my opinion. Therefore, the position is that NERA could still be given the power to bring a civil action on behalf of aggrieved employees. However, that is not what this legislation provides. It provides that if employees are aggrieved, they are more or less on their own. They must go to the rights commissioner, wait in the queue, represent themselves or maybe get a trade union or some other third party to do so. We are talking about people who are generally not very well educated and in low wage employment. Examples might include an immigrant or a housewife who is working to supplement the family income because her husband has been put on the dole. If they succeed before the rights commissioner, the employer can appeal to the Labour Court, so these low wage employees more or less have to represent themselves in the Labour Court, unless they can get a trade union or some third party to represent them. If they win their case at the Labour Court and the order is not enforced, they must go to the Circuit Court. These employees could be contending that their wages are €5 short every week. There could be a pitiable sum of money involved in the great scheme of things, but a lot of money to the individuals in question.

It seems to me that the only access for such employees to the Department is under the new section 45E of the Bill, as amended. It states that where it appears to the Minister that a complaint under section 45 has not been presented to a rights commissioner and the circumstances touching the matter are, in the opinion of the Minister, such as to make it unreasonable to expect the worker or even a trade union to present the complaint, then the Minister will step in. In other words, the automatic access of these workers to the Department for assistance is being taken away. If the worker does not present a complaint, the Minister can step in if he or she considers it unreasonable to expect the employee in the case to represent himself or herself.

That is a very high barrier. I cannot understand in what circumstances it would be unreasonable to expect the employee to represent himself or herself. If the employee does not present a complaint to the rights commissioner, how will the Minister get to know about it? Is it a matter of somebody going directly to the Minister instead of going to the rights commissioner? From what I can see, the chances are such employees would be turned down if they went to the Minister. In the normal course of events, I do not see how it can be unreasonable to expect somebody to lodge a complaint.

The procedure is relatively simple. A local TD, a citizen's advice centre or even a trade union official such as a shop steward can fill out a form for a person, although most people can fill out the form themselves. I am concerned as to why the legislation does not state that if people have complaints, they can bring them themselves or get their trade union or any other third party to represent them, when they have access to NERA, which can bring the case on their behalf. Why take away what was automatic access to assistance from the Department for these low paid workers who are poorly able to represent themselves and who cannot afford heavy duty lawyers? What has changed?

Why did the Government depart from this recommendation of the Duffy Walsh committee, which suggested the situation would continue as it has since 1946, albeit that the action that

would be pursued on the employee's behalf would be of a civil nature rather than a criminal nature? The net effect of this, so far as redress is concerned, is that an employee who may be owed a trifling couple of hundred euro has to go to the rights commissioner, perhaps then go to the Labour Court to argue his or her case and, ultimately, go to the Circuit Court if an order issued by the Labour Court is not being enforced. Why is the Department now being effectively stopped from acting on his or her behalf or, rather, why is there no automatic recourse to the Department?

It seems, on the one hand, the Minister has announced his intention to bring up to date new provisions for redress in such cases, and in more general unfair dismissal cases, to more or less consolidate them and make them more modern and effective and, on the other hand, he is removing something which this cohort of workers has enjoyed since 1946. I would appreciate it if the Minister could explain the reasons for this. In what circumstances does he contemplate that section 45E will kick into effect?

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** I thank Deputy O'Dea for raising these issues around the enforcement area, which is an area causing considerable concern. In the context of the workplace relations Bill on which I am working and the blueprint of which I have published, I am considering in great detail how enforcement operates and how we can improve it.

The Deputy has submitted a number of amendments, some of which relate to the REA system and some to the REO system. With regard to amendment No. 9, section 8 inserts a new section 32(4) of the Act to provide a new straightforward enforcement mechanism to secure compliance with REAs instead of resorting to a criminal prosecution. A complaint about non-compliance by an employer with an order of the Labour Court for compliance with an REA may be brought before the Circuit Court by or on behalf of the worker concerned by a trade union, or by the Minister if the Minister considers it appropriate. The Circuit Court then makes an order directing the employer to comply with the terms of the Labour Court.

The effect of the amendment put forward by Deputy O'Dea would be to remove the discretion of the Minister in deciding whether it is appropriate to refer a case to the Circuit Court. This is a standard provision in a range of employment rights legislation dealing with the failure by employers to comply with Labour Court orders or an EAT decision, including the National Minimum Wage Act 2000 and most recently the Protection of Employees (Temporary Agency Work) Act 2012. It is NERA, acting in the name of the Minister, which is responsible for taking a case in the Circuit Court.

There are a number of reasons it may not be appropriate to refer a case to the Circuit Court. The reasons for non-referral would include the following: the company having been abandoned; a limited company not having been properly wound up or liquidated so there is no prospect of payment from the insolvency fund; the award is less than the potential cost to the State of legal proceedings; the employer cannot be found and has possibly emigrated, or an incorrect name of the employer is on the award; and the former employer, a sole trader, is now in receipt of social welfare with no other visible means of income, meaning pursual by the State is not a realistic option. These are circumstances that have to be assessed on a case-by-case basis, and requiring NERA to effectively proceed automatically without regard to those circumstances would not benefit either the employees or the resources of the State if the result was to be *nulla bona* and they would effectively get nothing.

The Deputy also raises issues in respect of the later provisions on EROs. He puts forward some sensible proposals, such as notification of employers first. As I understand it, he proposes that the Minister would be the one bringing a complaint to a rights commissioner. What we are seeking to do is to have a very simplified complaints procedure in order that, where a

[Deputy Richard Bruton.]

complaint arises, it would be immediately followed by an inspection and, in that period, the employer would be given the opportunity to correct his or her hand. We are also looking at new powers such as a compliance notice that could be served on the employer at that stage. We are examining the scope for better enforcement mechanisms and the jurisdiction of the court into which cases will be taken, as well as introducing new instruments for the State to use to try to achieve compliance, such as fixed notice charges, a new mechanism for enforcing awards and so on.

I intend going to the committee in the very near future with a document setting out the draft approach of the workplace relations commission and the enforcement approaches we will take under that. This will involve across-the-board measures to deal with all the different forms of enforcement that come before NERA. Rather than seeking to proceed on a piecemeal basis and make amendments here, the approach I propose to take is to introduce across-the-board changes following a period of consultation through the production of a policy paper. I will then bring it to the committee in the near future and have an opportunity to evaluate the reaction from Deputies and others before moving to the design of an appropriate enforcement approach that would be more effective for workers than what is now in place.

While I fully accept Deputy O'Dea's motivation in putting forward this approach, he is seeking, in respect of some of his amendments, to remove discretion which I believe it is appropriate to have. In the case of his other amendments, I would prefer to wait and consider a full, comprehensive package for enforcing the various elements of labour law infringement that come to be examined, rather than seeking to go down the road with a specific model in a specific instance before consultation and the design of a system that I would feel is robust and has been tested before the court of public opinion as well as the court of the Oireachtas.

**Deputy Willie O'Dea:** I am aware we are discussing this legislation in the context of the Minister's proposals on the workplace relations legislation generally. I take comfort from the fact that he regards the provision in amendment No. 25 in my name that, before a complaint is presented to a rights commissioner, the employer should be notified of the contravention in writing and given a period of 14 days to respond and, if possible, rectify the issue, as a good one. I hope he will take it on board in his workplace relations legislation. Accordingly, I will not be pressing that amendment.

The Minister spoke much about discretion. I might be wrong, but as I understand it, under the 1946 Act, if someone wanted, the National Employment Rights Authority, NERA, could take on his or her case. A significant barrier has been put in place between an aggrieved employee and the NERA, as there are all sorts of conditions set down before the NERA will condescend to represent someone. To me, this is reducing people's rights.

There is also a peculiar provision in section 18 concerning a situation where someone is entitled to be informed about what rights he or she has. It provides that where someone is unhappy and does not receive full information about his or her rights from his or her employer, he or she can go to the NERA which can issue a notice to the employer to supply the information. This is automatic access to the NERA when someone is not receiving information on his or her rights. When someone is not getting his or her rights, as opposed to information on them, he or she has to go to the rights commissioner, the Labour Court and the Circuit Court.

When this legislation takes effect and if this provision remains unchanged by the workplace relations legislation, access to the NERA will be practically non-existent. I am concerned about some of the wording used. For example, it will only take effect when a complaint has not been made which the NERA is meant to know about and it will only step in when it is regarded as

unreasonable to expect a person to represent himself or herself. The tone of this form of drafting and the way it could be interpreted concerns me.

While I am not going to push the amendments, it is a matter we will have to discuss in more detail in the context of the workplace relations legislation. Everyone accepts employees are in a worse situation than they were in before the High Court decision. I hope these provisions will not leave them in a worse position where they do not have the maximum protection. I am seriously concerned about the wording of the new section 45E in the 1946 Act.

**Deputy Richard Bruton:** I assure the Deputy that that is not the intention. We are seeking to simplify procedures in the workplace relations commission. For example, we want to ensure, when a person makes a complaint, that within days the employer will be informed and have an opportunity to rectify or clarify the matter. This would be an early resolution phase. If the matter cannot be resolved, it can go for adjudication. In the past in the case of a registered employment agreement, the only route was a hearing in the Labour Court or with the rights commissioner in other cases. A queue would form for hearings before an issue could possibly be simply unravelled. This also led to long delays and when cases were finally vindicated, it was often too late to be an effective remedy.

We are seeking to streamline the approach and ensure issues can be dealt with, where possible, at the least complex level. We are examining better mechanisms for the NERA to take enforcement measures at lower levels, thereby not necessitating going to the Circuit Court. I will have proposals on the workplace relations legislation to take to the committee soon and, I hope, from that I can take up the Deputy's suggestion for improvement as he has considerable experience in this area.

On the point of access to the NERA, it is the case that individual employees are a key driver in bringing complaints to rights commissioners for breaches of conditions. However, the NERA is still engaged in the strategic enforcement and inspection process for breaches in compliance with employment rights generally and registered employment agreements. It will be empowered to pursue prosecution for breaches of employment regulation orders and registered employment agreements under the new proposals. The practice has been for it to immediately inspect and short-circuit many complaints. This has resulted in a more effective response where people are willing to be compliant. There are problems, however, where employers are not compliant and will not accept findings. I hope to return to this subject soon when I bring the draft workplace relations legislation to the committee for discussion.

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

Amendment declared lost.

**Acting Chairman (Deputy Bernard J. Durkan):** Amendments Nos. 10 and 11 are related and will be discussed together.

**Deputy Peadar Tóibín:** I move amendment No. 10:

In page 12, line 12, to delete "24 months" and substitute "12 months".

These amendments address the maximum duration for a derogation under the inability to pay clause. The issue was discussed on Committee Stage but needs to be discussed again. There is no doubt that the small business sector is in major difficulty and that the Government needs to do all it can to ensure it survives. However, there is a balance that needs to be achieved. On one side, there is a strong onus to ensure the rights of workers are not unduly affected negatively in an effort to keep a business on life support when the problem could be terminal. My

[Deputy Peadar Tóibín.]

concern is that if a business is given an exemption for 24 months, there is a possibility that particular businesses will see it as opportunity to gain a competitive advantage for 24 months. Having an exemption for two years out of every five could give a significant competitive advantage. Who will pay for this? It will be paid for out of the pockets of the workers providing the service or manufacturing the product of the company in question. I understand why the exemption is being given. However, the equilibrium should be set at 12 months. This would ensure a business would have one year in which to get its house in order and head above water. In the case of the alternative, there will be businesses which will use the period of 24 months for their own competitive advantage, even if they do not necessarily need it.

**Deputy Richard Bruton:** The two amendments proposed by Deputy Tóibín deal with the issue of the maximum duration of a derogation under the inability to pay clause. Section 9 of the Bill inserts a new section 33 into the 1946 Act. This provides that where a registered employment agreement, REA, makes such provision, an employer in financial difficulty may apply to the Labour Court seeking a temporary exemption from the requirement to pay the rates of remuneration contained in the agreement. The new section 33A(2) provides that the maximum period of an exemption will be 24 months and that such exemption must be for a minimum of three months. The new section 33A(3)(b) also provides that the Labour Court may enable an employer to qualify for up to two consecutive exemptions from the statutory pay terms of an REA where financial difficulties in an enterprise persist after the expiry of a shorter time limit than the maximum permitted under the legislation. Accordingly, two consecutive exemptions will be permitted within the overall two-year time limit rather than a single one, as was the position under the Bill as originally drafted, where this is necessary to safeguard employment.

Amendment No. 10 would reduce the maximum exemption to 12 months, while amendment No. 11 would restrict the extension of an exemption to an overall 12-month limit. The inclusion of the provision to permit the extension of an exemption within the overall two-year limit is a requirement arising from the most recent review of the programme for financial support agreed with the EU, the IMF and the ECB. While the inability to pay provisions relating to REAs are substantially the same as those proposed in respect of employment regulation orders, EROs, it is important to stress that the former would only apply where an REA so permits. It will be a matter for the Labour Court to determine the appropriate length of an exemption on the basis of its consideration of an application for such an exemption. Accordingly, I cannot accept the amendments.

The Deputy portrays what is proposed in the Bill as a way for employers to gain competitive advantage. The relevant sections in the legislation have been designed to require the Labour Court to ensure that applications in respect of the inability to pay clause are genuine and that there is a threat to employment. These are not casual provisions that will allow employers to build competitive advantage. There are demanding requirements in the context of obliging employers to submit the accounts relating to their businesses to scrutiny in order that the Labour Court may assure itself that applications are not being made for the motives to which the Deputy refers. The sections are designed to ensure that this mechanism will be used rarely and in a very prudent way. None the less, we recognise that an inability to pay clause is appropriate. As already stated, the troika was of the view that the Labour Court should have the flexibility to consider two applications from the same employer within the overall time limit of 24 months. That is what has been provided for in the Bill.

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



Amendment declared lost.

**Deputy Peadar Tóibín:** I move amendment No. 11:

In page 12, line 24, to delete “24 months” and substitute “12 months”.

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

Amendment declared lost.

**Deputy Peadar Tóibín:** I move amendment No. 12:

In page 13, line 5, after “business” to insert the following:

“, including information on payments to directors and companies associated with directors over the previous 3 years,”.

This amendment relates to the ability of employers to seek exemptions. As previously stated, it is necessary on occasion for businesses which are severely hard pressed and which have an opportunity to rectify the situation to obtain exemptions. Having worked with private businesses for a long period, I am aware that many try to operate to the full extent of what is allowed under the law. In other words, if a grant is available a business will apply for it regardless of whether such a grant is required. If the opportunity to seek exemptions is open to businesses, they will try to obtain them. I accept that the majority of businesses do not operate in this fashion. However, there are those which do. It is important, therefore, that when legislating we should be careful in the context of how the changes will affect those businesses.

In amendment No. 12 I am seeking the inclusion in the legislation of a specific request to the effect that those applying for exemptions should supply to the Labour Court “information on payments to directors and companies associated with directors during the previous 3 years”. It is absolutely within the court’s remit to try to obtain such information in any event. I am of the view, however, that we should include in the qualification process an explicit request for such information. Unfortunately, recent events show that businesses have amended their profit and loss levels by making payments and granting other associated expenses to directors. What these businesses have done has changed both their profit and loss accounts and their balance sheets. If a business is in need, then this is due to its profit and loss position. If the latter can be determined by payments made during the previous three years and if the ability of the business to continue to trade is negatively affected because massive payments have been made to directors, it is extremely important that a way of elucidating this is explicitly indicated in the legislation.

**Deputy Willie O’Dea:** I support the amendment. We are dealing with a situation that affects those who are at the very bottom of the pay scale. The section deals with circumstances where employers can seek exemptions in the context of not paying the low levels of pay that will inevitably be awarded in any event under the EROs. It would not be unreasonable, therefore, to request information on payments made to directors during the previous years. I have no doubt that within the meaning of the new section 33A(5)(b), the Labour Court may conclude that such information should be supplied. However, I am of the view that it would be better if this were spelled out in explicit terms.

**Deputy Richard Bruton:** On Committee Stage, Deputies Tóibín and O’Dea both referred to the importance of ensuring that details of the full financial affairs of a company are made available to the Labour Court when an application for an exemption from the requirement to

[Deputy Richard Bruton.]

pay the statutory wage contained in an REA is made. I explained on that occasion that the Bill already provides that employers will be required to submit to the court such information, particulars and documentation as the court may reasonably require for the purpose of determining whether an exemption should be granted, in particular such information about the employer, his or her business and the potential impact of an exemption as the court may direct. Accordingly, it was deemed that an amendment was not necessary.

In view of the points made by the Deputies on Committee Stage, I undertook to reflect on the matter before Report Stage. In this context, the office of the Attorney General has advised that it would not be appropriate to include a provision such as that suggested in amendment No. 12. As already stated, the new section 33A(5)(b) provides the court with a general power to ensure that an application is accompanied by such information, particulars and documentation as it may reasonably require. Those particulars may vary from application to application and specifying particular information is not appropriate. If one includes something in a list and does not include other things, one creates the presumption that the items not listed are not required.

The advice of the Attorney General is to provide for a general power, which does not allow challenge by someone who is aggrieved that it lists only directors' payments and not some other item the court may want. It is preferable to leave this discretion to the court, which has absolute discretion to specify what it deems reasonable. In many circumstances, the court would regard what Deputy Tóibín has included — information on payments to directors — as a very reasonable request. The first issue to be considered is whether the company is capable of payment or has been siphoning off money, rendering it temporarily incapable of making the payment. The advice I have is that the provision as currently drafted is the most robust way to give the Labour Court a broad remit in order to leave it capable of getting the information both Deputies feel is appropriate.

**Deputy Peadar Tóibín:** I take the Minister's point but the Bill states:

An application under subsection (4) shall be accompanied by—

(a) a current tax clearance certificate.

It makes a specific determination that the tax clearance certificate is required. It is always of interest to the State that taxes are in order. It also refers to "such information, particulars and documentation as the Court may reasonably require for the purpose". The new section 48A(5)(b) allows that broad space for the court to use its initiative in trying to get to the bottom of the opportunity for a business to get an exemption. If that subsection is retained, I am not sure how my amendment cannot be accepted. If it is not listed, it cannot be investigated.

**Deputy Richard Bruton:** The reason for referring to the tax clearance certificate is to establish the probity of the business — that it is a business compliant with its general tax obligations. The second provision, in the new section 33A(5)(b), permits the Labour Court to trawl for any information it deems appropriate. Singling out the tax clearance certificate does not have the same status and it is not interpreted as confining the trawl for information. The legal advice I received is that giving the untrammelled power to get such information as the Labour Court deems appropriate is better than itemising one or more elements. The procedure provides for the court to convene a hearing of parties to the application. Clearly, if an issue arises in the case of a particular hearing to give the court grounds for concern that, for example, payments had been made to directors, the court has the power to use section 33A(5)(b) to ascertain that information. The court has full powers if other parties alert it to issues it had not been aware of

or had not sought information on. The court has the power to continue to dig to get satisfactory information before making its adjudication.

Amendment put and declared lost.

**Deputy Peadar Kirby:** I move amendment No. 13:

In page 17, between lines 14 and 15, to insert the following:

“(i) maintaining of fair and sustainable rates of remuneration appropriate to the sector in question;”.

Section 41A(3) states: “When carrying out a review under subsection (1), the Court shall have regard to the following”. My understanding was that the aim of legislation was to maintain a fair and sustainable rate of remuneration appropriate to the sector in question. This integral element of the purpose of the legislation is missing at this step. It is only fair that we focus on this and try to ensure it is taken into account at every stage of the process.

**Deputy Richard Bruton:** The Sinn Féin amendment proposes to insert one of the considerations that the JLC will be required to take into account in framing employment regulation orders into the principles and policies to be considered by the Labour Court in its periodic review of the establishment orders of the JLCs. Section 11 inserts a new section, section 41A, into the 1946 Act to provide that the Labour Court will, following the commencement of the Act and at regular five year intervals thereafter, conduct a review of all establishment orders in respect of existing JLCs. Following such a review, the Labour Court may recommend that a JLC be abolished or amalgamated with another JLC or that the establishment order of a JLC be amended.

The new subsection 41A(2) sets out criteria to which the Labour Court must have regard when carrying out a review of an employment regulation order. The Sinn Féin amendment proposes to add an additional criterion to the list, that is, the maintenance of a fair and sustainable rate of remuneration appropriate to the sector in question. It is considered that such a criterion is more appropriately taken into account in the formulation proposals for an employment regulation order rather than in approving the existence of a JLC covering a particular sector. In fact, such criteria are already provided for in section 12, in the list of principles and policies a JLC must have regard to when formulating proposals for employment regulation orders.

The provision in the Bill deals with the consideration of whether a JLC continues to have relevance, whether the sector has changed to such an extent that the existence of the JLC is no longer appropriate and whether it should be amalgamated with another JLC. The section specifies the matters that should be considered, including “the class or classes of workers to which the joint labour committee applies”, “changes in the trade or business to which the joint labour committee applies”, “types of enterprises to which the joint labour committee applies”, “the experience of ... enforcement” and “the impact on employment levels”. It is a process for considering whether the JLC is still relevant and whether it is to the benefit of workers and the sector.

Adding the provision suggested by Deputy Kirby might make it impossible to change the structure. If there is, for example, a brush and broom JLC and we statutorily require it to maintain a fair and sustainable rate of remuneration in the brush and broom sector, we may find there is only one company in the brush and broom sector and the existence of a whole JLC structure is not appropriate. In that case the Labour Court may decide it should be amalgamated with another body. By attempting to insert something that is relevant to the order rather

[Deputy Richard Bruton.]

than to the continued existence of the JLC, Deputy Tóibín is mixing up the criteria in a way that is not helpful. That is generally accepted by the social partners who were consulted on this. This is a way of making sure the joint labour committee, JLC, structures remain geared to the sectors they seek to regulate. That is what is at the heart of this. It is solely concerned with the scope and structure rather than the rates of projection provided within the employment regulation order, ERO. A different task is being undertaken here.

Amendment put and declared lost.

**Deputy Peadar Tóibín:** I move amendment No. 14:

In page 17, lines 44 and 45, to delete all words from and including “and” in line 44 down to and including “so,” in line 45.

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

Amendment declared lost.

**Deputy Peadar Tóibín:** I move amendment No. 15:

In page 17, lines 48 to 50, to delete all words from and including “or” in line 48 down to and including “recommendation,” in line 50.

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

Amendment declared lost.

**Acting Chairman (Deputy Bernard J. Durkan):** Amendments Nos. 16 and 17 are related and will be discussed together.

**Deputy Peadar Tóibín:** I move amendment No. 16:

In page 19, to delete lines 13 and 14.

These are similar amendments with similar objectives. Equality proofing is a core standard I try to bring to legislation. If a nationality or religion was barred from achieving a certain wage, we would say it is not acceptable. If a citizen is over 18 years of age, whether he has just come out of college or was working just before he turned 18, it does not make sense there would be differing levels of remuneration because of that. On a simple equality basis, I ask the Minister to accept the amendment.

**Deputy Willie O’Dea:** The legislation provides that the joint labour committee can recommend minimum rates of remuneration. For certain categories of people, including trainees, it can recommend minimum rates of remuneration that are a percentage of the recommended rates. In my amendment, I seek to ensure this training period cannot last indefinitely. Most employers are responsible but there are those who will try to use this to pay people less on the basis they are trainees and they are therefore entitled to pay them less. I am trying to achieve that a trainee should be someone undertaking a specific course that will finish within a specific time and when the course has concluded successfully, that person can then step up.

**Deputy Richard Bruton:** Amendments Nos. 16 and 17 address different aspects of the variations in the sub-minimum rates that will apply henceforth to different categories of worker under employment regulation orders in line with the statutory differentiation of sub-minima

that has applied under the National Minimum Wage Act 2000 in respect of first-time job entrants and those engaged in structured training.

Section 12 inserts a new section 42A(5) in the 1946 Act that clarifies the relationship between the adult wage rates that may be proposed by a JLC and the sub-minimum wage rates under EROs. This relationship is expressed as the same fixed percentage of the minimum hourly rate of remuneration as set out in sections 14, 15 or 16 of the National Minimum Wage Act in respect of employees aged under 18 years, first-time job entrants, including first-time entrants aged over 18 years, and employees who are over 18 years who are undergoing a prescribed training course during normal working hours.

Amendment No. 16 would remove those employees that enter employment for the first time after reaching 18 from the sub-minimum category. This provision is consistent with section 15 of the National Minimum Wage Act 2000. It provides, *inter alia*, that an employee aged 18 or over, and who enters employment for the first time after reaching that age, must be paid not less than 80% of the experienced adult rate in the first year of having commenced employment after reaching 18 years and 90% in the second year.

Differentiated minimum wages are applied to particular occupational categories, such as first-time entrants to the labour market, by several EU member states as a means to enhance or keep labour demand. The principle behind this type of revision is that job entrants without experience should be paid at a lower rate than the rate for an experienced adult worker. It takes some time for a person entering the workforce for the first time to build a relationship of mutual trust with an employer. All other things being equal, an experienced employee is more valued by an employer than a new entrant. Whereas the National Minimum Wage Commission had originally recommended a three year period for new entrants, the provision in the Act of 2000 fixed the duration of the reduced rate for job entrants at a maximum of two years. The same arrangements as regards the duration of reduced rates and fixed percentages will apply in the sub-minimum rates set under EROs.

Deputy O'Dea's amendment seeks to amend a new subsection (6) in the new section 42A. He explained on Committee Stage that the purpose of the amendment is to introduce into the Bill a time limit for the length of a course of training or study that an employee could undertake to be covered by the sub-minimum trainee rate. The Deputy is concerned that in the absence of such a provision, people could be categorised as trainees indefinitely, with indefinite training as justification for reduced rates of remuneration. Specifically for trainees, section 42A(5)(d) provides that proposals for EROs shall provide that a worker who has attained the age of 18 years and during normal working hours undergoes a course of study or training prescribed in those regulations made by the Minister under the National Minimum Wage Act 2000 shall be remunerated at an hourly rate reduced to the percentage set out in section 16 of the Act. In this regard, it is important to stress that under section 16 of the National Minimum Wage Act, such period of training is for a maximum of three years. Deputy O'Dea's concern that employees could be categorised as trainees indefinitely so that an employer could continue to pay a lower rate is misplaced.

An employee undergoing a prescribed course of training or study must be paid an hourly rate not less than 75% of an experienced adult rate in the first period of training, 80% in the second period and 90% in the third. The National Minimum Wage Act 2000 regulations that prescribe courses of study or training set down the comprehensive criteria a course of study or training must satisfy for the purpose of section 16 of the National Minimum Wage Act. The same criteria will also apply to training courses under the JLC system. The criteria include the requirement that the training must enable the acquisition of skills and-or knowledge expected to enhance the work performance of the employee at the end of the course. Other criteria are



[Deputy Richard Bruton.]

that the duration of the course is for a minimum of three years, the course includes an assessment or certification procedure or written confirmation of the employee's completion of the course, the need to identify the level of employee attainment against the objectives, which must include the employee's signature, and the need for the course to include a system of recording the progress and results of the employee.

These provisions exist to provide opportunities for younger people who do not have experience to access the labour force. There is provision that a lower percentage would be paid, in recognition of the lack of experience such a person might have. It is a lower or pre-entry level. This has been very much a young person's recession in that they have been worst affected. Most countries that are considering the challenge of youth unemployment have accepted that having staged lower entry points into the workforce for younger workers supports the opportunity for them to get into the workforce. The balance which we have essentially imported from the National Minimum Wage Act 2000 is just as relevant now as when it was framed. It is a reasonable measure.

I accept the point the Deputy is making on an equality basis about picking out 18 year olds, but that is not the case. In the labour market there is a catch-22 in that as a person does not have experience, he or she is not given the same hearing. Everyone is looking for people with experience of one, two or three years. The measure is designed to deal with this and was proposed by the commission which examined the matter in the first place. This is not an effort to undermine equality of treatment, it is in place because it reflects the way in which labour markets are working and gives young people a better opportunity to enter the labour market at a time when they are not as attractive to an employer as an experienced person.

**Deputy Peadar Tóibín:** A potential situation is that an individual goes to college and gets a degree. He or she finds there is no job for him or her in the labour market and he or she does a master's degree. When he or she again finds there is no job for him or her in the labour market, he or she does a PhD and then enters the labour market at the age of 24 years. The Minister can correct me if I am wrong, but he or she would then be paid at a lower rate than an 18 year old. After completing a PhD he or she might find a job that is not related to the PhD; it is simply a job to ensure he or she survives and pays the bills. Such an individual in his or her mid-20s will be paid less owing to the legislation than a person aged 18 years who has had a six month stint somewhere else.

**Deputy Richard Bruton:** There is no doubt that there could be that type of situation in that someone could have a PhD but might not have worked in the job for which he or she is being employed. The measure is recognition that entry rates are available to an employer through joint labour committees, JLCs. The intention is to provide for a minimum standard that must apply. I accept that an employer could decide that employing someone with a PhD to do certain work warrants a higher rate of pay because he or she is an attractive person to do the job. However, we are providing for a minimum standard. One must provide for the more common situation where a person is competing for job places with others who are experienced. The provision is reasonable in that context. I accept the point that one can always find exceptions, but the labour market will generally recognise that if someone has particular skills, experience or an educational qualification that makes him or her attractive, it does not prevent an employer paying him or her more. The measure is to provide for a minimum standard for new entrants. It has been accepted that there should be a different entry point. I accept the circumstance raised by the Deputy, but the employer will have flexibility to look at the issue in a different light.

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

Amendment declared lost.

**Deputy Willie O’Dea:** I move amendment No. 17:

In page 19, between lines 30 and 31, to insert the following:

“(6) Such reduced hourly rate, as that which would apply to a worker to whom subsection (5)(d) applies, shall only be permitted where, such worker is given access to a course of study or training, within an appropriate period to achieve skills commensurate with a higher remuneration rate.”.

Amendment put and declared lost.

**Deputy Peadar Tóibín:** I move amendment No. 18:

In page 19, lines 45 and 46, to delete “the desirability of agreeing and maintaining” and substitute “the agreeing and maintaining of”.

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

Amendment declared lost.

**Deputy Willie O’Dea:** I move amendment No. 19:

In page 20, between lines 28 and 29, to insert the following:

“(f) the impact on working poverty and adequate income.”.

Section 12 sets out the various measures the joint labour committee must take into account when submitting proposals for an order to the Labour Court. It must take into account the desirability of maintaining competitiveness in the sector in question, the levels of employment and unemployment, the general level of wages in competing enterprises in other member states and the level of the national minimum wage. All of these factors tend to exert downward pressure on the level of remuneration it will recommend. I propose an amendment to balance the situation in order that a JLC would be compelled to take into account the impact on working poverty and adequate income.

The Minister will be aware that we are suffering from 55 consecutive months of falling domestic demand. The people in question are at the lower end of the wage scale and compelled to spend every penny they get just to survive from week to week. They could use more money, but that is the way it is. The more we depress their spending power the more money we take out of the economy, which has a consequent effect on everyone throughout the economy. The purpose of the amendment is to balance some of the other provisions made.

**Deputy Peadar Tóibín:** I add my support to the amendment. It is logical, given that there are hundreds of thousands of working poor in the State. People are going without meals, medical care and heat. Others are selling their cars because they cannot put fuel in them. People arrive at petrol stations with five gallon drums in order that they can put enough kerosene in them to heat their house for one week. There is a serious level of working poverty. A total of 115,000 people are in mortgage distress. People put the payment of the mortgage above paying almost every other bill. Retired gardaí to whom I have spoken are finding it impossible to pay bills such as the household charge. People who have never broken the law

[Deputy Peadar Tóibín.]

in their lives are being forced to do it now because of working poverty. If we were to focus on the *raison d'être* of the legislation, we would focus on the impact on the working poor.

**Deputy Richard Bruton:** Section 12 inserts a new section 42A into the Act of 1946 to establish the principles and policies to which a JLC must have regard when formulating proposals to be submitted to the Labour Court for employment regulation orders. These principles and policies are set out in section 42A(6)(a) to (d). The Fianna Fáil amendment proposes to introduce the additional principle of the impact on working poverty and adequate income. The Bill already contains a number of principles to guide the joint labour committees, JLCs, in formulating proposals for wage rates that would cover the issues raised in this amendment, including the desirability of agreeing and maintaining fair and sustainable minimum rates of remuneration. In addition, the Bill as amended on Committee Stage makes provision in the principles and policies set out at section 12 to allow for an assessment of the general level of wages in comparable sectors. Where enterprises in the sector in question are in competition with enterprises in another member state, the general level of wages in the former are to take into account the cost of living in the member state concerned.

The Government amendment on Committee Stage sought to address the concerns voiced by trade unions and, during the Second Stage, by Deputy O'Dea. They urged that wage comparisons would not be used to undermine workers' purchasing power and that the range of comparable jurisdictions should be tightened so as to exclude those outside Europe. This provision was included.

Wage rates fixed under employment regulation orders, EROs, are set at levels higher than the national minimum wage. On average, these were approximately 10% higher than the minimum wage in 2010 prior to the wage's reduction by the former Government in February 2011. The factors that Deputy O'Dea is seeking to require JLCs to address are more appropriate to setting the level of the national minimum wage. An International Labour Organisation, ILO, survey of minimum wage conventions ratified by Ireland identified the national minimum wage as the wage considered sufficient to satisfy the worker's vital necessities of food, clothing, housing, education and recreation, taking into account the economic and cultural development of each country.

We are setting out the criteria that JLCs should consider. We have included the desirability of agreeing and maintaining fair and sustainable minimum rates of remuneration. I understand the Deputy's intent. If we were discussing the national minimum wage, for example, one would pursue deeper studies of working poverty and so on, but a JLC will set a pay level above the national minimum wage. A JLC is a committee of a specific subsector of the economy and draws people from both sides of the sector. It is not seeking to undertake in-depth research, as that would be more appropriate to a general setting of the national minimum wage. We have made adequate provision by setting out in the criteria the desirability of agreeing and maintaining fair and sustainable minimum rates of remuneration. Deputy O'Dea's amendment would add to this the complexity of an analysis of poverty and so on that would be more appropriate to the national minimum wage, not to a JLC seeking to set a sectoral premium over the minimum wage.

**Deputy Willie O'Dea:** I acknowledge that the Minister made an amendment on Committee Stage. Nevertheless, I did not envisage a JLC undertaking a deep analysis of poverty, sociological studies, etc. I suggest that, when a JLC formulates its proposal, account should be taken of the fact that the more one depresses the wages of the lower paid, the more poverty and unemployment there will be.

**Deputy Richard Bruton:** The question of how working poverty will be addressed is a matter of public policy in terms of the family income supplement. It adds another dimension to the debate, but it would be more appropriate to a wider policy context, one in which the State determines the issues. For this reason, provision is made through the Department of Social Protection in the form of the family income supplement as well as other supplements to help people in difficulty, even if some of them are in work.

Although I recognise the issue the Deputy is raising, this is a serious problem and we need to introduce measures that make it easier to work and to maintain a proper standard. This topic raises many important public policy issues, but we are debating the establishment of a JLC to set a sectoral norm that is above the national minimum wage rate, taking into account all of the various criteria, including the desirability of agreeing and maintaining fair and sustainable minimum rates of remuneration. The Bill's provision is fair and balanced and the amendment as offered would not add to the ease with which the criteria would be put in place. In practical terms, we have already facilitated this matter in the Bill's provisions.

Amendment put and declared lost.

**Deputy Peadar Kirby:** I move amendment No. 20:

In page 20, lines 32 and 33, to delete "but does not include" and substitute "including".

It is important to cite the full subsection, which is an important part of the legislation as well as its most controversial. It is the part of the Bill with which most of the Deputies present have difficulty, as it will have the greatest negative effect on those who can least afford it. The subsection reads:

In this section 'remuneration' means consideration, whether in cash or in kind, which a worker receives from his or her employer in respect of his or her employment but does not include:

(a) pay or time off from work in lieu of public holidays;

(b) compensation under section 14 of the Organisation of Working Time Act 1997 resulting from the requirement to work on a Sunday;

(c) payments in lieu of notice; or

(d) payments referable to a worker's redundancy.

We are removing rights previously afforded to workers. I launched legislation on this matter last July. As has been often stated since the beginning of our debate, necessary efforts needed to be made to help those who could least afford this change.

People who work on Sundays in the sectors in question are typically part-time workers. As my colleague stated, they are usually women trying to buttress the family wage with a few extra euro. It is a difficult time for them to work, as it reduces their time with their families. We meet members of this group regularly. Deputies, Ministers and advisers on large wages sit on comfortable seats in restaurants on Sundays and are served politely and efficiently by individuals whose wages they have just reduced. While preparing my legislation, we worked closely with the unions, which had the greatest difficulty with this issue. Will the Minister ensure we do not take the economic floor out from under these people and their families?

I have some details of the Minister's response on this matter on Committee Stage. He referred to working towards a code that would solve this issue. As legislators, we should not

[Deputy Peadar Tóibín.]

delay issues that need to be resolved now. We may not be able to resolve them in future. The Minister stated, “The proposed code would provide guidance to employers, employees and their representatives, in sections covered by EROs, on arrangements that may be put in place to comply with the options”, etc.

My understanding is we are being asked to accept this reduction in the livelihoods of those who can least afford it on a promise that at some time in future, something will be put together — a code or guideline — to try to safeguard the wages of these people.

The wages of these people have already been reduced in the time between the judgment and now. I understand there are pressures on small businesses, and certain firms find it difficult to open on a Sunday. There are opportunities to offer more business and services to tourists and even the native Irish on Sundays. Since being elected, my requests here have been that when we are looking to reduce business costs and promote efficiencies, we should look everywhere else before looking in the pocket of those who are poor. We should leave no stone unturned.

Upward only rents are closing businesses day in and day out in the State. Rates are set which affect large multinationals in exactly the same way as the small, family corner business teetering on the edge. Insurance costs are also savaging small businesses, along with the energy costs which make it very difficult. There are also regulatory costs. Instead of one path dealing with enforcement and regulation of small business, a company can have a plethora of letters falling on its desks asking to look into roughly the same issues. It can be difficult to deal with those regulations.

There are many places where people in this Chamber can go to find the efficiencies and cost savings that small businesses need before taking the euro from the pockets of the working poor in this State. That is why I request the Minister to think long and hard before pushing this through.

**Deputy Willie O’Dea:** I will speak briefly in support of the amendment. We must bear in mind that the people we are speaking about are on pretty derisory wages, in many cases on approximately 10% more than the minimum wage across the board. I do not know why the Government wants to establish a statutory code with guidelines that I presume will not be enforceable. In the overwhelming majority of cases, the Sunday rate, as I understand it, is time and a third. When one takes into account the sort of wages we are talking about — €12 per hour — it means the extra earnings may be €4 per hour for four or five hours on a Sunday. Taking into account income tax and the universal social charge, in more cases than not, we are left with a very small amount of money. Nevertheless, it makes a significant difference to the people in question.

I agree with the case being put forward, and there are many costs for businesses, with many elements affecting the competitiveness of Irish business. Getting rid of the Sunday premium for people at the very bottom of the pile will not restore the Celtic tiger in all its glory, so I ask the Minister to consider this amendment seriously. We can talk about codes and the Organisation of Working Time Act but this is designed to reduce the extra payment that people at the bottom of the wage scale get for working on Sundays. The Government should not proceed with it.

**Deputy Richard Bruton:** The Deputy’s amendment would remove the exclusions from the proposed definition of remuneration, restoring the position that obtained as regards the scope of employment regulation orders, EROs, that applied in their operation prior to the High Court decision in July 2011. This would have the effect of restoring arrangements with regard



to Sunday working which were acknowledged by the independent Duffy Walsh report as being unduly burdensome, especially in sectors in which Sunday is a normal working day.

In its decision in the John Grace Fried Chicken Limited case that resulted in the scrapping of all EROs, the High Court had particular regard to the absence of consistency across sectors with regard to such matters as the requirement to pay a Sunday premium and confusion between what had been established in statute for universal application and what was being imposed through EROs. Section 42A(7) provides for a new common sense or straightforward definition of remuneration for the purpose of formulating proposals for EROs.

The proposed new statutory definition of remuneration contained in the Bill is in line with the Government's decision of July 2011 and will ensure joint labour committees, JLCs, will no longer set Sunday premiums or any other conditions of employment already covered by universal standards provided for in existing legislation. In particular, provision for a Sunday premium will be removed from the scope of EROs while preserving worker entitlements under the Organisation of Working Time Act 1997.

During the Committee Stage debate on this amendment, there were some suggestions that the new provision would mean a downward revision of pay or the removal of such premiums where these have been paid to workers previously covered by EROs. This is not the case. Under the new legislation, workers in sectors covered by JLCs would have the same statutory entitlement for compensation for Sunday working as all other workers in the country. The obligation to provide additional compensation for Sunday working is derived from section 14 of the Organisation of Working Time Act 1997. In summary, although the Act specifies the means by which an employer should provide a premium for Sunday working, the nature and value of the premium rate is a matter for negotiation and agreement between the employer and trade unions representing employees or between the employer and employees affected by Sunday trading in circumstances where employees are not unionised.

Under section 14, any employee required to work on a Sunday, and where he or she having to work on that day has not been taken account of in the determination of pay, shall be compensated as follows. It will occur by the payment to the employee of a reasonable allowance, having regard to all circumstances; by increasing the employee's rate of pay by a reasonable amount, having regard to all circumstances; by granting the employee the reasonable paid time off from work, having regard to all circumstances; or a combination of two or more of these.

Prior to the John Grace Fried Chicken Limited High Court ruling, many EROs had provided premium payments to those required to work on Sundays. However, where EROs had made provision for a Sunday premium, they had only prescribed the level of monetary compensation, such as double time, time and a third, etc. They excluded the possibility of the use of the other options under section 14 of the Organisation of Working time Act. These provisions were a source of significant concern to employers in sectors in which Sunday is a normal working day, and in some cases the day of greatest demand for services which they provide. This is particularly true in the hospitality sector.

In recent years some form of consistent approach had been agreed to the treatment of Sunday premium rates in the hospitality sector, and JLCs agreed to harmonise the Sunday premium prescribed to time and a third. At one point, hotel JLCs and non-Dublin catering JLCs had provided for double time on Sunday while at the same time the catering JLC covering Dublin had provided for time and a third. The Duffy Walsh report accepted there was validity in the argument that the arrangements in place in JLC sectors with regard to Sunday working were unduly burdensome, especially in sectors where Sunday is a normal working day. Accordingly, I cannot accept the amendment.

[Deputy Richard Bruton.]

The Minister will complement the removal of Sunday premium from the purview of JLCs through a request by him to the Labour Relations Commission to develop a code of practice on Sunday working in those sectors covered by JLCs such as that which exists in respect of all the retail trade. The code of practice on Sunday working in the retail trade was prepared by the Labour Relations Commission in 1998 following consultation with social partners to assist employers, employees and their representatives in observing the 1997 Act as regards Sunday working in the retail trade. It gives guidance, particularly on arrangements that may be put in place to comply with the options specified at section 14 of the relevant Act.

A development of the code in the current position would complement the provisions at section 14 of the Organisation of Working Time Act and ensure best practices are operated by all employers for those employees currently covered by JLCs and who work in sectors where Sunday working is widely practised. This code of practice will subsequently be given the status of statutory instrument by the Minister. When the employment regulation order system was first developed, the labour law provisions were weak. There was no Organisation of Working Time Act and no provisions were set out in the Acts for various rights for employees. A dual provision developed whereby the employment regulation orders provided one set of rules and the more developed and modern statutory labour codes provided another. This created anomalies such as the difficulty, to which Deputy Peadar Tóibín referred, if a public house decided to provide food on a Sunday. Suddenly the owners were expected to provide for a premium payment for all of their staff, while a public house which did not provide food was not obliged to pay such a premium. This created restrictions which made no sense in a modern sector in which Sunday working had become the norm.

We are allowing employers and employees to choose the more appropriate approach. For some this will mean having a higher weekly rate that will apply on all days rather than having a high rate on a Sunday. This may be the preferred way to organise a roster. It shares out the work and the premium in a fairer way. It allows people to operate in a flexible way under the existing Act. Sunday working must be recognised, but it must be recognised in different ways. This leaves the options available under the Act to workers regulated by the joint labour committees, just as they are available to anyone else working. The existing legislation provides for a statutory requirement that someone working in a grocery store has to be paid in a certain way, but the same does not apply to a person working next door in a book store on a given Sunday. This has led to many anomalies. We are allowing the existing statutes that provide for time off in lieu for working on public holidays, options for Sunday working and so on to apply generally but not to be proscribed in a different way under employment regulation orders.

**Acting Chairman (Deputy Peter Mathews):** I am going to put the question.

**Deputy Peadar Tóibín:** The amendment also seeks to substitute a word. The phrase “and substitute “including”.” is used. Does this make a difference to the question to be put?

**Acting Chairman (Deputy Peter Mathews):** No.

Question put: “That the words proposed to be deleted stand.”

The Dáil divided by electronic means.

**Deputy Peadar Tóibín:** Given that this Bill, as it stands, will have a material negative effect on hundreds of thousands of working poor in the State and take money from their pockets, and that we are told there is now soul searching in the Labour Party and there are new advocates in

the party standing up for the working poor, I ask that we vote by means other than electronic means.

Question again put: "That the words proposed to be deleted stand."

The Dáil divided: Tá, 86; Níl, 40.

#### Tá

Bannon, James.  
Breen, Pat.  
Bruton, Richard.  
Burton, Joan.  
Butler, Ray.  
Buttimer, Jerry.  
Byrne, Catherine.  
Byrne, Eric.  
Carey, Joe.  
Coffey, Paudie.  
Collins, Áine.  
Conaghan, Michael.  
Connaughton, Paul J.  
Conway, Ciara.  
Coonan, Noel.  
Corcoran Kennedy, Marcella.  
Costello, Joe.  
Creed, Michael.  
Creighton, Lucinda.  
Daly, Jim.  
Deasy, John.  
Deenihan, Jimmy.  
Deering, Pat.  
Donohoe, Paschal.  
Dowds, Robert.  
Doyle, Andrew.  
Durkan, Bernard J.  
English, Damien.  
Farrell, Alan.  
Ferris, Anne.  
Fitzgerald, Frances.  
Flanagan, Charles.  
Flanagan, Terence.  
Griffin, Brendan.  
Hannigan, Dominic.  
Harrington, Noel.  
Harris, Simon.  
Hayes, Tom.  
Heydon, Martin.  
Howlin, Brendan.  
Humphreys, Kevin.  
Keating, Derek.  
Keaveney, Colm.

Kenny, Seán.  
Kyne, Seán.  
Lawlor, Anthony.  
Lynch, Ciarán.  
Lynch, Kathleen.  
Lyons, John.  
McCarthy, Michael.  
McEntee, Shane.  
McFadden, Nicky.  
McGinley, Dinny.  
McHugh, Joe.  
McLoughlin, Tony.  
McNamara, Michael.  
Mathews, Peter.  
Mitchell, Olivia.  
Mulherin, Michelle.  
Murphy, Dara.  
Nash, Gerald.  
Neville, Dan.  
Nolan, Derek.  
Noonan, Michael.  
Ó Ríordáin, Aodhán.  
O'Donnell, Kieran.  
O'Donovan, Patrick.  
O'Mahony, John.  
O'Reilly, Joe.  
Perry, John.  
Phelan, John Paul.  
Reilly, James.  
Ring, Michael.  
Ross, Shane.  
Ryan, Brendan.  
Shatter, Alan.  
Sherlock, Sean.  
Shortall, Róisín.  
Stagg, Emmet.  
Stanton, David.  
Timmins, Billy.  
Tuffy, Joanna.  
Twomey, Liam.  
Varadkar, Leo.  
Wall, Jack.  
White, Alex.

#### Níl

Adams, Gerry.  
Broughan, Thomas P.  
Calleary, Dara.  
Collins, Joan.  
Collins, Niall.  
Cowen, Barry.  
Crowe, Seán.  
Daly, Clare.  
Doherty, Pearse.  
Dooley, Timmy.  
Ellis, Dessie.  
Ferris, Martin.

Flanagan, Luke 'Ming'.  
Halligan, John.  
Healy, Seamus.  
Healy-Rae, Michael.  
Higgins, Joe.  
Mac Lochlainn, Pádraig.  
Martin, Micheál.  
McConalogue, Charlie.  
McDonald, Mary Lou.  
McGrath, Finian.  
McGrath, Michael.  
McGuinness, John.

Níl—*continued*

McLellan, Sandra.  
Moynihan, Michael.  
Murphy, Catherine.  
Nulty, Patrick.  
Ó Caoláin, Caoimhghín.  
Ó Cuív, Éamon.  
Ó Fearghaíl, Seán.  
Ó Snodaigh, Aengus.

O'Brien, Jonathan.  
O'Dea, Willie.  
Pringle, Thomas.  
Smith, Brendan.  
Stanley, Brian.  
Tóibín, Peadar.  
Troy, Robert.  
Wallace, Mick.

Tellers: Tá, Deputies Joe Carey and Emmet Stagg; Níl, Deputies Aengus Ó Snodaigh and Seán Ó Fearghaíl.

Question again declared carried.

Amendment declared lost.

Amendments Nos. 21 to 26, inclusive, not moved.

Bill recommitted in respect of amendment No. 27.

**Deputy Richard Bruton:** I move amendment No. 27:

In page 34, to delete lines 35 to 37 and substitute the following:

““(fa) a reference to any registered employment agreement or employment regulation order which applies to the employee and confirmation of where the employee may obtain a copy of such agreement or order,””.

This is essentially a tidying-up amendment designed to ensure the provision is consistent with existing provisions under section 3 of the Terms of Employment (Information) Act 1994 governing the requirements for an employer to provide a written statement of terms of employment to an employee. The purpose of section 18 is to strengthen provisions relating to informing workers of their statutory entitlements by requiring the employers of any worker to whom an employment regulation order or registered employment agreement applies to include the terms of the ERO in a written statement of terms of employment to be given to the worker under section 3 of the Terms of Employment (Information) Act of 1994. To this end, section 18(b) of the Bill, as published, provides for the insertion of a new section 3(1)(fa) in the Terms of Employment (Information) Act as follows: “the terms of any registered employment agreement or employment regulation order applicable to the employee”. This new provision compares unfavourably with the existing section 3(1)(m) in the Act of 1994 relating to collective agreements, which only requires that the written statement of terms of employment contain “a reference to any collective agreements which directly affect the terms and conditions of the employee’s employment including, where the employer is not a party to such agreements, particulars of the bodies or institutions by whom they were made”. Accordingly, for collective agreements, the only requirement is to refer the employee to relevant collective agreements as opposed to providing the terms of such agreements.

The difficulty with the original drafting is that some of these types of agreements and orders go through a series of iterations and become highly complex documents. Under the original drafting, the employer would be required to provide a complex document to every employee, whereas the existing provision is to provide the employee with an agreement referring to the fact that his or her terms and conditions are based in the registered employment agreement

and the institutions and bodies that made it and to which he or she may proceed if unhappy with any of the provisions.

Amendment agreed to.

Bill reported with amendments.

Bill, as amended, received for final consideration.

Question proposed: "That the Bill do now pass."

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** I thank the Deputies for their co-operation with the passage of the Bill and my officials for their work on it.

Question put and agreed to.

**Acting Chairman (Deputy Peter Mathews):** The Bill will be sent to the Seanad.

### **Criminal Justice (Search Warrants) Bill 2012 [Seanad]: Second Stage (Resumed)**

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

**Acting Chairman (Deputy Peter Mathews):** I welcome the Minister for Justice and Equality, Deputy Shatter, to the House. Following the vote, there was a speeding up in the momentum of the previous item and we are slightly ahead of schedule. I call on Deputy Durkan to resume the debate and 15 minutes remain in his slot.

**Deputy Bernard J. Durkan:** I am glad to have a further opportunity to contribute to this debate. On the last time I spoke on this issue, I referred to a number of points I considered to be pertinent and important. I will speak for a moment on the strengths and weaknesses of the system in so far as it deals with serious crime. I note that whatever is the strongest or weakest link can suddenly become the weakest link. While this does not simply pertain to first-time offenders or anything like that, I could never understand how, in the pursuit of serious, major crimes, it could ever have been allowed to happen that a technicality over a warrant could be the key to allowing someone ultimately to walk away. This has happened previously in this country's system over the past 20 or 30 years, which I can well recall during my time in this House. While lessons should have been learned in this regard, I do not know whether, in the context of this legislation, cognisance will be taken of the fact that one should learn from past experience, simply because it is not at all acceptable that in the event of a serious offence against the State, a citizen or the institutions of the State, the person concerned could walk free on a technicality. I have spoken on this issue in this Chamber many times and I still hold that view because technicalities are still technicalities. Consequently, I hope the Minister will put in place some procedures to ensure in future that those who commit serious crime cannot walk free on a technicality. Regardless of the circumstances, something is owed to the victims. I acknowledge this does not apply in the particular case that triggered off the issue under discussion but in general, something is owed to victims and this should be recognised. The strength of the basis on which a warrant is issued is being addressed in this regard and it is an important issue. In his previous profession, I am sure the Minister, in common with other Members, has had ample opportunity to review similar situations and the point still prevails.

I have mentioned organised crime many times in this Chamber. I also have tabled many questions on how to deal with organised crime versus what I would describe as ordinary, petty crime, and there is an issue in this regard. I believe, as the description suggests, that organised criminals are better organised and, in general, they get away with a great deal more than do



[Deputy Bernard J. Durkan.]

first-time offenders. Fr. Peter McVerry regularly states that prison is an academy for prisoners to achieve a higher degree of proficiency in the pursuit of crime, as well as the credentials to pursue crime as a subsequent career. I have come to the conclusion he is probably right, and for a number of reasons.

In recent years, I have repeatedly tabled questions to the Minister for Justice and Equality and his predecessors to ascertain the procedures followed in particular circumstances. I have received some information that is alarming to me, namely, that there appears to be a difficulty in referring first-time offenders for rehabilitation, training courses or education. I do not know the reason for this although I have tabled numerous questions to both the present Minister and his predecessors. I do not know the reason, because by virtue of such people being first-time offenders, regardless of the sentence, to take them out of the loop of criminality in the future, it should be possible to ensure they are referred in respect of training, rehabilitation, advice or whatever is required to take them away from that area.

This should be done because in my experience, which I am sure mirrors that of the Acting Chairman and all other Members, I have encountered numerous examples of people who were vulnerable for a variety of reasons. It may have been because they were being blackmailed, were in financial difficulty or because criminal elements had identified their vulnerability and decided to make them an offer they could not refuse. In such circumstances, they were invariably caught. I have advised many constituents who were in such a position before anything happened. I refer to those who wished to discuss something with me — I am sure other Members have had similar experiences — and I warned them they were being led into a trap. Sadly, I was always right. The point is, however, their families pay the price subsequently. These are people who had never been in trouble with the law and who had never been convicted of an offence but who suddenly receive a conviction for serious crimes related to drug haulage as intermediaries.

A serious question now arises and I believe that a part of the system that must be overhauled and which could be incorporated into this Bill is one that would take cognisance of the circumstances of such people. It could encourage them away from criminality and towards the area whereby they would have an opportunity to recover their lives and regain their places in society. I refer in particular to those who acknowledge they made a mistake. Such people always do. They hold up their hands and do so in absolute submission. Consequently, I hope the Minister might see fit to recognise their position in some shape or form.

I do not wish to go into too much detail but one item of information I sought over the past year concerned the procedures followed in the determination of eligibility for referral to particular concessions while in prison. I received the stock reply, which I have always received, despite the fact I already knew the answer. I knew that although the aforementioned procedures were the procedures officially set in place, they were not being used. I do not know the reason but some time ago, I received a reply to a question which indicated to me that the rules were not being applied as was indicated. Furthermore, in respect of a serious crime that did not pertain to a first-time offender, I tabled a question asking the procedures to be followed for referral to rehabilitation, education and training programmes, and I got all the information. I have no problem in that regard and thank the Minister for it. However, the reply omitted a vital piece of information of which I was aware relating to a particular prisoner, who was referred at an early stage to a situation from whence that prisoner was able to walk free.

That is not the first time. I had a similar experience 20 years ago, and the family of the victims concerned came to me. I do not know why they came to me because they were from much further afield. The family of the victims explained their concerns and I did not believe them at the time, although the particular case has come into focus again recently. I did not

believe what they were telling me, but they were correct. They told me at the time that the perpetrator would walk free and it now looks as if that is the case.

We need to get realistic about these issues because the public has a view on them as well. Clever tricks of a technical nature are very fine, but they should not be used to get somebody off who is guilty of a particularly heinous crime. The time has come to get into serious confrontation with people in that situation. The people of this country do not accept that kind of thing any longer and the fact they put up with it from time to time in the past is not an indication that they are prepared to put up with it in the future.

Even though first-time offenders may have been found guilty of a serious offence, when they have not been involved in criminal activity previously, they should be given first opportunity to access training and rehabilitation in order that they can go back into society and back to their families. I have visited prisoners in every prison in this country and in the adjoining jurisdiction as well. I believe it is my right and duty to do that if called upon, and I will continue to do it. It is important we stand over the entitlement of convicted prisoners to their constitutional rights under the law and their human rights. Nothing should impinge on that. If we recognise those things, we will do much to set parameters within which those who are guilty of crimes get their just desserts, and those who have fallen into the grasp of powerful people in the criminal world get some kind of recognition. While not approving of what they did and ensuring they pay the price, they should be given some kind of encouragement to move them away from that kind of criminal life to which they may be condemned if they stay long enough in the system to be able to qualify from, as Father McVerry has called it, the academy that is prison.

I reserve my right at all times to raise questions on any issue pertaining to the Irish Prison Service and to the treatment and the custody of prisoners. I was amazed at the degree to which the authorities in the neighbouring jurisdiction were prepared to take note of the representations by people from an adjoining jurisdiction. We have a lot to learn from that. We may not be always right, although we are not always be wrong either. It is no harm to learn from situations in adjoining jurisdictions or elsewhere. In our conclusions, I hope we can provide a more responsive system that does not allow people to walk free on technicalities. I have only touched on some of the cases that have occurred over the years and I believe more are coming along. I would like to emphasise my commitment to the law, standing order and the need to protect the citizens of this State. I reiterate my intention to ensure the rules of the law are administered equally and are open to everybody, with regard for due process and natural justice.

**Deputy John Halligan:** I wish to share my time with Deputy Pringle.

**Acting Chairman (Deputy Jack Wall):** Is that agreed? Agreed.

**Deputy John Halligan:** The Supreme Court challenge to the controversial section 29 warrant by Mr. Ali Charaf Damache called for swift action. I commend the Minister and his Department on providing such a speedy response to tidy up this legislative area. I have always felt that independence and transparency are essential to the integrity of the criminal justice system, and we would do victims of crime a grave injustice by delaying legislation that would prevent a major criminal from walking free because of unconstitutionally obtained evidence based on a warrant issued. The Supreme Court decision would also suggest a preference for search warrants to be judicially issued in future, or in some instances by a garda not personally involved in the investigation, rather than them being issued by any garda above a certain rank.

I welcome the fact the Bill is restrictive in stating that a warrant obtained in an urgent situation must be used within 48 hours. That is important within our justice system. I also

[Deputy John Halligan.]

believe a member of the Judiciary can ask the right questions to keep the legal procedures and grounds for search within the scope of the law, and so prevent cases falling apart later at public expense and to the detriment of an individual or the State.

The Garda Síochána must be in a position to take action to protect the public if circumstances of public safety arise. An example would be suspected offences involving firearms or explosives. The increasing number of people involved in the drugs trade is a serious concern and it is crucial that Garda investigations are not hampered by the inability to act in urgent circumstances to maintain safety and promote law and order. However, I and many others would say that it is equally important that the Garda Síochána has the necessary resources to go about this duty. Rank and file members have told me that cuts, including the €79 million depletion from this year's budget, are making it an uphill battle to enforce ordinary criminal justice. My constituency and many others are experiencing a significant increase in the rates of burglary. Many people feel at risk in their homes. I certainly agree with putting legislation in place that makes life more difficult for criminals, along with proper safeguards for innocent individuals. However, such legislation would be weakened if we did not also put similar resources into the Garda Síochána and its various divisions that deal with different crimes. For example, community gardaí and gardaí in special units feel they are under immense pressure to do jobs they were not put there to do in the first place.

In the current economic situation, money is short. However, the significant increase in burglaries throughout the State cannot be denied, especially if one speaks to gardaí and TDs, and much of this has to do with resources not being given to the Garda. I am obliged to say this even though the Minister may have made a decision on what resources will be available to the Garda now and in the future. I urge him and his Cabinet colleagues to proceed with signing off on and filling the substantial number of senior garda positions which are unoccupied at present. Many senior gardaí are now doing the work that two or even three officers would have done a couple of years ago, although they may not admit it.

I back this legislation and have no problem with it. None the less, however well-intentioned it is, it will do nothing to alleviate the shortage of manpower. I urge the Minister to talk to community groups and community gardaí in the coming years. When I was mayor of Waterford some years ago, I held a mayoral reception for community gardaí, who I felt were doing wonderful work. The Garda Commissioner came from Dublin to attend that reception and he acknowledged the work the community gardaí were doing. He noted frankly and in a forthright manner that the way forward in helping the community and having the community work with gardaí was to have more community gardaí on the beat and on the streets. If one looks at the position in other countries, such as in areas of London in the UK where there are huge problems with crime, they have spent huge resources on community policing in recent years.

When in opposition, the Minister spoke very forcefully on this issue, and rightly so. If one speaks to gardaí, including superintendents, and I have spoken to the former Garda Commissioner, with whom I addressed a meeting in Waterford, they have always believed one of the ways forward in dealing with crime was to put more faith in community gardaí and provide them with more resources. We would then have some hope of dealing with the increase in crime.

**Deputy Thomas Pringle:** I am glad to have the opportunity to contribute to this debate. As the Minister said, this is a short Bill which was introduced as a reaction to the striking down by the Supreme Court of section 29 of the Offences Against the State Act 1939. The Minister has described it as a necessary weapon for gardaí in their armoury in fighting serious crime.

This language in itself indicates that the intention is that these provisions will be used, and probably used frequently.

The principle on which this section was struck down is very important and goes to the heart of natural justice. Much has been said in the past about bodies investigating themselves and the same principle should apply in regard to the issuing of search warrants. When an organisation investigates itself, whether it is a political or professional body, it can very quickly become a possibility that the intention is to find ways not to investigate. This could be out of sympathy for the individuals involved or due to the perceived need not to bring disrepute on an organisation. In the case of search warrants, the pressure will be on a garda not to refuse a warrant, even if he has misgivings about the intention of the warrant or the need for it.

The Minister said the striking down of section 29 has the potential to hamper investigations in situations of urgency where there may not be time to contact a judge. Surely there could also be a difficulty contacting a garda above the rank of superintendent in a parallel command, which in some cases could be in a different division altogether.

The Supreme Court ruling on the search warrants laid down the principles that should be involved. First, there is the principle of independence, where a warrant should be issued by a person who is independent and this person should also be satisfied on the basis of sworn information that reasonable grounds exist to issue that warrant. Second, there is a requirement to act judiciously. The granting of a search warrant is an act that is administrative in nature and is not an aspect of the administration of justice. That being so, there is a requirement that a warrant must be granted by a judge. Third, there is the principle of urgency, where there is some provision that a warrant should be issued by a member of the Garda. The court held that these situations were dependent on the existence of urgent circumstances, and this was an important consideration in determining the proportionality of legislation which could impinge on constitutionally protected rights.

These principles of independence, acting judiciously and restrictions on the issues around urgency have been identified by the courts in this issue. Subsection (12) of the Bill attempts to establish the independence of the garda who will issue the warrant in the special circumstances identified. This is described as a garda who is not in charge of or involved in the investigation. The Minister states that, in practice, this will be an officer in a parallel command but, with the best will in the world, will there ever be a circumstance where a warrant will be refused? It may be that there are never times when a judge refuses a warrant but at least that independence is clearly established when an application is being made. I believe there will be massive pressure on gardaí not to refuse a warrant and they should not be put in that situation. The pressure of colleagues looking for a warrant and having it refused would be too much to bear.

Mr. Justice Morris also highlighted these difficulties with section 29 in his report on the Donegal Garda situation, and it is for the very same reasons that this section was struck down. I do not believe this Bill will reduce those reasons and we could face the possibility of future challenges to the legislation. It would make more sense if the Bill sought to establish a panel of District Court judges who would be available at short notice to assist gardaí in their investigations. When someone might be put at risk of their liberty and facing serious possible charges, it is incumbent on the justice system that every step is taken to ensure natural justice is followed. There are enough District Court judges to enable a panel to operate and, in this day and age, I am sure acceptable conferencing facilities could be provided to have hearings held in such a way that would allow the warrant to be issued with the proper oversight and with the urgency that may be required. This would ensure the rights of everyone could be protected, gardaí would not be put in a difficult situation and it would not be possible for the legislation to be challenged in the future. This would be a better and more satisfactory way to proceed.

**Deputy Paul J. Connaughton:** I wish to share time with Deputy Terence Flanagan.

**Acting Chairman (Deputy Jack Wall):** Is that agreed? Agreed.

**Deputy Paul J. Connaughton:** I thank the Chair for the opportunity to speak. The Bill before us seeks to amend the law relating to the procurement of search warrants, particularly in light of the Supreme Court decision in *Damache v. the Director of Public Prosecutions, DPP*, in which it was held that section 29 of the Offences Against the State Act 1939 was unconstitutional. Another important feature of the Bill is the fact it amends provisions in regard to search warrants procured in regard to drug legislation.

The right to enter someone's home or premises is a significant power given to the Garda Síochána and other bodies and is one which must be treated with the utmost respect as it overrides people's constitutional rights to the enjoyment of their property. The greater good has often been cited as a reason for this interference, and drug legislation is an example of where overriding a person's property rights can be justified in terms of safeguarding the public from dangerous narcotics.

The court ruling in *Damache v. the DPP* found that the law as it stood was unconstitutional because it permitted a garda who was involved in an investigation to issue a search warrant, breaching a central rule of natural justice that no man is a judge in his own cause. It is imperative to note in this case that while a finding of unconstitutionality is retrospective, remedies usually operate prospectively only, and the application of the ruling will be applied only to those people whose cases have not been fully determined.

The ruling in that case is not the first time the validity of such warrants has been questioned. The Morris tribunal expressed what it termed "disquiet" over the fact that investigating gardaí in Donegal were empowered to issue a search warrant to themselves and recommended that warrants should be issued by a judge, with a senior garda only issuing a warrant in limited circumstances when time was of the essence. Under the new section 29, a judge of the District Court may issue a warrant if he or she is satisfied there are reasonable grounds for believing that evidence is to be found at the named location.

An important change relates to the circumstances in which a warrant may be issued by a garda. The power of a garda to issue a warrant is limited to where the garda believes the warrant is necessary and also that it is being sought in circumstances involving such urgency that it would be impractical to make an application for the warrant before a District Court judge. It also requires the issuing garda to be entirely independent of the investigation of the relevant offence. This is a welcome change to the legislation. The involvement of an outside garda is not only important in adhering to the principles of natural justice, it is also important in ensuring transparency in the legal process. It represents a double safeguard. Given the various incidents uncovered by the Morris tribunal in Donegal, such safeguards are both wise and necessary.

Search warrants are an important tool for the Garda but the entire justice system is damaged if such warrants are improperly used. Accordingly, there are strict provisions as to when a warrant can be sought, who can enter the premises and the timeframe for which the search warrant is valid. A search warrant issued by a District Court judge remains valid for one week from the date of issue while a warrant issued by a Garda superintendent is only valid for 48 hours. The provisions of a search warrant allows a garda acting on a warrant to require any person present in the venue being searched to give his or her name and address. Anyone who obstructs a garda carrying out a search warrant by refusing to give a name or address or by giving a false or misleading name or address can be arrested. A new provision in the Bill



requires that the garda issuing the warrant must record in writing the grounds on which the warrant was issued, as well as the time.

The provisions of this Bill are a sensible reaction to the court ruling in the Damache case and will improve the security and transparency of the search warrant system. The necessity of changing the legislation simply underlines the importance that must be attached to measures such as search warrants that override people's constitutional rights to enjoy their property. I believe this Bill takes due cognisance of the need to safeguard the rights of all involved.

**Deputy Terence Flanagan:** I, too, welcome the Criminal Justice (Search Warrants) Bill 2012, which is focused legislation that moves to improve the search warrant system in place. It is vital a clear system is in place to ensure An Garda Síochána is able to conduct its work in a timely, efficient and effective manner. I recognise the importance of the Bill and the speed at which the Minister for Justice and Equality has sought to address the problems with section 29 of the Offences Against the State Act 1939 which came to light in the recent court case, *Damache v. the Director of Public Prosecutions* in February 2012. The section was deemed to be unconstitutional because it allowed a person who was not independent of an investigation to issue a search warrant for a property. Legislation to deal with this has been brought before the House in a matter of months since the trial and I commend the Minister, Deputy Shatter, in this regard.

It is important this legislation is introduced as a matter of urgency to ensure those who commit crimes are brought to justice and receive the correct conviction. Worryingly, several cases before the courts have been quashed already or withdrawn by the State because search warrants used in the investigations were issued by gardaí who were not independent of the case. This is a shocking situation and particularly worrying for the victims of crime. The public wants to see those involved in crime doing the time when convicted.

Members of the Garda Síochána were able to issue search warrants without the requirement that the issuing garda should be independent of the investigation. The purpose of this Bill is to introduce the necessary changes to law to ensure those issuing search warrants have no active involvement in the case. Once enacted, the legislation will increase the ability and the effectiveness at which the Garda will be able to investigate terrorist activities and other urgent cases such as those involving firearms and drugs. Changes to the current search warrant system will include that applications for a search warrant will have to be made through a District Court judge, except in urgent cases involving firearms and drugs or where any delays could result in the destruction and tampering of evidence. In such cases, the warrant can be issued by a Garda superintendent who is not involved in the investigation.

I am glad there is cross-party support for the Bill. It is clear the legislation must be enacted as soon as possible. I commend the Minister, Deputy Shatter, and his officials on their hard work to ensure this happens. It is balanced legislation which successfully addresses the issues which were brought to light in the Damache case in February this year. Its introduction will only help to strengthen the search warrant system in Ireland.

**Deputy Michael Healy-Rae:** I concur with previous speakers on the urgency of this Bill. Having studied it in great detail over recent days, I know the problems it addresses put members of An Garda Síochána at an extreme disadvantage, which is why the swift passage of this legislation is of great importance. We are fighting highly organised crime and we need An Garda Síochána to be able to take swift action when it comes to the issuing of search warrants. Since the Supreme Court judgment on search warrants in February 2012, many Garda investigations have been held up or even interfered with. We need to be practical and sensible about this issue.

[Deputy Michael Healy-Rae.]

For example, an investigating garda could be in possession of vital information about the whereabouts of a firearm that may have been used in a particular crime. However, it may be necessary to act on this information quickly. It is not as though the garda can dilly-dally, waiting to get the warrant and execute it. In such cases, the Garda Síochána needs to act swiftly, and that is why I am supporting what the Minister is trying to achieve in this legislation. It is for the greater good. We are at a time when outrageous and serious crimes are being perpetrated every day. We have had horrible situations recently of bombs left in places which have caused serious injury to children. There are incidents of shots fired into windows of houses at night.

The Garda is really up against it. The force is poorly resourced and cutbacks are hampering and interfering with its work on the behalf of all law-abiding citizens. Being a garda, a sergeant, an inspector or a superintendent is a difficult post. While I will not say they are losing the war against crime, it is being put up to them by these highly organised and financed people engaged in all forms of illegal activity. Any work we can do politically through this Bill to ensure Garda investigations are assisted by the swift implementation of search warrants must be commended.

Debate adjourned.

#### **Education (Amendment) (Protection of Schools) Bill 2012: Second Stage (Resumed) [Private Members]**

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

**Acting Chairman (Deputy Jack Wall):** I call Deputy Seán Crowe. The Deputy has five minutes.

**Deputy Seán Crowe:** Deputy Doherty and I are sharing our time, so I will be taking somewhat more than five minutes.

**Acting Chairman (Deputy Jack Wall):** That is fine. The Deputies will have ten minutes between them.

**Deputy Seán Crowe:** In last year's general election people voted for change. However, rural communities have endured cuts that threaten their way of life and long-term viability. The staffing schedules for small schools that were announced in December's budget are an example in this regard and there are understandable fears that changes in respect of schools with four or fewer teachers will force some of them to amalgamate or even close. The threat to small schools comes at a time when community centres, sports clubs, GAA halls, small post offices, local shops, Garda stations and rural pubs have been forced to close. Combined with the forced emigration of thousands of young people, it is clear that essential aspects of rural life are being lost, possibly for ever.

In the midst of the current financial crisis, small rural schools — in the context of their serving as places of learning which protect the social cohesion of the communities they serve — are more important than ever. A one-size-fits-all strategy is insufficient to meet the needs of Irish children. Our education system must be sensitive enough to meet the diverse demands of the country and its rural inhabitants.

When the grand secretary of the Orange Order, Mr. Drew Nelson, delivered an historic address to the Seanad, he made a number of points with which I would disagree. However, I concur with him in respect of one matter, namely, that one of the greatest challenges faced by Protestant communities is the threat to minority faith-based schools. This threat is illustrated by the fact that only 12 of the 26 counties have Protestant secondary schools of any description

and that there are only six non-fee-paying Protestant second level schools, three of which are located in Dublin and Wicklow. Five out of every eight schools in the diocese of Ferns are said to be under threat. Recently, a Church of Ireland school in Killegney, which is near Enniscorthy, was closed after 107 years in operation. Only two years ago, €250,000 was invested in transforming the latter into a state-of-the-art facility.

The Protestant community in this State is widely dispersed. As a direct result, children are obliged to travel many miles in order to attend their nearest faith-based schools. Closing minority schools will only make matters worse and parents will be prevented from sending their children to a school of their choice which reflects their own religious ethos as a result of the long distances involved. If we are really serious about contributing to a pluralist, multicultural society, then it is vital proper protection and supports are put in place to ensure the future viability of schools serving minority denominations.

Equally, the unique challenges faced by gaelscoileanna mean that they must also be treated sensitively in order to secure the future of an teanga Gaeilge as a vibrant, working language. Changes to pupil-teacher ratios and staffing schedules have had a profound impact on Gaeltacht schools. This, in turn, threatens to undermine the 20-year strategy for the Irish language. There is mounting concern that many gaelscoileanna, which have been hit hard with changes to their staffing schedules and the ending of preferential pupil-teacher ratios, may be forced to close. This will undermine the development of the Irish language and will ensure that much of the progress that has been made will be lost for ever. To compound matters further, the geographic information system, GIS, to which the Minister of State referred last evening and which the Department uses to calculate school numbers is flawed when it comes to tracking children who are attending or who want to attend gaelscoileanna. Funding for trainee teachers who wish to attend Irish language courses in the Gaeltacht has also been hit and it is clear that plans to establish an Irish training college are in the doldrums.

We need an education system that safeguards, develops and nurtures not only our native language but also — in a proactive manner — the diversity and educational aspirations of parents and their children. Clearly, then, any evaluation of the viability of schools cannot be based on cost alone. Other criteria such as the quality of the educational experience, ensuring stable enrolment trends, the financial position of schools, availability of transport links, physical accessibility, geographic location, language considerations, patronage and the maintenance of strong ties with the community must also be considered. I welcome the positive work that is to be carried out by the advisory group to the forum on patronage and pluralism, which has been tasked with divesting patronage throughout the State. The making or breaking of this endeavour will rest on the availability and provision of sufficient resources.

I also welcome the work being done by the Minister for Education and Skills, Deputy Quinn, and his Northern counterpart, Mr. John O'Dowd, MLA, in developing cross-Border co-operation in an effort to meet the real challenges of people who live in the Border region. The survey that is due to be carried out later in the year — part of which encompasses the possibility of encouraging parents to send their children to the schools nearest to their places of residence along the Border — is to be welcomed. Some people have already expressed concern at this development but I do not foresee this initiative posing any threat to small or medium-sized schools or local communities. With rural communities facing the threat of cuts which may force the closure or amalgamation of many small schools, a number of options must be considered. The type of cross-Border co-operation to which I refer may help to secure the future of minority faith-based communities in the Border region. Those who live in these communities must be given the option of sending their children to a school of their religious denomination.

I thank Deputy Luke 'Ming' Flanagan for introducing this important Bill.

**Deputy Pearse Doherty:** This is not the first occasion in the past 12 months that I have been obliged to make a plea to the Government to reverse its decision in respect of attacking small rural schools. I use the word “attacking” in a very conscious fashion. In December’s budget, the Government actually increased the pupil-teacher ratio for schools with fewer than four teachers. Prior to that, the State had recognised that rural schools and gael scoileanna required preferential pupil-teacher ratios. It also recognised those of minority faiths — Protestants and Presbyterians — who come from areas that are particularly rural and not densely populated. As a result, the schools they attend are small.

In an attempt to save money — some €1.5 million this year and €15 million in a full year — the Government threw out the three principles on which education in this State, in the context of the pupil-teacher ratio, was based. As a result, some of those who were previously employed in small rural schools have been informed that they cannot return to them in September. The Minister for Education and Skills continues to issue figures in respect of the number of schools and teachers that will be affected in this regard. Some 36 teachers from Irish Catholic schools in County Donegal were placed on the panel for the county. These individuals have been told, at the very least, that they can no longer teach at the schools in which they were previously employed and that they will be obliged to seek employment in other schools come September. This means that in 36 schools in my county, children will be taught in either larger or multi-grade classes.

It is completely wrong for the Government to try to balance the books by attacking children. We will not see the effects of what it is doing in September or, indeed, next year or the year after. Those effects will only become apparent in the long term. The decisions the Government took last December, and over which the Minister of State is probably going to stand tonight, will have massive and long-term consequences for the education of children who are dependent on the schools to which I refer.

Let us consider the way the Government has attacked Gaeltacht schools. Previously, the number of children required for a four-teacher school was 76. That will increase to 86 by 2014. Schools that want to retain four teachers must find ten additional pupils. Let us take the English language school by comparison. It must increase by only five pupils. The Government got rid of the preferential status of Gaeltacht schools and the unique identity this State gave to Gaeltacht schools by recognising the need for additional pupil teacher ratios in smaller schools because of the difficulties teachers have in passing on our language to children. This is a retrograde step and I ask the Government to pull back from the brink and look at matters in a different way. Let us not consider this as a question of how to save pennies. Let us consider how we can provide the best type of education to children for the future. If we want to build a knowledge-based economy, our children and our children’s children will get the State back up off its knees. Some of them do not have the luxury of speech but all they ask for is an even break. I ask the Minister to give children an even break and to reverse the decision made in December. The Minister should agree to the principles contained in this Bill and put children first in terms of education.

**Deputy Brendan Griffin:** I propose to share time with Deputies John Paul Phelan, Michael McNamara, Derek Keating, Michelle Mulherin and Jerry Buttimer. I appreciate the opportunity to speak on this topic and I commend Deputy Luke ‘Ming’ Flanagan for showing a great interest in the area. The future of small rural primary schools is an issue I feel strongly about. I come from, and live in, a small rural community on the Dingle Peninsula in County Kerry. As a child, I attended a small rural school where I got a great start in life. I have also spent some time teaching in small rural schools. Therefore, this topic is close to my heart.

Following last December's budgetary changes to pupil thresholds for small schools, the issue of the future of primary education in rural areas has been the focus of considerable discussion. There have been many differing views and solutions from within my own party, across all sides of this Chamber and from beyond the House. Deputy Luke 'Ming' Flanagan's Bill expresses his views and solutions to the matter.

While I welcome the sentiment and good intentions of the Bill, section 2 is unnecessary, given that Ireland ratified the UN Convention on the Rights of the Child without reservation in 1992. There will be a constitutional referendum on children's rights later in the year. Section 3 seems a regressive step, as we need to be reasonable when discussing pupil-teacher ratios in small schools. Sections 5 and 6 are unrealistic and an affront to the one-teacher schools operating well throughout Ireland. For these reasons, I will not support the Bill.

However, I welcome all constructive contributions to the discussion because it is through constructive discussion that we can put in place a comprehensive, long-term solution to the challenges facing the future of primary education in rural areas. The solution has the benefit of the child at its heart. I have worked very hard over the past six months from within Government circles to achieve alterations to the recent changes to number thresholds. When I contributed to the debate on this subject in the Chamber in February, I called for the introduction of a streamlined appeals mechanism, which would allow schools an opportunity to counteract the retrospective aspect of the threshold changes, based on future projections. Thankfully, in co-operation with other Fine Gael and Labour Oireachtas Members, we were instrumental in securing that appeals process, which resulted in 41 of the 73 schools, initially threatened with the loss of a teacher, being able to keep all their teachers.

Unfortunately, of the 3,100 primary schools nationwide, 32 schools were not successful in holding on to all of their teachers for next year because of the budgetary changes for small schools. Two of these schools, Fybough national school and Filemore national school, are in County Kerry. While we have found a solution to the situation at Fybough, I am still working hard on finding a resolution to the situation at Filemore, which remains the only school in Kerry due to lose a teacher in September under the budget changes. In Kerry, the appeals process saved teaching posts at schools in Lispole, Ballylongford, Kilcummin, Curranes and Tralee.

In February, I called for recognition of geographic isolation to be factored into the appeals process. I gave the example at the time of Cloghane national school, which is a three-teacher Gaeltacht school, 12 km from its nearest school, which is a non-Gaeltacht school, and 20 km from its nearest Gaeltacht school in Dingle via the Conor Pass, which cannot be travelled by bus. In cases such as this, I call for reasonable exceptions to be made through the appeals process.

I also requested that four-teacher Gaeltacht schools retain a threshold advantage of five over non-Gaeltacht four-teacher schools. I continue to pursue these requests and I am fully dedicated to delivering further tangible improvements from within Government circles. In the past two weeks, the internal Fine Gael education committee has met on two occasions to discuss such matters affecting small rural schools and will meet again tomorrow.

We need to bring some balance to the policy approach to small schools. On one side of the argument, it is unsustainable to have two teachers provided for a school of only 12 children, where geographic isolation is not a significant factor. On the other hand, it is unsustainable in the long run to have only two teachers provided for a school of 55 children, which would be the case if the threshold changes were fully implemented.

In conclusion, I sincerely request that all Oireachtas Members be given the opportunity to propose, and have considered, alternative budgetary adjustments in the primary education sec-



[Deputy Brendan Griffin.]

tor to allow thresholds to remain at the 2012-13 academic year qualifying levels, which are 14, 51 and 83. By working together, in a non-confrontational and constructive way, we could find these alternative savings. I appeal to all Members of both Houses of the Oireachtas, the teaching community, officials of the Department, unions, parents and others with an interest in our children's future to come together with constructive and realistic proposals to help resolve this issue.

**Deputy John Paul Phelan:** I am glad to have the opportunity to speak on small rural schools, having been a student in one. I later served on the board of management of what was a four-teacher school. It became a three-teacher school but it now has a fourth teacher. Hopefully, in the next few years, Listerlin national school, County Kilkenny, will be in the reckoning for a fifth teacher.

I want to make the case for a number of schools in the appeals system. Their staffing levels in September have not yet been finalised. I echo the comments of the previous speaker, Deputy Brendan Griffin, on flexibility, particularly in the case of schools where it is clear that numbers have dipped for a short period but will rise sufficiently in the very near future. Deputy Griffin referred to the new thresholds with regard to the number of pupils required for a school to retain a second teacher if the Minister continues to introduce changes over the coming years. In areas of isolation and in communities, the school is at the heart of the rural community. A strong case can be made for flexibility in regard to how the pupil-teacher ratios are implemented. Equally, following the last budgetary announcement, we cannot have schools with declining numbers remaining open indefinitely except in the case of severe geographic isolation. There cannot be blank cheques for schools when parents are making the decision to send their children to schools other than the one that traditionally served the area. A school with declining numbers cannot retain its teachers indefinitely but there should be a degree of flexibility in respect of geographic factors and where schools can show that enrolment has temporarily dipped and will rise again in the near future, those staffing positions should be maintained. As someone from a very rural part of Kilkenny, I know the significant role rural schools play at the heart of those communities. I want to see a situation where rural schools continue to play that significant role.

**Deputy Michael McNamara:** I wish to oppose this Private Members' Bill, although I commend the Deputy on introducing a Bill rather than tabling just another motion on which we could play Punch and Judy for an hour. I wonder, however, if the intention of this is to add to the Statute Book or to resurrect a motion that was debated by the House in February. I will, however, take it as legislation.

I wish to outline my disappointment with the level of hyperbole that has surrounded the small schools issue. After the INTO conference in Kerry, the union claimed to Clare FM, a very reputable local radio station that devotes considerable time to news and current affairs, that under the budgetary plans, a fifth of Clare schools would lose a teacher from September, while local teaching representatives claimed the measures would destabilise a further 60 schools in Clare. That would be a fifth of 122 national schools in the county. According to the INTO, 24 teaching posts would be lost.

In reality, the numbers for the entire State were that 73 small schools would lose a teacher in September. Of those 73 schools, 62 appealed the decision. A primary staffing appeals board was set up and there was much cynicism that the board would be a rubber stamp as previous boards of that nature had been. Nevertheless, of the 62 appeals, 41 were successful. In September, a total of 32 small schools out of 3,100 primary schools State-wide are due to lose a teaching post. That is regrettable to me, as it is to every Deputy, but it is nowhere the number

predicted by the INTO, which predicted 22 posts to be lost in Clare alone, when there were 32 lost in total. There is one school in Clare that will lose a post, and another might lose a post depending on the numbers that enrol in September as opposed to the forecast enrolment.

I oppose two sections of the Bill in particular. Section 4 proposes an amendment to section 12 of the 1998 Act, that the Minister shall not, where a school meets the requirements for recognition under this Act and could otherwise continue operating, cause a school to cease functioning as a school by reducing its funding. Every national school in Ireland, regardless of size, receives a capitation grant in respect of 20 pupils, even if the enrolment is four pupils or eight pupils. If enrolment is 59 pupils, it receives a capitation grant for 60 pupils.

In *The Irish Times* in November, there was a report of a tiny valley school, much like some of the schools this Bill aims to protect, on the main Cork to Killarney road that had received no pupils in September and was finally closed yesterday, allowing its principal to be transferred. There were no pupils in the school. Of course it is possible to pay a capitation grant in respect of 60 pupils for a school with no pupils, pay a caretaker and insurance, lighting and heating, but these are difficult times. Even after the bank deal, which has been welcomed by both Sinn Féin and Fianna Fáil, our deficit remains at about €14 billion; savings must be made. Of course we would wish savings would not have to be made in respect of education, but it does not make sense to keep open, heated and staffed a school with no pupils when those funds could be used elsewhere in the education system.

There is a proposal that no teacher would teach more than four curriculum grades. That means a brother and sister attending the same school might require two teachers. If there were only two pupils in the school with perhaps five years between them, under this proposal, two teachers would be required to teach them. The State does not have the funds to do that at this time.

**Deputy Jerry Buttimer:** I thank Deputy Flanagan for introducing this Bill. It is important we discuss education. I had the privilege and pleasure of spending 16 years in a classroom, teaching both adults and young people, so I understand the importance of education. It is a right, not a privilege, and an entitlement of all our citizens, urban and rural.

Education is not just about the fabric of a classroom or the built environment, nor is it about the number of teachers in the staffroom or number of pupils in the classroom. It is about the whole school community, from the parent at home to the educational welfare officer, the teacher, the student, the Government and us as legislators. Education is about imparting knowledge, the accumulation of skills, learning new social skills and interacting with young people. It is also about adults imparting values and instilling responsibility. In the Visitors Gallery are young people on their summer holidays. Alas, the weather is not very good but I ask those young people to focus on the meaning of education. What do we as legislators have to do?

We must remember, no matter what our political persuasion or whether we are urban or rural, that this debate is about the type of education model we want to see at primary and post-primary. Those of us who attended the CSO presentation learned that we as a country do not stand still. We evolve and change, and the needs of our education system have changed accordingly. We must always appraise to ensure we have a system that is fit for purpose and that has structures and procedures that will meet the future needs of our students.

That is why reform is necessary. It is why this Government is changing the political landscape in education and challenging people by forcing them to recognise there is no pot of gold at the end of the rainbow and that the pupil-teacher ratio will not change, although we would like it to. That reality must be faced up to by everyone. Some refuse to accept it but if we have the interests of children, of curriculum reform and the imparting of knowledge at heart, then Bills

[Deputy Jerry Buttimer.]

like this one serve no purpose other than to rally the troops, create political noise and look and sound good.

It also challenges the vested interests, the Minister and Deputies in this House. What education model do we want to impart to the young people in the Visitors Gallery? Is it all about funding and keeping schools open? Are we so blind as to look at that as the only thing we want to do, to keep school X and close school Y? It is not. We must always strive to improve our education system, especially when we do not have the resources that were available ten to 14 years ago.

I saw the money that was put into education. I was a classroom teacher and I trained teams and supervised classes. I did not do it for remuneration but because I loved the games I was coaching and I wanted to educate myself about the needs and aspirations of the students I was teaching.

Benchmarking was the biggest mistake we made as a country. I will conclude on this point; if the motion is just about rural schools then it is wrong because falling numbers affect cities. The census for Cork city has shown a fall in the population in successive years. Cork city has the oldest mean age in the country and the consequence of that is being experienced by city schools in terms of the numbers enrolling. That issue must be addressed as well. The motion must be about the education system, not just the small, narrow prism of school buildings.

**Deputy Pat Deering:** I put on record my support for small rural schools. As a rural Deputy, like most of my colleagues I understand the importance of rural schools as well as other facilities such as post offices and churches. Schools are an important part of the fabric of rural areas. The parish structure is important and must be maintained in the future.

I welcome the debate because, as my colleague, Deputy Buttimer, indicated, there must be a full examination of the education system. Some schools are not sustainable and there must be a rebalancing of the system. In my local school in Carlow my son is in a class of 27 children. That is not fair as he will not get the same quality of education as someone in a small rural school with a class of six or seven. The system must be reassessed and rebalanced in order to ensure equality. The discussion must be focused and rather than engaging in cheap point-scoring everyone must feed into the debate to ensure it is balanced.

I wish to refer to the amount of scaremongering that has been going on about small rural schools. Deputy 'Ming' Flanagan is to be commended on bringing the Bill to the House but he and others have travelled around the country creating hysteria about the total closure of small schools in rural areas and the closing down of rural Ireland. Strong and emotive language has been used in the process. They have created a problem by using schoolchildren to fuel the emotion. It is wrong to use schoolchildren to write postcards to their local representatives saying "Please TD don't close my school. Please TD, I want to go to the same school as my mammy and daddy did in the past. Please TD, leave the door of my school open." It is wrong to use children to do that. I see nothing wrong with parents, parents' councils or representative bodies lobbying strongly in order to maintain a school. It is important that they would do so but it is not right for teachers to get children to make postcards. Whoever organised the campaign should put their time to better use in order to achieve their end.

In my constituency because a meeting was held in the area a local small school believed that it was under threat but although that was not the case a campaign was organised. The school has two teachers and 52 pupils and was in no danger whatsoever. However, the expectation was created that the door of the school would close next September. This situation, which has been developing over a period, must be addressed.

We heard much talk earlier in the year about the total destruction of rural Ireland and the closure of schools all over the place. That has not happened. As a result of the appeals process there will not be a total closure of rural Ireland. Unfortunately, some teachers will be lost to schools but only 32 schools will be affected. Only 1% of the 3,100 schools in the country will lose a teacher in the coming year. The appeal process is not complete. I echo other speakers in encouraging the Department to be flexible with the appeal process. Come next October when it will be looked at again I encourage the Department to be flexible.

The issue has not arisen in the past six months. In the Celtic tiger years we saw welcome investment in schools in all constituencies. Between 2000 and 2011 a total of 52 schools around the country closed. That was when we were supposed to have plenty of money to keep them open. School closures are not a new phenomenon. I welcome the debate. I accept there are issues of concern but we must have a constructive debate.

**Deputy Michelle Mulherin:** I agree that there has been much scaremongering about rural Ireland. That includes dramatic claims that the change in the pupil-teacher ratio for small schools is based on a wish to shut them down and, further — even more extravagantly — that it is an attempt at social engineering on the part of the Minister. With all the furore that has taken place in the past year one might be forgiven for thinking the future of small schools is only now being challenged. It is not the case that this is a recent phenomenon. From 1962 to 1979 the number of one and two-teacher schools declined by 2,000 from 3,194 to 1,168. As Deputy Deering indicated, in the past 11 years 52 schools closed because they could not meet the minimum enrolment requirement of eight pupils.

One could ask what is happening in rural Ireland. In recent years many rural areas have seen more investment in amenities and services than they did for many decades previously. I refer to the rural development programme — Leader, the local community development programme operated by Pobal and the local partnership companies. That is not to mention county councils that are involved in enhancing rural areas. One could also say that many small schools have never had as many good facilities. Notwithstanding that, pupil numbers are declining and that is the difficulty that arises. That is the cause of the decline of rural Ireland. Many people are migrating to urban centres from rural areas for work. Farming is on an upward trajectory and we are pursuing the green economy, seeking investment in renewable energy and also tourism but it is a fact of life that the population decline in rural areas will continue.

Much of the argument on small schools suggests that they are being discriminated against but that completely ignores the pressures on larger schools that cater for larger classes and invariably a greater diversity of social background and needs. Therefore, the suggestion that larger schools are more favoured is simply not true. I have both types of schools in the rural constituency I come from and the truth is that each type has pressures and challenges.

Politicians who feed fear among citizens and make arguments on a basis that totally ignores the financial reality of where the country is at are fooling people.

**Deputy Jerry Buttimer:** Hear, hear.

**Deputy Finian McGrath:** That is a bit rich.

**Deputy Michelle Mulherin:** The debate should be about how we give the best education to our children——

**Deputy Richard Boyd Barrett:** It is protecting the rich.

**Deputy Michelle Mulherin:** —with the budget we have. That should be the focus of the debate and not about pie-in-sky aspirations that are purely populist.

**Deputy Pat Deering:** Hear, hear.

**Deputy Michelle Mulherin:** I know from correspondence and conversation with the Minister that he is seeking to reshape the discussion and move towards a conversation that allows for all communities to plan for their own sustainability from an educational perspective. I agree with his view but at this stage to make dialogue a reality and to provide for the educational needs of children attending small schools I would go further than he has gone. Last February or March when we had a debate during Private Members' business my position on that occasion was to challenge patrons and boards of management of small schools to encourage parishes and communities to come together to discuss how best to provide for the educational needs of children in the area in the future. It should not merely be a question of providing school buildings and so on. A more proactive, less *laissez-faire* approach is necessary. The schools that want to amalgamate have nowhere to go. The Department tells them that it is not its business and the patrons claim the same. In my area there are several small schools within a few miles of one another. If the best educational outcome for children is to be achieved, which is key, the ideal is for these schools to amalgamate. Instead, there are turf wars about which schools children should attend and the kids are losing out. The Department should intervene when the number of teachers in a school drops to one. It should take responsibility for recommending amalgamations, not boards of management which are not in a position to dictate to neighbouring schools. An inspector should visit an area to discuss transitional arrangements for transport.

A reality check is necessary, in that there cannot be small schools everywhere and I am not referring to schools on islands. As a politician from a rural area, discussing amalgamations is not the most popular choice. However, where children's education is a priority, someone must show leadership. The Minister for Education and Skills can do so. People in rural schools are crying out for it. Will he engage with them and show leadership?

**Acting Chairman (Deputy Jack Wall):** I understand Deputy Finian McGrath is sharing time with Deputies Catherine Murphy, Richard Boyd Barrett, Clare Daly, Shane Ross and John Halligan. Is that agreed? Agreed.

**Deputy Finian McGrath:** I thank the Acting Chairman for giving me the opportunity to contribute on this radical and progressive legislation. I warmly welcome and support the Bill. I commend my Independent colleagues, Deputy Luke 'Ming' Flanagan, among others, for introducing this legislation, as it gives us a chance to show clearly where we stand on the issue of small schools, their survival and contribution to their local communities and, above all, education. Government Deputies have neglected the question of education in their contributions, yet this is a debate on the education of children and the future of the education system.

The Bill gives us a chance to show how pluralist we are in terms of the protection of minority religious schools, which is an important aspect. My position is clear, in that I promote small schools which are good for education, children and their local communities. I worked in a small school for more than 25 years, by which I mean 107 pupils, give or take a few pupils each year. We constantly worried about losing a teacher because of a difference of two or three pupils. Larger national schools of 300, 400 or even 700 pupils could be found a few miles down the road. Every year in our school there was a crisis. Sometimes we found pupils at the last minute, sometimes we were down three or four. This is many small schools' nightmare and the issue is addressed in the Bill.



I will always remember the usually positive aspects of our small school. It was a close and intimate environment, in that I knew every child's parents, brothers and sisters. It was a disadvantaged school on the north side of Dublin and experienced many issues. If a serious issue arose, be it a child at risk or an educational problem, our staff would pick up on it quickly and work closely with the parents to take action. That is what happens in small schools. Ministers should listen to people in their communities.

Those of us who have been pressing the issue and protecting small schools have been accused of hysteria by some Government backbenchers. What utter rubbish. It is obvious from the debate that they have not even read the legislation and do not care about education. They should consider the facts. The comments about scaremongering were disgraceful. We are fighting for the education of children and the retention of small schools. Damn the rest of you. Examine the legislation, the purpose of which is to make specific provision in law for the protection of schools that, by virtue of providing education for a geographical, cultural, religious or non-denominational community, a recognised Gaeltacht area or on an offshore island, are of such importance that their closure would have a harmful impact on their communities or areas. What is wrong with this Bill? The legislation's aims are sensible, as they are only concerned with education. There is no scaremongering.

Some Deputies have a brass neck when discussing education, given the fact that 340 teenagers with intellectual disabilities will have no places next September. They will be thrown out onto the streets in the next couple of weeks, yet there has not been a squeak from the Government.

I urge Members to support the Bill. It is progressive legislation, opens up the debate and shows the way forward, as it suggests common, simple solutions to the issue of small schools. I will support the Bill and urge every Government Deputy to support the Independents and the Technical Group.

**Deputy Michael Healy-Rae:** Well said.

**Deputy Catherine Murphy:** I thank Deputy Luke 'Ming' Flanagan for drafting this legislation which took considerable time and was done in conjunction with many of those who are outside the gates of Leinster House tonight and with the assistance of his staff. The Deputy's abilities might have been exaggerated by a previous contributor who stated he had actively promoted a postcard campaign. I am sure he would be delighted to take the plaudits for that campaign, but I doubt he could have stretched his time to do that work also.

Every Deputy understands that, regardless of whether a school is in an urban or rural area, it will be a focal point, particularly in the absence of other facilities. I have never lived in a rural area, as the bulk of my constituency would be described as urban. Since most of its schools are multi-teacher schools, few will be affected by the changes. For those that will, the changes matter. Even in a county such as Kildare which has experienced rapid population growth for several decades, there are areas with small schools.

For some years I have been critical of the approach taken to the provision of staffing and resources in schools. It is the historical approach, that is, we wait until September to determine the next year's resources. In areas that experience rapid population growth one is always playing catch-up. They tend to be described as commuter belt areas rather than older city areas. In my area the typical class size is 35 pupils, a high number.

Rural schools are the other side of the same coin in this argument. We are failing to examine the demographics across a few years. Instead, we are examining the figures for individual years.

In doing so we are likely to close some small schools only to discover within a few years that they were needed. We all know that if schools are closed, they stay closed. There should not just be an annual assessment but an examination over two or three years in order that schools that are required do not run the risk of being closed.

It may be possible to predict the cost of transporting some children to school, particularly with the use of means testing. A Topical Issue debate today had several Deputies talking about the kinds of problems arising where there are concessionary places on school buses, the cost of the transport for parents and the money this takes from the local economy. That is not even mentioning the potential problem of putting a very young child — perhaps four years old — on a bus with children who would otherwise be going to a local school. These issues must be factored in.

Education must be the primary focus in designing the education system but we should consider the effect of moving very young children great distances, with some having to wait an extra hour to be transported home. Additionally, parents may have to collect children from a primary or secondary school over great distances, even as they try to hold down a job and provide for the family. Issues other than the closure of schools must be considered.

When this Government took office a four teacher school required 81 pupils. From September 2011, the school required 83 pupils and in 2014 the figure will be 86 pupils. One year the number is 85 and the next it could be 87. This process is much too narrow in its focus and it does not appear to be planned in a sensible way over a realistic period. For that reason I am supporting the legislation.

**Deputy Richard Boyd Barrett:** I am an urban Deputy from Dún Laoghaire but I commend the Save Our National Schools campaign and all the parents, teachers and children who have come from all over the country, including Leitrim and Donegal, to fight and defend their small schools. I say to them, lest they be depressed at the responses they have heard from the Government side, that they should keep up their fight because the Government is worried. It hopes these people will go away but they should not and should keep harassing those in power.

In many of the responses we have heard from the other side, there has been a subtle attempt to play the country against the city and the big schools against the smaller institutions. Those people in the small villages and towns who are fighting for their small schools are doing so for the entire country and the education system. Everybody interested in defending that education system, whether they are children in big or small schools, in the city or country, has an interest in supporting these people in the fight for their small schools. If this Government gets away with attacking education or closing schools in one place, it will move very quickly to do the same elsewhere. I know big schools in urban areas are under massive pressure as well from the same agenda of cutbacks.

The Government's actions make no sense whatever, despite attempts to spin it as a positive. These are cutbacks, pure and simple, to obey the diktat of the troika. Some on the other side have argued we are exaggerating and full of hyperbole. Some years ago, a Deputy stated:

As far as I am concerned, these cuts will do irreparable damage. If ever cuts were made in the wrong place, these are them. These cuts represent a life sentence for children, their parents and their grandparents.

Who said these words but the current Minister for Education and Skills, Deputy Quinn, in 2008. He was responding to Fianna Fáil education cuts. Was that hyperbole or exaggeration? Of course it was not and he was absolutely right. Now he is trying to justify the unjustifiable,

and the consequence will be to rip the heart from rural communities. It will affect small schools in rural communities that are under massive pressure and which have lost significant numbers. They are literally hanging on for dear life. These communities will be under serious threat and if the Government takes away the small schools, it will rip the heart from them. The possibility of these communities disappearing will become very real and it will be a major attack on what is unique and special about an Irish culture of small village and town life in rural areas. It is absolutely disgraceful and this action will be counter-productive at every level.

There will be no savings as if amalgamations are to come about; there will be associated costs. There will also be transport costs and we will have to provide prefabs and refurbish the larger schools. That will cost money in any event. It is sickening that the Government is slipping in the language of the market and commercial viability to educational matters. Education is not about costs or financial viability but rather the future of our society. It is about young people and prospects for recovery.

The Government has argued there is no pot of gold and we do not have any money but it is telling untruths. I received an answer to a parliamentary question today from the Minister for Finance indicating that the top 10,000 earners in the country earned €6 billion in 2011. Their average earnings were €595,000 each per year and they paid an average of 29% tax. While the rest of the country is being savaged, these people are using tax loopholes to avoid paying their fair share. If the effective tax rate on the 10,000 richest people in the country could be raised, more than €1 billion could be generated and they would still have average earnings of €295,000 per year. They would still be super-rich but we would have an extra €1 billion that could ensure small schools would not suffer cuts. The nasty austerity attacks on the vulnerable sectors of our society would be unnecessary. The Government should protect our small schools and go after the super-wealthy in this country.

**Deputy Clare Daly:** It is absolutely nauseating to listen to Members from the Government benches talking about improving quality in education when twice today parents, students and other pupils had to descend on the streets outside in defence of education. We are discussing small schools but it would be remiss of me not to mention the protest which took place today against the cuts in the numbers of special needs assistants, SNAs, and resource teaching. A family was in touch with me today whose 13 year old daughter, who has Down's syndrome, had an SNA for eight years in primary school and was doing very well in learning to write. It is criminal that she is going to secondary school and will not have an SNA to complete her education. That is the type of society our Government is advocating.

Government Deputies have showed some neck in their contributions. Deputy McNamara has said he is confused about what is going on and does not know if we are discussing legislation or a repeat of the motion discussed in the House in February. He is not sure why we are here. We are here because the issues tabled in February have still not been resolved. I am not scaremongering.

The people in the Gallery are not stupid. If the people who sent postcards are children, that does not mean they cannot comprehend what is being done to their communities and families. The problem is not that a postcard comes from a child but that the Government does not like the message the child is delivering because it highlights the betrayal by the Government. The idea that a Deputy would refer to the pupil-teacher ratio in his child's school, stating that it was 27:1, and suggest that somehow his child's welfare is being affected by the children in a rural school with a pupil-teacher ratio of 6:1 is outrageous. His child's welfare is being affected by the fact that this Government has failed to tackle the pupil-teacher ratio problem and has stood over the fact that we continue to have one of the worst pupil-teacher ratios in Europe. This is despite the promises of those in the Government before they came to power. The reason

[Deputy Clare Daly.]

is that we have had a historically underfunded education system. Last year the Government spent 4.7% of GDP on education. This compares with the European average of 6.2%. The reality is that education is not an indulgence but an investment. The OECD and others have stated that education is more important than ever in a recessionary period. Unless the Government commits the necessary resources then all we have is a dressed-up version to hide the cutbacks the Government is implementing. The children in the Visitors Gallery and in urban areas will pay the price.

We cannot divorce this topic from the issue of the future of rural Ireland. A Deputy from Mayo stated that there has never been as much investment in rural Ireland and that county councils have never done as much in these areas. I am unsure which areas the Deputy was referring to because everyone knows that county councils are dealing with considerable cutbacks and that the rural communities are suffering decimation, emigration, unemployment, closure of post offices, which we heard of today, and closure of public houses. The school is at the cornerstone of that development. If uncertainty rests over the future of a school then the unravelling goes further. Why would one enroll a child in junior infants in a small school if one did not believe it would be there next year or the following year? It becomes a self-fulfilling prophecy and the future of a school can be jeopardised because it cannot get sufficient enrolment numbers. The Bill seeks to give some assurance and end some of this uncertainty by including certain conditions such as the condition that no teacher would teach more than four classes and so on.

These are necessary measures. The Government may believe that it can con people or it may refer to scaremongering but people understand that while some schools have escaped the cull this year and have managed to save their teachers because they engaged in the appeals process, there is no guarantee of what the future will hold. We should fight to put rural schools at the centre of a plan for rural regeneration and redevelopment. Earlier, I heard a good quote from a representative of the Nevin Economic Research Institute. He made the point that decisions should not be made solely on economic grounds because the social impact of decisions was vital.

We are discussing measures to protect and develop the fabric of rural Ireland. It is incredible that there are certain Deputies here from the Labour Party who, two weeks before the general election, produced a policy statement on education. They declared that the Labour Party believed in the equal right of every person regardless of family background or income to realise his or her full potential. They referred to the fact that investment in education was the most important investment we can make for our future and that it would be central to our economic recovery. They specifically stated that the Labour Party was committed to protecting children's education from the types of austerity supported by other parties. Then, the Labour Party came to power and did the opposite.

It is not that these are not austere times. We know the economic difficulties that exist in our State but the reality is that the Labour Party has chosen to put the welfare of bondholders ahead of the welfare of children. The Labour Party has chosen to put the welfare of those who earn of hundreds of thousands of euro over the right of investment in education. We know we will not win a vote on this Bill. However, because of Labour Party policy rural communities and small school communities, whether of minority religions or Gaeltacht areas, are getting up off their knees, getting organised and they will not go back into their box until their children get the type of education they deserve.

**Deputy Shane Ross:** I congratulate Deputy Luke 'Ming' Flanagan for bringing forward this Bill. The Bill seems perfectly logical, sensible and un-hysterical. It should be accepted by the Government without much hesitation. I am astounded at the opposition of the Government to

the Bill and especially the accusation that those promoting it are in some way hysterical. Those behind the Bill have reason to be hysterical because the cuts in education are threatening those most dear to them, that is to say, their children and the cuts are threatening their children's education. The ultimate result of the Bill will be that some people will not get as good an education as others. The purpose of the Bill is to protect those minorities which may suffer as a result of the cuts being imposed by the Government. The cuts in education, which this Bill in particular addresses, have an effect on diversity, on communities and on the quality of education. As I understand it, the purpose of the Bill is to see that no one, no body, no community or no school is discriminated against or disadvantaged because of geography, culture, ethos or because it is in a Gaeltacht area. This seems perfectly reasonable. The mathematics of this issue point to the fact that some schools are disproportionately badly affected because they are in certain areas or because they teach or cater for certain minorities. As a result not all children are equal and some children are more equal than others. It appears the Government deliberately wishes to ignore this fact and perpetuate the fantasy that the cuts are equal and fairly introduced but it does not recognise the fact that some schools are disproportionately affected.

Section 2 establishes that not only should all children have the same rights to education but that education should be considered in a long-term way. Deputy Catherine Murphy adverted to this. The Bill suggests that demographics should be considered in any decisions, with reference to census after census and the long-term trend rather than the immediate short-term result, before any chops or cuts in certain areas. Education is a long-term decision. Seen from a purely financial viewpoint, it is a long-term investment as well. It is short-term and myopic to suggest that a given school has no short-term future because the population or demographics have been wrong in recent years and, therefore, certain changes must be made. We must examine future projections and past trends in education if we are to get the best value not only for the State but for pupils as well.

I wish to address the issue of minorities. Often the yardstick of the degree of civilisation of a nation is how it treats minorities. We are and always have been good at lecturing other States — some of which are close to us — about how they treat their minorities. If this is the litmus test, then we are not passing it. As recently as two months ago at the Church of Ireland general synod, the bishops and other groups were up in arms about the treatment of their educational ethos by the State and how it would be affected by cuts, especially in Border areas. A Church of Ireland clergyman in Cavan established without doubt that 99% of his flock required transport to get to school. Some were 20 miles away and it would cost an extra €100 per child to reach the school each day. As a result these people would be compelled to send their children to a school, although very good, not of their choice and of a different ethos. The result is that, over time, the schools would close and the ethos would suffer.

Other examples of that were brought up at the synod. The Bishop of Tuam said three of the six schools of which he was in charge were in danger as a result of the disproportionate effect of the cuts. Bishop Michael Burrows said the school in Clonroche would have to close and that this would be the forerunner of many other closures resulting directly from the cuts.

Out of 174 schools of which the Church of Ireland is patron, 130 are small. The people to whom I refer are not people who rise up in alarm. They are not necessarily people who whinge. They have a genuine worry that the cost of the cuts will be the dilution, if not the disintegration, of their ethos. This is important because if one destroys a community, ethos and culture and affects a geography, one is ultimately doing something irreversible. I ask the Minister of State to think again about what is happening as a result of the cuts, particularly in so far as they affect the smaller groups that are more helpless and less defensible. I ask him to make special provision for them and to accept the main principles of this Bill.



**Minister of State at the Department of Education and Skills (Deputy Sean Sherlock):** In February, we debated the budget measures in regard to teacher staffing schedules for schools. The debate over the past two evenings has been a rerun of that debate. While Deputy Flanagan's Bill is well intended, it is fundamentally misconceived. I do not say that in a disrespectful way. The proposals the Deputy advances would keep schools open even if there were not enough pupils to sustain them. Therefore, the Government will be opposing this Bill.

The value-for-money review of small primary schools, currently being finalised in my Department, should be available after the summer recess. The review is simply about evaluating all the facts to inform future policy in this area. The Minister, Deputy Quinn, will publish the review and bring it before this House so we can have a wide-ranging and properly informed debate on its outcomes and proposals.

**Deputy Michael Healy-Rae:** Why is he not here?

**Deputy Mattie McGrath:** Where is the Minister?

**Deputy Sean Sherlock:** We should bear in mind that one third of public sector employees in the State work in the education sector. It is, therefore, not possible to exempt staffing in education completely from the Government's need to reduce expenditure. This is particularly the case at a time when the school-going population is increasing. There will be more difficult decisions in the next budget and the one thereafter. The very favourable staffing provision for small schools was put in place when resources were plentiful, at a time of demographic dividend when enrolments were falling.

The Government rejects the claims that are being made about closing small schools. The Opposition had been predicting wholesale closures of schools in the debate in February. Five schools have indicated their intention to close over the coming school year. Last year, there were three closures, and the year before there were four. All that is changing for small close schools is that, from next September, their average class size will no longer be as advantageous as it once was. The schools will still exist.

I have listened to some alarmist claims about the threat of school staffing schedule changes affecting the very fabric of rural areas. When I hear Deputies from Dún Laoghaire and south Dublin, and the great burghers of Dún Laoghaire and the great middle classes, lecturing me and the Government on the plight of rural Ireland——

**Deputy Mattie McGrath:** There is nobody else present to lecture.

**Deputy Sean Sherlock:** ——I find it very hard to take. There is nobody more in tune with the needs of rural Ireland than Deputies and Ministers such as me. We represent the very people in question and are doing our best to defend, when we can, the rights of the schools concerned.

**Deputy Mattie McGrath:** Cá bhfuil an tAire?

**Deputy Sean Sherlock:** I will take no lectures from the likes of Deputy Boyd Barrett who, on every occasion, manipulates people in the Visitors Gallery for his cynical aims. He is no more a socialist than the man in the moon. He is a cynic and manipulates public discourse for his own ends. He knows nothing about rural Ireland or its people.

**Deputy Richard Boyd Barrett:** The Minister of State should state he supports the Bill.

**Deputy Maureen O'Sullivan:** Some months ago, in response to a Topical Issue debate on education, the Minister of State, Deputy Cannon, pointed out that, "On numerous occasions

in recent months, both the Taoiseach, Deputy Enda Kenny, and the Minister for Education and Skills, Deputy Quinn, have stressed that on their watch no rural school will be forced to close or amalgamate without the express wish of the local community involved". I note from the communities that they have no wish to see their local schools closed or amalgamated.

A spread-of-population issue arises for many of the schools that are covered by the proposed Bill, especially in regard to schools in certain rural areas and on the islands. However, they must not be penalised for that. The Bill simply asks that all reasonable provision be made to ensure the continued operation of the schools in the event of their attendance levels declining. An important point arises regarding the use of the demographic trends established in the last census of population. There was an interesting presentation this morning on the census. The facts are all available.

We do not want to go to the other extreme, namely, oversupplying schools built solely for political gain in certain areas. Small schools have had a better pupil-teacher ratio but this must be balanced with the challenge of teaching students of varying ages in the one classroom. Our national schools comprise the first real steps on the formal education ladder. Mar a deireann an seanfhocal, "Tús maith, leath na hoibre". A good start is vital for everyone, regardless of whether one lives in an area of high population density or an isolated rural area with pupil numbers in single figures. Quality of education and equality of access are vital for everyone.

There is no doubt that smaller schools are in danger. The budget cuts and the cuts to expenditure in education are increasing the difficulties for all schools, but there are some schools that can manage a little better than others. Smaller schools are in a different arena. The cuts to smaller schools could make circumstances so difficult for them that they would be forced to close, with disastrous consequences for their communities. Small schools do work and this can be seen from reports of the Department of Education and Skills following assessment and inspections. The most recent departmental inspectorate's report found no significant relationship between school size and the quality of teaching, learning and assessment in schools. The Minister himself stated small schools are an important part of the social fabric of rural communities, and we do not want to see further unravelling of that fabric.

The small schools value-for-money review is still pending. I agree with the INTO's call for a forum after the publication of the report to discuss it and produce a strategy for small schools. I suggest the random selection of principals, teachers and parents to engage in the discussion.

In practical terms, fewer schools will mean longer periods of travel for some pupils and significant increases in the cost of travel. However, we know there is more to the closure of a small school than the loss of the school itself. I am from the city and, like many Dubliners, have a great grá for rural areas. I was very supportive of the rural resettlement scheme and was delighted to see families from Dublin moving to the country. Part of the attraction was moving to a small community with a small school. We know the Celtic tiger created sprawling housing estates with few or no resources and massive demand in certain schools. There are schools in urban areas bursting at the seams and schools in some rural areas losing numbers but we must strike a balance and take account of this.

Glacann scoileanna Gaeltachta agus scoileanna ar oileáin sa Ghaeltacht páirt riachtannach agus ríthábhachtach maidir leis an teanga a spreagadh agus a chur chun cinn. One final point about island schools, which comes from a friend of mine who has been an island principal for over 35 years, is that a two teacher minimum is vital if the curriculum is to be covered adequately and satisfactorily. There should be full facilities and fast Internet access comparable to standards on the mainland because island parents have no other choice. The local school, it must be stressed, nurtures the local culture and traditions of the area. She stated the school is the heartbeat of any small community and young families will not settle in the island communi-

[Deputy Maureen O'Sullivan.]

ties unless their children are guaranteed high standards comparable to those of the mainland schools. Her last point was that if we deprive the island parents of this, we ring the death knell of our island communities.

**Deputy Luke 'Ming' Flanagan:** I do not know that there has been any Bill that ever came before this House that was perfect. There is one good way to perfect the Bill: vote for it, let us discuss it, amend it and get it right. Obviously, the Government does not care. If it cared, there would be more of its Members here. If the Minister cared, he would be here.

**Deputy Michael Healy-Rae:** He would be here.

**Deputy Mattie McGrath:** It is scandalous.

**An Leas-Cheann Comhairle:** Order.

**Deputy Luke 'Ming' Flanagan:** This is the reason I am doing this. I am not doing it for populism. I believe in issues that are not popular as well. I will bring a Bill before the Dáil in January and February next. Then the Government will accuse me, not of populism but of naivety. I go with what I believe in, whether it is popular or not.

It is a well-known fact that to deal with a problem, one must first acknowledge that there is a problem. I stated yesterday that we need a plan for rural Ireland and that my proposed changes to the Education Act will not solve the problems of small schools on its own. This Bill will merely act as a dam to prevent the further erosion of their existence. What will build up behind this dam is up to the Government. If we do not make the right decisions for rural Ireland, then that dam will burst inevitably and rural Ireland will die anyway. If the right decisions are made on rural regeneration, then the future of the areas I love will be saved.

From listening to the contributions of the Government side, however, one would believe that rural Ireland's future is not under threat. The Government is in total denial about this. Until it recognises this fact, the future of small schools will be under constant threat of erosion and, eventually, extinction. In fact, one of the Government Deputies yesterday expressed his desire to see all schools with fewer than four teachers closed. I wonder, when rural Government Deputies dismiss the idea of the decline of rural areas, whether they are going around with blinkers on. The decline is nothing new. It is something that has slowly but surely happened in my area since the 1950s.

What I am going to say now I said in every hall in which I spoke in before the election. I also said it in the Chamber once. If you cannot improve on it, keep saying it. I am going to keep saying this until the Government finally gets the message.

There is a closed shop called Mannion's on the Ballymoe Road out of my town of Castlerea. When one looks at it now, it appears like a strange place for a shop to be. Who would ever have used it? I have spoken to many people in that area and they tell me there was a time when it thrived. Five statute miles — excuse my language but there are people around my area who use it — from my home is a village called Castleplunkett. It once was a thriving village with four shops. There are now no shops left. Then again, one might ask, what would they need them for as it is only a small area. Seven statute miles in the opposite direction is a town called Ballinlough. I am told that at one stage this town had 12 shops in it; now it has two. How long before it, like Castleplunkett, has none?

Let us look at my home town. At one stage, we had more than 50 thriving shops, two cinemas, three dance halls, three bakeries — I could go on. Now, we have only a handful of businesses left. Where will we be in ten years' time? Will people be saying the same about

Castlerea as they are about towns of the country such as Castleplunkett? When people see the empty derelict shopfronts of Castlerea, will they ask why put a shop in such a small town? I use the example of my own town because I know it best, but the same question could be asked of towns such as Ballyhaunis in Mayo, Dunmore in Galway, Ballaghaderreen in west Roscommon and hundreds of other small towns. Where is the future? If one fails to plan then one plans to fail. The denial of the fact that future existence of rural Ireland is not a given means either we plan now or there will be nothing to plan for within a generation.

Far from planning a future for these areas, the Government is proactively dismantling them. There has been the closure of our post offices and Garda stations. In many cases, all that is now left to identify an area as having a human settlement is that of the local school. In the budget, the Minister, Deputy Quinn created a template for fast-tracking the rapid demise of many of these schools. He does not even have the guts to come in here to defend it today. Apologies for discussing it again, but we will discuss it until the issue is dealt with. The Government's core argument is that these areas no longer deserve to have a school because numbers are low. It is time for that argument to be turned on its head. The thinking from now on must be why there are so few people in these areas and how, through Government policy, this situation can be reversed. One way of not achieving this is to close the two, three and four teacher schools by stealth. Once closed, they will never open again.

I heard some Government Deputies yesterday and today inform me we are only losing a handful of schools every year. Is that meant to be okay? The question is when was the last time a new rural school opened? Maybe the Government would like us all to move to new towns such as Adamstown. I will not be moving there. I am staying in my town because I love it. Once a school is closed and people from that area are coerced into the next nearest school, people eventually leave that area in order to be closer to the new school. With it go the local shops I mentioned because people use the shops near their school, and the old areas die and never recover.

It is bad enough that rural Government Deputies dismiss the idea of rural decline by saying that only a handful of schools are lost but, worse still, they are now backing a plan which will systematically lead to the eventual closure of hundreds of schools. It reminds me of an episode of "Sesame Street" and a scene from Ernie and Bert's house from many years ago. Bert was always the boss and Ernie always did what he was told. He was meant to, anyway. Bert put a plate of biscuits on the table before he went to bed and he told Ernie to leave them until the next morning. Ernie liked his biscuits but he thought he could cod Bert. He nibbled away at the outside of the biscuits, headed back to bed and thought it would not be noticed. He got up again in the middle of the night, and one can guess what happened by the following morning — all the biscuits were gone. One can guess what the Minister, Deputy Quinn, is trying to do. He will nibble away at these schools, as it were, he will tell us nothing is to happen to them, but some morning we will get up and they will be gone.

**Deputy Sean Sherlock:** I remember that episode.

**Deputy Luke 'Ming' Flanagan:** We are told that these decisions must be taken because of economic realities in Ireland. We are told that decimating these schools will save the State €15 million. When one looks at the details, it is not quite so clear-cut. If, due to these cuts, a school is forced to close, this will mean an inevitable extra expense of amalgamating it with another school. It will, in the majority of cases, mean that money will need to be spent on upgrading infrastructure. There is also the issue with the teacher. When the school closes, the State will have to pay him or her. There will be no saving there. What about the cash-strapped parent who will now have to go further with his or her children to another school? There is no saving here for the parent, only increased costs.

[Deputy Luke 'Ming' Flanagan.]

Let us say the Government was genuine in stating it will save €15 million. I believe it could find this somewhere else. In a recent report on living standards in Ireland, the CSO reported that in 2010 those on the lowest income decile experienced a decrease in equivalised disposable income of more than 26% while those in the highest income decile experienced an increase in income of more than 8%. This shows quite clearly that the super-rich are thriving and are in a position to give more back to the State.

There is also the long-term economic downside to reducing educational resources. Studies have shown that funding taken out of primary education costs five times as much down the line. If the Government succeeds in its plan to decimate these schools, it will not save the country one red cent but will, in fact, cost the country more money.

Variety is the spice of life and in Ireland we have lots of it. We need to protect this variety with passion. The more we force people into towns, the more we dilute variety and become the same as everywhere else. Homogeneity is for milk, not people. When I was a child I used to watch my mother making dinner and as I got older, I used to help her. When I first started to help I was curious as to the reason she went to so much trouble by boiling carrots, spuds and cabbage in separate pots. I wondered if it would not be quicker and use less fuel to boil everything together. She agreed it would be but said one would not get the same flavour because everything would end up tasting the same. The same applies in life, which is not all about perceived efficiency. We are not robots. We are all different and come from different areas and, with that, we bring variety. If the Government continues with its plans for rural schools and throws everyone into one pot, in years to come we will end up with a bland society where everyone speaks with a mid-Atlantic twang and being Irish will mean nothing.

Regardless of whether the Government accepts the Bill, I ask it to at least stall the cuts until the review on the future of small schools is completed. Failing that, its review will have as much credibility as an archer who fires the arrow first before drawing a target.

The writer and journalist John Healy will be forever remembered for his book, *No One Shouted Stop*, on the death of an Irish town. That is no longer the case because we are shouting "Stop". Now that we are doing so, will the Government kindly listen and vote for the Bill?

Question put:

The Dáil divided: Tá, 44; Níl, 85.

Tá

Adams, Gerry.  
Boyd Barrett, Richard.  
Calleary, Dara.  
Collins, Joan.  
Collins, Niall.  
Colreavy, Michael.  
Cowen, Barry.  
Crowe, Seán.  
Daly, Clare.  
Doherty, Pearse.  
Dooley, Timmy.  
Ellis, Dessie.  
Ferris, Martin.  
Flanagan, Luke 'Ming'.  
Fleming, Sean.  
Halligan, John.  
Healy, Seamus.  
Healy-Rae, Michael.

Higgins, Joe.  
Lowry, Michael.  
Mac Lochlainn, Pádraig.  
McConalogue, Charlie.  
McDonald, Mary Lou.  
McGrath, Finian.  
McGrath, Mattie.  
McGrath, Michael.  
McGuinness, John.  
McLellan, Sandra.  
Moynihan, Michael.  
Murphy, Catherine.  
Naughten, Denis.  
Ó Caoláin, Caoimhghín.  
Ó Cuív, Éamon.  
Ó Fearghail, Seán.  
Ó Snodaigh, Aengus.  
O'Brien, Jonathan.



Tá—continued

O'Dea, Willie.  
O'Sullivan, Maureen.  
Pringle, Thomas.  
Ross, Shane.

Stanley, Brian.  
Toibín, Peadar.  
Troy, Robert.  
Wallace, Mick.

Níl

Bannon, James.  
Breen, Pat.  
Broughan, Thomas P.  
Bruton, Richard.  
Butler, Ray.  
Buttimer, Jerry.  
Byrne, Catherine.  
Byrne, Eric.  
Carey, Joe.  
Coffey, Paudie.  
Collins, Áine.  
Conaghan, Michael.  
Connaughton, Paul J.  
Conway, Ciara.  
Coonan, Noel.  
Corcoran Kennedy, Marcella.  
Costello, Joe.  
Creed, Michael.  
Creighton, Lucinda.  
Daly, Jim.  
Deasy, John.  
Deenihan, Jimmy.  
Deering, Pat.  
Donohoe, Paschal.  
Dowds, Robert.  
Doyle, Andrew.  
Durkan, Bernard J.  
English, Damien.  
Farrell, Alan.  
Ferris, Anne.  
Flanagan, Charles.  
Flanagan, Terence.  
Griffin, Brendan.  
Hannigan, Dominic.  
Harrington, Noel.  
Harris, Simon.  
Hayes, Tom.  
Heydon, Martin.  
Howlin, Brendan.  
Humphreys, Kevin.  
Keating, Derek.  
Keaveney, Colm.  
Kenny, Seán.

Kyne, Seán.  
Lawlor, Anthony.  
Lynch, Ciarán.  
Lynch, Kathleen.  
Lyons, John.  
McCarthy, Michael.  
McEntee, Shane.  
McFadden, Nicky.  
McHugh, Joe.  
McLoughlin, Tony.  
McNamara, Michael.  
Mathews, Peter.  
Mitchell, Olivia.  
Mulherin, Michelle.  
Murphy, Dara.  
Nash, Gerald.  
Neville, Dan.  
Nolan, Derek.  
Noonan, Michael.  
Nulty, Patrick.  
Ó Ríordáin, Aodhán.  
O'Donnell, Kieran.  
O'Donovan, Patrick.  
O'Mahony, John.  
O'Reilly, Joe.  
O'Sullivan, Jan.  
Perry, John.  
Phelan, John Paul.  
Reilly, James.  
Ring, Michael.  
Ryan, Brendan.  
Shatter, Alan.  
Sherlock, Sean.  
Shortall, Róisín.  
Stagg, Emmet.  
Stanton, David.  
Timmins, Billy.  
Tuffy, Joanna.  
Twomey, Liam.  
Varadkar, Leo.  
Wall, Jack.  
White, Alex.

Tellers: Tá, Deputies Catherine Murphy and Luke 'Ming' Flanagan; Níl, Deputies Emmet Stagg and Joe Carey.

Question declared lost.

**Message from Select Committee**

**An Leas-Cheann Comhairle:** The Select Committee on Justice, Defence and Equality has completed its consideration of the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Bill 2012 [Seanad] and has made no amendment thereto.

**Criminal Justice (Search Warrants) Bill 2012 [Seanad]: Second Stage (Resumed)**

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

**An Leas-Cheann Comhairle:** I ask for silence for the speaker, please. I call Deputy Michael Healy-Rae, who has 15 minutes left.

**Deputy Michael Healy-Rae:** I again thank the Technical Group for allowing me time to speak on the very important Criminal Justice (Search Warrants) Bill 2012. As previously stated, the purpose of the Bill is to address the implications of the Supreme Court judgment made in February 2012 with regard to future Garda investigations into subversive and other serious crimes. In that case, the Supreme Court found section 29 of the Offences Against the State Act 1939 to be repugnant to the Constitution.

**Deputy Mattie McGrath:** I ask the Leas-Cheann Comhairle to intervene to call for silence.

**An Leas-Cheann Comhairle:** If the Deputy could pause for a moment, I ask Members to continue their conversations outside the Chamber.

**Deputy Mattie McGrath:** The Leas-Cheann Comhairle should ring the bell as Members cannot hear him.

**An Leas-Cheann Comhairle:** There is a Deputy in possession and I ask for silence. Deputy Healy-Rae has the floor.

**Deputy Michael Healy-Rae:** The 1939 Act was found to be repugnant to the Constitution because it allowed a person who was not independent of the investigation to issue a search warrant in respect of a dwelling. I made a point previously on which I will now dwell at greater length. It is a fact that situations arise in the middle of the night in which an incident occurs, gardaí may require the urgent issuing of a warrant and it is not practical, sensible or possible to make contact with a Circuit Court or District Court judge to be issued with such a warrant. This is the reason it is vital that a superintendent be able to issue such a warrant. Section 29 allowed a superintendent to issue a warrant where he or she was satisfied that evidence of or relating to the commission or intended commission of an offence scheduled under the Act of 1939, including firearms and explosives offences and a small number of other serious offences, was to be found. It did not require the superintendent to be independent of the investigation. That was the crux of the matter at the time. The person issuing the warrant could not be part of the investigation team.

The implications of the judgment have been very serious for the workings of the Garda Síochána. While the Garda Síochána can, pending the enactment of the Bill, avail of other statutory powers that allow applications for warrants to be made to the District Court, the loss of section 29 has significant implications for Garda operations. In the event that there are urgent circumstances involving the use of firearms or explosives or the other myriad activities in which criminals engage, it is not practical to apply to a District Court judge in the time available in the middle of the night.

The Bill has many implications. To be blunt, people have got off on foot of the judgment in this case and the Bill is limited to addressing future Garda investigations. There is no legislative option available to the Minister to address existing cases in which section 29 warrants may be at issue. The Oireachtas cannot retrospectively make something constitutional that the Supreme Court has declared to be repugnant to the Constitution. Whether we agree with its finding, the Supreme Court interprets the law of the land and we have no other choice but to comply with its direction.

It is vital that the Bill is enacted as soon as possible. I believe it will commence the day after it is signed by the President. The Minister should have our support on this matter. As the Garda Síochána is really up against it in dealing with the criminal elements, it is vital that we support it at every opportunity. There is highly organised criminal activity taking place. It has been pointed out to me that there are criminals travelling around the country who do not participate in any crime. They study the security procedures of banks, post offices, shops and petrol stations and sell the information to other criminals who use it to carry out their crimes. The criminal element is very organised. Those involved are using all sorts of technology available. They have found ways to combat the security procedures in place at business premises at high expense to those businesses that are already struggling to keep their doors open. They are trying to fight off these criminals who are continuously targeting them. The Garda deserves the full support of every elected politician, which is why in the past I have raised with the Minister the issue of the protection of small Garda stations. In order to allow the Garda do its job properly for the small cost involved, no Garda station should be closed. In a reply to me, the Minister once stated the average cost of keeping a rural Garda station open was somewhere between €3,500 and €5,000. If stations are closed, the same amount of money will still be spent in maintaining them because there will be no rush to buy them and they will continue to be owned by the State. They will have to be maintained in a proper fashion and not allowed to fall into disrepair; therefore, we will still spend the money on the buildings. It is common sense to keep them open to help the Garda fight the ever increasing scourge of criminal activity.

There are new crimes being committed. Houses in estates are being attacked in the middle of the night and shots are being fired. There are many forms of intimidation. It comes back to ensuring the swift passage of the Bill through the House.

There certainly should be a victims' charter to support the victims of crime who have been badly affected by criminal actions. We have seen the spectacle of wealthy career criminals somehow managing to avail of free legal aid at a time when the Government is cutting back on expenditure in all areas. I fully support the idea of persons of limited means who may have drawn the Garda Síochána on them availing of free legal aid. They must have proper representation in court, as they have little or no means and may have abused drugs or alcohol. However, a wealthy career criminal with assets such as property held by other family members should never be allowed to avail of such aid. It is wrong and does not make sense, at a time when the Government is trying to save money, to assist the people concerned in fighting the efforts of the Garda to convict them for engaging in illegal activities.

Nobody has a monopoly in doing the right thing at all times. Unfortunately, in recent times, as has been highlighted by Deputy Mattie McGrath, people have got it wrong in taking the word of the banks when raiding contractors. I am referring to the famous case in Thurles, where gardaí ill advisedly took the word of the banks and carried out raids in the middle of the night on honest, respectable agricultural and plant hire contractors to repossess machinery which subsequently had to be returned and an apology had to be given by the banks. While I support the Garda Síochána in every way possible, we cannot allow a situation where it takes the word of the banks and target private households. It has to tread with extreme caution in dealing with such cases.

I compliment the Garda Síochána overall, whether it is in rural areas or urban centres such as Dublin. Even in recent years, the situation has become much worse for members of the Garda Síochána. They are trying to survive at a time when cuts are eating into their work schedule and when, at every opportunity, they are being cut back on the overtime which they need to carry out their work properly. Superintendents and chief superintendents have the increasingly impossible task of trying to ensure the streets and the countryside are policed properly while, at the same time, they are working within constrained budgets.

[Deputy Michael Healy-Rae.]

We are very fortunate in Ireland that we have excellent people working in the force. I would like to see a situation where the Minister would, in the not too distant future hopefully, begin recruiting new members of the force. There is a certain threshold we cannot go below because if we do we will allow a situation where the criminals of this country will win the war, which we do not want. We want to ensure we have a safe State that is properly policed. While I appreciate the restrictions on the Minister, I look forward to a situation where we can achieve this, perhaps in a limited way at the beginning.

Many people have retired from the force, including those who took early retirement in the recent past, as was their right, but this has left a void in the force, the strength of which is decreasing all the time. I would like to see recruitment begin, and this would give gainful employment to young people who would dearly love to be members of the Garda Síochána. I support the Minister in the speedy passage of the Bill and compliment all those who have worked hard and diligently on it.

**Minister for Justice and Equality (Deputy Alan Shatter):** I thank all Members of the House who have spoken on this legislation. I thank them for their support for the Bill, for the very constructive comments they have made and for the support they have expressed for the work done by the Garda Síochána. That work is of huge importance.

The reality is there are fewer resources overall available to this State, right across the board and within every Department. My Department has over €100 million less in 2012 than in the previous year and, based on the multi-annual budgeting schemes that now exist, we will have €63 million less in 2013, while we get our finances in order.

Gardaí are doing an extraordinary and successful job. They are applying their resources wisely and are engaging in smart policing. Under the direction of Garda Commissioner Martin Callinan, they have had some extraordinary successes. Deputies made reference to the drug gangs and one of the largest drug hauls in the history of the State occurred within the past ten days, although I do not want to say too much about that because of prosecutions that will take place. If we look at the most recent crime figures from the end of March, there are reductions under every category except the category of burglary, where there has been an increase. As a result, Operation Fiacla is in place, having been directed by the Garda Commissioner with a view to targeting those engaged in burglaries. Deputy Healy-Rae was right to raise the issue of the gangs which are travelling the country, using the excellent road network to target communities well away from where they live, with a view to carrying out criminal activity and then disappearing over the horizon. The Garda Síochána is targeting individuals engaged in this sort of activity and I hope and believe the operation that is taking place in that context will be successful.

It is of huge importance that Members of this House support the Garda but it is also important Members are realistic. I cannot invent money that does not exist and I cannot provide resources that do not exist. We currently have approximately 13,600 members of the Garda force, a substantially greater number than at any time during the Troubles. In addition, we have 930 members in the Garda Reserve, with in excess of 200 currently being trained, so we will have well over 1,000 operational in the Garda Reserve in the not too distant future. They are playing an important role and, as we noted on justice questions only a short time ago, they will now be playing an expanded role in assisting the permanent members of the Garda Síochána.

The Bill is important. We recognised the need to fill the gap in the law created by the Supreme Court judgment. I welcome the fact and thank Deputies for acknowledging that this Bill puts in place a robust mechanism to ensure that when warrants are issued, they can be

issued in a manner that is constitutionally sound by district judges. It is only in circumstances where a district judge is not available and there is a question of urgency that a member of the Garda Síochána not engaged in the particular investigation of relevance, at a level of superintendent or above, who is essentially independent of the investigation, can issue a warrant for appropriate searches to take place. That should and, we believe, does fulfil the constitutional requirements articulated by the Supreme Court in the judgment which found section 29 of the Offences Against the State Act 1939 to be unconstitutional.

I hope Deputies will forgive me if I do not refer by name to each Member of the House who spoke because a number of Deputies made similar points which were supportive of the legislation. Nonetheless, I should mention a few matters. Deputy Calleary, in supporting the Bill, made mention of the DPP reviewing cases that may be pending and may be affected by the Supreme Court judgment. The Deputy also made reference to the need to ensure that victims of a crime are advised of the outcome of a review if it could affect the taking of a prosecution or, indeed, if some conviction is set aside. I believe it is important that victims are informed of events that directly relate to cases in which they have given evidence and where individuals were convicted, if a conviction is set aside. I will ensure that the need to make sure that occurs in all relevant cases is communicated. The Garda Síochána has done that and, where there has been a difficulty arising out of this judgment, it is important it continues to do that.

Deputy Calleary also raised an issue as to how many warrants were issued that could be affected by this judgment. I cannot give an answer to that. All I can say is that cases which are pending and may be affected by it are being reviewed, as I understand it. It is the DPP who would review those cases and her office would do so in the context of it engaging with the Garda Síochána where there are issues that may need to be addressed or where there are concerns.

Deputy Calleary was right when he said we must strike a balance between the rights of victims and the rights of suspects, and that we should not tie the hands of those investigating crime so as to create unnecessary difficulties for them. That is a very reasonable statement. We have to ensure we operate within the constitutional parameters prescribed by the Constitution and by the courts, ensure there are fair trials and ensure that people are treated correctly. However, it is of course important that gardaí have the necessary flexibility to investigate offences and, where necessary, can access warrants. This legislation allows them to do that.

I thank Deputy Jonathan O'Brien for his support for the legislation and for facilitating it going through. Although he did so in a different way to Deputy Calleary, Deputy O'Brien raised a similar issue which concerned the knock-on effects of the Supreme Court judgment. It is correct to say they are not clear at this stage, because individual cases have to be examined based on their background facts, what occurred in investigations and where prosecutions have not yet taken place. It is not clear how many cases may come back into the courts as a consequence of the decision that has been delivered. There are certainly some in the area of having been determined but with appeals pending to which the judgment may be relevant. We have already seen that happen in two cases. The fact a conviction may be set aside does not mean it is necessarily the end of the matter. We have also seen as a consequence of a decision of the Court of Criminal Appeal where a decision was set aside that there will be a retrial. It is a matter for the Garda and the Director of Public Prosecutions as to the robustness of evidence to present in cases where there is a retrial. I must be careful to say nothing about this for fear of in any way prejudicing matters.

Deputy O'Brien referred to the Morris tribunal report and acknowledged there was nothing in it which indicated this particular section was unconstitutional. Mr. Justice Morris raised issues about the issuing of warrants but not their constitutionality. It would be very easy for



[Deputy Alan Shatter.]

me to take a pot-shot at my predecessor and claim he should have done something about it. Having examined what occurred in the background, everything possible was done in consultations with my Department and the former Attorney General. There was no indication that there was a constitutional issue or concern. The Law Reform Commission produced a report addressing this area but did not raise any issue about the constitutionality of the provision. It assumed the section that had been in the legislation since 1939 did not give rise to an issue. There were technical issues as to what amendments might be made to different legislation but there was no suggestion of unconstitutionality. As law develops and principles evolve, on occasions where law has applied for decades and appeared uncontroversial, we suddenly get a judgment from the Supreme Court which changes everything. The Supreme Court is entitled to do that. No one who examined this issue on an official level preceding the recent judgment considered this particular section could be found to be unconstitutional.

As Deputy O'Brien rightly said, the legislation brings clarity to the law. It is also a good reform of the law. It is a desirable reform in the context of giving an assurance that when it comes to issuing warrants which can result in someone's home being searched, the person who determines the warrant is issued is absolutely independent of an investigation. It is a good principle.

Deputy Pringle raised the issue of why a member of the Garda force of the rank of superintendent, even in exceptional cases, should be granting warrants. He suggested there should be instead some sort of list of District Court judges to do this. We already have one. This legislation does not confine the issuing of a warrant to a District Court judge whose remit is within a particular district. It essentially provides that the warrant can be issued by a judge of the District Court. The list is already in place and contains all members of the District Court. It does not need to be any more complex than that.

Deputy Finian McGrath, as well as several other Deputies, raised the threat posed by drugs gangs. The Garda Síochána has targeted, to a successful degree, drugs gangs. The tragedy within this city and other parts of the country is that it seems when one group, which compromises the leadership and main body of a drug gang, is convicted and sent to prison, there is always another group in the background which wants to inherit its mantle and continue its activities. The Garda will continue to target the drug gangs as is required.

Deputy Mattie McGrath, who was generally supportive of the Bill, made one point which it is important I correct. He raised the question as to whether the superintendent who was engaged in the conduct of the investigation and authorised the warrant which was ultimately set aside by the Supreme Court understood the law and why he did not get someone else to sign the warrant. That is the very issue with which we are dealing. The superintendent in question understood the law. Section 29 of the Offences Against the State Act allowed that the superintendent to sign the warrant. There was no criticism of any description of the superintendent. It is most unfair to have suggested in any way that he did not understand the law. Effectively, he made a considered judgment based on an investigation in which he was engaged and applied the law under section 29 of the 1939 Act as he understood it and as it has expressly applied for several decades. He behaved with absolute and total propriety and knowledge. It would be unfair that there would remain on the record of this House any criticism of him for the manner in which he dealt with matters.

Several Deputies raised the issue of a victims' charter. We have one but it is a non-statutory provision. There is a commitment in the programme for Government to enact legislation to protect victims' rights. I do not believe we will come to this legislation this year because of the legislative burden weighing on the shoulders of officials in my Department and the Attorney General's office. Not coming to it this year is wise because of similar legislation being developed

at European level which will provide a European-wide charter of victims' rights. I am very much involved with my EU ministerial colleagues in engaging in this process. If we are going to have a European victims' charter, it is important our equivalent domestic legislation is compatible with it. The European provisions will be the minimum ones with which we must comply. It may well be that additional protections will be put in place. We want to provide domestic legislation for victims of crime.

Several Deputies raised the issue of gardaí being available on occasions when they are required. The new Garda roster system came into place on 29 April which now allows for them to be on the streets at a time when they are required. Now, more gardaí can be available at times when there may be pressures such as on Friday and Saturday nights. These are times when there are many young people out on our streets, most of them just trying to enjoy themselves. Unfortunately, there are some individuals who may have drunk excessively, may also have taken drugs, who are not rationally focusing and pose a threat in their delusional state to others who are going about their business. This is a difficult and complicated issue which is not confined to a matter of policing. An important issue in this area is the manner in which alcohol is sold to young people and the extent to which many of them consume it outside of public houses. There are still too many promotions by public houses to encourage young people to down large amounts of alcohol at very low prices with the result they get inebriated. If there are drugs involved, then there can be real difficulties. This requires the implementation of better controls by those who run public houses. The issue of illegal drugs, which is extremely complicated, cannot simply be solved on a law and order basis. The Garda plays an extremely important role in trying to ensure that people on our streets are protected.

I wish to acknowledge the members of my party who contributed to the debate and who expressed support for the Bill. I thank them for that. Deputy Durkan stated that people should not walk away from court cases because of technicalities. A technicality relates to whether the law has been properly applied. We have a written Constitution which recognises fundamental rights. It is important that those who engage in criminality are brought before the courts. Where it is proved beyond a reasonable doubt that these individuals are guilty, they are convicted and appropriate sentences are imposed. Where an illegality has occurred and where matters have not been dealt with properly under due process of law, we cannot simply dismiss such eventualities as technicalities and state that we will proceed to convict someone in any event. This is why we operate under the rule of law. It is very important that we should continue to do so.

I agree with a point Deputy Durkan made which has also been made in other places. Where people are first-time offenders and where the offences they have committed are not of a serious nature — this is a distinction that is very important to make — penalties other than the imposition of prison sentences can be beneficial in trying to ensure that they do not become recidivists. There are other options in this regard such as pilot restorative justice programmes and diversion programmes for young people. There is now legislation which applies across the board in all criminal courts — it is particularly relevant to the District Court — which requires that judges should first consider imposing community service rather than handing down sentences of imprisonment in circumstances in which there is a possibility of their imposing sentences of one year or less on individuals. Alternative means of dealing with individuals who are first-time offenders and whose offences are not serious are being used — beneficially, I hope. Where someone commits a first-time offence which is serious, which involves a vicious assault on another individual who, as a result, loses a limb or an eye, which is sexual in nature or which takes the form of an aggravated burglary involving the assault of a person, an appropriate sentence must be applied in respect of the crime. In the context of first offences, we cannot provide for a disposal or a mechanism to deal with an individual that is grossly disproportionate

[Deputy Alan Shatter.]

to the level of harm inflicted. There must be an element of balance and proportion in respect of all of these matters.

Another Deputy referred to moneylending, which is subject to a licensing regime administered by the Central Bank. This matter falls within the remit of my colleague, the Minister for Finance. People who engage in moneylending without possessing the necessary licences are, of course, committing an offence under the relevant legislation. Where such offences occur, complaints can be made to the Garda, which has the power to bring prosecutions against unlicensed operators. Where people have information relating to the operations of unlicensed money-lenders, they should give it to the Garda, which will take whatever action is necessary in order to enforce the law.

I hope I have dealt substantially with the many issues raised during the debate. I thank Deputies for their support for this measure. The Bill was published on 6 June last and was the subject of a rapid passage through the Seanad. It is in the public interest that it should be enacted prior to the summer recess. The legislation will be of assistance to An Garda Síochána in future investigations in which it engages. As I and other speakers noted, however, it cannot retrospectively, in any shape or form, affect the Supreme Court decision with regard to cases that are already before the courts or in respect of which decisions have been made. This is a short but important Bill. I again thank Deputies for their supportive and constructive contributions to the debate on it.

Question put and agreed to.

**Criminal Justice (Search Warrants) Bill 2012 [Seanad]: Referral to Select Committee**

**Minister for Justice and Equality (Deputy Alan Shatter):** I move:

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

Question put and agreed to.

The Dáil adjourned at 9.55 p.m. until 10.30 a.m. on Thursday, 5 July 2012.

## 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].**

---

*Question Nos. 1 to 9, inclusive, answered orally.*

### Public Sector Pay

10. **Deputy Michael Colreavy** asked the Minister for Public Expenditure and Reform if he will provide, in a tabular form, the number of public servants in receipt of annual salaries in the following pay parameters; €0-€20,000; €20,001-€30,000; €30,001-€40,000; €40,001-€50,000; €50,001-€60,000; €60,001-€70,000; €70,001-€80,000; €80,001-€90,000; €90,001-€100,000; €100,001-€125,000; €125,001-€150,000; €150,001-€175,000; €175,001-€200,000; and more than €200,000. [32376/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The estimated breakdown of employee numbers on a whole time equivalent basis (based on a whole time equivalent figure of 300,000) by salary range within the public service (excluding Commercial State Companies) in 2011 is set out in the Table.

Pay Parameters	Numbers
€0-€20,000	19,442
€20,001-€30,000	26,749
€30,001-€40,000	66,504
€40,001-€50,000	68,935
€50,001-€60,000	44,019
€60,001-€70,000	30,315
€70,001-€80,000	22,285
€80,001-€90,000	10,814
€90,001-€100,000	4,146
€100,001-€125,000	3,043
€125,001-€150,000	1,212
Over €150,000	2,536
<b>Total</b>	<b>300,000</b>

[Deputy Brendan Howlin.]

The above salary figures include the reduction imposed on the remuneration rates of public servants under the Financial Emergency Measures in the Public Interest (No 2) Act 2009 effective from 1 January 2010. However, the salary ranges exclude the impact on gross salaries of the Financial Emergency Measures in the Public Interest Act 2009 which imposed a pension related deduction on the salary of public servants of an average of some 7% effective from March 2009.

### **National Lottery**

11. **Deputy Willie O'Dea** asked the Minister for Public Expenditure and Reform the progress that has been made to date in the awarding process for the National Lottery licence; and if he will make a statement on the matter. [32484/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** As the Deputy is aware, I announced on 4th April 2012 that the Government has decided to hold a competition for the next National Lottery licence and that the licence will be for a 20 year period. The ongoing provision of a fixed percentage of annual lottery turnover for good causes will be a condition of the licence. As I announced on 4th April, this percentage is to be retained at 30.5% which was the level that was achieved in 2011. The new licence will also involve an upfront payment to the State, with some of the payment being used to help fund the building of the proposed new National Children's Hospital.

Since April, my Department has carried out a considerable amount of preparatory work for the competition. It will be necessary to revise the National Lottery Act which was enacted in 1986. My Department is currently carrying out the necessary preparatory work on the legislation in consultation with the Office of the Attorney General. I expect to be in a position to submit draft Heads of a Bill for Government approval in the near future.

Given the complexity of the process regarding the competition for the next licence, it will be necessary for my Department to engage external advisers to assist it with the process. My Department expects to publish a Request for Tenders for a consultancy contract shortly. The external advisers will be required, among other things, to provide advice to my Department in relation to the structure of the competition, preparation of the necessary documentation and assistance in the process of evaluating applications/bids for the new licence.

During the past number of months, my officials have engaged with a number of key stakeholders in this process, including potential bidders for the licence and retailer organisations. During a debate on this matter held in the Seanad on 23rd May 2012, I gave an undertaking that it is intended to safeguard retailers' margins under the terms of the next licence.

I look forward to engaging with Deputies and Senators in due course on the various issues involved when we come to debate the proposed legislation to revise the National Lottery Act.

### **Public Service Contracts**

12. **Deputy Brendan Smith** asked the Minister for Public Expenditure and Reform if he is considering streamlining the tendering process for public contracts, in a manner that is consistent with EU rules, so that local Irish firms achieve a greater success rate in winning tenders; and if he will make a statement on the matter. [32488/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I am aware that public procurement can be an important source of business for local enterprises. Current guidelines known as Circular 10/10 issued by my Department require public bodies to promote



participation of small and medium-sized enterprises in the award of public contracts. Circular 10/10 sets out positive measures that contracting authorities are to take to promote SME involvement in a manner that is consistent with the principles and rules of the existing public procurement regulatory regime. The guidance also highlights practices that are to be avoided because they can unjustifiably hinder small businesses in competing for public contracts. The key provisions of the guidance include:

- supplies and general services contracts with an estimated value of €25,000 or more to be advertised on the *www.etenders.gov.ie* website;
- less use of “restrictive” tendering procedures and greater use of “open” tendering;
- ensuring that the levels set by contracting authorities for suitability criteria are justified and proportionate to the needs of the contract;
- sub-dividing larger requirements into lots where this is practical and can be done without compromising efficiency and value for money.

The reason why the threshold for advertising on *www.etenders.ie* (the national public procurement web portal) was reduced from €50,000 to €25,000 was to make such contracts more accessible to SMEs whilst also ensuring that each public body secures works, goods and services that are value for money. This initiative is consistent with national public procurement policy which is aimed at ensuring that all public sector purchasing is carried out in a manner that is transparent, and secures optimal value for money for the taxpayer.

The National Procurement Service (NPS) are responsible for producing annual statistical information in relation to above-EU threshold procurement activity by the Irish public sector and for providing these statistics to the European Commission. On average 5000 tenders for the procurement of goods, services and works are advertised on eTenders every year.

I am informed by the NPS that data in respect of 2011 will not be available until later this year. The latest information is for above-EU threshold contracts only is for 2010 and is as follows:

- Of the €3.3billion spent by the State on above threshold contracts only 8.7% went to non-domestic companies.
- In terms of overall procurement budget (approximately €14 billion in 2010), the NPS estimates that less than 5% of the overall spend went to non-domestic suppliers.

The Deputy rightly points out that the development of policy in relation to public procurement has to be seen in the context of a set of rules agreed by European Member States which have the aim of creating a transparent and competitive single market for public procurement contracts. It is a basic principle of EU law that between citizens and businesses within the Union there should not be discrimination on grounds of nationality. This principle of non-discrimination is one of the cornerstones of EU procurement rules. The purpose of these rules is to promote an open, competitive and non-discriminatory public procurement regime which delivers best value for money. It would be a breach of the rules for a public body to favour or discriminate against particular candidates on grounds of nationality and there are legal remedies which may be used against any public body infringing these rules.

The importance of procurement policy becomes apparent when one sees that each year public authorities across the European Union spend 18% of GDP or approximately €2 trillion on goods, services and works. In this context, it is important to realise that the open market regime offers critical opportunities for Irish companies to win business abroad. In this regard, Enterprise Ireland and Intertrade Ireland offer training and support to businesses in order to

[Deputy Brendan Howlin.]

raise awareness of public procurement opportunities and to improve the capacity of indigenous firms to compete effectively for these opportunities.

### **Public Sector Allowances**

13. **Deputy Seamus Kirk** asked the Minister for Public Expenditure and Reform the discussions he has had with the union representatives in respect of reducing the cost of public sector allowances; and if he will make a statement on the matter. [32491/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I have had no discussions with union representatives in respect of reducing the cost of public sector allowances. As the Deputy is aware from my previous replies in relation to the review of allowances and premia payments, most recently, PQ number 28292/12 on the 15th June 2012, I expect to be in a position to bring proposals to Government shortly in relation to the findings of the review. Following consideration by Government, the outcome of the review of particular allowances will be communicated to Government Departments and will be made public. I have indicated my expectation that discussions will take place between officials and the staff representative bodies in accordance with standard industrial relations processes.

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

### **Freedom of Information**

15. **Deputy Barry Cowen** asked the Minister for Public Expenditure and Reform the reforms that he is considering to the scope of Freedom of Information legislation; the range of institutions to be included and the timescale involved; and if he will make a statement on the matter. [32478/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The Deputy will be aware of the significant commitments given in the Programme for Government to restore the Freedom of Information Act, to extend its remit to other public bodies including the administrative side of the Garda Síochána, subject to security exceptions and to extend the Act to ensure that all statutory bodies, and all bodies significantly funded from the public purse, are covered.

It is planned to bring proposals to Government shortly to secure approval to draft amending Freedom of Information legislation.

### **Budget Timetable**

16. **Deputy Pearse Doherty** asked the Minister for Public Expenditure and Reform the ways in which the budgetary and estimates timetable here is influenced to an increasing extent by requirements at a European level. [32382/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** It is the case that the budgetary processes of all EU member states, including Ireland, are being influenced to an increasing extent by requirements at a European level. The introduction of a European semester in 2011 for example has led to the publication of the annual Stability Programme Update in April of each year. The purpose of these new arrangements is to allow for a more intensive period of peer review of member states' budgetary plans, thereby facilitating a greater degree of budgetary coordination across the EU.

The European Council is currently finalising an overall package of economic governance reforms, including the so-called “six-pack” and “two-pack”, which will have further implications for the budget and Estimates processes.

The “two-pack” regulations being discussed in Europe propose a common budgetary timeline that includes the presentation of a draft budget by 15 October each year. However, trilogue negotiations between the European Commission, the European Parliament and the Council only commenced recently and it appears that it is extremely unlikely that the regulations will be adopted in time for this year’s budgetary cycle.

As to the wider budgetary process, I will consult closely with my colleague, the Minister for Finance, on arrangements for all budgetary and fiscal announcements for the remainder of the year.

*Question No. 17 answered with Question No. 7.*

### **Protected Disclosures in the Public Interest**

18. **Deputy Mick Wallace** asked the Minister for Public Expenditure and Reform his plans to enhance protections in the proposed Protected Disclosures in the Public Interest Bill in order to ensure that the identity of persons who come forward with information about possible wrong doing remains confidential; and if he will make a statement on the matter. [32447/12]

21. **Deputy Mick Wallace** asked the Minister for Public Expenditure and Reform his plans to strengthen safeguards in the proposed whistleblowing legislation in order to better protect individuals coming forward with information about possible wrongdoing; and if he will make a statement on the matter. [32446/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I propose to take Questions Nos. 18 and 21 together.

As the Deputy may be aware my proposals for the protection of whistleblowers contained in the General Scheme of the Protected Disclosures in the Public Interest Bill were referred to the Joint Oireachtas Committee on Finance, Public Expenditure and Reform for their views. Following a number of meetings with key interest groups and experts, I understand that the Committee is currently finalising its report and will submit it to me shortly. My Department has also received some submissions on how the protections provided for in the legislation might be strengthened. I will consider these proposals and the recommendations of the Committee’s report in the context of ongoing work on the drafting of a Bill.

### **Public Sector Pay**

19. **Deputy Clare Daly** asked the Minister for Public Expenditure and Reform if he will guarantee that increments and allowances which are enshrined in the contracts of low and middle income public servants will continue be paid. [32440/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The Government has reaffirmed the key commitments under the Public Service Agreement 2010-2014 in relation to pay and job security for serving public servants. These commitments are contingent on delivery of the necessary flexibilities and reforms to public service delivery that are required under the Agreement. The Budget process has outlined the Exchequer expenditure programme for 2012 and the necessary allocations have been made to Departments. Any further Budgetary measures, should they arise, are a matter for consideration by Government. The vast majority of persons who are on incremental pay scales are the lower paid and people who have been

[Deputy Brendan Howlin.]

recruited to the public service more recently. I reiterate my view that there are fairer ways to control the cost of public pay, given that only a proportion of public servants, in particular lower paid and front line staff, would be affected by a suspension of increments.

20. **Deputy Brian Stanley** asked the Minister for Public Expenditure and Reform if he will provide, in a tabular form, the annual saving to the public sector pay bill if all committee chair remuneration, commission member remuneration, Government Whip allowance remuneration, assistant Government Whip allowance remuneration, Whip to the opposition parties remuneration, assistant Whip to the opposition parties remuneration, Leader of the House, Seanad, allowance remuneration, deputy Leader of the House Seanad allowance remuneration, opposition leader of the House Seanad remuneration, Government Whip Seanad remuneration, assistant Government Whip Seanad remuneration; and Leader of the independent group Seanad remuneration were all withdrawn. [32375/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** There are a number of legislative provisions governing the payment of the allowances listed by the Deputy. Details of allowances payable in the categories specified by the Deputy, are set out in the table below. The cost if all such remuneration is claimed is estimated at €375,000. However, this figure does not take account of any individual arrangements whereby the allowance of portion thereof may be waived. In addition, section 6(2) of Oireachtas (Allowances to Members), Ministerial, Parliamentary, Judicial and Court Offices Act, 1998, states if a Member is eligible during any period to receive more than one of the allowances provided for in Section 3, 4 and 5 of the Act, only the higher or highest of those allowances shall be paid or payable to the member during that period. In relation to allowances payable to Chairpersons of Committees, the Oireachtas (Allowances to Members), Ministerial, Parliamentary, Judicial and Court Offices Act, 1998, in circumstances where a Chairperson is Chairperson of more than one Committee, they are only eligible to be paid one allowance.

Title of Allowance	Allowance €
Fianna Fáil Party Whip	19,000
People before Profit Whip	6,000
Sinn Féin Party Whip	6,000
Socialist Party Whip	6,000
Assistant Government Whip	15,000
Fianna Fáil Party Assistant Whip	9,500
Fine Gael Party Assistant Whip	7,500
Labour Party Assistant Whip	6,000
Sinn Féin Party Assistant Whip	3,000
Deputy Leader of the House in Seanad Éireann	9,500
Government Whip in Seanad Éireann	6,000
Assistant Government Whip in Seanad Éireann	4,000
Fianna Fáil Leader in Seanad Éireann	9,500
Independent Group of Nominee Senators' Leader in Seanad Éireann	6,000
Independent Group of University Senators' Leader in Seanad Éireann	6,000
Fianna Fáil Whip in Seanad Éireann	6,000
Independent Group of Nominee Senators' Whip in Seanad Éireann	4,000
Independent Group of University Senators' Whip in Seanad Éireann	4,000
Members of the Oireachtas Commission	9,500
Chairpersons of Committees	9,500

Title of Allowance	Allowance €
Chairperson of Committee	3,100

*Question No. 21 answered with Question No. 18.*

### **Flood Prevention Measures**

22. **Deputy Denis Naughten** asked the Minister for Public Expenditure and Reform the steps he is taking to address the summer flooding in the Shannon Callows; and if he will make a statement on the matter. [32387/12]

43. **Deputy Denis Naughten** asked the Minister for Public Expenditure and Reform the steps being taken to address flood risks within the Shannon basin; and if he will make a statement on the matter. [32388/12]

**Minister of State at the Department of Public Expenditure and Reform (Deputy Brian Hayes):** I propose to take Questions Nos. 22 and 43 together.

I am very aware of the serious situation in relation to flooding this summer on the Shannon and in the Shannon Callows in particular, and having visited the area myself last year, I am very conscious of the severe impact on both farming and the environment in the area due to flooding. Flooding in the Callows can occur as a result of large flows from either the River Suck, the Upper Shannon from Lough Ree or a combination of both. The inflow from the River Brosna also contributes to flooding in this area. This has been the wettest June on record at most of the stations in the Shannon catchment, and as a general indication, rainfall in this area has been between 2 and 3 times the long-term average for June. Due to the very heavy rain, the water in the Shannon, and particularly in the Callows area, has risen to high levels for this time of year.

I have been monitoring the situation very closely and, as the Deputy knows, I have organised meetings with local elected representatives and senior representatives of both Waterways Ireland and the ESB to discuss the situation. The control of water flows and levels on the Shannon falls under the operational and statutory remit of both those bodies. The Office of Public Works has no responsibility or direct role in this regard. I am anxious to ensure, however, that the protocol operated by those bodies for controlling water levels on the river is such that, when heavy rain is forecast, appropriate and timely steps are taken by them to help reduce the impact of flooding.

On a wider level, the problem of flooding in the Shannon catchment is being examined under the Catchment Flood Risk Assessment and Management Study (CFRAMS) for the River Shannon. This involves a comprehensive examination of all the main factors affecting flood risk in the Shannon area and incorporates a full consultation with all of the main stakeholders who have a role in the management of the Shannon, including the ESB, Waterways Ireland and relevant Local Authorities. The summer flooding of the Shannon Callows will be specifically examined in the CFRAM study.

### **Sale of State Assets**

23. **Deputy Pádraig Mac Lochlainn** asked the Minister for Public Expenditure and Reform the specific regulatory, legislative, corporate governance and financial reforms that must be taken in 2012 to allow for the State asset disposal programme to proceed in 2013. [32383/12]



**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The House will be aware that inter-departmental steering groups were established to identify and examine the issues referred to in the Deputy's question in respect of each of the State companies listed in the assets disposal programme that I announced in February. The relevant groups, having identified regulatory, legislative, corporate governance and financial issues arising in respect of each of these assets, have mapped out the course of action to be followed over the remainder of 2012 in order to ensure that necessary reforms are in place to enable the disposal programme to proceed in 2013.

We have agreed to discuss our proposed approach with the EU/ECB/IMF Troika during their current mission, which began yesterday. Clearly, various issues identified have the potential to impact on the achievable investor value of the assets. Any potential release of information about them at this stage could be unhelpful and might have significant repercussions for the ability of the State to secure maximum value for the assets. I do not, therefore, propose to publish more specific details at this point.

### Public Sector Pensions

24. **Deputy Mary Lou McDonald** asked the Minister for Public Expenditure and Reform the way the public service pension reduction is treated if a former office holder or public servant is in receipt of more than one pension payment from the Exchequer. [32368/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The Public Service Pension Reduction (PSPR), which was introduced with effect from 1 January 2011, currently applies separately to each individual public service pension which was in payment or awarded up to and including 29 February 2012. The PSPR is a progressive scaled reduction; the pension income bands and rates of reduction are as follows:

First €12,000:	0%
Between €12,000 and €24,000:	6%
Between €24,000 and €60,000:	9%
Between €60,000 and €100,000:	12%
Above €100,000:	20%

I consider that where a person is in receipt of two or more such public service pensions, whether in the case of former office holders, other former public servants or other recipients of public service pensions, then those pensions should be aggregated for the purposes of applying the PSPR.

Last week at the Dáil Committee Stage debate on the Public Service Pensions (Single Scheme and Other Provisions) Bill 2011, I tabled amendments to that Bill which will have the effect of introducing such aggregation of pensions for PSPR purposes. These amendments were accepted at Committee Stage.

If and when that Bill becomes law and aggregation of pensions for PSPR purposes is thereby legislated for, my Department will ensure that an administrative system to facilitate aggregation is put in place. In this connection I envisage that public service pension scheme administrators will be requested to forward relevant details, including Personal Public Service Numbers and correlated pension payment amounts, of all active pension cases up to the end of February 2012.

Public servants who retire on pension after February 2012 are not affected by the PSPR; instead their pension is effectively reduced by reference to the public service pay cut of 1 January 2010.

### Budget Consultation Process

25. **Deputy Niall Collins** asked the Minister for Public Expenditure and Reform if his recent comments in respect of the forthcoming budget when he indicated that he was not ruling out certain options in respect of welfare and taxation are consistent with the Programme for Government; and if he will make a statement on the matter. [32474/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The *Medium-Term Fiscal Statement*, published in November last year, set out the Government's economic and budgetary assessment for the four year period 2012-2015 including the estimated level of fiscal consolidation that is required to bring the General Government deficit below 3% of GDP by 2015, as the Government is committed to doing. The *Comprehensive Expenditure Report 2012-2014*, published in December 2011, set out the Government's position as to how the aggregate expenditure would be split across individual Departments for each of the years 2012, 2013 and 2014.

Officials from all Departments are currently working to identify the appropriate policy measures to give effect to the medium-term budgetary adjustment while minimising the impact on public services. In this regard, I would remind the Deputy that as part of the 'whole of year' budgetary approach in the *Comprehensive Expenditure Report 2012-2014*, I wrote to all Oireachtas Select Committees in January of this year inviting them to actively engage with the relevant Departments during this year's Estimates process. Committees now have an opportunity to engage with the relevant Ministers in relation to the 2013 allocations. I am happy to report that a number of Committees have informally indicated that they intend to do so. I would encourage all Select Committees to give serious consideration to this approach as it will ensure a much wider engagement by all members of the Dáil in the annual Estimates, in advance of the allocations being agreed at Government level, and not afterwards as has traditionally been the case.

As to the wider budgetary process, I will be consulting closely with my colleague the Minister for Finance on arrangements for all budgetary and fiscal announcements for the remainder of the year.

### Public Procurement

26. **Deputy Jonathan O'Brien** asked the Minister for Public Expenditure and Reform if he will consider revising the 2004 national procurement guidelines. [32380/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The development of policy in relation to public procurement has to be seen in the context of a set of rules agreed by European Member States which have the aim of creating a single market of publically procured works, goods and services. The Irish guidance document "Public Procurement Guidelines — Competitive Process" was published in 2004 following the adoption of the current rules that govern public procurement across the European Union. The guidelines were drafted in consultation with the Government Contracts Committee and other participants in the public procurement market.

Public procurement is the acquisition, whether under formal contract or not, of works, supplies and services by public bodies. Public procurement policy is aimed at ensuring that all public sector purchasing is carried out in a manner that is legal, transparent, and secures optimal value for money for the taxpayer. The Guidelines set out the steps to be followed in conducting an appropriate competitive process under EU and national rules.

[Deputy Brendan Howlin.]

Further guidance is available in relation to issues including: facilitating SME participation in public procurement; the disclosure of information following a competitive process; environmental considerations in procurement and other aspects of the EU procurement Directives, such as framework contracts and eProcurement.

In relation to current plans to revise the guidelines, I would point out that late last year, the European Commission published proposals to revise the current public procurement rules. These proposals are currently being examined at working group level. After these rules are adopted, which seems likely next year, my Department will revise the public procurement guidelines accordingly. 1. EU Directive 2004/18/EC covers the procurement procedures of public sector bodies. Directive 2004/17/EC covers the procurement procedures of entities operating in the utilities sector.

### Public Sector Pay

27. **Deputy Mary Lou McDonald** asked the Minister for Public Expenditure and Reform if he will provide, in a tabular form, the public sector posts, including in commercial State companies and Government advisors for whom he has approved a breach of a pay cap. [32378/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** Last June, I introduced a general pay cap of €250,000 per annum for Chief Executive Officers of Commercial State Companies. At the time I acknowledged that the CEO of the ESB would be paid a higher amount given the importance of the role and I sanctioned €318,083 per annum for this post. Since then a candidate has been appointed who has accepted a salary of €295,000 per annum. This represents a reduction of 43% in the maximum of the scale that applied to the previous incumbent of the post.

The table sets out the position where advisers are being paid above the Principal Officer scale.

List of Special Advisers — June 2012 — Sanction above PO

Department	Minister/ Minister of State	Name of Adviser	Sanctioned Pay Rate	Relevant Payscale
Agriculture Fisheries and Food	Minister Coveney	Ross MacMathuna	€110,000	Approved Rate
Communications, Energy and Natural Resources	Minister Rabbitte	Simon Nugent	€97,200	Approved Rate
Jobs, Enterprise and Innovation	Minister Bruton	Ciaran Conlon	€127,000	Approved Rate
Public Expenditure and Reform	Rónán O'Brien		€114,000	Approved Rate
Social Protection	Minister Burton	Ed Brophy	€127,796	Ass Sec
Transport, Tourism and Sport	Minister Varadkar	Brian Murphy	€105,837	PO I

### Infrastructure and Capital Investment Programme

28. **Deputy Catherine Murphy** asked the Minister for Public Expenditure and Reform if he has prepared an inventory of infrastructure projects and other key strategic capital investment projects which he will prioritise in the event that new dedicated funds are provided through bodies of the European Union arising from commitments made at European level to establishing a dedicated growth and investment facility for member states; if so, if he will provide a detailed breakdown of this inventory; and if he will make a statement on the matter. [32424/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** My Department undertook a review of the public capital programme last year, the results of which were published in the “Infrastructure and Capital Investment 2012-2016: Medium Term Exchequer Framework”. The Framework sets out €17 billion worth of Exchequer investment intended to address critical infrastructure investment gaps in order to aid economic recovery, social cohesion and environmental sustainability. The sectors prioritised for investment in the Framework include education, health, jobs and enterprise. While this represents a significant level of spend that will generate activity throughout the country, I am conscious that there is more that we could do if we had additional funding available.

The Government is now considering carefully what potential further projects could be supported should a source of additional funding become available. It is likely that such investment would be focused on areas that meet the Government’s key investment priorities, boost employment and help stimulate economic growth. My Department has established a high level interdepartmental steering committee which is considering potential projects for investment that meet these criteria. Proposals for additional projects are being considered by Government and a pipeline of necessary and worthwhile projects will emerge shortly.

My Department is also working closely with the Department of Finance and the NDFA to ensure that additional funding sources are available in order to deliver any proposed pipeline of projects.

### Departmental Properties

29. **Deputy Catherine Murphy** asked the Minister for Public Expenditure and Reform if he will provide a full and detailed list itemising all properties which have reverted to State ownership, in the past five full calendar years and to date in 2012, as a result of the owners of such properties being adjudicated as bankrupt; the total value of each such property at the time of assumption of ownership by the State; the total cost to the State, in each case, arising from continued ownership of said properties to date; the total revenue generated to the State by the sale of any such properties in the same time periods; and if he will make a statement on the matter. [32389/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The Department of Justice and Equality has advised that an adjudication in bankruptcy is a judicial decision of the High Court. Once a person is adjudicated bankrupt, the law provides that their property is vested in a Court appointed assignee; no Minister has a role in this process. Consequently, questions relating to possible collation and publication of statistics on the lines referred to in the Deputy’s question are not ones that I can answer.

### Croke Park Agreement

30. **Deputy Dara Calleary** asked the Minister for Public Expenditure and Reform if he intends the Croke Park agreement to run its full term; his plans to accelerate its implementation; and if he will make a statement on the matter. [32470/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The Public Service Agreement between the Government and the Public Service Committee of the Irish Congress of Trade Unions (ICTU) and other associations representing public service staff is a four-year agreement covering the period 2010 to 2014.

The sustainable savings and progress being achieved under the framework of the Agreement are assessed annually by the Implementation Body, whose role is to oversee and drive delivery of the Agreement and its sectoral components. The Body published its Second Annual Report

[Deputy Brendan Howlin.]

last month which found that sustainable pay bill savings in the order of €521m were achieved in the second year of the Agreement. This means that the Agreement has facilitated approximately €810m in sustainable pay savings over its first two years. Furthermore, some €678m in non-pay efficiency savings, have also been reported.

As well as delivering savings, industrial peace and facilitating a sustained reduction in staff numbers, the Body also found key reforms are being implemented across the public service with the co-operation of staff under the framework of the Agreement, for example, in relation to redeployment, revised rostering arrangements and other changes to work practices; the restructuring and reconfiguration of public services; and the introduction of shared services and online services.

The Government has said that it will honour its commitments under the Agreement as long as it continues to deliver substantial savings and meaningful reforms. I think it is clear from the recent Report of the Implementation Body that the Agreement is working and is continuing to deliver on its objectives.

However, the economic environment remains very challenging. The Implementation Body has correctly concluded, in my view, that the sustainability of the Agreement will be measured against its ability to accelerate the pace of change across the public service and its potential for extracting further pay bill savings and non-pay efficiency savings. We will have to look at more radical and innovative ways to deliver further savings, productivity increases and more reform over the remaining lifetime of the Agreement with even greater urgency. It will be essential that the provisions of the Agreement are used to their fullest potential.

### Departmental Staff

31. **Deputy Martin Ferris** asked the Minister for Public Expenditure and Reform the annual salary of a secretary general; the number of pay points for a secretary general; the number of years it will take for a secretary general to reach his or her maximum pay point; the annual salary of a clerical officer; the number of pay points for a clerical officer; the number of years it will take for a clerical officer to reach his or her maximum pay point. [32372/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** Under my proposals approved by Government in June 2011 for the imposition of an annual salary cap in the public service of €200,000, the existing annual salary rates (PPC) for Secretary General were reduced to €200,000 (Level I and Level II) and €189,474 for Secretary General Level III. These are single pay points for Secretary General and no additional remuneration is payable. All Secretaries General with approved salary levels above the salary cap have voluntarily waived the additional pay.

The annual salary rate for a clerical officer (PPC) standard scale ranges from €23,177 to €37,341 through fourteen points over seventeen years. The current Secretary General Level I rate with the application of the pension related deduction represents a reduction of some 40% compared with the rate applying in December 2009 while the reduction on a similar basis at the maximum of the clerical officer rate is some 11%.

### Public Sector Pay

32. **Deputy Peadar Tóibín** asked the Minister for Public Expenditure and Reform the saving to the public sector pay bill if all public service pay was capped at €100,000. [32369/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I refer to my reply to Question No. 23619/12 of 10 May 2012.



### Departmental Expenditure

33. **Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform if any particular Government Departments or bodies/groups or agencies under their control have shown any particular reluctance or inability to meet the criteria required in respect of savings and reform; if he expects to be in a position to address such issues; and if he will make a statement on the matter. [32438/12]

37. **Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform if he is satisfied that he can achieve the necessary savings and reform to meet the criteria laid down in the Memorandum of Understanding and the implications for all Government Departments; if he is confident that he will meet these requirements without major interference with the standard and quality of services here; and if he will make a statement on the matter. [32437/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I propose to take Questions Nos. 33 and 37 together.

The Government is making good progress on achieving all of our targets and priorities, as articulated in the Government Programme. We are bringing public expenditure back to a sustainable level and driving forward the public service reform agenda to ensure that efficiencies and reformed work practices play a full part in contributing to the overall budgetary consolidation effort.

In determining fiscal policy, the Government has to take account of a wide range of often competing considerations and policy priorities. The Government decides on the balance between these priorities in setting the broad budgetary parameters, the overall budgetary balance, taxation priorities and the aggregate levels for expenditure. In this context, the aggregate levels of expenditure are split by reference to Ministerial vote group and the detailed disbursement of the resources within their allocation is a matter for each Minister in accordance with overall agreed Government policy. The precise composition of the budgetary consolidation is a matter for Government.

This Government's approach has been clearly set out in the *Comprehensive Expenditure Report 2012-2014* published on 5 December last, the *Capital Infrastructure Plan* published on 10 November 2011 and the *Public Service Reform Plan* published on 17 November 2011. The Implementation Body's Public Service Agreement *Progress Report* published on 13th June this year found that sustainable pay and non-pay savings have been successfully delivered.

Implementation of the Government's *Public Service Reform Plan* is being led and coordinated by the Reform and Delivery Office which I established within my Department. The Office is working closely with organisations across the Public Service and good progress continues to be made in the implementation of the Reform Plan. For example, we are:

- continuing to reduce Public Service numbers which were around 28,000 lower at end Q1 2012 than they were at end 2008;
- expanding the use of eGovernment through the new eGovernment Strategy, the establishment of a CIO Council and rolling out the Public Services Card;
- reforming how we are organised by having a strong focus on business process improvement, considering innovative new business models for the delivery of non-core services, increasing the use of aggregated procurement and developing new shared services (for example, I have recently announced plans for the establishment of a Human Resources Shared Service Centre for the Civil Service);

[Deputy Brendan Howlin.]

- reforming how people are managed through the introduction of new working arrangements, including new rosters, redeployment and workforce planning, a greater emphasis on performance management and development of the Senior Public Service; and
- reforming the management of expenditure through the introduction of Performance Budgeting, the Medium Term Expenditure Framework and the new Value for Money Code.

Ireland is living up to its commitments by delivering on all the conditions and targets in the EU/IMF Programme by the required deadlines. The Government has repeatedly affirmed its commitment to meeting the targets agreed with our European and IMF partners.

### Pension Provisions

34. **Deputy Aengus Ó Snodaigh** asked the Minister for Public Expenditure and Reform if he has completed his examination of the Department of the Environment, Community and Local Government's new pension terms proposals for city and county managers. [32385/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I have completed my review of these proposals and the Department of the Environment, Community and Local Government submitted draft legislation on the 12th June which is being finalised by my officials in conjunction with their counterparts in the Department of the Environment, Community and Local Government. It is intended that this statutory instrument will be signed by me and my colleague the Minister for the Environment, Community and Local Government shortly.

35. **Deputy Seán Crowe** asked the Minister for Public Expenditure and Reform if he will provide, in tabular form, the number of civil servants in receipt of pensions between €10,000 to €20,000; €20,001 to €30,000; €30,001 to €40,000; €40,001 to €50,000; €50,001 to €60,000; €60,001 to €70,000; to €70,001 to €80,000; €80,001 to €90,000; €90,001 to €100,000; and in excess of €100,000. [32370/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The number of civil service pensioners in the requested pension bands is as follows:

Table Distribution of main scheme civil service pensions

Bands	Total
less than €10,000	5,155
€10,000-€20,000	2,550
€20,001-€30,000	4,017
€30,001-€40,000	1,443
€40,001-€50,000	1,232
€50,001-€60,000	769
€60,001-€70,000	57
€70,001-€80,000	171
€80,001-€90,000	23
Over €90,000	85
Total	15,502

### Public Procurement Contracts

36. **Deputy Jonathan O'Brien** asked the Minister for Public Expenditure and Reform if he is satisfied that all Government Departments are adhering to the most economically advantageous tender process as required for larger projects of €50,000 and above. [32381/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I would like to state at the outset that there is not a general requirement for projects of a value of €50,000 or above to be procured on the basis of the most economically advantageous tender (MEAT). Contracting Authorities may choose to award a contract either on a MEAT basis to the highest scoring tender measured against MEAT criteria or lowest price only where lowest price is the only criteria. Public works contracts below €500,000 are generally awarded on a lowest price only basis (using the Short Public Works Contract) whilst in most construction-related consultancy contracts the quality of the technical services features highly and therefore the MEAT criteria will normally be used.

Public procurement guidance developed by my Department sets out that all tender processes must be objective, transparent, and based solely on the award criteria stated in the tender documents. It is a matter for each contracting authority when awarding a contract that the criteria used is relevant to the specific contract and appropriate to the nature, type and complexity of the project. Contracting authorities should also follow equitable, fair and transparent procedures when assessing quality and price in a tender.

*Question No. 37 answered with Question No. 33.*

### Public Sector Pay

38. **Deputy Peadar Tóibín** asked the Minister for Public Expenditure and Reform if he will provide, in a tabular form, the number of instances that each Department has submitted to him a request and/or business case for an increased pay level for a public servant, advisor or commercial State company CEO. [32379/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** In the context of the overall pay ceilings introduced by this Government in June 2011, I have approved no pay increases for serving public servants, advisors and CEOs of Commercial State Companies, other than in the publically notified case of the CEO of the ESB, that have breached such limits.

The table sets out the position where advisers are being paid above the Principal Officer scale.

List of Special Advisers — June 2012 — Sanction above PO

Department	Minister/ Minister of State	Name of Adviser	Sanctioned Pay Rate	Relevant Payscale
Agriculture Fisheries and Food Communications, Energy and Natural Resources	Minister Coveney	Ross MacMathuna	€110,000	Approved Rate
	Minister Rabbitte	Simon Nugent	€97,200	Approved Rate
Jobs, Enterprise and Innovation Public Expenditure and Reform	Minister Bruton	Ciaran Conlon	€127,000	Approved Rate
		Rónán O'Brien	€114,000	Approved Rate
Social Protection	Minister Burton	Ed Brophy	€127,796	Ass Sec
Transport, Tourism and Sport	Minister Varadkar	Brian Murphy	€105,837	PO I

### Public Sector Pay

39. **Deputy Seán Crowe** asked the Minister for Public Expenditure and Reform if he will provide in tabular form, the number of civil servants in receipt of an annual salary between €10,000 to €20,000; €20,001 to €30,000; €30,001 to €40,000; €40,001 to €50,000; €50,001 to €60,000; €60,001 to €70,000; to €70,001 to €80,000; €80,001 to €90,000; €90,001 to €100,000; and in excess of €100,000. [32371/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The following table shows the estimated full time equivalent staffing numbers by salary band in the civil service only.

Salary Range €	Full Time Equivalent
0 – 20,000	1,181
20,001 – 30,000	5,385
30,001 – 40,000	8,481
40,001 – 50,000	6,564
50,001 – 60,000	4,486
60,001 – 70,000	1,170
70,001 – 80,000	1,767
80,001 – 90,000	1,094
90,001 – 100,000	713
100,001+	621
Total*	31,462

\*This excludes Industrial Civil Servants and Prison staff.

### Appointments to State Boards

40. **Deputy Micheál Martin** asked the Minister for Public Expenditure and Reform if he has satisfied himself that full transparency is being achieved in respect of appointments to State boards; and if he will make a statement on the matter. [32494/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** In response to the Deputy's question I am satisfied that the new arrangements introduced by the Government have significantly improved transparency in the making of appointments to State Boards compared with the making of appointments in previous years.

### Public Sector Pensions

41. **Deputy Martin Ferris** asked the Minister for Public Expenditure and Reform the annual saving to the public sector pension bill if all public sector pension payments were capped at €60,000. [32373/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** It is estimated that the imposition of a cap of €60,000 on pensions in the civil service, based on May 2012 data, would have resulted in an estimated annual saving of €8m. This takes no account of the tax and other statutory deductions foregone. Comparable data are not available for the public service as a whole.

### Public Sector Pay

42. **Deputy Michael Colreavy** asked the Minister for Public Expenditure and Reform if he

will provide, in a tabular form, the number of current incumbents in the public service who have approved salary rates in excess of €200,000; the number of current incumbents in the in the commercial State companies that have annual salary rates in excess of €200,000. [32377/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The Government adopted my proposal in June 2011 for the introduction of:—

- a general pay ceiling of €200,000 for future appointments to higher positions across the public service; and
- a general pay ceiling of €250,000 for future appointments to CEO posts within Commercial State Companies.

Following the outcome to the referendum on remuneration for the Judiciary the Financial Emergency Measures in the Public Interest (Amendment) Act, 2011 was enacted. This Act provided for the application of the pay reduction and the pension levy to serving members of the judiciary and provided for reduced remuneration rates for newly appointed members of the judiciary with effect from 1 January 2012. The Act also made provision to bring certain Office holders (Comptroller and Auditor General and Chairperson of An Bord Pleanála) within the public service pay ceiling and for the reduction of remuneration for future appointees as President and the Office of Ombudsman. This legislation also formally provided for the reduction in the salary rates for members of the Government. Ongoing arrangements are being made on an administrative basis to implement the pay ceiling for future appointments where that is appropriate, for example within the Civil Service and the Heads of four Universities.

Based on the information available within my Department, there are 21 post holders in the public service and 93 Academic Consultants on approved salary levels in excess of €200,000. There are also 10 Chief Executive Officers in the commercial state sector (my responsibility under legislation extends only to the remuneration of the CEOs of Commercial State Companies). Details of those on approved salaries in excess of €200,000 p.a. are set out in the following tables.

Post Holders with a salary above €200,000 ceiling for Public Service

Sector	Organisation/Function	Numbers
Oireachtas	President	1
Judiciary	Chief Justice	2
Health Services Executive	Chief Executive Officer	1
Civil Service	Secretary General Level II	6
Statutory Office Holders	Ombudsman	1
Non Commercial State Sponsored Agencies	Chief Executive Officer — National Roads Authority	1
Education	University Heads	4
	*University Framework Positions	5
	Academic Medical Consultants	93

\*The remuneration of appointments made under Section 25(5) of the Universities Act 1997 are not subject to Ministerial sanction.

CEO's of Commercial State Companies with salary above €200,000

Name of Organisation
An Post
ESB



[Deputy Brendan Howlin.]

## Name of Organisation

Coillte Teoranta  
 Bord Gais Éireann  
 Iarnrod Éireann  
 Irish Aviation Authority  
 RTÉ  
 Bord na Mona  
 Eirgrid  
 VHI

Dublin Airport Authority CEO post is vacant at present.

These figures are not reflective of any voluntary arrangement that the individuals concerned may have entered into, following the Government decision in June 2011 to seek voluntary waivers of salary of 15%, or by a lesser amount if the application of the full 15% reduction would bring the salary levels of such individuals to below the pay ceiling of €200,000 p.a. across the public service and of €250,000 within Commercial State Companies. For example all Secretaries General with approved salary levels above the ceiling have voluntarily waived the additional pay.

The Minister for Health is addressing the issue of the pay cap for newly appointed academic consultants in the context of his discussions with the representative associations for consultants on matters related to the consultant contract.

The Government did not decide to apply the pay ceilings to the Central Bank or to the National Treasury Management Agency (NTMA). However, following correspondence from me concerning the pay arrangements in those bodies my colleague, the Minister for Finance, who has responsibility for public service financial bodies has been informed that all fifteen NTMA employees whose salaries exceed €200,000 have agreed to a request that they waive 15% of salary or such amount of salary as exceeds €200,000 if application of the full 15% reduction would bring their salary to below €200,000.

*Question No. 43 answered with Question No. 22.*

### Family Planning Summit

44. **Deputy Mary Lou McDonald** asked the Tánaiste and Minister for Foreign Affairs and Trade if Ireland has been invited to the family planning summit due to be held next month in London, hosted by the British Government and the Bill and Melinda Gates Foundation with the support of UNFPA and other partners; if Ireland has not been invited, if he will confirm if he or his officials have sought an invitation; if Ireland has not been invited and has not sought an invitation the reason he does not want Ireland to take part in the summit; his views on whether it is incumbent upon him, as a signatory to the International Conference on Population and Development Programme of Action and future board member of the UNFPA, to actively seek an invite to, and participate in the London Family Planning Summit. [32666/12]

**Minister of State at the Department of Foreign Affairs and Trade (Deputy Joe Costello):** The British Government and the Bill and Melinda Gates Foundation, in cooperation with the United Nations Population Fund (UNFPA) have invited representatives of a number of Governments, international organisations, civil society and the private sector to a conference on family planning in London on 11 July. They have stated that they hope to launch an initiative to make affordable contraceptives, information, services and supplies available to an additional 120 million women and girls in the world's poorest countries by 2020. It is expected that participants will pledge

significant resources in support of family planning initiatives. While Ireland has not been invited to participate in this pledging conference, we will continue our strong support, through the Government's aid programme, for family planning activities in developing countries and especially MDG 5 which aims to reduce maternal mortality and achieve universal access to reproductive health, including ante-natal care and family planning services. Ireland has a strong track record of support for family planning services, including support for global initiatives and at national level through Government health sectors. We also support the work of NGOs, which is complementary to this Government-level work, in order to increase access to family planning services.

Since 2006, Ireland has provided almost €30 million in support of the reproductive, maternal and family planning programmes of the UNFPA. Through a range of channels we have assisted access to family planning services in a number of countries where such services are considered inadequate, including in Ethiopia, Mozambique, Tanzania, Liberia, the Democratic Republic of the Congo, Zimbabwe and Somalia. Ireland will continue to prioritise this work, and to work closely with the UNFPA and our partners in the developed and the developing world in order to ensure improved access to family planning services for women and girls in some of the world's poorest countries.

### State Agencies

45. **Deputy Simon Harris** asked the Tánaiste and Minister for Foreign Affairs and Trade the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to his Department, separate to individuals working directly for his Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to his Department in 2011 and to date in 2012; the financial cost of this sick leave; and if he will make a statement on the matter. [32561/12]

**Tánaiste and Minister for Foreign Affairs and Trade (Deputy Eamon Gilmore):** There are no State agencies, offices or bodies under the aegis of my Department.

### Prompt Payments

46. **Deputy Olivia Mitchell** asked the Tánaiste and Minister for Foreign Affairs and Trade the average time lapse between receipt of invoices for goods and services and actual payment in his Department and in each agency and organisation within his remit; and if he will make a statement on the matter. [32601/12]

**Tánaiste and Minister for Foreign Affairs and Trade (Deputy Eamon Gilmore):** Every effort, consistent with proper financial procedures, is made to ensure that all suppliers are paid within the 15 day non-statutory limit prescribed by the Government in 2009. In line with established Government policy, my Department publishes details of its compliance with prompt payment requirements on the Department's websites on a quarterly basis. The following are the prompt payment figures for my Department for the period January-March 2012. The Deputy will note that 91.5% of invoices for the combined total were paid within 15 days.

There are no agencies under the aegis of my Department.

Department of Foreign Affairs and Trade  
Payments made in Quarter 1, 2012.

Details	Number	Percentage (%) of total payments made	Value (€)
Number of payments made within 15 days	1,496	91.50%	4,503,983
Number of payments made within 16 days to 30 days	125	7.65%	516,179
Number of payments made in excess of 30 days	14	0.86%	37,414

[Deputy Eamon Gilmore.]

Details	Number	Percentage (%) of total payments made	Value (€)
Total payments made in Quarter	1,635	100.00%	5,057,577
Disputed Invoices	(-6)		(-22,463)

### Departmental Staff

47. **Deputy Sean Fleming** asked the Tánaiste and Minister for Foreign Affairs and Trade in respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges: less than €40,000 between €40,001-€50,000; between €50,001-€60,000; between €60,001-€70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32793/12]

**Tánaiste and Minister for Foreign Affairs and Trade (Deputy Eamon Gilmore):** Details of the estimated cost of increments in 2012 for HQ-based staff in each salary-band are included in the table below. It takes account of increments already granted and assumes that all increments due for later in the year are granted. The overall allocation for pay in respect of the staff in question in 2012 is just over €55m and the cost of increments represents 0.31% of that amount.

Category (€)	Total Number of Employees	Increments
0 — 40,000	693	52,607.76
40,001 — 50,000	156	17,929.11
50,001 — 60,000	134	20,859.61
60,001 — 70,000	38	5,611.27
70,001 — 80,000	165	32,151.99
80,001 — 90,000	55	16,663.75
90,001 — 100,000	64	15,308.28
100,001+	61	10,684.75
Total	1366	171,816.54

### Public Sector Pay

48. **Deputy Tom Fleming** asked the Tánaiste and Minister for Foreign Affairs and Trade the number of the over 9,000 persons from the public service who have retired over the past six months with high tax-free lump sum payments in many cases and substantial pensions that have been re-hired on contract; if these persons are now being paid on the double by the State, that is. their pension and the salary they are receiving under the new contracts; and if he will make a statement on the matter. [33080/12]

**Tánaiste and Minister for Foreign Affairs and Trade (Deputy Eamon Gilmore):** One official who retired from my Department on 29 February 2012 has been temporarily re-engaged in order to assist with the Department's activities in the lead-up to and during Ireland's Presidency of the EU from January to June 2013. The contract of employment in this case provides for attendance on a part-time basis from 1 May until 31 July 2012 and on a fulltime basis from 1 September 2012 until 30 June 2013 when it will be terminated. This officer was re-engaged on a pension abatement basis which means in effect that he continues to receive his pension and

is paid a correspondingly reduced salary by the Department. The policy of my Department regarding the re-hiring of retired officials is to do so to the minimum extent possible. However, for certain once-off or short-duration projects it is more productive and cost-effective to re-hire retired staff who already have the relevant expertise and experience than to go through a time-consuming and relatively expensive recruitment, induction and training process. This temporary recruitment arrangement is in line with a Government Decision of 16 December 2011 relating to Presidency matters, including staffing arrangements.

### **National Pensions Reserve Fund**

49. **Deputy Pearse Doherty** asked the Minister for Finance the remaining amount of discretionary funding in the National Pension Reserve Fund. [32550/12]

**Minister for Finance (Deputy Michael Noonan):** I am informed by the National Treasury Management Agency, as Manager of the National Pensions Reserve Fund (NPRF), that the total value of the Fund at 31 March 2012 was €15.1 billion and that the value of the Discretionary Portfolio was €5.8 billion.

### **Departmental Agencies**

50. **Deputy Simon Harris** asked the Minister for Finance the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to his Department, separate to individuals working directly for his Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to his Department in 2011 and to date in 2012; the financial cost of this sick leave; and if he will make a statement on the matter. [32560/12]

**Minister for Finance (Deputy Michael Noonan):**

#### *REVENUE COMMISSIONERS*

Sick Leave is managed in the Office of the Revenue Commissioners in accordance with the provisions of Department of Finance Circular 09/2010. Details are as follows:

#### *2011*

- In respect of 6,488 serving staff (Head Count), a total of 68,975 sick days were taken. All sick days taken are included and counted in line with the Department of Finance Circular.
- The cost of this was €10.3m. This cost does not take into account Illness Benefit reimbursed to the Office of the Revenue Commissioners in respect of staff paying Class A PRSI.
- 91% of all sick leave taken was medically certified.

#### *2012*

- The latest date for which data is available is 31 March 2012.
- In respect of 6,159 serving staff (Head Count), a total of 16,419 sick days were taken. All sick days taken were included and counted in line with the Department of Finance Circular.
- The cost was €2.7m. This does not take into account Illness Benefit reimbursed to the Office of the Revenue Commissioners in respect of staff paying Class A PRSI.
- 91% of all sick leave taken was medically certified.

[Deputy Michael Noonan.]

Calculation of total number of sick days and cost, is in accordance with the “Standard Framework for Reporting on Sickness Absence” provided for by Department of Finance Circular 09/2010.

Data in respect of 2011 sick leave was submitted to the Department of Public Expenditure and Reform.

#### *NTMA*

Total sick days taken by NTMA staff across all its business areas including NAMA were 790 in 2011 and 290 during the first quarter of 2012. This is equivalent to salary costs of €260,000 in 2011 and €95,000 for the first quarter of 2012 (based on total number of working days in the year/quarter and not adjusting for salary costs reclaimed through the PRSI system).

#### *DISABLED DRIVERS MEDICAL BOARD OF APPEAL*

There is an active sick leave policy in place for staff in the National Rehabilitation Hospital with Occupational Health support. These procedures are in line with other Public Sector bodies. Our sick leave policy and procedures assist the NRH to keep the level and frequency of absences to a minimum by adopting good management practices. The hospital also promotes the use of other staff support mechanisms through our Employee Assistance Programme. The Hospital requires staff, who are on sick leave, to report into the designated Line Management and HR Department in order to facilitate the monitoring and management of sick leave absence. Access to the Hospital Sick Pay scheme, which is at the discretion of the Hospital, is conditional on staff complying with the provisions of the sick leave policy and co-operating with any reasonable measures to facilitate their return to work.

There are two Whole Time Equivalent Staff assigned to the Disabled Drivers Medical Board of Appeal. The combined number of sick leave days for this Department for 2011 and for 2012 to date totals 38.90 hours. The combined costing associated with the sick leave totals €1,448.00.

#### *IRISH FISCAL ADVISORY COUNCIL*

The staff of the Irish Fiscal Advisory Council are all seconded from other organisations because it is operating on a non-statutory basis and cannot be an employer in its own right yet. According, applicable sick leave procedures are those in place in their employers. Once the Irish Fiscal Advisory Council is established on a statutory basis, it will have direct procedures in place to manage sick leave, in line with public sector circulars. The combined number of sick days taken by staff in 2011 and to date in 2012 is 0.5 days. The financial cost of this is €111.

#### **National Asset Management Agency**

51. **Deputy Micheál Martin** asked the Minister for Finance if he or his officials have met the National Assets Management Agency recently; and if he will make a statement on the matter. [26510/12]

**Minister for Finance (Deputy Michael Noonan):** As the deputy may be aware, there is regular contact between officials in my department and NAMA. This contact occurs on a daily basis to ensure the fulfilment of Ministerial responsibilities under the NAMA legislation.

I have had several meetings with the Chairman of NAMA, Frank Daly this year and these meetings have taken place at monthly intervals.

#### **European Stability Bonds**

52. **Deputy Micheál Martin** asked the Minister for Finance if he or his officials discussed



President Hollande's proposal of jointly guaranteed Eurobonds with French officials; and if he will make a statement on the matter. [26440/12]

56. **Deputy Micheál Martin** asked the Minister for Finance if he discussed Eurobond projects with Chancellor Merkel; and if he will make a statement on the matter. [28965/12]

78. **Deputy Thomas P. Broughan** asked the Minister for Finance his position on Eurobonds as outlined at the recent informal summit of EU leaders in Brussels; and if he will make a statement on the matter. [26282/12]

**Minister for Finance (Deputy Michael Noonan):** I propose to take Questions Nos. 52, 56 and 78 together. The European Commission published a discussion document in November 2011 on options for Eurobonds (which it called Stability Bonds). It put forward three options:

(i) the full substitution of Stability Bond issuance for national issuance, with joint and several guarantees;

(ii) the partial substitution of Stability Bond issuance for national issuance, with joint and several guarantees, and

(iii) the partial substitution of Stability Bond issuance for national issuance, with several but not joint guarantees.

Eurobonds are one of a number of funding possibilities that have been suggested in the light of the need to help revitalize European economies, at all levels from the funding of Member States to easing access to credit for SMEs. However, it should be noted that there is no formal proposal on Eurobonds under discussion at EU level.

It should also be noted that the introduction of Eurobonds, in whatever form, would not reduce the need to get the Government finances under control and to reduce the debt to a manageable level and, in fact, the introduction of any form of pooled debt issuance by Member States is likely to be conditional on an enhanced level of fiscal and economic integration in order to protect the interests of Member States generally.

### **Project Bonds Initiative**

53. **Deputy Micheál Martin** asked the Minister for Finance if he or his officials were involved in discussions at EU level regarding the pilot scheme on project bonds; and if he will make a statement on the matter. [26439/12]

**Minister for Finance (Deputy Michael Noonan):** The Europe 2020 Project Bonds Initiative has been proposed by the EU Commission to help promoters of infrastructure projects attract additional private sources of finance from institutional investors. Under the initiative, the European Investment Bank (EIB) will provide credit enhancement to project companies issuing bonds to finance infrastructure projects. This will improve the rating of the senior debt of the project companies and allow them to raise funds more easily. The intention is to increase the availability of debt financing for large-scale infrastructure projects in the areas of transport, energy and broadband.

I understand that it is intended to launch a pilot phase for the Europe 2020 Project Bond Initiative once the European Parliament and the Council have approved the legislative proposal amending the Trans-European Networks (TEN) Regulation and the Competitiveness and Innovation framework Programme (CIP) Decision and redeployed existing budget allocations of these programmes and subject to the agreement of the EIB's governing bodies.

### **Eurozone Meetings**

54. **Deputy Micheál Martin** asked the Minister for Finance if his attention or that of his officials was drawn to a conference call between Eurozone finance ministry officials during which each was asked to detail contingency plans in the event of a Greek exit from the Eurozone; and if he will make a statement on the matter. [27693/12]

61. **Deputy Micheál Martin** asked the Minister for Finance if there have been discussions in the event that Greece leaves the euro; and if he will make a statement on the matter. [30398/12]

**Minister for Finance (Deputy Michael Noonan):** I propose to take Questions Nos. 54 and 61 together.

The Eurogroup Working Group (EWG) on Monday 21 May considered in a conference call the state of play in financial markets and in Greece, as it usually does. The teleconference was organized following the G8 Summit where the situation in Greece was discussed. There was also the fact that Greece would be going to the polls for the second time on Sunday 17 June. The French and German leaders said at G8 that Greece should remain in the eurozone, but would need to be helped by the EU to return to growth.

Following this conference call, and due to rumours circulating about the purpose of the call, the EWG clarified that there had been no agreement to develop national contingency plans nor any discussion of an exit of Greece from the euro area. The June 17th elections in Greece were positive from a European perspective, with parties broadly committed to implementing the Memorandum of Understanding (MoU) forming a government.

I am also heartened by the statement following the Heads of State and Government meeting last week which announced a significant decision about the possibility of the ESM being used to recapitalize banks directly and that the Eurogroup would examine the situation of the Irish financial sector with a view to improving the sustainability of our adjustment programme. The response of the financial markets to this development has been extremely positive with the cost of borrowing for the Irish sovereign falling significantly in the secondary market.

### **European Central Bank**

55. **Deputy Micheál Martin** asked the Minister for Finance his plans to meet Mr Mario Draghi; and if he will make a statement on the matter. [27700/12]

77. **Deputy Gerry Adams** asked the Minister for Finance the recent contacts he has had with ECB Chief Mario Draghi. [28970/12]

**Minister for Finance (Deputy Michael Noonan):** I propose to take Questions Nos. 55 and 77 together.

Following his appointment as President of the European Central Bank Executive Board on 1st November, 2011, I arranged to meet Mr. Draghi in Frankfurt on 24 January last. This was an initial meeting to congratulate him on his recent appointment and also to brief him on Irish economic, fiscal and banking developments.

Since then I have attended the monthly meetings of the Eurogroup and also the ECOFIN Council, which are also attended by the President of the ECB. I regularly use these opportunities to engage in bilateral discussions with Mr. Draghi on Ireland's sovereign debt issues and to brief him on Ireland, including the situation in our banks. I also use such opportunities to press the case for the ECB to take a long-term view of the impact of the sovereign debt

burden on the Irish economy. Mr. Draghi has always been accommodating in facilitating such bilateral meetings and I expect to continue to arrange regular one-on-one meetings with him around the monthly Eurogroup and ECOFIN Council meetings.

*Question No. 56 answered with Question No. 52.*

### **European Stability Programmes**

57. **Deputy Micheál Martin** asked the Minister for Finance his views on whether Europe needs to move urgently to put in place a Eurozone wide bank resolution mechanism that does not require all residual costs to be borne by national governments; and if he will make a statement on the matter. [29364/12]

58. **Deputy Micheál Martin** asked the Minister for Finance his views on whether there needs to be a common deposit insurance scheme, common supervisory authority and bail in of senior bondholders across the Eurozone; and if he will make a statement on the matter. [29365/12]

**Minister for Finance (Deputy Michael Noonan):** I propose to take Questions Nos. 57 and 58 together.

The European Union, through various Directives and Regulations, currently provides for common rules to be applied by national supervisors. There is no single European supervisor although supervision is co-ordinated at a European level by the European Banking Authority. Supervision, deposit insurance and resolution are all national competencies.

The proposal for a banking union was first mooted by Commission President Barroso on 23 May. It has developed over the last number of weeks culminating in the paper on Economic and Monetary Union that was discussed at last week's European Council meeting.

One of the main proposals in the paper on Economic and Monetary Union relates to an integrated financial framework. It proposes that, building on the single rulebook, an integrated financial framework should have two central elements: [a] single European banking supervision and [b] a common deposit insurance and resolution framework.

The European Commission will present proposals for a single supervisory mechanism shortly and these will be examined fully. A European deposit insurance scheme could introduce a European dimension to national deposit guarantee schemes for banks overseen by the European supervision. This would strengthen the credibility of the existing arrangements and serve as an important assurance that eligible deposits of all credit institutions are sufficiently insured. A European resolution scheme — with appropriate resolution tools, could provide assistance in the application of resolution measures to banks overseen by the European supervision with the aim of orderly winding-down non-viable institutions and thereby protect tax payer funds.

Of importance to Ireland is that these proposals are coherent and make a substantive contribution to strengthening the Eurozone's financial system. Ireland could support progress towards these objectives if the impacts were to ease the burden of support the sovereign has provided to the banking sector and shared responsibility for banking risks. It is also important that any proposal be applied retrospectively to the Irish bank recapitalisations. In this context I welcome the Euro area Summit Statement of 29 June which affirms the importance to break the vicious circle between banks and sovereigns and commits to further examine the situation of the Irish financial sector with a view to improving sustainability.

59. **Deputy Micheál Martin** asked the Minister for Finance if he has discussed the possibility of severing the link between sovereign debt and banking systems with Chancellor Merkel and any other EU leader; and if he will make a statement on the matter. [28966/12]

63. **Deputy Micheál Martin** asked the Minister for Finance the contact he has had with Chancellor Merkel regarding her response to requests for a banking union in Europe; and if he will make a statement on the matter. [30395/12]

64. **Deputy Micheál Martin** asked the Minister for Finance his views regarding Chancellor Merkel's position that there cannot be banking union unless there is political union across the EU; and if he will make a statement on the matter. [30396/12]

**Minister for Finance (Deputy Michael Noonan):** I propose to take Questions Nos. 59, 63 and 64 together.

I am in continuous contact with other European finance ministers and will attend Eurogroup and ECOFIN on the 9th and 10th of July to debate the proposals on Economic and Monetary Union agreed at last week's Council meeting. Officials in my Department have been in regular contact with their counterparts across the European Union for some time in the build up to last week's European Council and in the days since.

While I myself have not had discussions directly with Chancellor Merkel specific to the banking union proposals, I have had regular bilateral discussions on these and other related issues with my German counterpart at Eurogroup and ECOFIN, in addition to my visit to Berlin earlier this year. This matter would have also have been raised by the Taoiseach in his bilateral discussions with all European leaders around that important Council meeting.

The proposal for a banking union was first mooted by Commission President Barroso on 23 May. It has developed over the last number of weeks culminating in the paper on Economic and Monetary Union that was discussed at last week's European Council meeting.

One of the main proposals in the paper on Economic and Monetary Union relates to an integrated financial framework. It proposes that, building on the single rulebook, an integrated financial framework should have two central elements: [a] single European banking supervision and [b] a common deposit insurance and resolution framework.

The European Commission will present proposals for a single supervisory mechanism shortly and these will be examined fully. A European deposit insurance scheme would introduce a European dimension to national deposit guarantee schemes for banks overseen by the European supervision. This could strengthen the credibility of the existing arrangements and serve as an important assurance that eligible deposits of all credit institutions are sufficiently insured. A European resolution scheme — with appropriate resolution tools, could provide assistance in the application of resolution measures to banks overseen by the European supervision with the aim of orderly winding-down non-viable institutions and thereby protect tax payer funds. However much depends on the actual detail of the proposals. Once proposals are brought forward they will be examined carefully and we will engage constructively in their consideration at European Council.

I welcome the Euro area Summit Statement of 29 June which affirms the importance to break the vicious circle between banks and sovereigns and commits to further examine the situation of the Irish financial sector with a view to improving sustainability. This represents a significant shift in European policy and one which will be further developed following the examination by the Eurogroup to further improve the sustainability of our adjustment programme.

60. **Deputy Micheál Martin** asked the Minister for Finance his views on whether there is a belief amongst EU leaders that Spain may need an equity injection; and if he will make a statement on the matter. [30399/12]

**Minister for Finance (Deputy Michael Noonan):** As the Deputy will be aware, agreement has been reached to provide loans of up to €100 billion for the recapitalisation of Spanish banks. Loans have not been requested to finance the Spanish sovereign. The financial assistance is to be provided by the EFSF until the ESM becomes available, at which stage it will be transferred to the ESM.

The Deputy will also be aware that Heads of State or Government of the euro area have decided that once an effective supervisory mechanism is established, the ESM could have the possibility to recapitalise euro area banks directly. This is a very positive development from an Irish perspective.

A ‘top-down’ exercise by external evaluators has estimated the capital needs for the Spanish banking sector as a whole to be in the region €51-62 billion. However, the exact amount will be determined based on a thorough bottom-up assessment of individual financial institutions which has already been launched. More detailed work between the Spanish authorities and the Troika is continuing and it is anticipated that further progress will be made during this month.

*Question No. 61 answered with Question No. 54.*

### **Tax Code**

62. **Deputy Micheál Martin** asked the Minister for Finance if he expects any requests to change Ireland’s rate of corporation tax in the context of discussions on a fiscal union; and if he will make a statement on the matter. [30550/12]

**Minister for Finance (Deputy Michael Noonan):** The Government’s position on Ireland’s corporation tax rate is very clear and well known to our EU colleagues.

In the context of the discussions on fiscal union, I would like to inform the Deputy that the current proposals on tax simply reflect existing arrangements and do not bring anything new, including corporation tax, to the table.

*Questions Nos. 63 and 64 answered with Question No. 59.*

### **European Fiscal Union**

65. **Deputy Micheál Martin** asked the Minister for Finance his views whether the proposals of a fiscal union is practical; if he will be supporting same; and if he will make a statement on the matter. [30536/12]

**Minister for Finance (Deputy Michael Noonan):** On June 25th, and in advance of the European Council on 28th/29th June, the President of the European Council published a report entitled *Towards a Genuine Economic and Monetary Union*. The report sets out a vision for the future of EMU and proposes to move, over the next decade, towards a stronger EMU architecture based on integrated frameworks for the financial sector, for budgetary matters and for economic policy.

In relation to budgetary matters, the report suggests that a qualitative move towards a fiscal union is needed to ensure the smooth functioning of the monetary union.

I have said on a number of occasions that improvements to the architecture of the euro area are needed to promote the smooth functioning of EMU.

That said, we must await the details of any specific proposals in order to formulate a definitive view. In this context, President Van Rompuy and his colleagues will present a more specific and time-bound map for the achievement of a genuine monetary union to the European



[Deputy Michael Noonan.]

Council in December, with an interim report being presented in October. In the interim I and my officials will engage in this process as appropriate.

### **Tax Code**

66. **Deputy Alex White** asked the Minister for Finance in view of the recent controversy regarding tax compliance by persons in receipt of two pensions, if he will consider reviewing section 17(4)(b) of the Finance Act 2003 with a view to enabling Revenue to extend the period of review from its current four years to a longer period, allowing greater reconciliation of liabilities; and if he will make a statement on the matter. [32576/12]

**Minister for Finance (Deputy Michael Noonan):** Section 17 Finance Act 2003 inserted a new Section 865 into the Taxes Consolidation Act 1997 and subsection (4)(b) of that Section introduced a 4 year time limit as regards claims for repayment of tax made on or after 1 January 2005. At the same time that the 4 year time limit for claiming repayment of tax was introduced, the right of the Revenue Commissioners to raise assessments was also reduced to a four-year period except in the case of fraud or negligence.

This scheme of 4 year time limits was designed to achieve the necessary balance between establishing a fair and uniform system for taxpayers, including parity of treatment between PAYE and self-employed taxpayers, while, at the same time, providing the necessary protection for the Exchequer from exposure to claims going back many years. I do not have any plans to alter either such 4 year time limit.

Where a person has difficulties in paying his or her tax liabilities, including tax liabilities arising from the assessing of previously unreported income, depending on the facts and circumstances of the case, it may be possible for that person to pay outstanding tax liabilities over an agreed period of time.

### **Cycle to Work Scheme**

67. **Deputy Michael McNamara** asked the Minister for Finance if he received reports of abuse to the cycle to work scheme; with the alleged abuse relates to people purchasing items, other than bicycles, from bicycle shops and recording these items as bicycles in their application; and if he will make a statement on the matter. [32588/12]

**Minister for Finance (Deputy Michael Noonan):** I am aware of recent reports of possible abuse of the cycle to work scheme. It would be inappropriate for me to comment on the process of administration of tax reliefs and schemes, which is a matter for the Revenue Commissioners.

I am however, advised by the Revenue Commissioners that from time to time random checking is carried out on particular reliefs and schemes to ensure compliance with the conditions of the scheme or relief. Audits take place in cases where Revenue's risk profiling indicates a need for a specific intervention. Revenue's main focus is to select cases for intervention based on various risk indicators and other information available and these can include intelligence from a range of sources and from third party information.

The types of offences that are most likely to be prosecuted include use of forged or falsified documents and facilitating fraudulent evasion of tax. Investigations with a view to prosecution may be undertaken where a supplier knowingly or wilfully issues or produces any incorrect invoice, receipt, instrument or other document in connection with any tax. Where any employee knowingly or wilfully furnishes any incorrect information in connection with any tax they will be investigated with a view to prosecution.

Participating employers do not have to notify the Revenue Commissioners of their involvement in this scheme — but must have a signed salary sacrifice agreement from employees, stating that the bicycle is for their own use and will be used for travelling to and from work. The onus is on employers to maintain appropriate records (delivery dockets, invoices, payments details, etc.).

### Prompt Payments

68. **Deputy Olivia Mitchell** asked the Minister for Finance the average time lapse between receipt of invoices for goods and services and actual payment in his Department and in each agency and organisation within his remit; and if he will make a statement on the matter. [32600/12]

**Minister for Finance (Deputy Michael Noonan):** In response to the Deputy's question the average time lapse between receipt of invoices for goods and services and actual payment in my Department is 10.48 days. This information is taken from data compiled for Prompt Payments Returns to the Department of Jobs, Enterprise and Innovation, dealing with payments that issue to the private sector, as opposed to transfers to other parts of the civil/public service.

In relation to bodies under the aegis of my Department I have been provided with the following details in relation to the time lapse between receipt of invoices for goods and services and actual payment to suppliers.

#### *Revenue Commissioners*

The Office of the Revenue Commissioners has advised me that the average time lapse between receipt of invoices, in Revenue, for goods and services and issue of payment is 6 calendar days based on the first 6 months of 2012.

#### *Fiscal Advisory Council*

The Fiscal Advisory Council has advised me that all practices in place in their body are in line with the Prompt Payment of Accounts Act and that the average time between receipt of invoices for goods and services and actual payment is not more than 10 days.

#### *National Treasury Management Agency (NTMA) and related agencies*

The NTMA and related agencies endeavour to process all supplier payments in a timely manner. Where payments to a supplier exceed €10,000 in any 12-month period, in accordance with Revenue Circular 43/2006, the NTMA will seek a valid Tax Clearance Certificate from the supplier. Payment will be withheld until a valid Tax Clearance Certificate is available.

Based on an assessment of information over the first six months of 2012, the average period from receipt of invoice to payment is 25 days for the NTMA and related agencies. Delays in payment while awaiting a valid Tax Clearance Certificate or due to any other query are reflected in this timescale.

### Tax Code

69. **Deputy Joe Higgins** asked the Minister for Finance the number of financial vehicle corporations domiciled in Ireland; the number that are Irish owned; the number of persons employed by these companies; the amount of revenue they provide through corporation tax. [32615/12]

70. **Deputy Joe Higgins** asked the Minister for Finance the number of credit institutions domiciled here; the number that are Irish owned; the number of persons employed by these companies; and the amount of revenue they provide through corporation tax. [32616/12]

71. **Deputy Joe Higgins** asked the Minister for Finance the number of money market funds domiciled here; the number of them that are Irish owned; the number of persons employed by these companies; and the amount of revenue they provide through corporation tax. [32617/12]

72. **Deputy Joe Higgins** asked the Minister for Finance the number of investment funds domiciled here; the number that are Irish owned; the number of persons employed by these companies; the amount of revenue they provide through corporation tax. [32618/12]

**Minister for Finance (Deputy Michael Noonan):** I propose to take Questions Nos. 69 to 72, inclusive, together.

I am informed by the Central Bank that there are 5,199 Investment Funds domiciled in Ireland; 6% of their equity holdings are held by Irish investors. Of the total number of investment funds 86 are Money Market Funds; 9% of their equity holdings are domestically held.

I understand that some 12,500 jobs are directly sustained by the funds industry in Ireland. However, I do not have specific information as to the proportion of those jobs which are sustained by Money Market Funds.

I am also informed by the Central Bank that there are 40 credit institutions licensed by it to carry out banking business in the state. However, detailed information concerning the nationalities of the share-holders of these institutions and employee numbers is not held by the Central Bank.

Finally, the Central Bank informs me that there are 687 Financial Vehicle Corporations domiciled in Ireland. 25 of these vehicles are linked to domestic Irish banks. These vehicles don't have any direct employees in Ireland. The IFSC employs 33,000 people throughout Ireland and contributes over €1 billion to the Exchequer in corporation and payroll taxes.

In relation to the amount of corporation tax provided by each of the sectors, I am informed by the Revenue Commissioners that the sector identifier used on the tax records is based on the 4 digit "NACE code" which is an internationally recognised economic activity code system. As the economic activities referred to by the deputy are not clearly identifiable within the NACE code system the tax-based information requested by the Deputy either could not be identified or could not be identified without conducting an extensive investigation of the Revenue Commissioners' records.

### **National Aquatic Centre**

73. **Deputy Mary Lou McDonald** asked the Minister for Finance the actions he or his Department officials have taken in response to recommendations 3, 4, 5, 7 and 8 of the report on VAT Costs on the National Aquatic Centre by the Committee of Public Accounts published in May 2012. [32659/12]

**Minister for Finance (Deputy Michael Noonan):** The process for reporting back to the Public Accounts Committee is the established accounting process of a Minute of the Minister for Public Expenditure and Reform. This process is in train in relation to the PAC Report on VAT Costs on the National Aquatic Centre, but has not been finalised. The Minute will provide a full response to the PAC report, including details of implementation of recommendations to the Department of Finance and the Revenue Commissioners.

### **Tax Yield**

74. **Deputy Billy Timmins** asked the Minister for Finance the estimated increase in tax revenue if the higher rate of tax was increased by 1%. [32763/12]

**Minister for Finance (Deputy Michael Noonan):** I am informed by the Revenue Commissioners that the full year yield to the Exchequer, estimated by reference to 2012 incomes, of increasing the higher rate of income tax by 1 percentage point would be approximately €205 million. This figure is estimated from the Revenue tax-forecasting model using actual data for the year 2009 adjusted as necessary for income and employment trends in the interim. It is, therefore, provisional and likely to be revised.

75. **Deputy Billy Timmins** asked the Minister for Finance the estimated increase in tax revenue if earnings of €100,000 or greater were taxed at a rate of 50% on the portion of their income over €100,000; and if he will make a statement on the matter. [32764/12]

**Minister for Finance (Deputy Michael Noonan):** It is assumed that the threshold for the proposed new tax rate mentioned by the Deputy would not alter the existing standard rate band structure applying to single and widowed persons, to lone parents and married couples. I am advised by the Revenue Commissioners that the estimated full year yield to the Exchequer, estimated by reference to 2012 incomes, of the introduction of a new 50% rate would be of the order of €490 million.

However, given the current band structures, major issues would need to be resolved as to how in practice such a new rate could be integrated into the current system and how this would affect the relative position of different types of income earners.

This figure is an estimate from the Revenue tax-forecasting model using latest actual data for the year 2009, adjusted as necessary for income and employment trends in the interim. It is, therefore, provisional and subject to revision.

#### **Departmental Staff**

76. **Deputy Sean Fleming** asked the Minister for Finance in respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges: less than €40,000 between €40,001-€50,000; between €50,001-€60,000; between €60,001-€70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32792/12]

**Minister for Finance (Deputy Michael Noonan):** The awarding of an increment in my Department is subject to staff being assessed, on a number of grounds set out in both Department of Finance Circular 09/1987, Increments and in Civil Service Conciliation and Arbitration Scheme, General Council Report 1452, Integration of PMDS with HR Policies and Processes. Subject to all of these conditions being achieved satisfactorily an increment may be awarded. If all of the staff of my Department conformed with all the criteria for the awarding of an increment, then the following is an estimate, compiled in grading groups, of the likely costs of increments to my Department in 2012. Services Officers, Clerical Officers and Staff Officers €66,795; Executive Officers, Higher Executive Officers and Administrative Officers €63,975; Assistant Principals, Principals and Assistant Secretaries €67,779.

*Question No. 77 answered with Question No. 55.*

*Question No. 78 answered with Question No. 52.*

#### **Compact for Growth and Jobs**

79. **Deputy Thomas P. Broughan** asked the Minister for Finance if he will provide an update

[Deputy Thomas P. Broughan.]

on efforts to deliver an EU stimulus package; his current estimates on the size and sources of the funding for the package; and if he will make a statement on the matter. [28145/12]

**Minister for Finance (Deputy Michael Noonan):** As I have said before, my view is that measures to boost economic growth can play an important role in addressing the current crisis in the EU. In this context, Heads of State or Government in the EU decided on a compact for growth and jobs at the European Council on 28th June. This involves action by Member States and at EU level in order to boost growth, investment and employment.

Measures to be implemented at national level include the full implementation of the country-specific recommendations from the European Semester as well as pursuing differentiated growth-friendly fiscal consolidation.

A number of measures are to be implemented at EU level in order to boost growth. These include a deepening of the Single Market and reducing the regulatory burden. In addition €120 billion — about 1 per cent of EU gross national income — is being mobilised to boost European growth. For instance, the paid-in capital of the European Investment Bank is to be increased in order to increase its lending capacity. In addition, it is recognised that structural funds can be reallocated towards more employment-intensive activity within national envelopes in co-operation with the Commission.

So a lot is clearly being done and I believe these measures can have a positive impact in supporting economic activity at this difficult juncture.

#### **Sale of State Assets**

80. **Deputy Mick Wallace** asked the Minister for Finance if he has examined other potential means of funding a stimulus plan aside from through the sale of State assets; and if he will make a statement on the matter. [26534/12]

**Minister for Finance (Deputy Michael Noonan):** The Government has now agreed the shape and scale of the asset disposal programme to be pursued as a commitment under the EU/IMF Programme, and as provided for in the Programme for Government. The Government has agreed with the Troika sale of state assets up to a value of €3 billion based on the guiding principles that there will be no fire sales, integral transmission and distribution systems will be retained in State ownership and full value will be derived for the State. The Minister for Public Expenditure and Reform recently announced that he had reached agreement with Troika representatives that all of the proceeds of the asset disposal programme will be available, in one shape or another, to support job-creating initiatives in the economy. Half of the proceeds will be available to fund employment-enhancing projects of a commercial nature. The other half, while destined eventually to pay down debt, will, in the first instance, be constituted as a fund to guarantee additional lending into Ireland, for example by the EIB, in support of further investment in job-creating initiatives.

The Government has in addition taken a number of initiatives in order to boost capital spending and investment outside the confines of the Exchequer, with a view to maximising additional sources of funding for investment spending so as to help restore the economy to a sustainable growth path and enhance employment.

In announcing the Strategic Investment Fund (SIF) initiative in September 2011, the Government indicated a refocusing of the investments of the National Pensions Reserve Fund (NPRF) from global towards Ireland. The purpose of the SIF is to channel commercial investment from the NPRF and the private sector towards productive investment in target investment in areas of strategic significance to the future of the Irish economy.



A key principle of the Strategic Investment Fund is that the NPRF investment, which is to be solely on a commercial basis, will seek matching investment from third-party investors. In this way the Fund's assets can be used as a catalyst to attract additional capital for investment in the Irish economy. In addition, the Fund has been working closely with NewERA in respect of investment opportunities relating to the commercial semi-state sector.

Involvement of the NPRF in the SIF is expected to require the amendment of the investment policy of the NPRF, which is set out in the National Pensions Reserve Fund Act 2000. Officials of my Department are liaising with the National Treasury Management Agency, which is the Manager of the NPRF, in identifying and drafting the necessary amendments to the legislation and I expect to bring forward proposals for amending legislation as soon as possible once that work is completed.

The NPRF announced in November 2011 a commitment of €250 million to a new Irish infrastructure investment fund which is seeking up to €1 billion from institutional investors in Ireland and overseas and which will invest in infrastructure assets in Ireland, including assets designated for disposal by the Government and commercial State enterprises and also new infrastructure projects.

The NPRF has also committed, subject to certain pre-conditions, €450 million to finance the national roll-out of domestic water meters.

The Minister for Public Expenditure and Reform and I will be meeting Dr Werner Hoyer, the President of the European Investment Bank (EIB), next Friday to discuss access to EIB funding, with a view to optimising access to funding for Irish projects.

### **Public Sector Staff**

81. **Deputy Tom Fleming** asked the Minister for Finance the number of the over 9,000 persons from the public service who have retired over the past six months with high tax-free lump sum payments in many cases and substantial pensions that have been re-hired on contract; if these persons are now being paid on the double by the State, that is, their pension and the salary they are receiving under the new contracts; and if he will make a statement on the matter. [33079/12]

**Minister for Finance (Deputy Michael Noonan):** In my Department, no staff member who retired in the last six months has been rehired.

### **Bullying in Schools**

82. **Deputy Sandra McLellan** asked the Minister for Education and Skills his plans to implement an all-Ireland anti-bullying strategy; and if he will make a statement on the matter. [32675/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** As the Deputy is aware, the Anti-Bullying Forum, which was held on Thursday 17th May, brought together a range of experts, support groups and representatives of the schools sector including parents and students.

I was very pleased to open this important Forum and to provide an opportunity to explore with all the relevant stakeholders how best to tackle bullying in schools and to consider what changes or updating of existing practices and procedures are required to achieve this having regard to what is feasible to implement in the current financial climate.

The range of speakers on the day of the Forum included contributions from my Department, Professor Mona O'Moore of the Anti-Bullying Centre, Trinity College, representatives of the National Anti-Bullying Coalition (NABC), and contributors from the school sector from the

[Deputy Ruairí Quinn.]

various perspectives of school principal, parent and pupil. The Forum also gave other stakeholders an opportunity to give their views.

The proceedings of the Forum were broadcast live over the internet and recordings of the day's events can be now viewed by accessing the Anti-Bullying Forum webpage of my Department's website [www.education.ie](http://www.education.ie). The presentations of the various speakers can also be viewed and downloaded from this page.

As a follow on to holding the Forum itself, I invited the stakeholders and any other interested parties, including those unable to attend the event on the day, to submit their views on this important topic to my Department by 29th June 2012.

I have also established a working group on tackling bullying in schools, including homophobic bullying, cyber bullying and racist bullying. The outcomes from the Forum together with the submissions from the stakeholders and other interested parties will assist the working group in its deliberations. This working group includes representatives of the Department of Education and Skills and the Department of Children and Youth Affairs, and will draw upon the expertise of a range of organisations throughout their work.

### Higher Education Grants

83. **Deputy Tom Fleming** asked the Minister for Education and Skills if a student grant application will be approved in respect of a person (details supplied) in County Kerry; and if he will make a statement on the matter. [32523/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** The decision on eligibility for a student grant is a matter for the relevant grant awarding authority.

The Deputy will appreciate that in the absence of all of the relevant details that would be contained in an individual's application form and supporting documentation, it would not be possible for me to say whether or not a student should qualify for a maintenance grant.

Officials in my Department have confirmed with Student Universal Support Ireland (SUSI) that an application was received from this student on 21 June 2012 and it is awaiting assessment. The student will be notified directly of the outcome when the assessment is complete.

### Summer Works Scheme

84. **Deputy Thomas P. Broughan** asked the Minister for Education and Skills the amounts allocated to the summer works programme in 2008, 2009, 2010, and 2011; the way the decision was made to switch scarce resources away from the programme in 2012; and if he will make a statement on the matter. [32538/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** The amount allocated to the Summer Works Scheme for 2008, 2009, 2010 and 2011 is as follows:

Year	Amount
2008	€17,671,776
2009	€103,442,641
2010	€131,599,673
2011	€84,331,234

The emphasis in 2008 was on providing sufficient school places in developing areas, while also delivering improvements in the quality of existing primary and post-primary school accom-

modation throughout the country. Accordingly, funding was not made available for a Summer Works Scheme in 2008. There was, however, expenditure of €17.67m in 2008 on the basis of commitments arising from Summer Works Schemes in previous years.

As outlined in the Five Year Plan last March and in view of the need to ensure that every child has access to a physical school place, the delivery of major school projects to meet significant demographic demands nationally will be the main focus for capital investment in schools in the coming years. The Five Year school building programme is focused on meeting those demographic needs.

In the context, therefore, of the financial constraints imposed by the need to prioritise available funding for the provision of essential school accommodation, it is not possible for me to advance with a summer works programme this year.

### **Departmental Bodies**

85. **Deputy Simon Harris** asked the Minister for Education and Skills the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to his Department, separate to individuals working directly for his Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to his Department in 2011 and to date in 2012; the financial cost of this sick leave; and if he will make a statement on the matter. [32558/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** The day to day administration of agencies is a matter for each agency. Every agency has responsibility for its own HR function which includes the management of sick leave. My Department does not collate information on sick leave in agencies. The Department of Finance circular 25/78 governs the conditions that apply to sick leave for officials within the Civil Service. Under these conditions an official can at most take 7 uncertified sick days with pay within a 12 month period. These conditions apply to those agencies under the aegis of my Department which are staffed by civil servants.

### **Schools Building Projects**

86. **Deputy Dara Calleary** asked the Minister for Education and Skills when he envisages that the building unit of his Department will have made a decision in relation to a building project appeal for a primary school (details supplied) in County Mayo; and if he will make a statement on the matter. [32568/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** My Department recently offered grant aid to the school in question to facilitate the construction of Learning support/resource accommodation under the Prefab Replacement Initiative.

The school subsequently requested the replacement of further accommodation under the Initiative. However, based on the need to prioritise the available funding to replace rented mainstream classrooms and SET rooms, it was not possible to accede to the school's request. The school has been advised accordingly.

87. **Deputy Michael Creed** asked the Minister for Education and Skills if he will outline the way the devolved grant for school building projects operates; if there is an upper limit on the costs of schemes approved under this approach; and if he will make a statement on the matter. [32587/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** Applications for devolved funding for additional accommodation can be submitted as needs arise and are considered on a case

[Deputy Ruairí Quinn.]

by case basis. In the context of the number of applications received and the funding available, priority is given to the provision of mainstream classrooms and accommodation for special education.

Other factors taken into account include the demographic growth in the area, the enrolment trends at the school making the application, the capacity of neighbouring schools and so forth.

Given the fact that school authorities are fully responsible for managing the delivery of their devolved building projects, large scale projects cannot be considered for devolved funding.

All works to be allocated funding under my Department's Devolved Schemes must be offered to the market in accordance with EU and National procurement guidelines.

School management authorities must comply with all the requirements of Technical Guidance Documents TGD 007 and TGD 008 (Design Team Procedures for Small Works and Engaging Professional Consultants for Small Works respectively) which are available on my Department's website. These guidelines provide opportunities for all contractors to tender. Failure to comply with these guidelines may expose the school management authorities to challenge and subsequent financial penalties from a consultant or contractor who feels he/she was not afforded an opportunity to tender. Any such challenge could also result in the project being substantially delayed.

These guidelines provide a balanced approach by allowing access for smaller firms while also ensuring that appropriate consultants are engaged for small works. The full terms and conditions attaching to a devolved grant are issued to the school in the approval letter.

88. **Deputy Michael Creed** asked the Minister for Education and Skills if he will confirm receipt of detailed costings for a proposed school extension (details supplied) in County Cork; if a devolved grant will be considered in this case and in view of the increasing enrolment, access issues for a pupil with a disability and minor works at the school already approved; if he will expedite a decision on this case; and if he will make a statement on the matter. [32589/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** I can confirm that my Department has received an application with costings for a proposed extension at the school to which the Deputy refers. The application is currently being assessed and a decision will be conveyed to the school authority as soon as this process has been completed.

### Prompt Payments

89. **Deputy Olivia Mitchell** asked the Minister for Education and Skills the average time lapse between receipt of invoices for goods and services and actual payment in his Department and in each agency and organisation within his remit; and if he will make a statement on the matter. [32598/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** The average time lapse between receipt of invoices for goods and services in the period January to March 2012 in respect of my Department was 13 days. Equivalent information in respect of bodies and agencies under my remit is not collated centrally by my Department. However, quarterly returns details provided both by my Department and by bodies and agencies under the aegis of my Department, in relation to the Government decision of May 2009 regarding reductions in the period taken to pay invoices, are included in the attached tables. These quarterly returns data are also published on my Department's website and include historical data. The next quarterly returns for the period April to June 2012 will be due for publication in the middle of this month.

### Third Level Admissions

90. **Deputy Mary Mitchell O'Connor** asked the Minister for Education and Skills if he will provide, in tabular form, the number of students who have sat the HPAT exam each year since its inception; and if he will make a statement on the matter. [32639/12]

91. **Deputy Mary Mitchell O'Connor** asked the Minister for Education and Skills the number of children with 600 points that failed the HPAT exam; and if he will make a statement on the matter. [32640/12]

92. **Deputy Mary Mitchell O'Connor** asked the Minister for Education and Skills if he will provide, in tabular form, the number of students that have repeated the HPAT exam each relevant year since its inception; and if he will make a statement on the matter. [32641/12]

93. **Deputy Mary Mitchell O'Connor** asked the Minister for Education and Skills if he will provide, in tabular form, the number of students who repeated the HPAT exam and improved their initial result; and if he will make a statement on the matter. [32642/12]

94. **Deputy Mary Mitchell O'Connor** asked the Minister for Education and Skills if he will provide the lowest Leaving Certificate point score that received admittance through the HPAT system to Medical School; and if he will make a statement on the matter. [32643/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** I propose to take Questions Nos. 90 to 94, inclusive, together.

The information sought by the Deputy is not available in my Department as it has no role to play in determining the admissions criteria or process of selection of students for entry to higher education institutions. The introduction of HPAT in 2009 had regard to the findings of the Working Group on Undergraduate Medical Education and Training: Medical Education in Ireland: A New Direction (the Fottrell report). It recommended that Leaving Certificate results should no longer be the sole selection method for entry to medical education at undergraduate level, but that a two-stage mechanism should be applied consisting of the results obtained in Leaving Certificate and a standardised admissions test which would assess non-academic skills and attributes regarded as important for the practice of medicine. The medical schools, which determine the selection criteria for admission to their programmes, committed to having a review of the new entry mechanism within three years of its introduction. The outcome of this review is awaited. I understand that on its completion, the medical schools intend to publish the findings of the review.

### Pupil-Teacher Ratio

95. **Deputy Peadar Tóibín** asked the Minister for Education and Skills the number of schools in counties Cavan and Monaghan that are above the recommended pupil teacher ratio at both primary and second level; if he will provide the details of schools above the recommended pupil teacher ratio for each of the past five years in counties Cavan and Monaghan; and if he will make a statement on the matter. [32650/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** The Statistics section of my Department's website contains information relating to pupil teacher ratio (PTR) at primary and second level. Pupil Teacher Ratio in respect of all schools is only available at national level and not disaggregated by county or any other variable. The website also contains extensive information relating to class size in primary schools. The source of this data is the National School Annual Census. Statistical information in respect of the current school year is currently being compiled in my Department and is due for publication in September 2012.



### School Accommodation

96. **Deputy Peadar Tóibín** asked the Minister for Education and Skills the number of prefabs in use in both primary and secondary schools in counties Cavan and Monaghan; if he will provide the details of the number of prefabs in use in both primary and secondary schools in counties Cavan and Monaghan in each of the past five years; and if he will make a statement on the matter. [32651/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** Historical data on the rental of prefab units is readily available from 2009 onwards.

The number of ‘rented’ prefabs in use at both Primary and Post Primary level in counties Cavan and Monaghan for years 2009 to 2012, is outlined in the table.

Please note that one prefab unit may consist of one or more classrooms and/or ancillary accommodation.

RENTED PREFABS IN COUNTIES CAVAN AND MONAGHAN

County	Primary and Post Primary prefab units
2009	
Cavan	31
Monaghan	18
2010	
Cavan	29
Monaghan	17
2011	
Cavan	32
Monaghan	15
2012 (to end June)	
Cavan	32
Monaghan	15

### Special Educational Needs

97. **Deputy Dominic Hannigan** asked the Minister for Education and Skills the reason a school (details supplied) in County Meath has had 16 hours special needs assistant time reduced for next year; if the National Council for Special Education has taken into consideration the impact these reductions will have on the schools ability to continue with its dual placement programme with a school in Navan; the reason this school also had a 5% reduction in its resource teaching hours; when his Department will be in contact with the school regarding the appointment of a temporary part time teacher; and if he will make a statement on the matter. [32680/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** The National Council for Special Education (NCSE) is responsible, through its network of local Special Educational Needs Organisers (SENOS), for allocating resource teachers and Special Needs Assistants (SNAs) to schools to support children with special educational needs. The NCSE operates within my Department’s established criteria for the allocation of such supports and the staffing resources available to my Department.

All schools had been advised to apply to the NCSE for resource teaching and SNA support for the 2012/13 school year by 16th March, 2012 and schools are currently being notified by SENOs of their resource teaching and SNA allocation for 2012/13, based on the number of valid applications received and, in the case of SNA support, the extent of the care needs of qualifying children.

My Department does not facilitate the dual enrolment of children. As such, SENOs can only allocate resources to schools in respect of those pupils enrolled in a school. However, dual placement arrangements are a regular feature of transitional plans for children who are transferring from one placement to another and should be managed locally by the relevant Boards of Management.

It is important to note that a school's allocation of SNA support may alter from year to year as pupils enrol or leave a school or where a child's care needs have diminished over time. If a school is notified of a change in SNA support this is either because the number of qualifying children has changed or the assessed needs of the qualifying children have changed. The NCSE may only allocate SNAs to schools where valid applications meet the qualifying criteria.

In relation to Resource Teaching support, there are 5,500 Whole Time Equivalent (WTE) Resource Teaching posts available for allocation for the coming school year, which is the same as last year. This does not include the 4,450 resource and learning support teachers being provided to all schools to support children with less complex, or high incidence, learning needs.

With rising enrolments in schools, the number of valid applications received by the NCSE for the 2012/2013 school year to date is higher than last year. It is necessary therefore to manage these resources so that every child who needs support can access support and are treated the same.

In order to ensure there are sufficient remaining posts to make allocations for late or emergency applications, while staying within the Employment Control Framework (ECF), the NCSE will initially allocate 85% of approved resource teaching hours to each school.

Schools are being asked to make up any time lost through grouping of students and more effective management of teaching time, to ensure that every child who needs support can access support and are treated the same.

It is a matter for schools to monitor and utilise their allocation of resource teaching support to best support the needs of qualifying pupils, in accordance with my Departments guidance. Similarly, SNAs should be deployed by schools in a manner which best meets the care support requirements of the children enrolled in the school for whom SNA support has been allocated. It is a matter for schools to allocate support as required, and on the basis of individual need, which allows schools flexibility in how the SNA support is utilised.

Finally, Circular 0007/2012 sets out the criteria for the allocation of Resource posts for the 2012/2013 school year. The relevant application form for part-time Resource teaching posts 2012/13 school year can be accessed on my Departments website.

### **School Transport**

98. **Deputy Michael Healy-Rae** asked the Minister for Education and Skills if extra bus services will be provided to facilitate persons who wish to attend a school (details supplied) in County Kerry; and if he will make a statement on the matter. [32681/12]

**Minister of State at the Department of Education and Skills (Deputy Ciarán Cannon):** Under the terms of my Department's Post Primary School Transport Scheme children are eligible for

[Deputy Ciarán Cannon.]

transport where they reside not less than 4.8 kms from and are attending their nearest education centre as determined by the Department/Bus Éireann, having regard to ethos and language.

Bus Éireann, which operates the School Transport Scheme on behalf of my Department, determine eligibility by measuring the shortest traversable route from a child's home to the relevant education centre. Bus Éireann are currently processing applications for school transport for the 2012/13 school year. The number and size of vehicles required will be determined by the number of eligible pupils whose applications are finalised by the deadline date at the end of July.

Children who are not eligible for school transport may apply for transport to a particular school on a concessionary basis. However, in accordance with the terms of the scheme, additional or larger vehicles will not be provided to cater for children travelling on a concessionary basis.

99. **Deputy Brendan Smith** asked the Minister for Education and Skills if consideration will be given to resolve serious difficulties that have now arisen for many families with new charges for post-primary school transport, changes to school catchment area/nearest school requirement where there has been a pattern of attendance at different post primary centres from a town and its immediate area where there is no second level school (details supplied) in County Cavan, and where those post primary centres are roughly the same distance from this town; if his attention has been drawn to the fact that most pupils have already been enrolled at second level and in most instances enrolled in the same school as older siblings; if his attention has been drawn to the fact that these new charges will impose an additional burden on many families on low income; and if he will make a statement on the matter. [32721/12]

**Minister of State at the Department of Education and Skills (Deputy Ciarán Cannon):** Under the terms of my Department's Post Primary School Transport Scheme children are eligible for transport where they reside not less than 4.8 kms from and are attending their nearest education centre as determined by my Department/Bus Éireann, having regard to ethos and language.

Bus Éireann, which operates the School Transport Scheme on behalf of my Department, determine eligibility by measuring the shortest traversable route from a child's home to the relevant education centre.

Children who are not eligible for school transport may apply for transport to a particular school on a concessionary basis in accordance with the terms of the scheme.

The school transport charge for eligible and concessionary post primary children remains at €350 per annum subject to a family maximum of €650. This charge can be paid in two instalments in July and December. Eligible children who hold valid medical cards (GMS Scheme) are exempt from these charges.

### School Management

100. **Deputy Seán Ó Fearghaíl** asked the Minister for Education and Skills if he will provide training to boards of management in respect of their new responsibilities as principal contractors; and if he will make a statement on the matter. [32739/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** On the approval of construction contracts involving school authorities as the client, my Department advises school authorities in detail of the new requirements that are required to be adhered to and which have been introduced by the Revenue Commissioners relating to the operation of Relevant Contracts Tax (RCT).

In the first instance an explanation of the background to the new requirements is provided. In this regard, RCT is a tax regime applicable to construction contracts in which tax is deducted by a principal contractor from payments due to a contractor for construction operations. RCT applies to main contractors in their dealings with sub-contractors. The Revenue Commissioners have now decided that with effect from the 1st January 2012 school Boards of Management are regarded as “Principal Contractor”. This means that the Board of Management undertaking works funded by the Department will be responsible for complying with RCT requirements and VAT returns when making payments to their contractor. The Revenue Commissioners have introduced a mandatory electronic RCT system for all principal contractors in the RCT system, so that all filings and notifications must be done online through the Revenue Online System (ROS). Full details of these new requirements are available on [www.revenue.ie](http://www.revenue.ie) or from the local Revenue Office.

School authorities are further advised of the guidelines that should be followed to ensure compliance with Section 20 of the Finance Act 2011 as follows.

1. Register online for the Revenue Online Service (ROS).
2. Register with Revenue as a Principal Contractor and for Value Added Tax (VAT).
3. Obtain the Contractor’s tax reference number and proof of identity.
4. Prior to commencement of construction, notify Revenue of the Contract (Contract Notification).
5. Prior to discharging any payment to the Contractor, notify Revenue of the payment (Payment Notification).
6. Obtain a Deduction Authorisation from Revenue specifying the tax to be deducted from the Contractor.
7. Provide the Contractor a copy of the deduction Authorisation.
8. Deduct the applicable amount of tax from payments due to the Contractor.
9. File RCT returns and pay the deducted amount to Revenue.
10. File monthly VAT returns and pay the VAT to Revenue.
11. Obtain and keep a Deduction Summary — Periodic Return at the end of each return period.

As the compliance outlined above involves school authorities with construction contracts interacting with the Revenue Commissioners on a regular basis, my Department considers that any issues or queries arising from the new procedures are directed by school authorities to the Revenue Commissioners.

### **Schools Building Projects**

101. **Deputy Seán Ó Feargháil** asked the Minister for Education and Skills if he will advise if any progress has been made by his Department in response to proposals for the realignment of primary school at a location (details supplied) in County Kildare; if any capital commitment will be required in respect of realignment; if a timescale for the general process has been agreed; and if he will make a statement on the matter. [32740/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** The building project for the first named school referred to by the Deputy has been included in the 5 year construction programme and is scheduled to commence construction in 2015/16. In this regard, the process of appointing a Design Team is currently underway.

[Deputy Ruairí Quinn.]

With regard to the second named school, a building project comprising of 26 classrooms, Special Needs Unit and ancillary accommodation has been completed and was handed over to the school in August 2011.

### **Special Educational Needs**

102. **Deputy Seán Ó Fearghaíl** asked the Minister for Education and Skills if he will address the genuine concerns raised in correspondence (details supplied); if he will respond to the issues raised; and if he will make a statement on the matter. [32741/12]

103. **Deputy Seán Ó Fearghaíl** asked the Minister for Education and Skills if he will ensure that the Health Service Executive provides services required by a person (details supplied); and if he will make a statement on the matter. [32769/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** I propose to take Questions Nos. 102 and 103 together.

Firstly, I wish to advise the Deputy that he may wish to contact my colleague, the Minister for Health and Children or the Health Service Executive (HSE) directly regarding services provided by the HSE.

The Deputy will be aware that the National Council for Special Education (NCSE) is responsible for determining the appropriate staffing levels in relation to the support of pupils with special educational needs in mainstream and special schools. The NCSE operates within my Department's policy in allocating this support.

My Department's Circular 0042/2011 notified school management authorities of the staffing arrangements which would apply in special schools in the 2011/12 school year and from 2012/13 onwards. The Circular indicates that staffing arrangements based on pupil population, as opposed to being based principally on school designation, will apply with effect from the 2012/13 school year. School staffing schedules will be reviewed and updated each year by the National Council for Special Education (NCSE). In this regard, the NCSE has collected up to date and precise details of pupils attending the school in question and has allocated staffing on the basis of the school's pupil profile.

The special school referred to by the Deputy will have an enrolment of 76 pupils with a staffing allocation of 14 teachers for the 2012/13 school year, which is the same teaching allocation as the school had in the 2011/12 school year, as well as 34.5 Special Needs Assistants (SNAs). Notwithstanding the fact that the pupils attending this school have significant levels of need, this is a very high staffing level, with a total of 48.5 staff providing for 76 pupils at the school which is an overall adult to pupil ratio of 1 adult per 1.6 pupils in the school. These enhanced pupil teacher and SNA ratios are provided to special schools to support them in dealing with pupil behaviour and individual educational and care needs. In addition, it is open to schools to seek guidance and advice from the National Educational Psychological Service (NEPS) in relation to the establishment of whole-school procedures in this area.

Finally, I wish to confirm that phase 1 of a proposed building project for the school is currently underway. A four-classroom unit and ancillary accommodation is currently under construction. Phase 2 of the project which will provide the bulk of the remaining accommodation was included in the 5 year construction programme announced in March of this year. Under that programme, the phase 2 project has a scheduled timeframe to commence construction in 2014/15.



**Departmental Staff**

104. **Deputy Sean Fleming** asked the Minister for Education and Skills in respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges: less than €40,000 between €40,001 — €50,000; between €50,001 — €60,000; between €60,001 — €70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32790/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** The number of persons whose salary is within the pay ranges requested by the Deputy is provided in the table below.

It is not possible to provide this information in relation to personnel employed in Vocational Education Committees (VECs) as my Department does not hold information on payments other than the basic salary scales applicable to VEC employees. Each VEC is a separate employer operating its own payroll system and, accordingly, the information sought would require an inordinate amount of administrative time to compile. However, an estimate in relation to teachers employed by VECs has been included in the table below.

It is not possible to provide the information requested in relation to the cost of increments of the persons in each of these salary ranges.

[Deputy Ruairí Quinn.]

Pay Range	Primary Teachers	Voluntary Secondary, Community and Comprehensive Teachers	Estimated number of VEC Teachers	Non-Teaching Staff in Primary, Voluntary Secondary, Community and Comprehensive Schools	Department of Education and Skills Staff	State Exams Commission	Residential Institutes Redress Board	National Council for Curriculum Assessment (NCCA)	Commission to Inquire into Child Abuse	Council for Irish Language Education
Range <= 40,000	3,558	432	242	10,805	520	154	15	4	1	—
Range between 40,000.01 and 50,000	10,082	4,310	2,414	100	217	33	5	1	2	1
Range between 50,000.01 and 60,000	7,115	5,133	2,874	—	167	15	—	3	1	1
Range between 60,000.01 and 70,000	7,122	4,453	2,494	—	60	2	—	2	—	—
Range between 70,000.01 and 80,000	3,176	1,979	1,108	—	94	5	1	1	—	—
Range between 80,000.01 and 90,000	784	355	199	—	173	12	1	2	1	—
Range between 90,000.01 and 10,000	134	217	122	—	67	5	—	2	—	1
Range > 100,000	—	260	146	—	32	3	—	2	2	—

Notes: The figures in relation to Teachers and Non-Teaching Staff in Primary and Post-Primary Schools above do not include casual employees.

The figures for Post-Primary Teachers (excl VEC) are low as they do not include teachers that retired during the period January-June 2012. They were replaced by casual part-time teachers during those months.

The figures provided in respect of teachers in VECs is an estimate as the actual figures are not readily available.

105. **Deputy Tom Fleming** asked the Minister for Education and Skills the number of the over 9,000 persons from the public service who have retired over the past six months with high tax-free lump sum payments in many cases and substantial pensions that have been re-hired on contract; if these person's are now being paid on the double by the State, that is. their pension and the salary they are receiving under the new contracts; and if he will make a statement on the matter. [33077/12]

**Minister for Education and Skills (Deputy Ruairí Quinn):** The information sought is being compiled and will be forwarded to the Deputy.

106. **Deputy Simon Harris** asked the Minister for Public Expenditure and Reform the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to his Department, separate to individuals working directly for his Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to his Department in 2011 and to date in 2012; the financial cost of this sick leave; and if he will make a statement on the matter. [32565/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** Negotiations are ongoing at the moment with regard to revising sick leave arrangements across the public sector and it is expected that these discussions will be finalised in the coming weeks. Management of sick leave in all agencies, offices and other bodies reporting to my Department is a matter for the individual agencies, offices and bodies concerned. I am assured however that all the agencies, bodies and offices have in place attendance management procedures and that these are in accordance with Department of Public Expenditure and Reform and Department of Finance circulars.

The following is a summary of the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to my Department in 2011 and to date in 2012:

- 2011 — 11,919.36 sick days taken.

These figures include sick days taken in the Office of Public Works (OPW) up to the end of March 2012. The OPW have advised me that they will provide details in relation to the period 1st April 2012 to the end of June 2012 directly to the Deputy together with details of sick leave in respect of the State Industrial Employees.

In light of the returns from the various agencies and the ongoing negotiations with regard to revising sick leave arrangements I am satisfied that overall figure for the full year in 2012 will be reduced.

### **Prompt Payments System**

107. **Deputy Olivia Mitchell** asked the Minister for Public Expenditure and Reform the average time lapse between receipt of invoices for goods and services and actual payment in his Department and in each agency and organisation within his remit; and if he will make a statement on the matter. [32605/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** In response to the Deputy's question the average time lapse between receipt of invoices for goods and services and actual payment in my Department is 11 days. This information is taken from data compiled for Prompt Payments Returns to the Department of Jobs, Enterprise and Innovation, dealing with payments that issue to the private sector, as opposed to transfers to other parts of the civil/public service.

[Deputy Brendan Howlin.]

In respect of the agencies and organisation under the remit of my Department the following information has been provided:

Name of Office/Agency or Body	Average time lapse
Office of Public Works	14.97 days
Public Appointments Service	16 days
State Laboratory	15 days
Office of the Ombudsman	8.14 days
Commission for Public Service Appointments	15.33 days

With regard to the Valuation Office I have been advised that invoices are paid as soon as possible after they are received.

### National Aquatic Centre

108. **Deputy Mary Lou McDonald** asked the Minister for Public Expenditure and Reform the actions he or his Department officials have taken in response to recommendations 3, 4, 5, 9 of the report on VAT Costs on the National Aquatic Centre by the Committee of Public Accounts published in May 2012. [32658/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The established process for responding to the recommendations of the Public Accounts Committee is via a Minute of the Minister for Public Expenditure and Reform. The PAC's recent report, VAT Costs on the National Aquatic Centre, is being carefully examined and the response is being developed. When finalised in the coming weeks, the formal Minute of the Minister for Public Expenditure and Reform will provide a full response to the recommendations in this recent PAC report.

### Departmental Expenditure

109. **Deputy Billy Timmins** asked the Minister for Public Expenditure and Reform the savings made to date under the Croke Park Agreement; where these savings were made; and if he will make a statement on the matter. [32765/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The Implementation Body for the Public Service Agreement published its Second Annual Progress Report in respect of Year 2 of the Agreement (12 months ending March 2012) on 13th June last which found, *inter alia*, that:

- Pay bill savings of €650m were achieved during the year under review (Apr 2011 to Mar 2012) driven largely by the reduction in staff numbers, or €521m net of an estimate for the maximum possible post-February recruitment over 2012. An estimated €810m in sustainable pay bill savings has therefore been achieved during the first two years of the Agreement.
- Administrative efficiency (or 'non-pay') savings totalling €370m were reported for the review period. Adding non-pay savings presented in last year's Report totalling €308m, gives a total of €678m in non-pay savings in the first two years of the Agreement.

Further details on the savings are contained in the Body's report which was laid before the Houses of the Oireachtas and is available on [www.implementationbody.gov.ie](http://www.implementationbody.gov.ie).

### Public Sector Pay

110. **Deputy Billy Timmins** asked the Minister for Public Expenditure and Reform the cost of increments in the public sector for 2012; the cost of same in 2011 and the projected cost in 2013; the number of public sector employees, if any, that receive no increments; and if he will make a statement on the matter. [32767/12]

111. **Deputy Sean Fleming** asked the Minister for Public Expenditure and Reform in respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges: less than €40,000 between €40,001 — €50,000; between €50,001-€60,000; between €60,001-€70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32797/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I propose to take Questions Nos. 110 and 111 together.

I refer to my reply to Question Nos. 40820/11, 1075/12 and 1076/12 of 11 January 2012.

### Departmental Expenditure

112. **Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform the progress achieved by each Government Department or their respective subordinate bodies towards achieving the target identified in the Memorandum of Understanding in the context of curtailment of public expenditure; and if he will make a statement on the matter. [32800/12]

113. **Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform the extent to which he has identified cost cutting reforms in various Government Departments or bodies under their control which might indicate possible savings without job losses; and if he will make a statement on the matter. [32801/12]

114. **Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform the degree to which he has identified the Government Departments or relevant public bodies which have achieved the most in terms of savings or cost cutting in each of the past three years to date; and if he will make a statement on the matter. [32802/12]

115. **Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform if he has identified any particular or specific areas of public expenditure in which the target set over the past three years to date has not been met; the action he proposes to address such issues; and if he will make a statement on the matter. [32803/12]

116. **Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform the degree, if any, to which he has identified Government Departments or public bodies under their control that have achieved the least in terms of cost cutting or savings in each of the past three years to date; and if he will make a statement on the matter. [32804/12]

117. **Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform the Government Departments or relevant public bodies that have achieved the most in terms of reform, cost cutting or savings in the past 12 months; if such bodies will receive any particular recognition for their efforts to date; and if he will make a statement on the matter. [32805/12]

118. **Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform if he expects to be in a position to meet the targets set by him in terms of savings and reform in the course of the next four years; and if he will make a statement on the matter. [32806/12]



119. **Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform if he has identified areas of public expenditure or reform in respect of which a greater effort is needed to achieve targets; and if he will make a statement on the matter. [32807/12]

120. **Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform the total in terms of savings and cost cutting achieved by each Government Department in the course of the past 12 months; and if he will make a statement on the matter. [32808/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I propose to take Questions Nos. 112, 113, 114, 115, 116, 117, 118, 119 and 120 together.

The Government is making good progress in realising all of our targets and priorities, as articulated in the Government Programme. We are also achieving all of our objectives by delivering on all the conditions and targets set out in the Memorandum of Understanding (MOU) with our external partners in the European Commission, the ECB and the IMF. We are bringing public expenditure back to a sustainable level and driving forward the public service reform agenda to ensure that efficiencies and reformed work practices play a full part in contributing to the overall budgetary consolidation effort.

This Government's approach has been clearly set out in the *Comprehensive Expenditure Report 2012-2014* published on 5 December last, the *Capital Infrastructure Plan* published on 10 November 2011 and the *Public Service Reform Plan* published on 17 November 2011. The Implementation Body's Public Service Agreement *Progress Report* published on 13th June this year found that sustainable pay and non-pay savings have been successfully delivered.

The *Medium-Term Fiscal Statement*, published in November last year, set out the Government's economic and budgetary assessment for the four year period 2012-2015 including the estimated level of fiscal consolidation that is required to bring the General Government deficit below 3% of GDP by 2015, as the Government is committed to doing. The aforementioned *Comprehensive Expenditure Report 2012-2014*, set out the Government's position as to how the aggregate expenditure would be split across individual Departments for each of the years 2012, 2013 and 2014.

Officials from all Departments are currently working to identify the appropriate policy measures to give effect to the medium-term budgetary adjustment while minimising the impact on public services. In this regard, I would remind the Deputy that as part of the 'whole of year' budgetary approach in the *Comprehensive Expenditure Report 2012-2014*, I wrote to all Oireachtas Select Committees in January of this year inviting them to actively engage with the relevant Departments during this year's Estimates process. Committees now have an opportunity to engage with the relevant Ministers in relation to the 2013 allocations. I am happy to report that a number of Committees have informally indicated that they intend to do so. I would encourage all Select Committees to give serious consideration to this approach as it will ensure a much wider engagement by all members of the Dáil in the annual Estimates, in advance of the allocations being agreed at Government level, and not afterwards as has traditionally been the case.

The Public Service Reform Plan was published in November, 2011. While there are more than 200 actions over 14 areas in the Public Service Reform Plan, the Government's commitments to change are set out under five main headings:

- (i) Placing customer service at the core of everything that we do;
- (ii) Maximising new and innovative service delivery channels;
- (iii) Radically reducing our costs to drive better value for money;

- (iv) Leading, organising and working in new ways; and
- (v) Strong focus on implementation and delivery.

In order to meet the challenge of delivering ‘better for less’, the Public Service Reform Plan has a real focus on supporting citizens and businesses where and when they need it most, making the interaction with the State as simple and seamless as possible and improving the customer’s experience in engaging with Government.

To ensure a strong focus on the delivery of reform, we have established a dedicated Reform and Delivery Office in my Department to coordinate the various reform initiatives and plans across the public service and to ensure a strategic and concerted implementation programme. This Office is led by a Programme Director with experience of implementing large scale change in the private sector. We have also put in place strong governance structures and reporting mechanisms in order to ensure progress and to integrate reforms at central, sectoral and organisational levels. The key driver in the reform process is the Cabinet Committee on Public Service Reform, which provides political direction and accountability for reform.

The Reform and Delivery Office is working closely with organisations across the Public Service and good progress continues to be made. To provide just a few examples, we are:

- continuing to reduce Public Service numbers which were around 28,000 lower at end Q1 2012 than they were at end 2008;
- expanding the use of eGovernment through the new eGovernment Strategy, the establishment of a CIO Council and rolling out the Public Services Card;
- reforming how we are organised by having a strong focus on business process improvement, considering innovative new business models for the delivery of non-core services, increasing the use of aggregated procurement and developing new shared services (for example, I have recently announced plans for the establishment of a Human Resources Shared Service Centre for the Civil Service);
- reforming how people are managed through the introduction of new working arrangements, including new rosters, redeployment and workforce planning, a greater emphasis on performance management and development of the Senior Public Service; and
- reforming the management of expenditure through the introduction of Performance Budgeting, the Medium Term Expenditure Framework and the new Value for Money Code.

As well as the overall Reform Plan, all Government Departments have produced their own Integrated Reform Delivery Plans. These plans incorporate the cross-cutting reforms being led by my Department, with other organisation and sector specific reform initiatives, many of which are derived from the Programme for Government.

### **Public Sector Staff**

**121. Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform the total number of jobs lost in the public services due to savings imposed in the wake of the Memorandum of Understanding and through natural wastage in each of the past two years to date; and if he will make a statement on the matter. [32809/12]

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The Government is committed to reducing public service numbers to 282,500 by the end of 2015 as part of its Reform Agenda. The overriding objective is to have a more customer focused, leaner, more efficient and better integrated public service which delivers maximum value for money. The

[Deputy Brendan Howlin.]

following table sets out the public sector numbers at end 2010, end 2011 and end Quarter 1 in 2012.

Public Service Numbers	2010	2011	2012
	Qtr4	Qtr4	Qtr1
Civil Service *	35,984	36,177	35,763
Defence Sector	10,313	10,131	9,553
Education Sector	93,827	90,946	90,830
Health Sector	107,972	104,392	102,811
Justice Sector	14,722	14,238	13,622
Local Authorities	30,703	29,506	28,576
NCSA	11,992	11,500	10,772
Total	305,512	296,891	291,927

\* In 2011 over 1,000 Community Welfare Service staff transferred to the Department of Social Protection.  
In Q1 2012 over 700 FÁS staff transferred into the Department of Social Protection.

Significant progress is being made in reducing the numbers employed in the Public Service. The numbers working in the public service have continued to fall, with the provisional outturn for Quarter 1 2012 now standing at 291,927, which means that we are now close to the 2005 staffing levels. Of course, such a reduction in public service numbers will pose challenges. It will require a refocus on business processes and adjustments to the way all public bodies use available resources. It will also require changes to the way individual public servants go about their daily work and greater flexibility in the way services are provided, for example, with greater use of technology and shared services.

The Strategic Workforce Planning Groups in each sector, including my own Department, are currently ensuring that sectoral employers develop plans to deal on an ongoing basis to deal with the operational and strategic consequences arising from the reductions in public service staffing numbers. The moratorium will continue with certain limited exceptions for example in relation to some frontline posts, or statutory positions, etc. where a sufficiently strong business case is made. In the Health and Education sectors in particular special arrangements are in place for exemptions to the moratorium on recruitment for specified grades or positions. However, I wish to make clear that, it is part of the day to day function of the Boards and Management of all public bodies to assess, budget and plan for current and ongoing staffing requirements within existing resources.

### Departmental Staff

122. **Deputy Simon Harris** asked the Minister for Jobs, Enterprise and Innovation the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to his Department, separate to individuals working directly for his Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to his Department in 2011 and to date in 2012; the financial cost of this sick leave; and if he will make a statement on the matter. [32563/12]

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** My Department introduced an Attendance Management Policy in March 2011 which applies to all staff of the Department and its associated Offices. The policy is based on Department of Finance Circular 09/2010 on the Management of Sick Leave. It sets out clear procedures for reporting, recording and management of sick leave and is intended to help managers adopt best practice approaches

to attendance management. It seeks to encourage excellent attendance while clearly acknowledging the need for staff to take sick leave when unwell.

The granting of sick leave and whether it is with or without pay is a matter for the Department. In accordance with the Sick Leave regulations staff members may be granted up to 7 days uncertified sick leave in a twelve month period. Full pay may be allowed up to a maximum of six months in one year and half pay thereafter subject to a maximum of twelve months sick leave in any period of four years. Where sick leave with pay is exhausted a staff member may be granted sick leave with pension rate of pay subject to the condition that there is a reasonable prospect of resumption of duty with ability to render efficient service.

A total of 9,723 person days sick leave was taken by staff in my Department and associated Offices in 2011 at a cost of €1,398,863. In the first quarter of 2012 staff of my Department and associated Offices took a total of 2,454 person days sick leave at a cost of €394,358. When staff on half pay and pension rate of pay due to long term sick leave are excluded, the number of person days sick leave taken by staff of my Department and its Offices in 2011 was 8,166 and the provisional number of days for the first quarter of 2012 was 2,392.5. With regard to the Agencies, the management of sick leave is a day to day matter for the Agencies and I have asked each Agency to contact the Deputy directly in response.

### Prompt Payments

123. **Deputy Olivia Mitchell** asked the Minister for Jobs, Enterprise and Innovation the average time lapse between receipt of invoices for goods and services and actual payment in his Department and in each agency and organisation within his remit; and if he will make a statement on the matter. [32603/12]

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** Under the Government Decision of 2009 on Prompt Payments by Central Government, Departments and Agencies are required to report to my Department on the statistics relating to the number of payments made within 15 days, within 16 to 30 days and number made after 30 from receipt of invoices in the Departments. This information is published quarterly on my Department's website and also on the websites of the Agencies.

The latest statistics available for my Department is for the period April to June 2012 and shows that my Department processed 1,507 payments to suppliers for goods and services. 82% of these payments were made within 15 days of receipt in the Department. A further 15% of payments were made in the period 15-30 days of receipt. The latest statistics available for the Agencies of my Department are for the period January to March 2012 and are as follows:

Agency	% of Payments made within 15 Days	% of Payments made 16 to 30 Days
Enterprise Ireland	100	0
Labour Relations Commission	100	0
Competition Authority	100	0
Forfas	97	3
IDA	97	2
National Consumer Agency	97	2
Science Foundation Ireland	96	4
Shannon Development	96	4
County Enterprise Boards	94	5
Health and Safety Authority	77	12

[Deputy Richard Bruton.]

Agency	% of Payments made within 15 Days	% of Payments made 16 to 30 Days
Personal /Injuries Assessment Board (PIAB)	74	19
National Standards Authority of Ireland (NSAI)	72	23
Irish Auditing and Accounting Supervisory Authority	59	31

### Enterprise Support Services

124. **Deputy Finian McGrath** asked the Minister for Jobs, Enterprise and Innovation the advice he will offer to a person (details supplied). [32648/12]

**Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry):**

The role of the County and City Enterprise Boards (CEBs) is to support manufacturing and internationally traded services in the micro enterprise sector. Whilst my Department provides funding to the CEBs it has no function in their day-to-day decision-making. Decisions on applications for assistance from the CEBs are made independently by the Boards, subject to eligibility criteria, on the advice of their evaluation committees. I note that the promoter has already been in contact with Dublin CEB regarding its services, and he may therefore wish to engage further with the Board as his business proposals develop. Further information is available from the CEBs website *www.enterpriseboards.ie*.

The Deputy will be aware that the Government, in addition to directing the 2 Pillar banks to provide additional lending to business over a three year period, is also introducing a suite of initiatives to facilitate the flow of credit to business. This includes the introduction of the Temporary Partial Loan Guarantee Scheme and the Micro-enterprise Loan Fund both of which are currently being finalised in the Oireachtas and which are designed to address market failures and facilitate the flow of credit to micro-enterprises and small and medium sized enterprises. It is hoped to have both Bills on these initiatives passed in the current session of the Oireachtas and that they will impact on the flow of credit available to business in the very near future.

The Microenterprise Loan Fund will help people to fulfil their entrepreneurial potential. This Fund will provide small loans up to €25,000 to all start-up, newly established, or existing small business concerns with fewer than 10 employees, across all industry sectors. In order to be eligible for the scheme, an application for credit must first have been refused by the banks. The Scheme will provide loans for commercially viable proposals that do not meet the conventional risk criteria applied by the banks for various reasons, including the absence of collateral. It is hoped to have the new Microenterprise Loan Fund open for business by early Autumn.

### Credit Availability

125. **Deputy Tom Fleming** asked the Minister for Jobs, Enterprise and Innovation if he, in conjunction with the Department of Finance will negotiate with the banks to ensure that small businesses are facilitated with loans and credit in the interim, until such time as the new micro finance scheme is up and running as anticipated in the autumn, in view of the fact that there is no incentive for the banks to give this credit as the micro finance scheme will ensure that the State is guaranteeing all micro finance moneys to which the banks will be providing the capital; and if he will make a statement on the matter. [32667/12]

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** While my colleague the Minister for Finance, Mr. Michael Noonan TD has responsibility for the banks and bank



lending, I am working closely with him to address the issue of access to credit for enterprise in Ireland at this critical time. Access to credit is a key element to building a vibrant and sustainable enterprise base. As the Deputy is aware, I am currently bringing two pieces of legislation through the Oireachtas to deal with some market failures in this area namely, the Credit Guarantee Bill 2012 and the Microenterprise Loan Fund Bill 2012. These two targeted initiatives are essential in terms of addressing specific market failures and facilitating a more accessible financing environment for SMEs in Ireland.

The legislation for both these schemes is currently before the Oireachtas and is being progressed as quickly as possible, with a view to introducing the Loan Fund and the Temporary Partial Loan Guarantee as soon as possible. In the interim normal bank lending arrangements will continue and enterprises that are refused access to credit by the banks should seek to have these decisions reviewed by the Credit Review Office (CRO). The Credit Review Office is overturning 60% of the decisions referred to them, supplying €6.9m of credit, supporting 683 jobs in the SME sector. SMEs that have been refused credit by banks should avail of the services of the Credit Review Office.

The Deputy will also be aware that the Government has imposed SME lending targets on the two domestic pillar banks for the three calendar years, 2011 to 2013. Both banks were required to sanction lending, including lending for working capital purposes, of at least €3 billion in 2011, €3.5 billion this year and €4 billion in 2013 for new or increased credit facilities to SMEs. Both banks achieved their 2011 targets. The progress on their lending plans is closely monitored each month by the Department of Finance. In addition to these positive Government initiatives in the area of finance, my Department is working closely with the Department of Finance and the Credit Review Office to ensure that the amount of credit to the SME sector is maximised to facilitate sustainable job creation and retention.

#### **Departmental Staff**

126. **Deputy Sean Fleming** asked the Minister for Jobs, Enterprise and Innovation in respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges: less than €40,000 between €40,001-€50,000; between €50,001-€60,000; between €60,001-€70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32795/12]

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** The attached tables indicate the number of increments paid in each of the salary ranges for 2011 and the estimated number that will be paid in 2012. The payment of increments is conditional on satisfactory performance and compliance with sick leave regulations.

[Deputy Richard Bruton.]

## 2011 — Increments paid

	#<40,000	#40,001-50	#50,001-60	#60,001-70	#70,001-80	#80,001-90	#90,001-100	#>100,001	Total
Total Cost	€303,116.16	€129,367.34	€77,724.21	€16,029.55	€46,726.05	€23,317.26	€33,223.20	€22,552.64	€652,056.41
Total No. Increments	265	90	52	7	21	9	10	5	459

2012 — Estimated maximum number of increments payable<sup>(1)</sup>

	#<40,000	#40,001-50	#50,001-60	#60,001-70	#70,001-80	#80,001-90	#90,001-100	#>100,001	Total
Total Cost	€258,893.14	€111,131.69	€34,217.00	€15,575.35	€24,475.55	€24,384.02	€19,933.92	€ 9,615.16	€498,225.83
Total No. Increments	223	75	25	7	11	8	6	2	357

<sup>(1)</sup> Subject to satisfactory performance and compliance with sick leave regulations

### Public Sector Staff

127. **Deputy Tom Fleming** asked the Minister for Jobs, Enterprise and Innovation the number of the over 9,000 persons from the public service who have retired over the past six months with high tax-free lump sum payments in many cases and substantial pensions that have been re-hired on contract; if these persons are now being paid on the double by the State, that is. their pension and the salary they are receiving under the new contracts; and if he will make a statement on the matter. [33082/12]

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** During the last six months I re-appointed the former Director of Corporate Enforcement to the post of Acting Director of Corporate Enforcement for a period of up to six months. His pension is abated for the period that he has agreed to remain on in his post in an acting capacity. Also, at the request of the Chairman of the *Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries*, my Department re-engaged, on a part-time basis, estimated to involve 10 working days, 1 Principal Officer who retired in February 2012 and who had represented the Department on the Committee prior to his retirement. An all-inclusive fee of €1,500 was sanctioned by the Department of Public Expenditure to cover the cost of completing this work and was based on the understanding that the work in question will entail no more than 10 working days. Any travel and subsistence costs incurred in fulfilling this role will be reimbursed by my Department. No further retired public servants/civil servants were re-hired in my Department during that period. As this is a day to day matter for the Agencies, I have asked the Agencies under the aegis of my Department to respond directly to the Deputy.

### Social Insurance

128. **Deputy Terence Flanagan** asked the Minister for Social Protection her views on a matter regarding PRSI (details supplied); and if she will make a statement on the matter. [32608/12]

**Minister for Social Protection (Deputy Joan Burton):** Changes to PRSI rates and scope are a matter for consideration in a budgetary context.

*Question No. 129 withdrawn.*

### Social Welfare Appeals

130. **Deputy Jack Wall** asked the Minister for Social Protection the position regarding a person's (details supplied) in County Kildare appeal against the decision to refuse their application for domiciliary care allowance; and if she will make a statement on the matter. [32547/12]

**Minister for Social Protection (Deputy Joan Burton):** The Social Welfare Appeals Office has advised me that an appeal, by the person concerned, was registered in that office on 25th February 2012. It is a statutory requirement of the appeals process that the relevant Departmental papers and comments by or on behalf of the Deciding Officer on the grounds of appeal be sought. When received, the case will be referred to an Appeals Officer who will make a summary decision on the appeal based on the documentary evidence presented or, if required, hold an oral hearing.

The Social Welfare Appeals Office functions independently of the Minister for Social Protection and of the Department and is responsible for determining appeals against decisions on social welfare entitlements.

### Departmental Agencies

131. **Deputy Simon Harris** asked the Minister for Social Protection the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to her Department, separate to individuals working directly for her Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to her Department in 2011 and to date in 2012; the financial cost of this sick leave; and if she will make a statement on the matter. [32566/12]

**Minister for Social Protection (Deputy Joan Burton):** The agencies operating under the aegis of the Department are the Citizens Information Board and the Pensions Board. In addition, the Office of the Pensions Ombudsman comes under the remit of the Department.

The staff of the Office of the Pensions Ombudsman are civil servants and, in this regard, they are required to comply with the policies on the management of sick leave as outlined in Department of Finance Circular 09/2010, details of which were provided in my response to Question No. 133 which I answered for the Deputy on Thursday, 28th June 2012.

While the staff in the Citizens Information Board and the Pensions Board are public servants, both organisations operate their respective sick leave policies along the lines of those applying to civil servants, with only minor differences, e.g. staff may be referred to a designated medical official rather than the civil service Chief Medical Officer.

Details of the number of days sick leave taken by staff in the agencies and the related costs are shown in the following tables.

#### 2011

Organisation	Full-time equivalent staff — 1st January 2011	Days lost	Cost of days lost
Pensions Ombudsman	9.8	13	€1,662.83
Citizens Information Board	85.6	668.5	€137,214.45
Pensions Board	38.8	113.5	€20,562.00

#### 2012 — 1 January to 31 March

Organisation	Full-time equivalent staff — 1st January 2012	Days lost	Cost of days lost
Pensions Ombudsman	9.8	6	€767.46
Citizens Information Board	80.4	134	€27,228.03
Pensions Board	46	65	€13,915.00

### National Internship Scheme

132. **Deputy Ciarán Lynch** asked the Minister for Social Protection if he will review a decision to refuse an internship under the jobbridge programme in respect of a person (details supplied) in County Cork who is in receipt of a dependent payment; and if she will make a statement on the matter. [32574/12]

**Minister for Social Protection (Deputy Joan Burton):** The National Internship Scheme (JobBridge) was launched in July 2011 and is open to organisations in the public, private and community and voluntary sectors.

The Scheme provides internship opportunities of either 6 or 9 months for unemployed people of all skills levels. It aims to assist individuals in breaking the cycle where they are unable to get a job without experience by providing them with an opportunity to gain valuable experience and acquire relevant knowledge and skills in a working environment.

Since the Scheme was launched, nearly 8,200 internship placements have commenced. There are currently 4,899 interns undertaking placements and there are in excess of 2,100 internship posts currently advertised on the JobBridge website — [www.jobbridge.ie](http://www.jobbridge.ie).

Eligibility for the Scheme is currently restricted at those in receipt of Jobseekers Allowance, Jobseekers Benefit, One Parent Family Payment, Disability Allowance or signing for credits for 78 days out of the last 6 months. Time spent on certain Government sponsored training may also be taken into account when calculating eligibility. This is to underline the Department's objective which is to prioritise scarce resources at those in receipt of a live claim or on the Live Register with a view to increasing their chances of accessing employment, training and educational opportunities. The person concerned is currently not eligible for JobBridge. However, she applied for Jobseeker's Allowance on 25th June 2012 and her claim is currently being processed. Should her claim be successful, she will be eligible for an internship placement once she is in receipt of the payment for the requisite number of days.

### Disability Allowance

133. **Deputy Jack Wall** asked the Minister for Social Protection the up to date position regarding a disability allowance appeal in respect of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [32580/12]

**Minister for Social Protection (Deputy Joan Burton):** The Social Welfare Appeals Office has advised me that an appeal by the person concerned was registered in that office on 07th February 2012. It is a statutory requirement of the appeals process that the relevant Departmental papers and comments by or on behalf of the Deciding Officer on the grounds of appeal be sought. These papers were received in the Social Welfare Appeals Office and the case was referred to an Appeals Officer on 21st May 2012 who will make a summary decision on the appeal based on the documentary evidence presented or, if required, hold an oral hearing.

The Social Welfare Appeals Office functions independently of the Minister for Social Protection and of the Department and is responsible for determining appeals against decisions on social welfare entitlements.

### Sick Pay Scheme

134. **Deputy Seán Ó Fearghaíl** asked the Minister for Social Protection if she will consider the very genuine concerns raised in correspondence (details supplied); and if she will make a statement on the matter. [32584/12]

**Minister for Social Protection (Deputy Joan Burton):** The question of introducing a scheme of statutory sick pay, whereby employers would directly meet the costs of sick absence for an initial period of illness is being considered in the context of the need to reform the social welfare system to bring it into line with practices in other countries in this area; the need to address the deficit in the social insurance fund; the need to limit progression from short-term



[Deputy Joan Burton.]

illness to long-term illness or disability; and in the wider context of enhancing the health of the workforce and addressing levels of absenteeism.

A report of a consultative seminar on the feasibility and implications of introducing a scheme of statutory sick pay held in February 2012 is now available on the Department's website.

Amongst other things, the report reflects the concerns expressed by organisations representing smaller enterprises, such as those raised in the correspondence received by the Deputy, and these very real concerns will be taken into account as the range of complex issues associated with the introduction of such a scheme continue to be considered.

The issues involved will be discussed in the course of the wider process associated with the preparation of Budget 2013 and any decisions which might be taken by Government on the possible introduction of a statutory sick pay scheme will be considered in that context.

### Rent Supplement Scheme

135. **Deputy Seán Ó Fearghaíl** asked the Minister for Social Protection if she will expedite an application for rent supplement in respect of a person (details supplied) in County Kildare [32591/12]

**Minister for Social Protection (Deputy Joan Burton):** The person concerned has made an application for rent supplement and has been requested to provide further information in order to process her claim. The request for further information was sent on the 18th June 2012. A decision will be made on her application when the necessary information has been provided.

### Prompt Payments

136. **Deputy Olivia Mitchell** asked the Minister for Social Protection the average time lapse between receipt of invoices for goods and services and actual payment in her Department and in each agency and organisation within her remit; and if she will make a statement on the matter. [32606/12]

**Minister for Social Protection (Deputy Joan Burton):** The Department of Social Protection, in common with other Departments, submits a report on its payments performance each quarter to the Department of Jobs, Enterprise and Innovation. These reports detail the value of payments made, and the number and percentage of payments made within 15 days, within 16-30 days and in excess of 30 days. These quarterly reports are published on the website of the Department of Jobs Enterprise and Innovation and are also available on the Department's website. The Department also publishes prompt payment information for the Citizen's Information Board and the Pension's Board on its website.

The latest available returns which are for quarter 1 2012 are set out in the following tables. These tables show that the majority of invoices are paid within 15 days.

Prompt Payments by Department of Social Protection 1st January to 31st March 2012

Details	Number	Value (€)	Percentage (%) of total payments made
Total payments made in Quarter	4,920	100,535,807	(100)
Number of payments made within 15 days	2,997	41,017,119	61
Number of payments made within 16 days to 30 days	1,317	52,718,070	27

Details	Number	Value (€)	Percentage (%) of total payments made
Number of payments made in excess of 30 days	606	6,800,618	12
Disputed Invoices	Nil	Nil	Nil
Total	4,920	100,535,807	100

1st Quarter 2012 (1st January-31st March 2012)

Prompt Payments by bodies under the aegis of the Department of Social Protection 1st January to 31st March 2012

Agencies of DSP	% of overall Total value paid within 15 days	Value of payments made within 15 days (€)	% No. of payments made within 15 days	No. of payments made within 15 days
The Pensions Board	98.6	496,699	98.6	154
Citizens Information Board	96	14,722,055	96	550
Total		15,218,754		704

### Invalidity Pension

137. **Deputy Brendan Griffin** asked the Minister for Social Protection when a decision will be made on an appeal for invalidity pension in respect of a person (details supplied) in County Kerry; and if she will make a statement on the matter. [32610/12]

**Minister for Social Protection (Deputy Joan Burton):** The Social Welfare Appeals Office has advised me that an appeal, by the person concerned, was registered in that office on 11th June 2012. It is a statutory requirement of the appeals process that the relevant Departmental papers and comments by or on behalf of the Deciding Officer on the grounds of appeal be sought. When received, the case will be referred to an Appeals Officer who will make a summary decision on the appeal based on the documentary evidence presented or, if required, hold an oral hearing.

The Social Welfare Appeals Office functions independently of the Minister for Social Protection and of the Department and is responsible for determining appeals against decisions on social welfare entitlements.

### Rent Supplement Scheme

138. **Deputy Peadar Tóibín** asked the Minister for Social Protection the number of persons that were in receipt of rent allowance in Counties Cavan and Monaghan before changes were made to the scheme; the number of persons in receipt of rent allowance in Counties Cavan and Monaghan; the number of persons in Counties Cavan and Monaghan affected by the change; and if she will make a statement on the matter. [32623/12]

**Minister for Social Protection (Deputy Joan Burton):** The purpose of rent supplement is to provide short-term income support to eligible tenants living in private rented accommodation whose means are insufficient to meet their accommodation costs and who do not have accommodation available to them from any other source. The aim is to provide short term assistance, and not to act as an alternative to the other social housing schemes operated by the Exchequer. There are approximately 92,000 persons in receipt of rent supplement for which the Government has provided a sum of €436 million for 2012.

[Deputy Joan Burton.]

New maximum rent limits came into force on 1 January 2012 and are in place until June 2013. All new rent supplement applications are subject to these limits and as existing claims come up for review, or when an existing lease expires, they will be reassessed using the new limits. The table outlines the total number of recipients of rent supplement in County Cavan and County Monaghan at December 2011 and June 2012.

Rent Supplement Recipients in Co. Cavan and Co. Monaghan:

County	Recipients	
	End December 2011	End June 2012
Cavan	843	620
Monaghan	488	402

*Questions Nos. 139 and 140 withdrawn.*

### **Domiciliary Care Allowance**

141. **Deputy Sandra McLellan** asked the Minister for Social Protection her plans to increase the number of non governmental organisations on the committee to review the domiciliary care allowance; and if she will make a statement on the matter. [32673/12]

**Minister for Social Protection (Deputy Joan Burton):** The review of the domiciliary care allowance (DCA) scheme, as recently announced will commence shortly. The group undertaking the review will be comprised of representatives from a number of government Departments, the National Disability Authority and other persons with relevant experience. Three representatives from a working group established by Downs Syndrome Ireland, Inclusion Ireland, Irish Autism Action, Special Needs Parents Association, the Carers Association and Midlands Regional Forum of People with Disabilities have been invited to be part of the review group. It is considered that this broad representation will reflect the issues and views of the vast majority of parents on the matter.

Officials from my Department will meet with representatives from the DCA Warriors to discuss how they can be facilitated in making a positive contribution to the review process.

The terms of reference for the review allows for a consultation process with parents and representative groups to be held. This will allow for all parents and groups not directly represented on the working group to input their concerns and suggestions to the review process.

### **Rent Supplement Scheme**

142. **Deputy Sandra McLellan** asked the Minister for Social Protection her plans to enact legislation to protect rent supplement recipients that face eviction and displacement as a consequence of the new lower rent thresholds; and if she will make a statement on the matter. [32674/12]

**Minister for Social Protection (Deputy Joan Burton):** The purpose of rent supplement is to provide short-term support to eligible people living in private rented accommodation, whose means are insufficient to meet their accommodation costs and who do not have accommodation available to them from any other source. The overall aim is to provide short term assistance, and not to act as an alternative to the other social housing schemes operated by the Exchequer.

There are currently over 92,000 persons in receipt of rent supplement for which the Government has provided €436m in 2012.

New maximum rent limits came into force on 1 January 2012 and are in place until June 2013. These new limits were set after an analysis of the most up to date market data available. The emphasis of the rent limit review was to ensure that maximum value for money for tenants and the taxpayer was achieved whilst at the same time ensuring that people on rent supplement are not priced out of the market for private rented accommodation.

All new rent supplement applications are subject to these limits and as existing claims come up for review, or when an existing lease expires, they will be reassessed using the new limits. Where a claim is under review and the rent is above the new maximum limit the customer is being asked to contact the landlord to renegotiate the rent. Where a landlord does not agree to reduce the rent to the new rates Departmental officials will discuss the options open to the tenant up to and including seeking alternative accommodation.

Department officials dealing with rent supplement tenants will continue to ensure that their accommodation needs are met and there will no incidence of homelessness due to these measures. Legislation regarding the protection of tenants in private rented accommodation is a matter for my colleague, the Minister for Environment, Community and Local Government.

### **Back to School Clothing and Footwear Allowance Scheme**

143. **Deputy Michael Healy-Rae** asked the Minister for Social Protection if he will ensure that the back to school allowance will be granted promptly to applicants; and if she will make a statement on the matter. [32732/12]

**Minister for Social Protection (Deputy Joan Burton):** The back to school clothing and footwear allowance (BSCFA) entitlements of some 115,350 families in respect of 205,125 children have now been automatically established with reference to their primary scheme entitlement and with no application form required. Letters have issued to the people identified in this way, informing them of their entitlement and notifying them that payment will issue in week commencing 16 July.

Customers who do not receive an automated payment are required to complete an application form which will be processed from a centralised unit in the Department. A text message acknowledging receipt of application forms will issue to everyone who submits a claim form and provided their mobile phone number.

Some 16,000 claims have been received for manual processing in the central unit by the end of June. At present claims which were received on 22 June are being processed. While it is expected that the period between receiving the claim and providing a decision will increase as the intake of claims is expected to increase during July, I can assure the Deputy that every effort will be made to process applications promptly.

### **Carer's Allowance**

144. **Deputy Seán Ó Fearghaíl** asked the Minister for Social Protection the steps she is taking to reduce the unacceptable delay in her Department in the processing of carer's allowance and carer's benefit applications in view of the fact that the time is now running at 30 weeks and increasing; and if she will make a statement on the matter. [32736/12]

**Minister for Social Protection (Deputy Joan Burton):** The Department is committed to delivering the best possible service to its customers. Currently the average time taken to award a carer's allowance application is 28 weeks.

[Deputy Joan Burton.]

I acknowledge that the time taken to process carer's allowance claims at present is not satisfactory but I am satisfied that the Department is taking action to resolve the situation.

A major service delivery modernisation project is underway to improve the efficiency of administration of the carer's allowance scheme. This involves the deployment of information technology solutions and associated business process re-organisation. It is anticipated that the new system will introduce significant processing efficiencies and a quicker and more responsive service to the customers.

Significant internal resources have been invested in the development and rollout of the new computer system over the past 18 months or so. Full deployment of the new system for carer's allowance has just completed. In tandem with the full implementation of the new system, a comprehensive business process improvement exercise has recently commenced, the focus of which is to optimise performance and provide improved customer service. However it is expected to be a number of months before the backlog is reduced to an acceptable level.

### Public Sector Pay

145. **Deputy Sean Fleming** asked the Minister for Social Protection in respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges: less than €40,000 between €40,001 — €50,000; between €50,001 — €60,000; between €60,001 — €70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if she will make a statement on the matter. [32798/12]

**Minister for Social Protection (Deputy Joan Burton):** The table shows the number of staff in the Department within each of the salary ranges as at 1 July 2011 and 1 July 2012, the numbers of those who are expected to receive an increment in 2012, almost half of all staff, and an estimate of the gross cost of those additional increments in 2012. The increase in numbers is primarily due to the transfer of almost 1,100 former Community Welfare service staff into the Department on 1 October 2011 and over 700 former FÁS staff into the Department on 1 January 2012.

Salary band €	Number of staff in band at 1st July 2011.	Number of staff in band at 1st July 2012.	Estimated number of staff who will receive increments during 2012	Estimated gross cost of increments in 2012 for staff within band €
Under 40,000	3,325	3,685	2,027	1,037,995
40,001 – 50,000	1,138	1,472	576	403,392
50,001 – 60,000	496	1,217	352	252,950
60,001 – 70,000	49	130	51	55,008
70,001 – 80,000	106	174	48	54,768
80,001 – 90,000	35	70	33	46,945
90,001 – 100,000	39	45	19	30,086
100,001 plus	18	26	8	18,918
Total	5,206	6,819	3,114	1,900,062

### Public Service Contracts

146. **Deputy Tom Fleming** asked the Minister for Social Protection the number of the over 9,000 persons from the public service who have retired over the past six months with high tax-



free lump sum payments in many cases and substantial pensions that have been re-hired on contract; if these persons are now being paid on the double by the State, that is, their pension and the salary they are receiving under the new contracts; and if she will make a statement on the matter. [33085/12]

**Minister for Social Protection (Deputy Joan Burton):** One member of staff in my Department, the Chief Medical Advisor, has been rehired on a temporary contract. His salary is reduced to take account of the rate of his pension payment.

In addition, the acting Deputy Chief Medical Advisor has been retained, on a temporary basis, beyond his normal retirement age. Payment of his pension will be suspended pending the termination of his temporary retention.

The decision to re-employ the Chief Medical Advisor and to retain the acting Deputy Chief Medical Advisor was taken due to their specific skills and experience, the difficulty and long lead-in time for replacing such skills, and the critical importance of ensuring continuity and a high level of service to customers of the Department.

### Údarás na Gaeltachta

147. D'fhiafraigh **Peadar Tóibín** den Aire Ealaíon, Oidhreacht agus Gaeltachta maidir leis an monarcha i gCill Chiaráin, Contae na Gaillimhe, darb ainm Arramara Teoranta, agus leis na líomhaintí atá ann gur tharla gadaíocht sa chuideachta cúpla bliain ó shin, ar tharla imscrúdú faoi na líomhaintí sin; ar cuireadh na líomhaintí sin in iúl do na Gardaí; murar cuireadh in iúl amhlaidh iad, cén fáth nár tharla sin; cad iad na cáilíochtaí atá ag an mbainisteoir nua ann (sonraí tugtha); an aontóidh sé go bhfuil sé mídhleathach nach bhfuair an fostaí aon choinníollacha poist; agus an fíor go mbeidh ar an bhfostaí sonraí a phoist a athrú anois. [32516/12]

**Minister of State at the Department of Arts, Heritage and the Gaeltacht (Deputy Dinny McGinley):** Is cuideachta í Arramara Teoranta atá faoi lán-úinéireacht Údarás na Gaeltachta. Ní mór dom a shoiléiriú don Teachta, dá réir, nach bhfuil aon ról agamsa mar Aire Stáit i mbainistiú na cuideachta, ar a n-áirítear ceisteanna maidir le coinníollacha poist agus cáilíochtaí fostaithe. Maidir leis an gceist faoi líomhaintí gadaíochta sa chuideachta cúpla bliain ó shin, tuigim ó Údarás na Gaeltachta go ndearna bainistíocht na cuideachta ag an am imscrúdú cuí faoi na líomhaintí seo, ag cur san áireamh gur i bhfoirm litreach anaithnide a rinneadh na líomhaintí.

### Heritage Council

148. **Deputy Robert Troy** asked the Minister for Arts, Heritage and the Gaeltacht the funding provided to the Heritage Council in each year from 2008 to 2012 inclusive; the amount provided in terms of research grants in each of those years; and if he will make a statement on the matter. [32526/12]

**Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan):** Allocations to the Heritage Council in the years 2008 to 2011 are set out in the Revised Estimates Vote (REV) for the Department of the Environment, Heritage and Local Government for each of those years. Those allocations to the Council were €13.403m in 2008; €10.142m in 2009; €8.482m in 2010 and €5.992m in 2011. In 2011 the Exchequer allocation was supplemented by €1.5m from the Environment Fund.

My Department is providing a total of €4,811,000 of Exchequer Funding for the Heritage Council in 2012, together with €1,500,000 from my Department's share of the Environment Fund. The management of resources made available to the Council by my Department is a

[Deputy Jimmy Deenihan.]

matter for the Council. However, it is my understanding that the Heritage Council has a research theme under its grants programme, which provides grant-aid assistance for data collection and research relating to Ireland's heritage. Details of the Heritage Council's expenditure in this regard are contained in the Council's annual reports, which are available on the Heritage Council website *www.heritagecouncil.ie*.

### Departmental Agencies

149. **Deputy Simon Harris** asked the Minister for Arts, Heritage and the Gaeltacht the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to his Department, separate to individuals working directly for his Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to his Department in 2011 and to date in 2012; the financial cost of this sick leave; and if he will make a statement on the matter. [32554/12]

**Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan):** The management of sick leave and the methods used in the agencies, offices or other bodies reporting to my Department is a matter for the individual bodies concerned. The information sought is not, therefore, readily to hand in my Department but I have asked that it be promptly compiled and provided directly to the Deputy as soon as possible. I should say that, in line with the Code of Practice for the Governance of State Bodies, bodies funded from my Department's Vote Group are required to comply with the provisions of Circular 09/2010, which governs the management of sick leave in the Civil Service and to provide an assurance to my Department annually in this regard.

### Prompt Payments

150. **Deputy Olivia Mitchell** asked the Minister for Arts, Heritage and the Gaeltacht the average time lapse between receipt of invoices for goods and services and actual payment in his Department and in each agency and organisation within his remit; and if he will make a statement on the matter. [32594/12]

**Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan):** For the Deputy's information, details in respect of the timeframe of payments for both my Department and agencies under its remit are available on my Department's website under the heading "Prompt Payment Reports" via the following link: <http://www.ahg.gov.ie/en/Publications/CorporatePublications/CurrentPublications/>

My Department continues to strive to make all payments to all suppliers as soon as possible.

### Heritage Council

151. **Deputy Sandra McLellan** asked the Minister for Arts, Heritage and the Gaeltacht his plans to extend community based projects supported under the Heritage Council's grant scheme; and if he will make a statement on the matter. [32668/12]

152. **Deputy Sandra McLellan** asked the Minister for Arts, Heritage and the Gaeltacht his plans to increase funding to the Heritage Council for National Heritage Week 2012; and if he will make a statement on the matter. [32669/12]

155. **Deputy Sandra McLellan** asked the Minister for Arts, Heritage and the Gaeltacht his plans to restore funding for research grants to the Heritage Council; and if he will make a statement on the matter. [32672/12]

**Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan):** I propose to take Questions Nos. 151, 152 and 155 together.

My Department is providing a total of €4,811,000 of Exchequer Funding for the Heritage Council in 2012, together with €1,500,000 from my Department's share of the Environment Fund. The Deputy will appreciate that, as a statutorily independent body, the management of resources made available to the Heritage Council by my Department is a matter for the Council itself.

### **Tourism Industry**

153. **Deputy Sandra McLellan** asked the Minister for Arts, Heritage and the Gaeltacht in view of the importance of heritage based tourism to the Irish tourist industry; his plans to develop this particular sector; and if he will make a statement on the matter. [32670/12]

**Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan):** Tourism policy is primarily the responsibility of my colleague, the Minister for Transport, Tourism and Sport. However, I can assure the Deputy that I fully recognise that Ireland's rich heritage has a key role to play in national economic recovery particularly through tourism.

My Department is currently promoting the role which Ireland's heritage has to play in making our country an attractive destination for sustainable tourism and inward investment, both in terms of the operation of Ireland's national parks and nature reserves, and in terms of our unique built heritage, which distinguishes us and which makes Ireland an attractive tourist location for both visitors and Irish people themselves. Cultural and heritage tourism is one of the most important elements of Ireland's tourism product, and heritage properties, including those in State care, are an important element of that attraction.

My Department provides some limited funding under a number of headings for investment in the built and natural heritage, and also supports the Heritage Council and the Irish Heritage Trust in their work in the heritage area. However, the scope to provide additional funding for the protection, conservation and development of the State's built heritage is constrained by the current national economic difficulties and the significant reduction in the public finances. My Department is, therefore, focusing on working creatively across Government and with partner bodies, such as the Heritage Council, the Irish Heritage Trust, Fáilte Ireland, the LEADER Programme and other heritage interests, in seeking to ensure that resources are directed towards the heritage sector. My Department will also continue to provide funding for the protection, conservation and development of our built and natural heritage, in so far as resources allow.

My Department is developing various initiatives which contribute to the protection and appropriate re-use of our built heritage and aim to deal with on-going challenges facing our architectural heritage, such as the adaptive re-use for historic properties and a forward planned approach to cultural heritage and urban design in our towns and cities. This will also assist in maintaining specialist jobs in the wider heritage sector and, in particular, in the repair and maintenance industry, which ultimately reflect in Ireland's overall tourism product.

My Department is also currently engaged in developing a specific heritage-led Historic Towns Initiative in collaboration with Fáilte Ireland and the Heritage Council. My primary objective with this initiative is to ensure that the participating towns have access to and an understanding of appropriate guidance to assist them in best conserving their heritage assets and, in so doing, underpin the sustainability of their community and local economy. It is my hope that meeting these goals will also, by extension, significantly enhance the visitor experience in these towns, thus helping to maximise the potential positive contribution of tourism to

[Deputy Jimmy Deenihan.]

each of these towns and their respective hinterlands. I expect that the initiative, once fully developed by the end of 2012, will be piloted in 2013.

### **Environmental Policy**

154. **Deputy Sandra McLellan** asked the Minister for Arts, Heritage and the Gaeltacht his plans to roll out local biodiversity action plans across the country; and if he will make a statement on the matter. [32671/12]

**Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan):** In November 2011, I launched Actions for Biodiversity 2011-2016, Ireland's Second National Biodiversity Plan. The plan makes clear that locally-led action is crucial in protecting biodiversity and ecosystems services and that biodiversity conservation at local level should be encouraged. I believe that local biodiversity action plans are the main mechanism to achieve this and therefore, one of the actions of the National Plan is for each local authority to publish a Local Biodiversity Action Plan or review existing plans.

A guidance document, to assist local authorities in the preparation of a Local Biodiversity Action Plan, was published under the previous National Biodiversity Plan. Under that Plan, local action was also highlighted as being very important in tackling biodiversity loss and by last year some twenty six Local Biodiversity Action Plans had either been finalised or drafted. I encourage local authorities to continue this process, through either drafting new plans or reviewing existing ones.

*Question No. 155 answered with Question No. 151.*

### **National Monuments**

156. **Deputy Sandra McLellan** asked the Minister for Arts, Heritage and the Gaeltacht when he will make public all reports relating to the Moore Street 1916 commemoration site, Dublin; and if he will make a statement on the matter. [32677/12]

157. **Deputy Sandra McLellan** asked the Minister for Arts, Heritage and the Gaeltacht his plans to set up a task force to ensure that a coordinated plan is implemented to convert Moore Street, Dublin and its lane ways into a cultural historic quarter by 2016; and if he will make a statement on the matter. [32678/12]

158. **Deputy Sandra McLellan** asked the Minister for Arts, Heritage and the Gaeltacht his plans to designate the Moore Street area of Dublin as a battlefield site and develop it as a cultural historic quarter; and if he will make a statement on the matter. [32679/12]

**Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan):** I propose to take Questions Nos. 156 to 158, inclusive, together.

I refer the Deputy to my statement and that of the Minister of State at my Department in relation to the motion on these matters taken in the House during Private Members' business on 22 and 23 May 2012.

With regard to the issue of making documents public, my understanding is that, in general terms, the release of such documents, if requested, would be the norm, following completion of the relevant deliberative processes.

### Departmental Staff

159. **Deputy Sean Fleming** asked the Minister for Arts, Heritage and the Gaeltacht in respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges: less than €40,000 between €40,001-€50,000; between €50,001-€60,000; between €60,001-€70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32786/12]

**Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan):** The information requested by the Deputy in relation to salary ranges of staff in my Department is set out in Table 1.

TABLE 1:  
Salary ranges of staff in the Department for 2011 and July 2012

Salary Range €	Number of staff in range 2011	Number of staff in range July 2012
Under 40,000	310	293
40,001-50,000	104	100
50,001-60,000	87	84
60,001-70,000	49	45
70,001-80,000	35	33
80,001-90,000	15	18
90,001-100,000	13	9
Above 100,000	9	9
Total	622	591

The figures above exclude temporary seasonal staff employed by my Department, of which there are currently 67 in a salary range of less than €40,000.

The information requested by the Deputy in relation to the cost of increments in various salary ranges is set out in Table 2.

TABLE 2:  
Estimated cost of increments payable across salary ranges of staff in the Department for 2011 (June-Dec) and 2012

Salary Range €	Estimated cost of increments falling due for payment in 2011 (June-Dec) €	Estimated cost of increments falling due for payment in 2012 €
Under 40,000	107,863	163,912
40,001-50,000	38,016	65,822
50,001-60,000	44,845	66,162
60,001-70,000	15,838	28,244
70,001-80,000	28,210	44,804
80,001-90,000	10,516	5,324
90,001-100,000	3,093	13,879
Above 100,000	6,293	6,293
Total	254,673	394,440

The payment of increments in my Department is subject to staff receiving a satisfactory rating through the Performance Management Development System.



### Public Sector Staff

160. **Deputy Tom Fleming** asked the Minister for Arts, Heritage and the Gaeltacht the number of the over 9,000 persons from the public service who have retired over the past six months with high tax-free lump sum payments in many cases and substantial pensions that have been re-hired on contract; if these persons are now being paid on the double by the State, that is, their pension and the salary they are receiving under the new contracts; and if he will make a statement on the matter. [33073/12]

**Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan):** One officer who retired in the past 6 months was engaged by Údarás na Gaeltachta on a short-term contracts. The officer is a solicitor on a six-month contract expiring on 31st August 2012. The abatement principle has been applied in this case.

### Digital Television Service

161. **Deputy Brendan Griffin** asked the Minister for Communications, Energy and Natural Resources his views on a matter regarding Saorview (details supplied) in County Kerry; and if he will make a statement on the matter. [32520/12]

**Minister for Communications, Energy and Natural Resources (Deputy Pat Rabbitte):** Issues relating to the transmission, coverage and availability of SAORVIEW are an operational matter for RTÉ whose obligations are set out in the Broadcasting Act 2009. As such I have no role in these matters. I have however been informed by SAORVIEW that the SAORVIEW network offers 98% population coverage so by itself fully meets RTÉ's legislative obligations for a replacement national digital TV network.

For the remaining 2% of the population, RTÉ launched SAORSAT in March 2012. SAORSAT is a free to air satellite system providing access to RTÉ channels and TG4. Since March 2012, therefore, everyone in Ireland can make the switch to digital. The development and provision of SAORSAT satellite platform is a purely commercial decision by RTÉ and not one in which I have a function. Information on SAORSAT, approved SAORSAT equipment, technical specification and information on professional installation is available on the SAORVIEW website, [www.saorview.ie](http://www.saorview.ie) and also on the RTÉ Networks Limited (RTÉNL) website, [www.rtenl.ie](http://www.rtenl.ie).

### Departmental Staff

162. **Deputy Simon Harris** asked the Minister for Communications, Energy and Natural Resources the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to his Department, separate to individuals working directly for his Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to his Department in 2011 and to date in 2012; the financial cost of this sick leave; and if he will make a statement on the matter. [32556/12]

**Minister for Communications, Energy and Natural Resources (Deputy Pat Rabbitte):** I wish to advise the Deputy that issues relating to sick leave in State Bodies under the aegis of my Department are an operational matter for the individual Bodies in the first instance and I have no function in this regard. I will however ask the Agencies under the aegis of my Department to reply directly to the Deputy in the matter.

### Prompt Payments

163. **Deputy Olivia Mitchell** asked the Minister for Communications, Energy and Natural

Resources the average time lapse between receipt of invoices for goods and services and actual payment in his Department and in each agency and organisation within his remit; and if he will make a statement on the matter. [32596/12]

**Minister for Communications, Energy and Natural Resources (Deputy Pat Rabbitte):** My Department aims, in its dealings with suppliers of goods and services, to pay all invoices as soon as possible after the goods and services have been satisfactorily delivered and the supporting documentation necessary to enable the payment has been received by my Department. The Prompt Payment of Accounts Act 1997 provides for 30 days between receipt of invoice and payment. However, in line with the Government Decision of the 19th May 2009 my Department is committed to making payments to suppliers within 15 days. The vast majority of all payments made by my Department to suppliers for goods and services are made within 15 days. In Quarter 1 of 2012 93% of payments were made within 30 days with 81% being made within 15 days.

Payments of invoices by the agencies and public bodies under the aegis of my Department is a day to day operational matter for the agency/body concerned. However, I would like to advise the Deputy that state agencies and public bodies under my aegis are committed to issuing payments within 15 days. I am informed that in Quarter 1 of 2012 88% of payments made by Agencies were within 30 days (statutory limit) with 58% being made within 15 days.

#### **Advertising Standards**

164. **Deputy Terence Flanagan** asked the Minister for Communications, Energy and Natural Resources the person who is responsible for regulating advertising campaigns that have no commercial element, such as religious or political advertising, which does not fall under the Advertising Standards Authority of Ireland remit; and if he will make a statement on the matter. [32731/12]

**Minister for Communications, Energy and Natural Resources (Deputy Pat Rabbitte):** The matter of advertising on billboards does not come within the remit of the Department of Communications, Energy and Natural Resources, and I have no function in the matter. I am aware that the Advertising Standards Authority for Ireland exists as a non-statutory self-regulatory body, independent of Government and set up and financed by the advertising industry. I am informed that certain marketing communications that do not have any commercial element do not come within the remit of the Code of Standards for Advertising, Promotional and Direct Marketing drawn up by the ASAI. I am not aware that any Department of State or public body has a role in regulating such ‘non-commercial’ advertising campaigns. The general civil and criminal law in relation to publication would of course be applicable.

#### **Departmental Staff**

165. **Deputy Sean Fleming** asked the Minister for Communications, Energy and Natural Resources in respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges: less than €40,000 between €40,001-€50,000; between €50,001-€60,000; between €60,001-€70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32788/12]

**Minister for Communications, Energy and Natural Resources (Deputy Pat Rabbitte):** It is not possible to provide the information requested in the timeframe allowed but my Department will provide it directly to the Deputy shortly.

### Fuel Oil Specifications

166. **Deputy Brendan Griffin** asked the Minister for the Environment, Community and Local Government if he will consider introducing a higher sulphur content for agricultural diesel in view of the fact that reduction in sulphur in diesel is causing farm machinery not to perform to its full potential; and if he will make a statement on the matter. [32647/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** The specifications for gas oil for use in agricultural machinery are set out under the Fuel Quality Directive 98/70/EC. The Directive requires that, from 1 January 2011, gas oil marketed for use in non-road mobile machinery, including farm machinery, must contain no more than 10 milligrams of sulphur per kilogram of fuel (commonly referred to as parts per million or ppm). This compares to the previous sulphur content limit of 1,000ppm. High sulphur gas oil can still be used for certain other purposes, such as home heating or for marine use, though it should be noted that low sulphur gas oil is equally suitable for these applications.

The new 10ppm fuel standard was developed in order to reduce emissions of nitrous oxides and particulate matter, exposure to which is known to be harmful to human health. All EU Member States were required to introduce and implement this new fuel standard. There is no derogation to allow any Member State to continue to supply high sulphur gas oil for use in agricultural machinery.

Directive 98/70/EC was transposed into national legislation by the European Communities Act, 1972 (Environmental Specifications for Petrol, Diesel Fuels and Gas Oils for use by non-road mobile machinery, including inland waterway vessels, agricultural and forestry tractors, and recreational craft) Regulations 2011 (S.I. No. 155 of 2011). Under these Regulations, only 10ppm sulphur gas oil may be supplied for use in agricultural machinery. It is an offence to supply high sulphur gas oil for this purpose. A person guilty of an offence under these Regulations is liable, on summary conviction, to a fine of up to €5,000 or imprisonment for a term not exceeding 3 months, or both.

Engines in all new farm machinery placed on sale in the EU after 1 January 2011 are fitted with new abatement technology to meet stricter emission standards and have been designed to operate using low sulphur 10ppm gas oil. These newer engines will be damaged if exposed to high levels of sulphur, even if it is only for a brief period. Manufacturers have stated that this damage will not be covered under warranty. As such, regardless of legislative obligations, the continued use of high sulphur gas oil in agricultural machinery is not advisable.

### Social and Affordable Housing

167. **Deputy Marcella Corcoran Kennedy** asked the Minister for the Environment, Community and Local Government the income guidelines used in assessing eligibility for housing applicants under the social housing scheme; and if he will make a statement on the matter. [32834/12]

180. **Deputy Michael McCarthy** asked the Minister for the Environment, Community and Local Government the various income limits that are set for the social housing qualification process; if these vary from one local authority to another; and if he will make a statement on the matter. [32655/12]

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan):** I propose to take Questions Nos. 167 and 180 together.

The Housing (Miscellaneous Provisions) Act, 2009, provides for a new process of housing needs assessment for applicants for social housing support. Until these Regulations were made there had been different practices in housing authorities regarding the way in which applicants for social housing support had their income means-tested. The Social Housing Assessment Regulations 2011, which came into force on 1 April, 2011, standardised both the income limits and the definition of income. The Social Housing Assessment (Amendment) Regulations, made on 29 March 2011, amended the original regulations and provided for a general increase of €5,000 in the income bands. These Regulations specify the income limits for each housing authority, and are available on my Department's website — *www.environ.ie* or on the Housing Agency's website at *www.housing.ie*.

### **Water and Sewerage Schemes**

168. **Deputy Denis Naughten** asked the Minister for the Environment, Community and Local Government further to Parliamentary Question No. 400 of 21 of March 2012, if he will provide an update on Roscommon County Council's Design Review Report; and if he will make a statement on the matter. [32541/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** I refer to the reply to Question No. 400 of 21 March 2012. The position is unchanged.

### **Departmental Staff**

169. **Deputy Simon Harris** asked the Minister for the Environment, Community and Local Government the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to his Department, separate to individuals working directly for his Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to his Department in 2011 and to date in 2012; the financial cost of this sick leave; and if he will make a statement on the matter. [32559/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** Day to day operational matters, including sick leave in the State agencies under my Department's remit are a matter for the agencies concerned.

The Department of Public Expenditure and Reform, as part of the overall public service reform programme, has undertaken a review of sick leave provisions across the public service and has commenced a process of discussions with the public service unions with a view to implementing changes to the sick leave arrangements. My Department is participating in this process in the context of the local government sector.

### **Rural Development Programme**

170. **Deputy Robert Troy** asked the Minister for the Environment, Community and Local Government when he will allocate the additional €10 million previously announced under the basic services measure to various county development boards (details supplied) [32583/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** Axes 3 and 4 (LEADER) of the Rural Development Programme (RDP), for which my Department has responsibility, continues to facilitate access to significant financial resources for rural communities.

As part of a suite of measures to address issues relating to the delivery of the RDP my Department has recently submitted a number of proposals to the European Commission which, if agreed, will allow a number of changes to the operation of the programme. Ireland has

[Deputy Phil Hogan.]

chosen to proceed with a number of these changes prior to formal approval from the European Commission including an increase of €10 million to the allocation for the Basic Services measure of the RDP. My Department requested submissions from Local Development Companies on 14 June 2012 and is now processing these submissions. I expect that Local Development Companies will be notified shortly in regard to the determination of allocations from the €10 million sum.

### **Local Authority Funding**

171. **Deputy Brendan Smith** asked the Minister for the Environment, Community and Local Government when funding will be allocated to Cavan Town Council, in respect of a project (details supplied); and if he will make a statement on the matter. [32592/12]

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan):** Following receipt of submissions in 2008 under the Remedial Works Scheme for a three-year programme of works to upgrade run-down local authority estates, it was decided not to approve the proposed works to the 44 unit estate at Killymooney Drive, largely due to the fact that the estate was constructed in 1988. All of the available funding under the remedial works measure is fully committed and no further projects can be considered for approval at this time.

### **Prompt Payments**

172. **Deputy Olivia Mitchell** asked the Minister for the Environment, Community and Local Government the average time lapse between receipt of invoices for goods and services and actual payment in his Department and in each agency and organisation within his remit; and if he will make a statement on the matter. [32599/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** Information in respect of the timing of payments by my Department, relevant agencies and local authorities is available on the Department's website at <http://www.environ.ie/en/Publications/StatisticsandRegularPublications/PromptPayments>.

### **Non-Principal Private Residence Charge**

173. **Deputy Seán Kyne** asked the Minister for the Environment, Community and Local Government if he will confirm that the non principal private residence fee is applicable to persons who own only one private dwelling but who have had to relocate to a different area of the country in order to obtain employment and as a result are living in private rented accommodation; and if the NPPR is applicable, that steps will be taken to end this unfair anomaly brought about by the present employment market situation. [32611/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** The Local Government (Charges) Act 2009, as amended, broadened the revenue base of local authorities by introducing a charge on non-principal private residences. The charge is set at €200 and liability for it falls, in the main, on owners of rental, holiday and vacant properties.

The Act has a starting position of a universal liability for residential property in respect of the charge. It goes on to exempt certain buildings and owners from this liability, the most important exemption being where a property is occupied by the owner as his or her sole or main residence on the liability date. Where a property is not occupied by the owner, it falls liable for the charge, even if it is the only property that person owns.



The Act places collection of the charge under the care and management of local authorities. I have recently issued guidelines to local authorities for use in the context of individual situations where genuine hardship in having to discharge a liability in a single payment can be demonstrated. The guidelines set out the modalities for local authorities in relation to entering into payment arrangements for the discharge of outstanding liabilities in instalments over a specified period. Enquiries in this regard should be directed to the relevant local authority.

### **Election Management System**

174. **Deputy Pearse Doherty** asked the Minister for the Environment, Community and Local Government the criteria in use for the awarding of Presiding Officer and Personation Agent positions; if he will consider applying a points based system which would afford unemployed and low income earners to avail of these positions; and if he will make a statement on the matter. [32628/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** The primary role of my Department in electoral matters is to provide an appropriate policy and legislative framework for a modern and efficient electoral system. Within that framework, local returning officers are responsible for all matters in connection with the actual conduct of elections and referendums, including the selection, appointment and training of polling station and count staff in accordance with the relevant provisions of electoral law.

To assist returning officers, my Department issues guidance to them in advance of each election and referendum. The guidance emphasises that the smooth conduct of polls is dependent on maintaining a cadre of sufficiently skilled and experienced people. Having regard to that overall objective, returning officers are advised to employ competent and efficient persons as polling staff and asked to give consideration, where possible, to employing suitable persons who are unemployed.

Responsibility for the appointment of personation agents at an election is a matter for each candidate or his or her election agent. Under the Electoral Act 1992, a candidate or his or her election agent at an election shall, not later than 2 days (disregarding any excluded day) before polling day, give written notice to the returning officer of the name and address of every personation agent appointed by the candidate or his or her agent together with the name of the polling station for which the personation agent is appointed.

### **Electoral Divisions**

175. **Deputy Mary Mitchell O'Connor** asked the Minister for the Environment, Community and Local Government when he will confirm his position on the Boundary Commission Report; and if he will make a statement on the matter. [32636/12]

176. **Deputy Mary Mitchell O'Connor** asked the Minister for the Environment, Community and Local Government if a public information leaflet will be sent to every home affected by the boundary changes; and if he will make a statement on the matter. [32637/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** I propose to take Questions Nos. 175 and 176 together.

The Constituency Commission Report 2012 was presented to the Ceann Comhairle and laid before the Houses of the Oireachtas on 21 June 2012. The next step in accordance with accepted practice is for the preparation of a Bill in my Department to give statutory effect to the Commission's recommendations. The final determination of the constituencies for Dáil

[Deputy Phil Hogan.]

Éireann is a matter for the Oireachtas to prescribe in legislation. I will bring the necessary legislation forward in the coming months.

I have no plans to issue public information leaflets about the Constituency Commission's recommendations.

### **Local Government Reform**

177. **Deputy Mary Mitchell O'Connor** asked the Minister for the Environment, Community and Local Government when the Local Government Bill will be published; his views on whether the many councillors that will be affected need adequate notice of possible changes to the position of their council and constituency; and if he will make a statement on the matter. [32638/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** I refer to the reply to Questions Nos. 3 and 5 of 28 June 2012, which sets out the position in relation to this matter.

### **Community Development**

178. **Deputy Patrick Nulty** asked the Minister for the Environment, Community and Local Government the groups that may apply for funding to the community led local development fund 2014 to 2020; and if he will make a statement on the matter. [32652/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** The Regulatory Frameworks for the next EU programming period (2014-2020) are currently under negotiation at European Level. Parts of the proposals presented by the European Commission in late 2011 facilitate the use of a Community Led Local Development approach (CLLD) for the delivery of a number of European Funds in the next programming round including the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF), European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF).

The LEADER methodology has been used to deliver EU Rural development funds since 1991 and is considered to be the prototype CLLD approach. This LEADER approach will continue to be mandatory under the EAFRD regulation for the delivery of rural development funds in the next programming period. However the use of a CLLD approach is not mandatory for other funds and the regulatory proposals leave the decision in that regard at the discretion of the Member States. In this context, as the negotiations are ongoing no decisions have been made with regard to the methodologies to be used to deliver EU funds in Ireland in the post 2013 period.

### **Local Authority Housing**

179. **Deputy Joanna Tuffy** asked the Minister for the Environment, Community and Local Government the total amount of funding provided for the construction of local authority housing in the State from 2008 to date in 2012; if he will provide a breakdown of the number of houses built in each local authority area during these dates; if an assessment has been carried out regarding future social housing needs; the projected number of local authority houses believed necessary by 2015; and if he will make a statement on the matter. [32653/12]

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan):** My Department collates and publishes a wide range of housing statis-

tics that inform the preparation and evaluation of housing policy. The full range of data compiled can be viewed on my Department's website, [www.environ.ie](http://www.environ.ie), where data on Local Authority completions, broken down by county, are displayed.

My Department does not hold information on the number of households on local authorities' waiting lists or any projection of the number of households that may, in the future, apply for social housing or the length of time that households will spend on waiting lists. The number of households on waiting lists continuously fluctuates as households are allocated housing and new households apply for housing support. Detailed information on the latest statutory assessment of housing need carried out in March 2011, including a breakdown by housing authority, is available on my Department's website — [www.environ.ie](http://www.environ.ie) or on the Housing Agency's website at [www.housing.ie](http://www.housing.ie).

In terms of the delivery of social housing, the Government's housing policy statement, published in June 2011, clearly identifies that the priority for Government will be to meet the most acute needs of households applying for social housing support. Delivery of social housing will be significantly facilitated through more flexible funding models such as the Rental Accommodation Scheme and leasing, but the Government is also committed to developing other funding mechanisms that will increase the supply of permanent new social housing. Such mechanisms will include options to purchase, build to lease and the sourcing of loan finance by approved housing bodies for construction and acquisition. There is also obvious potential, across a range of housing programmes, for the Government's objective of sourcing and providing suitable residential units for use as social housing to be aligned with the commercial objectives of the National Asset Management Agency (NAMA). In spite of the challenging circumstances within which local authorities are forced to operate, a tentative projection of 4,000 to 4,500 housing units is anticipated for 2012. Projected levels of activity in 2013 and beyond will be subject to the financial provision for housing, which will be determined in the context of the estimates process for each year.

Details of the total amount of funding provided to local authorities for new social housing supply for the years 2008, 2009, 2010, 2011 and the budgetary provision for 2012 are set out in the following table:

Year	€ Amount
2008	€979,728,785
2009	€690,536,343
2010	€377,657,543
2011	€118,125,839
2012	€111,451,300

*Question No. 180 answered with Question No. 167.*

### **Rental Accommodation Scheme**

181. **Deputy Joanna Tuffy** asked the Minister for the Environment, Community and Local Government the total amount of funding provided to fund the rental accommodation scheme from 2009 to date in 2012; the amount that will be required to fund this scheme up to 2020; and if he will make a statement on the matter. [32661/12]

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan):** The budget provided for the Rental Accommodation Scheme (RAS) in any given year is intended to support the costs of all existing rent supplement households

[Deputy Jan O’Sullivan.]

transferred to the scheme in previous years and to fund the costs of rents of additional new transfers to the scheme (new supply) during a current year. In that context it is not possible at this time to project the amount of funding that will be required for the Scheme in the future. €135m has been provided for the Scheme in 2012.

The expenditure on RAS from 2009 to 2012 is set out in the table.

Year	RAS Expenditure
2009	€83,394,513
2010	€100,076,430
2011	€115,917,365
2012 (to end May)	€62,221,789

### Departmental Expenditure

182. **Deputy Niall Collins** asked the Minister for the Environment, Community and Local Government the total cost of the Dublin West by-election in October 2011; the total cost of the recount ordered by one of the candidates; and if he will make a statement on the matter. [32662/12]

183. **Deputy Niall Collins** asked the Minister for the Environment, Community and Local Government the total cost of the EU Stability Treaty Referendum in May 2012; and if he will make a statement on the matter. [32663/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** I propose to take Questions Nos. 182 and 183 together.

The costs of running or holding an election or referendum are met from the Central Fund administered by the Department of Public Expenditure and Reform. The information requested in the questions is not available in my Department.

### Social and Affordable Housing

184. **Deputy Sandra McLellan** asked the Minister for the Environment, Community and Local Government further to Parliamentary Questions Nos. 16, 31 and 39 of 28 June 2012, the number of properties in east Cork; and if he will make a statement on the matter. [32723/12]

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O’Sullivan):** In December 2011 NAMA identified over 2,000 properties as being potentially available for social housing, including 312 units in Cork County. From this list of some 2,000 properties a number of projects have been identified as being suitable for social housing, and these are being advanced for inclusion in the leasing scheme. These projects are at different stages of development and I expect that housing units will start to be delivered under this arrangement later this year. NAMA continues to work with a view to identifying additional units suitable for inclusion in the programme.

### Housing Statistics

185. **Deputy Terence Flanagan** asked the Minister for the Environment, Community and Local Government if he will provide the most recent figures regarding the total number of empty homes in County Dublin and his plans to address the issue of empty homes in County Dublin and nationwide; and if he will make a statement on the matter. [32730/12]

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O’Sullivan):** The most recent figures on the number of vacant properties in County Dublin can be found in my Department’s National Housing Development Survey 2011, which can be found at *www.environ.ie*. There were a total of 4,679 vacant properties in the Dublin area as at September 2011, a reduction from the 6,816 properties in 2010. The National Housing Development Survey 2012 is currently under way, and I expect the results to be published this autumn. It is likely that the figure of 4,679 will reduce further in 2012 as my Department continues to work with local authorities and other stakeholders to resolve outstanding issues.

In this regard, I am chairing the National Co-ordination Committee on Unfinished Housing Developments to oversee implementation of the Report of the Advisory Group on Unfinished Housing Developments, together with the Government’s response to the recommendations. The Committee includes representatives from the Irish Banking Federation, local authorities, the Housing and Sustainable Communities Agency, NAMA and the construction sector and real progress is being made with regard to the public safety works required to improve the living conditions of existing residents on some unfinished estates. The Committee intends to publish a report on overall progress, including the numbers of sites resolved, in the coming days.

### Public Sector Pay

186. **Deputy Sean Fleming** asked the Minister for the Environment, Community and Local Government in respect of 2011 the best estimate for 2012 of the number of persons in local authorities, the following salary ranges: less than €40,000, between €40,001 to €50,000, between €50,001 to €60,000, between €60,001 to €70,000, between €70,001 to €80,000, between €80,001 to €90,000, between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32733/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** The numbers of persons employed in local authorities in 2011 (as at 30 June 2011) on a whole time equivalent basis (WTE) is set out in the table.

Salary Range	€ 0-€40,000	€40,001-€50,000	€50,001-€60,000	€60,001-€70,000	€70,001-€80,000	€80,001-€90,000	€90,001-€100,000	€100,001- Upwards	Total
No. of WTE's	18,246	5,924	3,339	1,755	866	520	50	219	30,919
%	59%	19.2%	10.8%	5.7%	2.8%	1.7%	0.1%	0.7%	100%

The overall staff numbers in local authorities have decreased by a further 2,154 WTE since June 2011 to 28,765 WTE.

### Fire Safety

187. **Deputy Seán Ó Fearghaíl** asked the Minister for the Environment, Community and Local Government if the option is available to local authorities to waive fees in respect of applications for fire certificates by schools carrying out essential construction works; and if he will make a statement on the matter. [32738/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** Section 22 of the Building Control Regulations 1997-2009 provides for an exemption of fees in certain circumstances in respect of, among other things, an application for a Fire Safety Certificate made by or on behalf of a voluntary organisation or an approved body for the purposes of the Housing Acts. No fee would therefore be required in respect of an application for a Fire



[Deputy Phil Hogan.]

Safety Certificate concerning a school building run by a voluntary organisation. The regulations do not, however, provide for a blanket exemption from fees in respect of schools generally.

### **Building Regulations**

188. **Deputy Dominic Hannigan** asked the Minister for the Environment, Community and Local Government his plans for the Building Control Act and its regulation of the architecture profession; and if he will make a statement on the matter. [32760/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** The Building Control Act 2007, among other things, provides for the registration of persons entitled to use the title of Architect. A variety of routes to registration are provided for, having regard to the academic qualifications, professional attainment and practical experience of prospective candidates for registration. I have no plans to amend the registration arrangements currently provided for under Part 3 of the Building Control Act 2007. I would encourage practically trained architects to pursue the routes to registration which are open to them with a view to joining the small but growing numbers of practically trained architects already on the register.

I have recently released for public consultation proposed Building Control (Amendment) Regulations which will provide for:

(a) the introduction of mandatory certificates of compliance by builders and designers of buildings confirming that the statutory requirements of the Building Regulations have been met;

(b) the lodgement of drawings at both commencement and completion of construction, demonstrating how the building has been designed and built to comply with all parts of the Building Regulations.

The regulations as proposed require, among other things, that the owner of a proposed building or works must assign a competent professional to inspect and certify the proposed building or works. The assigned person must be an Architect or a Building Surveyor named on a register maintained in line with Part 3 or Part 5 respectively of the Building Control Act 2007 or be a Chartered Engineer named on the register maintained under Section 7 of the Institution of Civil Engineers of Ireland (Charter Amendment) Act 1969.

It is envisaged that the assigned person will inspect and certify the building or works in line with a Code of Practice which is currently being prepared and which will be published, following consultation with industry stakeholders, in advance of the implementation of the proposed regulations. Architects and other construction professionals already, in certain circumstances, offer contracts for service to clients which go beyond design work and involve the oversight, inspection or certification of construction work. In this respect the proposed Regulations need not be considered radical or exceptional.

Under the Building Control Acts 1990-2007, responsibility for compliance with the Building Regulations rests first and foremost with the owners of buildings and on builders/developers who carry out construction works to such buildings. The proposed Regulations do not change this fundamental principle. Professionals who are engaged by builders have also a statutory duty to ensure that construction at least meets the legal minimum standards. The proposed Building Control (Amendment) Regulations will now be reviewed by my Department in the light of the submissions received during the public consultation process, which closed on 24

May 2012, with a view to having a final set of Regulations prepared and signed into law in the coming months.

### **Litter Pollution**

189. **Deputy Billy Timmins** asked the Minister for the Environment, Community and Local Government his plans to amend the legislation on litter in order to assist businesses that wish to display further advertising for special events; and if he will make a statement on the matter. [32762/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** My Department is currently reviewing existing waste and litter legislation. This review is focused on identifying potential changes to the legislation to drive further reductions in littering and illegal dumping. I have no plans to amend the legislation along the lines suggested in the question at this time.

### **Local Authority Staff**

190. **Deputy Billy Timmins** asked the Minister for the Environment, Community and Local Government if he will provide a breakdown by grade of the annual leave entitlement for members of local authorities under the Croke Park Agreement; what said entitlements were previous to the agreement; and if he will make a statement on the matter. [32766/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** Agreement was reached between the Department of Public Expenditure and Reform and the Public Services Committee of the Irish Congress of Trade Unions in November 2011 on the standardisation of public service annual and related leave allowances. The agreement provided that the number of days annual leave to apply, in respect of serving personnel and all sectors of the public service, would range from a minimum of twenty-two to a maximum of thirty-two days.

Under the agreement serving staff, while they remain in their existing grades, retain the annual leave allowance appropriate to their grade subject to not exceeding the overall ceiling of thirty-two days. Given that the level of annual leave across local authorities varied before the agreement the following range of annual leave entitlements now applies.

Grade	Annual Leave Days Range
County Manager	32
Director of Service	32
Senior Executive Officer / Senior Engineer and analogous grades	32
Senior Executive Engineer/Administrative Officer and analogous grades	31 — 32
Senior Staff Officer/Executive Engineer and analogous grades	30 — 32
Staff Officer/Graduate Engineer and analogous grades	27 — 32
Assistant Staff Officer and analogous grades	26 — 32
Clerical Officer and analogous grades	23 — 31
Craft Workers, General Operatives and Related Grades	23 — 32

Prior to the November 2011 Agreement the annual leave entitlements for local authority staff were as follows:

[Deputy Phil Hogan.]

Grade	Annual and Privilege Days Range
County Manager	33-44
Director of Service	33-44
Senior Executive Officer / Senior Engineer and analogous grades	33-44
Administrative Officer / Senior Executive Engineer and analogous grades	31-36
Senior Staff Officer / Executive Engineer and analogous grades	30-36
Staff Officer / Graduate Engineer and analogous grades	27-34
Assistant Staff Officer and analogous grades	26-33
Clerical Officer and analogous grades	23-31
Craft Workers, General Operatives and related grades	23-32

All County and City Managers implemented a maximum of thirty-two days annual leave with effect from April, 2011. The revised arrangements were implemented in the local authority sector as provided for in the agreement and have come into place with effect from the leave year commencing January, 2012. The agreement also provides for the introduction of standardised leave bands for new entrants and promotees which will range from a minimum of twenty-two days to a maximum of thirty days.

### Departmental Staff

191. **Deputy Sean Fleming** asked the Minister for the Environment, Community and Local Government in respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges: less than €40,000 between €40,001 — €50,000; between €50,001 — €60,000; between €60,001 — €70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32791/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** The information in respect of end 2011 and May 2012 regarding the number of staff in the salary bands indicated is set out in the following table:

Salary Range	Dec-11*	May-12*
Under €40,000	207.08	193.28
€40,001 — €50,000	157.2	151.2
€50,001 — €60,000	183.53	173
€60,001 — €70,000	40.4	33.2
€70,001 — €80,000	105	105
€80,001 — €90,000	53	50
€90,001 — €100,000	46	46
Over €100,001	20	20
Total	812.21	771.68

\* Figures provided on basis of whole time equivalent

The number of staff who received increments in 2011 was 367. This number reflects the reconfiguration of the Department following the formation of the Government in March 2011. Once increments are paid on the corepay system, it is not possible to extract historical increment

data from the system on a global basis. Historic costs could be calculated manually on an individual basis but this would take a prohibitively long time to calculate. Therefore, more detailed information is not available in respect of 2011.

Salary Range	Total Cost in 2012
Under €40,000	€61,900.53
€40,001 — €50,000	€61,464.38
€50,001 — €60,000	€62,084.56
€60,001 — €70,000	€31,926.36
€70,001 — €80,000	€56,054.52
€80,001 — €90,000	€25,049.29
€90,001 — €100,000	€21,338.74
Over €100,001	€4,903.46
Total	€324,721.84

Increments are paid in line with the approved rates of pay at the time as outlined on the websites of the Department of Finance and Department of Public Expenditure and Reform. The payment of increments is subject to satisfactory performance under the Performance Management Development System (PMDS). However, staff who have reached the maximum or long service increment point of their salary scales do not receive increments.

### Public Sector Staff

192. **Deputy Tom Fleming** asked the Minister for the Environment, Community and Local Government the number of the over 9,000 persons from the public service who have retired over the past six months with high tax-free lump sum payments in many cases and substantial pensions that have been re-hired on contract; if these person's are now being paid on the double by the State, that is, their pension and the salary they are receiving under the new contracts; and if he will make a statement on the matter. [33078/12]

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** No former staff of the Department, who retired in the past six months, have been re-employed subsequently.

### Building Regulations

193. **Deputy Olivia Mitchell** asked the Minister for Justice and Equality if he will consider amending the Multi-Unit Developments Act to give additional powers to management companies to penalise home owners refusing to pay their management charges; and if he will make a statement on the matter. [32726/12]

**Minister for Justice and Equality (Deputy Alan Shatter):** The position is that section 18(10) of the Multi-Unit Developments Act 2011 places an obligation on the owner of each unit in a multi-unit development to pay all service charge levied by the owners' management company under the Act. Moreover, section 22 goes on to provide that service charges which remain unpaid may be recovered by the owners' management company as a simple contract debt in a court of competent jurisdiction, normally the District Court.

### Human Rights Issues

194. **Deputy Mary Lou McDonald** asked the Minister for Justice and Equality if his attention

[Deputy Mary Lou McDonald.]

has been drawn to the fact that his Department has failed to meet the UNCAT deadline for follow-up on its report of June 2011 which recommended reparation for the Magdalene survivors; if he or the Permanent Representative of Ireland to the United Nations Office at Geneva have responded to Felice D. Gaer's Rapporteur for Follow-up on Concluding Observations UNCAT letter of 1 June 2012; if it is his intention to disengage from the UNCAT process and his views on the impact this will have on Ireland's reputation in the international arena of human rights. [32759/12]

**Minister for Justice and Equality (Deputy Alan Shatter):** There is no intention to disengage from the UNCAT process. As requested in the Concluding observations of the UN Committee against Torture, comprehensive follow up information is being provided in response to the Committee's recommendations in paragraphs 8, 20, 21 and 25 of those observations.

### Naturalisation Applications

195. **Deputy Michael McNamara** asked the Minister for Justice and Equality when a naturalisation application will be finalised in respect of a person (details supplied) in County Clare; and if he will make a statement on the matter. [32521/12]

**Minister for Justice and Equality (Deputy Alan Shatter):** I am advised by the Citizenship Division of the Irish Naturalisation and Immigration Service (INIS) that an application for a certificate of naturalisation was received from the person referred to by the Deputy in May, 2012. The application is currently being processed with a view to establishing whether the applicant meets the statutory conditions for the granting of naturalisation, such as good character and lawful residence, and will be submitted to me for decision as expeditiously as possible.

As well as being a significant event in the life of its recipient, the granting of Irish citizenship through naturalisation as provided for in law is also a major step for the State which confers certain rights and entitlements not only within the State but also at European Union level and it is important that appropriate procedures are in place to preserve the integrity of the process. Queries in relation to the status of individual immigration cases may be made directly to INIS by e-mail using the Oireachtas Mail facility which has been specifically established for this purpose. This service enables up to date information on such cases to be obtained without the need to seek information by way of the Parliamentary Questions process. The Deputy may consider using the e-mail service except in cases where the response from INIS is, in the Deputy's view, inadequate or too long awaited.

196. **Deputy Michael McNamara** asked the Minister for Justice and Equality when a naturalisation status will be finalised in respect of a person (details supplied) in County Kildare; and if he will make a statement on the matter. [32539/12]

**Minister for Justice and Equality (Deputy Alan Shatter):** I am advised by the Citizenship Division of the Irish Naturalisation and Immigration Service (INIS) that an application for a certificate of naturalisation was received from the person referred to by the Deputy in May, 2012.

The application is currently being processed with a view to establishing whether the applicant meets the statutory conditions for the granting of naturalisation, such as good character and lawful residence, and will be submitted to me for decision as expeditiously as possible.

As well as being a significant event in the life of its recipient, the granting of Irish citizenship through naturalisation as provided for in law is also a major step for the State which confers



certain rights and entitlements not only within the State but also at European Union level and it is important that appropriate procedures are in place to preserve the integrity of the process.

Queries in relation to the status of individual immigration cases may be made directly to INIS by e-mail using the Oireachtas Mail facility which has been specifically established for this purpose. This service enables up to date information on such cases to be obtained without the need to seek information by way of the Parliamentary Questions process. The Deputy may consider using the e-mail service except in cases where the response from INIS is, in the Deputy's view, inadequate or too long awaited.

### **Road Safety**

197. **Deputy Dessie Ellis** asked the Minister for Justice and Equality the rationale for the Garda Commissioner to release the collision prevention programme in relation to persons (details supplied). [32544/12]

**Minister for Justice and Equality (Deputy Alan Shatter):** I am informed by the Garda authorities that the Collision Prevention Programme referred to has been supplied to the family in question. The function of this programme is to identify collision prone locations based on an ongoing analysis of the history of collisions, local knowledge, and road management and engineering involving An Garda Síochána, local authorities and the National Roads Authority. This is an ongoing process which is subject to review and it is used to establish if there are remedial engineering or structural work and/or enforcement action which can be taken at areas which have been identified as having a history of collisions with the overall objective of preventing or reducing such incidents.

I further understand that the Gardaí have met with the family and provided details concerning the traffic investigation arising from this fatal collision, together with supporting documents and other material concerning the case.

### **State Agencies**

198. **Deputy Simon Harris** asked the Minister for Justice and Equality the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to his Department, separate to individuals working directly for his Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to his Department in 2011 and to date in 2012; the financial cost of this sick leave; and if he will make a statement on the matter. [32564/12]

**Minister for Justice and Equality (Deputy Alan Shatter):** The management of sick leave within the agencies, offices and bodies reporting to my Department is implemented by them in accordance with civil service policy as set out in Department of Finance Circular 09/2010 — Management of Sick Leave.

The criteria for the payment of sick is set out in Department of Finance Circular 25/1978. Currently, full pay during properly certified sick absence may be allowed up to a maximum of six months in one year and half pay thereafter subject to a maximum of twelve months sick leave in any period of four years or less. For the purposes of calculating the periods of sick leave on full and half pay, six months and twelve months are, where sick absence is not continuous, reckoned as 183 days and 365 days respectively, including Saturdays, Sundays and public holidays falling within a period of sick leave.

Sick leave for single or two day absences, in total not exceeding seven days in any period of twelve months, may be granted without medical certificate.

[Deputy Alan Shatter.]

The number of sick days taken and associated costs, excluding An Garda Síochána, are set out in the table below.

Agency/Body	Years	Total number of sick leave days	Total cost of sick leave*
Legal Aid Board	2011	3,037	€ 436,882
	2012	2,172	€386,959
Property Registration Authority	2011	6,476	€814,784
	2012	2,759	€372,762
Irish Prison Service (Discipline grades)	2011	41,394	€7.5m
	2012	19,542	€3.5m
The Courts Service	2011	9,528	€1.5m
	2012	4,384	€732,620
Garda Síochána Ombudsman Commission	2011	594	€124,805
	2012	147	€16,600

\*All figures are approximate.

The information in relation to An Garda Síochána, the Irish Human Rights Commission and the National Disability Authority will be provided directly to the Deputy by the Organisations concerned.

### Domestic Violence

199. **Deputy Nicky McFadden** asked the Minister for Justice and Equality if domestic violence legislation will be amended to increase eligibility for domestic violence orders; and if he will make a statement on the matter. [32579/12]

**Minister for Justice and Equality (Deputy Alan Shatter):** I refer the Deputy to my reply to Question Number 46 of 1 December 2011, in which I indicated the following:

*“The Programme for Government commitment — to introduce consolidated and reformed domestic violence legislation to address all aspects of domestic violence, threatened violence and intimidation, in a way that provides protection to victims — will be progressed as soon as possible having regard to the need for consultations and the need to dispose of urgent legislative matters in my Department under the EU/IMF Programme of Financial Support for the State.*

*I am considering making suitable measures available for applicants who are or have been in relationships but who may never have cohabited with the person causing the risk. While there are already measures available under section 10 of the Non-Fatal Offences against the Person Act 1997, the criminal threshold of proof applies in those cases. Accordingly, I am considering whether persons in non-cohabiting relationships may be included in the category of people who may apply for a safety order.*

*In relation to the cohabitation requirements to obtain a barring order, it should be noted that there is a constitutional impediment to removing that requirement entirely where the respondent has any interest in a shared property. This is because the order may have the effect of restricting the property rights of the respondent. However, I will give full consideration to any measures which may enhance protections for an applicant while respecting the respondent's constitutional rights.*

*In advance of wider reform, I introduced reforms to domestic violence legislation by means of the Civil Law (Miscellaneous Provisions) Act 2011. That Act removed the minimum required period of cohabitation before one of a cohabiting couple may apply for a safety order (previously, the applicant was required to have resided with the respondent for at least six of the previous twelve months) and gave equal access to the protections of the Domestic Violence Act to opposite-sex and same-sex couples (the relevant provision previously referred only to couples “living together as husband and wife”). The 2011 Act also widened the scope of section 2 of the 1996 Act, which specifies who may apply for a safety order, to enable a person to obtain a safety order against a person with whom they have a child in common. This is the only exception to the general rule that the protections available under the Domestic Violence Acts are for the benefit of persons who have lived together in the same household.”*

### **Naturalisation Applications**

200. **Deputy Michael McNamara** asked the Minister for Justice and Equality when a naturalisation status will be finalised in respect of a person (details supplied) in County Clare; and if he will make a statement on the matter. [32582/12]

**Minister for Justice and Equality (Deputy Alan Shatter):** I refer the Deputy to my reply to Parliamentary Question No. 483 of Tuesday, 12 June 2012. The position remains as stated.

*I am advised by the Citizenship Division of the Irish Naturalisation and Immigration Service (INIS) that a valid application for a certificate of naturalisation was received from the person referred to by the Deputy in September 2009. The application is currently being processed with a view to establishing whether the applicant meets the statutory conditions for the granting of naturalisation, such as good character and lawful residence, and will be submitted to me for decision as expeditiously as possible.*

*It is recognised that all applicants for citizenship would wish to have a decision on their application without delay. Considerable resources are deployed to process applications and these resources together with the necessary administrative arrangements are kept under review.*

*As well as being a significant event in the life of its recipient, the granting of Irish citizenship through naturalisation as provided for in law is also a major step for the State which confers certain rights and entitlements not only within the State but also at European Union level and it is important that appropriate procedures are in place to preserve the integrity of the process.*

*Queries in relation to the status of individual immigration cases may be made directly to INIS by e-mail using the Oireachtas Mail facility which has been specifically established for this purpose. This service enables up to date information on such cases to be obtained without the need to seek information by way of the Parliamentary Questions process. The Deputy may consider using the e-mail service except in cases where the response from INIS is, in the Deputy's view, inadequate or too long awaited.*

### **Prompt Payments**

201. **Deputy Olivia Mitchell** asked the Minister for Justice and Equality the average time lapse between receipt of invoices for goods and services and actual payment in his Department and in each agency and organisation within his remit; and if he will make a statement on the matter. [32604/12]

**Minister for Justice and Equality (Deputy Alan Shatter):** The average time, in working days, from the receipt of invoices until payment for the period 1st January 2012 to 30th June 2012 is set out as follows:

Vote	Days
Justice and Equality Vote	9.9 days
Garda Síochána Vote	14.7 days
Prisons Vote	13.6 days
Courts Vote	14.8 days
Property Registration Vote	8.2 days.

### Household Charge

202. **Deputy Sandra McLellan** asked the Minister for Justice and Equality further to Parliamentary Question No. 168 of 28 June 2012, if a landlord is permitted to pass the household tax or future property tax or local authority charges on to the tenant by making it a condition of the tenancy agreement (details supplied); and if he will make a statement on the matter. [32724/12]

**Minister for Justice and Equality (Deputy Alan Shatter):** Under the Local Government (Household Charge) Act 2011 and the Local Government (Household Charge) Regulations 2012, an owner of a residential property was required to pay the household charge by 31 March 2012 unless otherwise exempted or entitled to claim a waiver. Section 1 of the Act provides a definition of “owner” for the purposes of the Act.

As regards payment obligations under tenancy agreements, the relationship of landlord and tenant is generally a matter of contract between the parties and it is therefore a matter for the parties to agree the terms of the agreement, including payment of any charges which are levied to fund local services .

### Departmental Staff

203. **Deputy Sean Fleming** asked the Minister for Justice and Equality in respect of 2011 the best estimate for 2012 of the number of persons in the Justice sectors the following salary ranges: less than €40,000, between €40,001 to €50,000, between €50,001 to €60,000, between €60,001 to €70,000, between €70,001 to €80,000, between €80,001 to €90,000, between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32734/12]

204. **Deputy Sean Fleming** asked the Minister for Justice and Equality in respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges: less than €40,000 between €40,001 — €50,000; between €50,001 — €60,000; between €60,001 — €70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32796/12]

**Minister for Justice and Equality (Deputy Alan Shatter):** I propose to take Questions Nos. 203 and 204 together.

The information requested by the Deputy in respect of the Department and agencies staffed by the Department is set out in the table below.

The salary bands include staff employed both on a full-time and a work-sharing basis.

Income Band	Number of Staff 2011	Number of staff 2012
Up to €40,000	960	960
€40,001-€50,000	370	314
€50,001-€60,000	350	347
€60,001-€70,000	158	164
€70,001-€80,000	157	127
€80,001-€90,000	32	37
€90,001-€100,000	52	45
Greater than €100,000	56	52

The monetary value of increments paid in 2011 was in the region of €840,000 and is estimated to be in the region of €817,000 for 2012. It is not possible to provide these figures according to salary bands.

### Public Sector Staff

205. **Deputy Tom Fleming** asked the Minister for Justice and Equality the number of the over 9,000 persons from the public service who have retired over the past six months with high tax-free lump sum payments in many cases and substantial pensions that have been re-hired on contract; if these persons are now being paid on the double by the State, that is, their pension and the salary they are receiving under the new contracts; and if he will make a statement on the matter. [33083/12]

**Minister for Justice and Equality (Deputy Alan Shatter):** The Financial Emergency Measures in the Public Interest (No. 2) Act 2009 provided for the superannuation benefits of public servants, who retired within a 'grace period' which ended on 29 February 2012, to be unaffected by the pay reductions introduced for all public servants with effect from 1 January 2010 under that Act. In the period 1 January 2012 to 29 February 2012, a total of 475 staff retired from my Department and the agencies under my remit, including An Garda Síochána. Of these 475, only one staff member who was a Governor in the Prison Service has been re-employed in the Prison Service on a fixed term contract to meet pressing operational and transformation requirements. The individual's pension has been abated since the commencement of the contract. The total cost of this contract to date is €43,939.27. I am not aware of any other public servant being re-employed by my Department or agencies under its remit. I am however confirming the position and will revert to the Deputy in the event that the position is other than that stated above. It should be noted that on occasion, retired public servants may be engaged mainly on a short term basis because of their particular knowledge and expertise in a particular area, for example, to serve on interview boards, complete investigations etc. Such instances would not be considered re-employment.

### Departmental Agencies

206. **Deputy Simon Harris** asked the Minister for Defence the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to his Department, separate to individuals working directly for his Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to his Department in 2011 and to date in 2012; the financial cost of this sick leave; and if he will make a statement on the matter. [32557/12]



**Minister for Defence (Deputy Alan Shatter):** Responsibility for the management and development of Civil Defence at national level was transferred by my Department to the Civil Defence Board by virtue of the Civil Defence Act, 2002. As the Deputy may be aware, following a Government decision in July, 2011 legislation is currently being drafted for the dissolution of the Board and the transfer of its functions and responsibilities back to my Department. When the Civil Defence Board was established in 2003 responsibility for Human Resources and other related matters was retained by my Department and not devolved to the Board. Consequently, procedures and reporting arrangements in relation to sick leave matters for the staff of the Board are the same as those pertaining to my Department and are included in Department reports.

The details requested by the Deputy for my Department, including the Civil Defence Board, are recorded in the response to Question No. 223 of 28 June 2012.

With regard to the Permanent Defence Force the information requested by the Deputy is not compiled by my Department on a routine basis and it is not possible to provide the detailed information sought by the Deputy in the time available. My Department is currently seeking to compile the relevant data and I will provide the information directly to the Deputy once it comes to hand.

#### **Prompt Payments**

207. **Deputy Olivia Mitchell** asked the Minister for Defence the average time lapse between receipt of invoices for goods and services and actual payment in his Department and in each agency and organisation within his remit; and if he will make a statement on the matter. [32597/12]

**Minister for Defence (Deputy Alan Shatter):** All payments for supplies of goods and services to my Department, the Defence Forces and agencies under the remit of my Department are paid centrally by the Finance Branch of my Department, based in Renmore in Galway. I am pleased to report that in the year to the end of June 2012, the average time taken for payment to suppliers was 7 days from the receipt of an invoice.

#### **Departmental Staff**

208. **Deputy Sean Fleming** asked the Minister for Defence in respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges: less than €40,000 between €40,001 — €50,000; between €50,001 — €60,000; between €60,001 — €70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32789/12]

**Minister for Defence (Deputy Alan Shatter):** It has not been possible in the time available to compile all the necessary information requested by the Deputy. The information will be forwarded to the Deputy as soon as possible.

#### **Public Sector Staff**

209. **Deputy Tom Fleming** asked the Minister for Defence the number of the over 9,000 persons from the public service who have retired over the past six months with high tax-free lump sum payments in many cases and substantial pensions that have been re-hired on contract; if these persons are now being paid on the double by the State, that is. their pension and the salary they are receiving under the new contracts; and if he will make a statement on the matter. [33076/12]

**Minister for Defence (Deputy Alan Shatter):** My Department has not rehired any public servants who have retired from the public service over the past six months.

### Registration of Title

210. **Deputy Thomas Pringle** asked the Minister for Agriculture, Food and the Marine if the Land Commission entered into any Q3 purchase agreements for plots in a bog (details supplied); and if so, if he will list the plot numbers for which Q3 agreements exist; and if he will make a statement on the matter. [32515/12]

**Minister for Agriculture, Food and the Marine (Deputy Simon Coveney):** There is no record of the former Irish Land Commission entering into Q3 purchase agreements in respect of the plots listed in the details supplied.

### Public Sector Pay

211. **Deputy Sandra McLellan** asked the Minister for Agriculture, Food and the Marine further to Parliamentary Question No. 462 of 26 June 2012, the persons who pay the wages of Moorepark staff, County Cork; if it is a private company or the Department of Finance; if it is a private company paying the wages, the reason the Department of Finance has control over the way they are paid and can stop wage agreements without negotiations and also acknowledge a Labour Court recommendation received in 2010 (details supplied); and if he will make a statement on the matter. [32522/12]

218. **Deputy Sandra McLellan** asked the Minister for Agriculture, Food and the Marine if a centre (details supplied) employees benefitted from the national pay awards for private sector workers negotiated in the context of national agreements, the reason the Department of Finance in 2008 stopped the first instalment of T16 (3.5%) that was due to them in October/November of that year, the increase at the time had already been approved by the company board of MTL, this increase was outside the Financial Emergency Measures in the Public Interest (No 2) Act 2009; the grounds the Department of Finance had in 2008 to interfere with private sector workers pay outside of legislation; and if he will make a statement on the matter. [32720/12]

**Minister for Agriculture, Food and the Marine (Deputy Simon Coveney):** I propose to take Questions Nos. 211 and 218 together.

Moorepark Technology Ltd (MTL) is a subsidiary of Teagasc, the Agriculture, Food and Development Authority, with 57% of shares owned by Teagasc and the remainder by a number of dairying processing companies. As a subsidiary of a non commercial state agency, MTL is required to obtain Departmental approval for pay rates. It is also the case that under the 'Articles of Association' for MTL, both the number of employees and their remuneration are subject to the sanction of Teagasc, the Department of Agriculture, Food and the Marine and the Department of Finance now the Department of Public Expenditure and Reform.

In the past, pay rates in MTL have been approved based on dairy industry norms and the application of private sector pay increases negotiated in the context of National Agreements. Staff salaries are paid from MTL's trading activities and Teagasc provide additional management support from its own resources

The refusal by MTL in 2009 to pay the 3.5% increase under the "Towards 2016 Review and Transitional Arrangement" was based on 'inability to pay' at that time. The impact on the future cost of the public sector pensions of the claimants (i.e. the cost implications for public pension liabilities of the awarding of private sector pay increases) was also relevant. It is under-

[Deputy Simon Coveney.]

stood that most other private employers in the dairy industry have not paid the ‘Towards 2016 Review and Transitional Arrangement’ pay increases on the basis of their ‘inability to pay’.

In addition to inability to pay, cognisance must now be taken of the introduction, in December 2009, of the Financial Emergency Measures in the Public Interest (No 2) Act 2009. MTL is deemed under this legislation to be a “public service body” *inter alia* by virtue of the fact that they have a public service pension scheme. MTL is, therefore, statutorily prohibited from increasing pay rates and the pay reductions specified in the Act must apply to the staff of MTL. The Financial Emergency Act also takes precedence over the Labour Court findings in LCR 19725 on the status of MTL staff, which was made just after the enactment of the legislation.

### **Turbary Rights**

212. **Deputy Thomas Pringle** asked the Minister for Agriculture, Food and the Marine if any rights of turbary existed on a bog (details supplied) prior to the turbary regulations being made under instrument 1546/9/56, 24 September 1956 and instrument 1673/5/56 of 14 May 1956; and if so, if he will list the plot numbers for which these rights exist. [32542/12]

**Minister for Agriculture, Food and the Marine (Deputy Simon Coveney):** As the bog referred to in the Question is not defined on a map, my reply refers to plots 1C, 2B, 3B, 4G and 8B on a Land Commission map of the townland known as Letterfad, on the Estate mentioned. The turbary over these plots, about one fifth of the area of the townland, was the subject of a private trust set up in 1916 between the Estate Landlord and six local trustees, for and on behalf of the Tenants on the Estate. The trustees were given powers to manage the cutting of turf, access, drainage etc., over the relevant bog. In 1958 the former Land Commission, using powers provided in the trust deed, revoked the trust over plots 3B (in part) 4G and 8B (in part).

It appears that the Land Commission did not own turbary rights over the plots listed in the trust deed, but simply managed them.

### **Legal Services Regulation**

213. **Deputy Nicky McFadden** asked the Minister for Agriculture, Food and the Marine his proposals to enforce mandatory separate legal representation for voluntary transfers of farms; and if he will make a statement on the matter. [32552/12]

**Minister for Agriculture, Food and the Marine (Deputy Simon Coveney):** I am aware of a proposal made in relation to this matter by the Incorporated Law Society of Ireland. I, as Minister for Agriculture, Food and the Marine, have no statutory functions in relation to the regulatory affairs or oversight of the Law Society of Ireland.

### **Departmental Agencies**

214. **Deputy Simon Harris** asked the Minister for Agriculture, Food and the Marine the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to his Department, separate to individuals working directly for his Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to his Department in 2011 and to date in 2012; the financial cost of this sick leave; and if he will make a statement on the matter. [32553/12]

**Minister for Agriculture, Food and the Marine (Deputy Simon Coveney):** In relation to the twelve State Bodies under the aegis of my Department and the management of sick leave, this is an operational matter for the Bodies.

### Prompt Payments

215. **Deputy Olivia Mitchell** asked the Minister for Agriculture, Food and the Marine the average time lapse between receipt of invoices for goods and services and actual payment in his Department and in each agency and organisation within his remit; and if he will make a statement on the matter. [32593/12]

**Minister for Agriculture, Food and the Marine (Deputy Simon Coveney):** In the year ended 30th June 2012, the average time lapse between receipt of invoices for goods and services and the issue of payment by my Department was 12.5 days.

The processing of payments by the State bodies under the remit of my Department is an operational matter for each of the bodies.

### Departmental Properties

216. **Deputy Paul J. Connaughton** asked the Minister for Agriculture, Food and the Marine the position regarding the value for money audit regarding the rent of the Department of Agriculture office at Dockgate, Galway; the rent per year the Department is paying for that office; his plans to build a new departmental office within the environs of Galway city or if he will relocate the present business being done at Dockgate to Mellow's College in Athenry, thereby making the office much more accessible to the vast majority of farmers in County Galway and which would also result in having more of the services available to farmers located in the one place; and if he will make a statement on the matter. [32614/12]

**Minister for Agriculture, Food and the Marine (Deputy Simon Coveney):** The Office of Public Works has primary responsibility for the provision of accommodation to my Department. In a recent review of the cost of accommodation and the options for alternative premises the OPW has availed of a break option in the current lease. It is not sustainable to be paying rent when space is available in other state owned buildings in the area. Accordingly, my Department is working with the OPW to make new arrangements to locate staff of the Galway Regional Office, with both short and long term requirements informing any decisions taken.

There are no plans to build any new facility for my Department in the Galway area. Similarly, there are no plans to relocate the operations carried out at Dockgate to Mellow's College, Athenry.

### Departmental Investigations

217. **Deputy Pearse Doherty** asked the Minister for Agriculture, Food and the Marine if he has given any consideration to the findings and recommendations of the Office of the Ombudsman with regard to the operation of his Department in relation to a person (details supplied) in County Donegal; and if he will work with this person to find a resolution. [32656/12]

**Minister for Agriculture, Food and the Marine (Deputy Simon Coveney):** The Office of the Ombudsman investigated a complaint made by Mr. John Shine in relation to my Department in 2011. The Ombudsman subsequently determined that the complaint made against my Department could not be upheld and made no recommendations in relation to Mr. Shine. The Ombudsman has in addition, advised my Department that she regards the case as closed.

*Question No. 218 answered with Question No. 211.*

### Departmental Staff

219. **Deputy Sean Fleming** asked the Minister for Agriculture, Food and the Marine in

[Deputy Sean Fleming.]

respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges: less than €40,000 between €40,001 — €50,000; between €50,001 — €60,000; between €60,001 — €70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32785/12]

**Minister for Agriculture, Food and the Marine (Deputy Simon Coveney):** The number of staff currently on the payroll in each of the salary ranges requested is set out in the following table, along with the number of increments due in each category during the second half of 2012:

Salary Band €	Number of Staff	Number of Increments due-July to December 2012
Up to 40,000	1,342	240
40,001-50,000	1,002	137
50,001-60,000	619	71
60,001-70,000	111	10
70,001-80,000	150	40
80,001-90,000	167	11
90,001-100,000	180	9
Over 100,000	42	7
Total	3,613	525

Some 566 increments have been already paid in the first half of 2012 across all the various salary ranges.

The cost of these increments in a full year is estimated to be of the order of €1.4m. It is not feasible to provide the actual costs of the increments in 2012 in the time frame available, as the calculations would have to be carried out for each individual, taking account of the date the increment became payable, the amount of the increment and whether or not the staff member worked full time during the year. In addition, the awarding of an increment is dependent on satisfactory performance by the staff member.

### Public Sector Staff

220. **Deputy Tom Fleming** asked the Minister for Agriculture, Food and the Marine the number of the over 9,000 persons from the public service who have retired over the past six months with high tax-free lump sum payments in many cases and substantial pensions that have been re-hired on contract; if these person's are now being paid on the double by the State, that is, their pension and the salary they are receiving under the new contracts; and if he will make a statement on the matter. [33072/12]

**Minister for Agriculture, Food and the Marine (Deputy Simon Coveney):** Three officers who have retired from my Department in the last 6 months have been rehired on a contract basis for a limited period; two were hired directly by my Department on a contract for services basis, the contracts will expire in August and September 2012. The third person was hired through the Public Appointments Service, on a fixed term contract of 10 weeks.

Normal pension abatement rules are being applied, i.e. the pension is, where necessary, abated (i.e. reduced) during the period of retention to ensure that the amount of the pension, together with the officer's pay in respect of that period, does not exceed the remuneration



which the officer would have received if, during that period, s/he had remained in the post which s/he held on the last day of reckonable service.

### **Child Care Services**

221. **Deputy James Bannon** asked the Minister for Children and Youth Affairs if she will provide counselling/therapy for a child (details supplied) in County Longford; and if she will make a statement on the matter. [32627/12]

**Minister for Children and Youth Affairs (Deputy Frances Fitzgerald):** As this is a service matter, I have asked the Health Service Executive to respond directly to the Deputy with the most up-to-date information.

### **Family Support Services**

222. **Deputy Finian McGrath** asked the Minister for Children and Youth Affairs if she will expedite the custody process in respect of a family (details supplied) in Dublin 3. [32630/12]

**Minister for Children and Youth Affairs (Deputy Frances Fitzgerald):** As this is a service matter, I have asked the Health Service Executive to respond directly to the Deputy with the most up-to-date information.

### **Child Care Services**

223. **Deputy Nicky McFadden** asked the Minister for Children and Youth Affairs her plans to extend the early childhood care and education scheme from one to two years per child; and if she will make a statement on the matter. [32548/12]

**Minister for Children and Youth Affairs (Deputy Frances Fitzgerald):** The Early Childhood Care and Education (ECCE) programme was introduced in January 2010 and provides a free preschool year to all eligible children in the year before commencing primary school. In line with the Programme for Government, my Department has made a significant commitment to maintaining the universal free preschool year. About 65,000 children, that is approximately 95% of children in the year before school, are availing of the free preschool provision at this time.

In 2011, the ECCE programme cost approximately €166 million. Additional funding has been made available for 2012 when the cost of the programme is expected to rise to €175 million to cater for changing demographics and provide for the increased number of children in the relevant age cohort.

I am aware of the need to further develop the early childhood care and education sector and it is my view that it could be extremely helpful to some children if the free preschool provision were extended to a second year. This could be particularly beneficial for certain children with special needs who currently can avail of the preschool year on a pro-rata basis over two years. The length of the preschool provision is being reviewed, and will form part of the Early Years Strategy. However, any development that involved further provision of preschool would require considerable additional funding and given the financial constraints under which the Government is currently operating it is not possible to provide for any enhancements to the programme at this time.

However future developments relating to early years care and education will be considered during preparation of the new National Early Years Strategy 2012.

### Departmental Agencies

224. **Deputy Simon Harris** asked the Minister for Children and Youth Affairs the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to her Department, separate to individuals working directly for her Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to her Department in 2011 and to date in 2012; the financial cost of this sick leave; and if she will make a statement on the matter. [32555/12]

**Minister for Children and Youth Affairs (Deputy Frances Fitzgerald):** The information requested by the Deputy is not routinely gathered by my Department. I have requested my officials to collect and collate the information required and furnish it directly to the Deputy.

### Prompt Payments

225. **Deputy Olivia Mitchell** asked the Minister for Children and Youth Affairs the average time lapse between receipt of invoices for goods and services and actual payment in her Department and in each agency and organisation within her remit; and if she will make a statement on the matter. [32595/12]

**Minister for Children and Youth Affairs (Deputy Frances Fitzgerald):** In accordance with established practice and the reporting mechanisms in place for the monitoring of prompt payments, Government Departments and public sector bodies are required to publish quarterly composite reports on performance in relation to payments to suppliers on their respective websites. Particulars relating to the payments made by my Department and the statutory agencies under its remit are contained on my Department's website ([www.dcy.gov.ie](http://www.dcy.gov.ie)). Information relating to the period April to June 2012 is being compiled at present and will be uploaded on the website in the very near future.

### Departmental Staff

226. **Deputy Sean Fleming** asked the Minister for Children and Youth Affairs in respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges; less than €40,000 between €40,001 — €50,000; between €50,001 — €60,000; between €60,001 — €70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if she will make a statement on the matter. [32787/12]

**Minister for Children and Youth Affairs (Deputy Frances Fitzgerald):** Please find below the best estimate for my Department as requested by the Deputy, which includes a small number of staff currently on incentivised career breaks:

Pay Range €000	Number of employees	Estimated Cost of Increments €000
<40	58	12
>40<50	30	7
>50<60	27	4
>60<70	3	1
>70<80	16	6
>80<90	7	1
>90<100	2	0
>100	11	2

### Public Sector Staff

227. **Deputy Tom Fleming** asked the Minister for Children and Youth Affairs the number of the over 9,000 persons from the public service who have retired over the past six months with high tax-free lump sum payments in many cases and substantial pensions that have been re-hired on contract; if these persons are now being paid on the double by the State, that is, their pension and the salary they are receiving under the new contracts; and if she will make a statement on the matter. [33074/12]

**Minister for Children and Youth Affairs (Deputy Frances Fitzgerald):** I can confirm that no retired public servants have been re-hired by my Department since its establishment in June 2011.

### Hospital Staff

228. **Deputy Brian Walsh** asked the Minister for Health if he will provide an update on the recruitment process in respect of specialist diabetic nursing posts at Galway University Hospital, which were approved earlier this year; when he expects that the posts will be filled; and if he will make a statement on the matter. [32518/12]

**Minister for Health (Deputy James Reilly):** As this is a service matter, it has been referred to the HSE for direct reply.

### Hospital Waiting Lists

229. **Deputy Brian Walsh** asked the Minister for Health the number of patients currently on a waiting list for insulin pump therapy in County Galway; the way he intends to address this matter; and if he will make a statement on the matter. [32519/12]

**Minister for Health (Deputy James Reilly):** As this is a service matter, it has been referred to the Health Service Executive for direct reply.

### Universal Health Insurance

230. **Deputy Billy Kelleher** asked the Minister for Health if he will provide in tabular form the countries visited by him, his officials, officials from the Health Service Executive and members of the Universal Health Insurance implementation group since February 2011 to investigate their health system as part of the implementation of UHI; the number of visits to each country; the names of persons on each visit; the total cost of each visit; and the outcome from each visit; and if he will make a statement on the matter. [32528/12]

**Minister for Health (Deputy James Reilly):** Since February 2011, two study visits abroad, one to the Netherlands and one to Germany, were undertaken by Irish officials in order to examine those countries' health systems as part of the implementation of universal health insurance.

The study visit to the Netherlands in June 2011 involved a meeting between the Irish delegation, comprising officials from my Department and the Health Insurance Authority, and the Dutch Ministry for Health, Welfare and Sport and the Dutch Health Care Insurance Board. As well as considering that country's health insurance system, the meeting focussed predominantly on Risk Equalisation.

The study visit to Germany in March 2012 involved a meeting between officials from my Department and the HSE and the Inek Institute (German Institute for Hospital

[Deputy James Reilly.]

Remuneration). The discussions centred on hospital financing, notably Germany's experience with its DRG case-based prospective system for funding hospitals.

Both Risk Equalisation and the introduction of a Money follows the Patient funding system for hospitals are key building blocks for implementing universal health insurance in Ireland.

I see it as vital that we consult with colleagues in other countries and international bodies as part of an ongoing process to add value to our knowledge base and learn from the experience of those countries. However, I should make it clear that, ultimately, the Government's reform proposals will be designed to meet the needs of the Irish system and to ensure the best outcomes for Irish patients.

Details sought in relation to the visits are set out in the table below, including the costs arising in respect of involvement by officials from my Department in the two study visits. I have asked the HSE to forward directly to the Deputy the details associated with the attendance of the three officials from the HSE at the meeting in Germany.

Country	Officials	Total Cost
Netherlands — 17th June 2011	Department of Health:	€2,344.42*
Meeting with the Dutch Ministry of Health, Welfare and Sport and the Dutch Health Care Insurance Board.	Principal Officer x 2 Health Insurance Authority: CEO/Registrar, Head of Research, and Head of Regulatory Affairs.	cost covered by the Health Insurance Authority.
Germany — 22nd March 2012	Department of Health:	€244.98**
Meeting with the Inek Institute (German Institute for Hospital Remuneration).	Principal Officer x 1 HSE: Head of Casemix Unit, General Manager/Programme Manager for Prospective Funding, and Director of Finance, St James's Hospital (who is also a member of the Implementation Group on Universal Health Insurance).	

\*It should be noted that the total cost also covers costs associated with a meeting in Brussels on the 16th June 2011 between the two Department of Health officials and the EU Commission in relation to the private health insurance market.

\*\*This is exclusive of a sum of €124 in respect of the return journey by train from Frankfurt Airport to the Inek Institute in Siegburg which was paid for by the HSE.

### Home Help Service

231. **Deputy Billy Kelleher** asked the Minister for Health if he will provide in tabular form the number of home care packages, home help hours by county; the same figures for the same time in 2011; and if he will make a statement on the matter. [32529/12]

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** As this is a service matter it has been referred to the Health Service Executive for direct reply.

232. **Deputy Billy Kelleher** asked the Minister for Health if the home help hour has been reduced to less than an hour; and if he will make a statement on the matter. [32530/12]

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** As this is a service matter it has been referred to the Health Service Executive for direct reply.

### **Animal Experimentation**

233. **Deputy Patrick Nulty** asked the Minister for Health his views on the submissions made to the public consultation exercise held by his Department in October-November 2011 regarding transposition of Directive 2010/63/EU relating to animal experimentation; and if he will make a statement on the matter. [32532/12]

**Minister for Health (Deputy James Reilly):** My Department undertook two public consultations with regard to the Directive on the protection of animals used for scientific purposes. The first consultation took place in July 2009 following the publication of the proposed Directive in November 2008. Responses to that public consultation informed Ireland's position in the subsequent negotiations at EU level. The second public consultation took place in October 2011 following the adoption by the European Parliament and the Council of Directive 2010/63/EU on the protection of animals used for scientific purposes. Responses to this second public consultation are informing my Department's ongoing work on the transposition of the Directive into Irish law. This task must be completed by November of this year.

Directive 2010/63/EU strengthens the protection of animals still needed for research and safety testing. Significant changes in this regard are requirements to perform ethical evaluations prior to authorisation of projects using animals and higher standards of care and accommodation. The Directive also strongly promotes the principles of the three Rs (replacement of the use of animals to the greatest extent possible with alternative testing methods, refinement of scientific procedures to improve animal welfare and reduction in numbers of animals used). Many of the provisions are mandatory.

I appreciate the time and effort devoted by individuals and organisations in their response to both public consultations. The submissions received in response to the first consultation were particularly welcome as the Directive was still under discussion at that stage. The second public consultation, of necessity, had a different focus given that the Directive was already finalised at that stage and most of its provisions are mandatory. The responses to the second public consultation are, consequently, primarily focused on the nuts and bolts of the transposition process itself and are of particular assistance to the Department in this regard.

### **Medicinal Products**

234. **Deputy Dan Neville** asked the Minister for Health if the Vertex created Kayldeco drug for people with Cystic Fibrosis, with the G155D mutation, is available through the health services under the long term illness scheme. [32540/12]

**Minister of State at the Department of Health (Deputy Róisín Shortall):** Ivacaftor (Kalydeco) received a positive opinion from the Committee for Medicinal Products for Human Use at EU level in May 2012. Marketing authorisation issued by the EU Commission is anticipated in due course. Should the manufacturers make an application for inclusion of the product on the GMS and community drugs schemes, that application shall be considered in accordance with the relevant criteria.

### **Positive Ageing Strategy**

235. **Deputy Nicky McFadden** asked the Minister for Health if the National Positive Ageing Strategy will be published in 2012; and if he will make a statement on the matter. [32543/12]

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** The Programme for Government has committed to completing and implementing the National Positive Ageing



[Deputy Kathleen Lynch.]

Strategy so that older people are recognised, supported and enabled to live independent full lives.

The Strategy will set the strategic direction for future policies, programmes and services for older people in Ireland. It will set out a common framework for the development of operational plans by a number of Government Departments which will clearly set out each Department's objectives relating to older people. Mechanisms designed to monitor the implementation of measures contained in operational plans will also be included in the Strategy. However, I do not envisage that the Strategy will propose new service developments. Rather it will set the strategic direction for future policies, programmes and services for older people in Ireland.

A considerable amount of preparatory work has already been completed. The drafting of the Strategy will proceed within the Department within the constraints of available staff and other priorities. At this stage I envisage the Strategy will be completed and published in the last quarter of this year within these constraints.

### **Health Service Staff**

236. **Deputy Regina Doherty** asked the Minister for Health the reason an individual (details supplied) who retired from a senior position in St. Michael's House in 2009, has been re-employed as a consultant with St. Michael's House; the policy for re-employing former employees as contractors; the amount that this individual is being paid; the amount of work this person's company is being given and awarded; and if he will make a statement on the matter. [32545/12]

**Minister for Health (Deputy James Reilly):** As this is a service matter, it has been referred to the HSE for attention and direct reply to the Deputy.

### **Mental Health Services**

237. **Deputy Nicky McFadden** asked the Minister for Health if he will provide an update on progress being made on the review of the Mental Health Act 2001; and if he will make a statement on the matter. [32546/12]

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** The Interim Report of the Steering Group on the Review of the Mental Health Act 2001 was published on 21 June and is available on the Department's website. The commitment to undertake this review was included in the Programme for Government and is one to which the Government and I attach great importance.

I fully endorse the recommendation of the Steering Group that a rights based approach to mental health law should be adopted. A move away from the paternalistic approach of the 2001 Act was a strong feature of the views expressed in the consultation process. It is important that each person should have a right to determine and participate as much as they possibly can in their own care and treatment.

The Interim Report also emphasises the need for revised mental health legislation to support the objectives of A Vision for Change especially in relation to the promotion of community based mental health services. I also welcome the various changes recommended which aim to improve procedures regarding the detention of individuals and the necessary safeguards proposed to ensure that they receive the maximum appropriate protection.

Having now received the Interim Report, it is my intention to put in place an Expert Group to carry out the second and substantive phase of the review. I would expect that this group can begin its work in the coming weeks and that it would conclude its deliberations in early 2013.

### Hospital Accommodation

238. **Deputy Dara Calleary** asked the Minister for Health in relation to the Sacred Heart Hospital, Castlebar, County Mayo, the number of beds it is proposed to close at the hospital in the current year ; if any long term proposals have been made for the total closure of long stay beds at the hospital; the recommendations that has been made by Health Information and Quality Authority regarding the future bed complement at the hospital; and if he will make a statement on the matter. [32549/12]

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** As this is a service matter it has been referred to the Health Service Executive for direct reply.

### Dental Services

239. **Deputy Catherine Murphy** asked the Minister for Health the number of dentists by county employed by the Health Service Executive; if consideration is being given to recruit additional dentists at locations in which there are significant gaps; the limits on the type of treatment set; the routine checks for children in primary and secondary school; if it is possible to have a preventative care service of a similar standard throughout the country; if not, the locations that deviate from that standard; if any changes are proposed; and if he will make a statement on the matter. [32551/12]

**Minister of State at the Department of Health (Deputy Róisín Shortall):** The HSE is collating a breakdown of the number of dentists employed and I will forward this information to the Deputy as soon as it is available.

The HSE has no central policy to recruit additional dentists. However, the current Employment Control Framework for the health sector gives the HSE some flexibility in relation to filling posts in order to protect front line services in so far as possible while still achieving the required staff reduction targets.

The Public Dental Service of the HSE provides services to schoolchildren aged up to 16 years and special care dentistry. The schoolchildren's service is focused on providing an emergency service and targeting children in key classes at key stages in their development. The HSE endeavours to provide the same level of service throughout the country but this may not always be possible. While it is not possible at present to quantify these differences, this issue is being addressed in a re-organisation of dental services which is underway. The new structure will support a unified approach through a reduction in the number of service areas and the maximisation of resources within each area. Additionally, as part of the restructuring, 5 Assistant National Oral Health Leads will be appointed who will focus on the development of standards and consistent practices across all HSE dental services, including preventative care services.

### State Agencies

240. **Deputy Simon Harris** asked the Minister for Health the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to his Department, separate to individuals working directly for his Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to his Department in 2011 and to date in 2012; the financial cost of this sick leave; and if he will make a statement on the matter. [32562/12]

**Minister for Health (Deputy James Reilly):** The health sector, as with other public service employers, has sick leave schemes for staff when they are absent from work through illness.

[Deputy James Reilly.]

The HSE has strengthened its policies and procedures on attendance management in light of the 3.5% target in its 2012 National Service Plan, including action plans for all sites for the management of absence over 3.5%; analysis of certified and uncertified absence on each hospital site and community care area; monitoring adherence to Attendance Management Policies such as return to work interviews, counselling, referral to Occupational Health; use of disciplinary processes where appropriate.

In addition, training and development has been provided to line managers, and HR and Occupational Health support is also available for line managers to assist in managing attendance more effectively.

The overall rate of sick leave in 2011 was 4.9% and is 5.0% to date in 2012. The rate for the month of April, the latest available data, was 4.7%.

The HSE estimates that the opportunity cost of time lost through sick leave absence is in the region of €46m per 1% of absence. In 2011, this equated to approximately €225m in respect of the reported annualised sick absence rate of 4.9%.

In the time available, the information requested in relation to agencies under the aegis of my Department is not available and will be forwarded to the Deputy as soon as possible.

The Public Service Reform Programme contains a commitment to review sick leave policies in the Civil and Public Service with a view to improving productivity and reducing absences. The Labour Relations Commission have facilitated discussions between management and the public service unions. A Labour Court hearing on the matter will be held shortly.

### **Primary Care Services**

241. **Deputy Sandra McLellan** asked the Minister for Health the reason that those who answer the primary care reimbursement service dedicated TD line cannot answer important questions, they must send the request on to a processing section and wait for them to return with the required information, requests that have been sent on as a priority at least four times after two or three weeks still have not been responded to (details supplied) by the processing section; the way he intends to deal with this problem as it is unsatisfactory; and if he will make a statement on the matter. [32577/12]

**Minister of State at the Department of Health (Deputy Róisín Shortall):** As this is a service matter it has been referred to the Health Service Executive for direct reply to the Deputy.

### **Hospital Accommodation**

242. **Deputy Seán Ó Fearghaíl** asked the Minister for Health if his Department and the Health Service Executive are committed to continued investment in and development at St. Vincent's Hospital, Athy, County Kildare, in view of the Health Information and Quality Authority's recent decision to register this highly regarded and vital respite and long stay care facility; and if he will make a statement on the matter. [32578/12]

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** As this is a service matter it has been referred to the Health Service Executive for direct reply.

### **Pharmacy Services**

243. **Deputy Nicky McFadden** asked the Minister for Health the level of engagement that has taken place between his Department, the Health Service Executive, the Irish Medicines Board and the Pharmaceutical Society of Ireland and other bodies to manage the problem of

prescription medicine shortages in pharmacies; the progress that has been made on this issue to date; and if he will make a statement on the matter. [32586/12]

**Minister of State at the Department of Health (Deputy Róisín Shortall):** Shortages of essential medicines are currently a cause of concern not just in Ireland but throughout Europe and the rest of the world. It is a global problem affecting health systems in all countries and impacting on patients world-wide. Medicines shortages can be the result of one, several or any combination of factors throughout the pharmaceutical supply chain such as manufacturing difficulties, industry consolidation, and commercial decisions by manufacturers to withdraw unprofitable lines. In some cases pharmaceutical manufacturing is concentrated to such an extent that a production problem in one pharmaceutical plant can have a wide-ranging impact on health systems throughout the world.

Irish Medicines Regulations place an obligation on both pharmaceutical manufacturers and wholesalers, within the limits of their respective responsibilities, to ensure the adequate availability and supply of medicines on the Irish market in order to meet patient needs.

The Health Service Executive (HSE) engages in agreements with manufacturers and importers to supply medicines under the community drugs schemes. These agreements require manufacturers and importers to notify the HSE as soon as they are aware of foreseeable or prolonged stock shortages.

My Department has been engaging with the Irish Medicines Board (IMB), the HSE and the Pharmaceutical Society of Ireland (PSI) to identify ways in which the Irish system can manage medicines shortages as effectively as possible in order to minimise the impact on patients. The IMB and HSE work closely with each other to operationally manage medicines shortages when they arise. The PSI has recently published guidance to registered pharmacists on managing medicines shortages. International efforts to effectively manage medicines shortages are also being considered.

Manufacturers, wholesalers and pharmacies all have responsibility to work together to identify shortages quickly and implement alternative arrangements to meet the needs of patients.

### Medical Cards

244. **Deputy Pearse Doherty** asked the Minister for Health further to Parliamentary Questions Nos. 705 of 24 April 2012 and 583 of 12 June 2012, the reason a person (details supplied) in Dublin 22 has not yet been notified in writing of the decision regarding their medical application; when this notification will be issued; and if he will make a statement on the matter. [32590/12]

**Minister of State at the Department of Health (Deputy Róisín Shortall):** As this is a service matter it has been referred to the Health Service Executive for direct reply to the Deputy.

### Prompt Payments

245. **Deputy Olivia Mitchell** asked the Minister for Health the average time lapse between receipt of invoices for goods and services and actual payment in his Department and in each agency and organisation within his remit; and if he will make a statement on the matter. [32602/12]

**Minister for Health (Deputy James Reilly):** My Department is committed to making every effort to pay its suppliers promptly. In line with Government Decision No. S29296 of 19 May 2009, every effort, consistent with proper financial procedures, is being made to ensure that all suppliers are paid within 15 calendar days of receipt of a valid invoice. My Department pub-

[Deputy James Reilly.]

lishes quarterly reports on prompt payments on our website ([www.doh.ie](http://www.doh.ie)). Information from the period January to March 2012 indicates that 91% of valid invoices for goods and services were paid within 15 days. Reports on prompt payments by public sector bodies within my remit are being prepared and will be published on our website in due course.

### Hospice Services

246. **Deputy Billy Kelleher** asked the Minister for Health his plans to provide staff and all other facilities to make St. Francis Hospice, Blanchardstown, Dublin, operational; his views on whether opening the 24 bed facility is an important unused step down facility that could reduce pressure on local hospitals; and if he will make a statement on the matter. [32612/12]

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** As this is a service matter it has been referred to the Health Service Executive for direct reply.

### Water Fluoridation

247. **Deputy Pearse Doherty** asked the Minister for Health his views on whether the practice of fluoridation of our water supplies needs to be altered taking into account that quantities of fluoride can be monitored at process stage, but the quantities of water drunk by our population cannot be monitored; his further view on whether the fluoridation process can have detrimental effects with prolonged consumption; and if he will make a statement on the matter. [32629/12]

**Minister of State at the Department of Health (Deputy Róisín Shortall):** The Forum on Fluoridation Report (2002) found there was no evidence of any negative health effects from the fluoridation of public water supplies. In 2011 the EU Scientific Committee on Health and Environmental Risks (SCHER), published its 'Opinion on critical review of any new evidence on the hazard profile, health effects, and human exposure to fluoride and the fluoridating agents of drinking water'. The main conclusions of the SCHER report are that there are no known health implications from fluoridating water at levels used in the EU. There are no plans to change the policy on fluoridation, which continues to make an effective contribution to oral health in Ireland.

### National Treatment Purchase Fund

248. **Deputy Mary Mitchell O'Connor** asked the Minister for Health if his attention has been drawn to the fact that the National Treatment Purchase Fund website is still accessible; his views on whether this will cause confusion to the public; if he will seek to have the website removed; and if he will make a statement on the matter. [32631/12]

**Minister for Health (Deputy James Reilly):** In July 2011 I announced changes to the remit of the National Treatment Purchase Fund (NTPF) — namely its role would be changed to support the mission of the Special Delivery Unit (SDU). The NTPF is now fully aligned with the SDU and is targeting waiting lists strategically and incentivising hospitals to manage their waiting times proactively. The NTPF capability is a core part of the SDU's performance improvement role in holding public hospitals to account.

So while the role of the NTPF has changed, it is still a separate entity. The content of the website has been altered to reflect the changes to the organisation and will be updated as the function of the NTPF becomes more interlinked with that of the SDU.



### Hospital Waiting Lists

249. **Deputy Mary Mitchell O'Connor** asked the Minister for Health the current waiting time for an appointment in the Royal Victoria Eye and Ear Hospital; and if he will make a statement on the matter. [32632/12]

250. **Deputy Mary Mitchell O'Connor** asked the Minister for Health if a person (details supplied) who has been told by the Royal Victoria Eye and Ear Hospital, that they will have to wait 26 months for an appointment reflects the average current waiting time in the hospital; and if he will make a statement on the matter. [32633/12]

**Minister for Health (Deputy James Reilly):** I propose to take Questions Nos. 249 and 250 together.

The issue of Out-Patient waiting lists was essentially an untended problem. The scale of the problem was unmeasured and consequently no special action was taken to deal with it. This Government intends to change that. I have instructed the Special Delivery Unit to give priority to devising methods for dealing with the issue of Out-Patient waiting lists.

Work has already commenced on the systematic and automatic collection of waiting time data, at an individual patient level in a standardised format from all hospitals providing an Out-Patient service. This will be the first time that such detailed data will be available at a national level from all hospitals. The collection and analysis of Out-Patient waiting time data will reveal how many patients are waiting by region, by hospital, by speciality and by Consultant. The Special Delivery Unit and NTPF are aiming to publish out-patient waiting time data in the near future.

The next step will be to then set a maximum waiting time target for a first Out-Patient appointment. Hospitals will be held responsible and accountable for ensuring that patients are seen in Out-Patients within this maximum waiting time. The Special Delivery Unit and the NTPF will assist hospitals in targeting their resources towards those patients who are waiting longest and ensure that they are seen, assessed and appropriately treated. In parallel with reducing the numbers of those waiting longest, the Special Delivery Unit will also commence work with the HSE Clinical Programmes to reform the structure, organisation and delivery of Out-Patient services to ensure that the right patient is seen by the right health professional at the right time.

The goal is to improve access by implementing an Out Patient Service Performance Improvement Programme that will underpin a radical transformation of how Out-Patient services are delivered in Ireland.

I have arranged for the questions to be forwarded to the Health Service Executive, who will respond directly to the Deputy in relation to the information requested on Out-Patient waiting times in the Royal Victoria Eye and Ear Hospital, Dublin and the particular case referred to the Deputy's question.

### Health Services

251. **Deputy Mary Mitchell O'Connor** asked the Minister for Health if a person (details supplied) in County Dublin will receive confirmation on when their case will be progressed; and if he will make a statement on the matter. [32634/12]

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** 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 to the Deputy.

### Hospital Services

252. **Deputy Mary Mitchell O'Connor** asked the Minister for Health when the Health Board will provide funding to the National Rehabilitation Hospital; and if he will make a statement on the matter. [32635/12]

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** 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 to the Deputy.

### Smoking Ban

253. **Deputy Mary Mitchell O'Connor** asked the Minister for Health his plans to penalise drivers who smoke whilst carrying child passengers; and if he will make a statement on the matter. [32644/12]

**Minister for Health (Deputy James Reilly):** The Government recently gave approval for the drafting of amendments to a Private Member's Bill entitled "Protection of Children's Health from Tobacco Smoke Bill 2012". The purpose of the Bill is to prohibit smoking in cars where children are present. The details of the Bill, including issues relating to penalties, are currently being considered.

### Services for People with Disabilities

254. **Deputy Patrick Nulty** asked the Minister for Health if he will confirm that funding for special needs assistants in creches for those availing of disability services in Dublin 15 will remain in place for next year and on a permanent basis; and if he will make a statement on the matter. [32645/12]

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** 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 to the Deputy.

### Medical Cards

255. **Deputy Brendan Smith** asked the Minister for Health the position regarding a medical card in respect of a person (details supplied). [32665/12]

**Minister of State at the Department of Health (Deputy Róisín Shortall):** As this is a service matter it has been referred to the Health Service Executive for direct reply to the Deputy.

### Hospital Procedures

256. **Deputy Martin Ferris** asked the Minister for Health when a person (details supplied) in County Cork will receive an appointment for an MRI scan. [32722/12]

**Minister for Health (Deputy James Reilly):** I am determined to address the issues which cause unacceptable delays in patients receiving treatment in our hospitals. The Special Delivery Unit (SDU), is working to unblock access to acute services by improving the flow of patients through the system, and by streamlining waiting lists, including the management of referrals from GPs by hospitals. The SDU is working closely with its partner agencies — mainly the HSE and the NTPF.

As a priority, public hospitals were instructed to ensure that, by the end of 2011, they had no patients waiting more than 12 months for treatment. I can confirm that the vast majority of

hospitals achieved this objective. During 2012 the SDU will support hospitals in the delivery of a 9 month maximum wait time for inpatient or daycase surgery.

The next priority for the SDU is access to diagnostics. This programme of work has commenced in terms of access to GI endoscopy and will later in 2012 examine access to radiology services.

As this is a service matter, it has been referred to the HSE for direct reply. Should the patient's general practitioner consider that the patient's condition warrants an earlier appointment, he/she would be in the best position to take the matter up with the consultant and hospital involved.

### **Medical Negligence Claims**

257. **Deputy Billy Timmins** asked the Minister for Health if the hospital manager at Clonmel Hospital, County Tipperary and the Caredoc manager for Clonmel will contact a person (details supplied) [32761/12]

**Minister for Health (Deputy James Reilly):** With regard to specific complaints in relation to experiences of individuals in our hospitals, there is a formal complaints policy, details of which are on the HSE website, at [www.hse.ie/eng/services/ysys/Complaint](http://www.hse.ie/eng/services/ysys/Complaint). In addition, advice and instructions for making complaints about a service or an individual may be found at [www.healthcomplaints.ie](http://www.healthcomplaints.ie).

In accordance with this procedure, a complaint must be made in the first instance, to the hospital in which the incident causing the complaint occurred.

In the case of South Tipperary General Hospital, the complaint can be addressed to:

The Complaint's Officer,  
South Tipperary General Hospital,  
Western Road,  
Clonmel,  
Co Tipperary.  
Phone: 052 6177000.

If an individual is not satisfied with the response from the hospital, a review can be sought from the HSE Director of Advocacy and the Ombudsman, whose details are set out below:

HSE Director of Advocacy,  
Oak House,  
Millennium Park,  
Naas,  
Co. Kildare.  
Tel 1890 424 555.  
Office of the Ombudsman,  
18 Lower Leeson Street,  
Dublin 2.  
Tel.: 1890 223 030.  
Email: [ombudsman@ombudsman.gov.ie](mailto:ombudsman@ombudsman.gov.ie).

[Deputy James Reilly.]

I have asked the HSE to answer the specific queries you have raised and to reply to you directly.

### Departmental Staff

258. **Deputy Sean Fleming** asked the Minister for Health in respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges: less than €40,000 between €40,001 — €50,000; between €50,001 — €60,000; between €60,001 — €70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32794/12]

**Minister for Health (Deputy James Reilly):** The information requested by the Deputy in relation to the permanent staff of my Department is attached in the following table. It excludes staff who retired at the end of February 2012.

Pay Range	Number of *WTE in Each Range	Estimated Costs of Increments 2012 €000
Less than €40,000	113	26
€40,001-€50,000	62	11
€50,001-€60,000	63	13
€60,001-€70,000	11	6
€70,001-€80,000	51	23
€80,001-€90,000	21	5
€90,001-€100,000	17	8
Greater than €100,000	18	0
Total	356	92

\*Whole Time Equivalents.

With regard to the Health Service Executive, they have been asked to collate the data sought as soon as possible and it will be provided directly to the Deputy by them when available.

### Public Sector Staff

259. **Deputy Tom Fleming** asked the Minister for Health the number of the over 9,000 persons from the public service who have retired over the past six months with high tax-free lump sum payments in many cases and substantial pensions that have been re-hired on contract; if these person's are now being paid on the double by the State, that is. their pension and the salary they are receiving under the new contracts; and if he will make a statement on the matter. [33081/12]

**Minister for Health (Deputy James Reilly):** No officers who retired from my Department over the past six months have been re-hired on contract. The eighteen Non-Commercial State Agencies under the aegis of my Department have confirmed that they have not re-hired on contract any public servant who retired in the past six months. With regard to the Health Service Executive, they have been asked to collate the data sought as soon as possible and it will be provided directly to the Deputy by them when available.

### Road Maintenance

260. **Deputy Seán Ó Fearghaíl** asked the Minister for Transport, Tourism and Sport the

degree to which discussions between him and the Department of Public Expenditure and Reform have been progressed in relation to the delivery of an infrastructural project (details supplied); if he is now in a position to indicate a timeline for the delivery of this project; when he will advise Kildare County Council to proceed with compulsory purchase orders; and if he will make a statement on the matter. [32524/12]

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** The improvement and maintenance of regional and local roads, in its area, is a statutory function of each road authority in accordance with the provisions of section 13 of the Roads Act, 1993. Works on such roads are a matter for the relevant local authority to be funded from its own resources supplemented by State road grants. The initial selection and prioritisation of works to be funded is also a matter for the Council. My Department received an application from Kildare County Council in November 2008 for 100% funding of the Athy Southern Distributor Road. A grant of €150,000 was allocated to the Council in 2011 to allow certain design and planning work on this project to be undertaken. I am advised that the total cost of the project is in excess of €34 million. As the Deputy will appreciate, given the current financial circumstances, I am not in a position to give any commitment regarding the provision of further funding for this project in the future. I am aware of the importance of this road to Athy and to the south Leinster region. If and when the financial position of the state improves I would like to be in a position to support the advancement of this project.

The 2012 regional and local road grant funding has now been fully allocated and there are no further funds available from which an additional allocation could be made. I will announce the 2013 regional and local road grant allocations early in the new year. It is open to Kildare County Council to progress this project through its own resources.

### Departmental Agencies

261. **Deputy Simon Harris** asked the Minister for Transport, Tourism and Sport the procedures in place to manage sick leave in all agencies, offices or other bodies reporting to his Department, separate to individuals working directly for his Department; the combined number of sick days taken by staff in the agencies, offices or other bodies reporting to his Department in 2011 and to date in 2012; the financial cost of this sick leave; and if he will make a statement on the matter. [32567/12]

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** The provision of the material requested is a matter for direct response by the State agencies under the aegis of my Department. I have forwarded the Deputy's question to them for attention. If the Deputy does not receive a reply within ten working days, please advise my private office.

### Prompt Payments

262. **Deputy Olivia Mitchell** asked the Minister for Transport, Tourism and Sport the average time lapse between receipt of invoices for goods and services and actual payment in his Department and in each agency and organisation within his remit; and if he will make a statement on the matter. [32607/12]

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** Information relation to the time lapse between the receipt and payment of invoices in respect of both the Department and its non-commercial agencies is published every quarter on the Department's website, <http://www.dttas.ie/viewitem.asp?id=12153&lang=ENG&loc=1512>.



### Tourism Promotion

263. **Deputy Olivia Mitchell** asked the Minister for Transport, Tourism and Sport if in view of the recent report citing the absence of adequate tourism branding for Dublin, if he will request Fáilte Ireland to set up a dedicated unit to address this deficiency; and if he will make a statement on the matter. [32609/12]

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** I welcome the recently published ITIC report on “Capitalising on Dublin’s Potential” as a tourist destination and was glad to see that it involved wide consultation across the industry, local authorities and the State Agencies. The report makes a number of recommendations which will need further consideration by the Department and the State Agencies. In relation to the specific recommendation regarding branding of Dublin, I agree that attention needs to be given to how best to brand Dublin although I note that the report does suggest that any brand would be wider than tourism and involve local authorities and non-tourism businesses as well.

I understand that since the integration of Dublin Tourism, Fáilte Ireland has established a new dedicated Visit Dublin unit to aggressively promote Dublin as a premier destination. I am informed by Fáilte Ireland that the Visit Dublin Unit has a number of new initiatives planned for 2012 including working with Tourism Ireland to deliver an extensive international marketing campaign which will take a fresh approach to promoting Dublin. A full schedule of multimedia activity focussing on the key markets of Great Britain, France, Germany and the US is planned as part of this campaign. An updated version of the successful Visit Dublin App is also in development. Furthermore, in tandem with investment by Fáilte Ireland in tourism product in Trinity College, Meeting House Square, Malahide Castle and the Dublin heritage trail, there continues to be significant investment in major festivals for the city. These include established events such as the St. Patrick’s festival but also new events such as the New Year’s Eve festival.

There are a number of high-profile international tourism and sporting events being held in Dublin this year that are being supported by the tourism agencies. These events include the Tall Ships Race, the ISAF Youth World Sailing Championships, World Handball Championships and Bavaria City Racing. Support is also being given to the Notre Dame vs Navy American Football Game, which will be played at the Aviva Stadium in September. It is estimated that this event alone will attract up to 40,000 overseas visitors to the city. Next year we can look forward to hosting the Heineken and Amlin Cups as well as a range of events as part of the Gathering Ireland 2013. These investments continue to increase the attractiveness of the city as a tourist destination.

### Heritage Centres

264. **Deputy Brendan Griffin** asked the Minister for Transport, Tourism and Sport if a heritage centre (details supplied) in County Kerry is under new ownership; and if he will make a statement on the matter. [32620/12]

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** My Department and the State tourism agencies have no role in the operation of the specific centre referred to in the Deputy’s question ie The Valentia Heritage Centre. Therefore I am not in a position to advise about matters relating to the ownership of the centre.

### National Aquatic Centre

265. **Deputy Mary Lou McDonald** asked the Minister for Transport, Tourism and Sport the actions he or his Department officials have taken following the publication of the report on

VAT costs on the National Aquatic Centre by the Committee of Public Accounts in May 2012. [32657/12]

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** My Department has received a copy of the report of the Public Accounts Committee and its contents have been noted. The report does not make any specific recommendations in relation to my Department.

### Road Network

266. **Deputy Billy Timmins** asked the Minister for Transport, Tourism and Sport the road schemes, their cost, submitted to him by Wicklow County Council for 2012; and which schemes were funded. [32768/12]

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** Applications are sought from local authorities for funding of regional and local roads under two grant categories, the Specific Improvement Grants Scheme and the Low Cost Safety Improvements Scheme. The funding sought by Wicklow County Council under these two grant categories in 2012 and the allocation provided is outlined in the following tables:

Table 1 Funding sought under the Specific Improvement Grants Scheme in 2012

Project	Allocation Requested	Allocation Provided
Lacken Falls Bridge Replacement	135,000	135,000
Ballylow Bridge Repair	52,000	52,000
Rathdrum Retaining Wall R752	175,000	175,000
Ticknock Bridge Parapet Rebuilding Works	99,000	99,000
Fortgranite Bridge Repair Works	35,000	35,000
Coates Bridge Repair Works	48,000	48,000
Aghavannagh Masonry Arch Bridge Repair Works	70,000	70,000
Sheeanamore Lower Bridge Repair Works	65,000	65,000
Macreddin Bridge Repair Works	40,000	40,000
Newrath Lane Junction Improvement Works	117,000	117,000
Total	836,000	836,000

Table 2 Funding sought under the Low Cost Safety Improvement Grants Scheme in 2012

Project	Allocation Requested	Allocation Provided
R117 Enniskerry*	53,000	40,000
R752 Glenealy	10,000	0
L6144 Ballinaclash	7,000	0
R747 Woodfield*	35,000	10,000
R755 Annamoe*	12,000	2,500
R772 Arklow*	15,000	20,000
R412 Tyntepark Cross Roads	50,000	50,000
R761 Newrath Lane	30,000	0
L8361 Lugnagroagh	26,000	26,000
L1096 Cronroe	30,000	30,000
Total	268,000	178,500

\*Funding sought by the Council was subsequently amended following discussions between Council Engineers and NRA Engineers.

[Deputy Leo Varadkar.]

### **Departmental Staff**

267. **Deputy Sean Fleming** asked the Minister for Transport, Tourism and Sport in respect of 2011, the best estimate for 2012 of the number of persons in the following salary ranges, the total cost of the increments in respect of the persons in each of these salary ranges: less than €40,000 between €40,001 — €50,000; between €50,001 — €60,000; between €60,001 — €70,000; between €70,001 to €80,000; between €80,001 to €90,000; between €90,001 to €100,000 and more than €100,001; and if he will make a statement on the matter. [32799/12]

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** The information requested by the Deputy is being compiled and will be forwarded shortly.